

Data Sharing Agreement



Data Sharing Agreement

**For the necessary sharing of data for the SSLN
between**

**Education Analytical Services, Scottish Government
(EAS, SG)**

And

Scottish Qualifications Authority (SQA)

And

Education Scotland (ES)

Data Sharing Agreement

Table of Contents

1.0. Introduction/Background	3
2.0. Purpose of the Data Sharing	4
2.1. Aims of Data Sharing	4
2.2. Benefits of Data Sharing.....	4
2.3. Implications and Consequences of not Sharing Data.....	4
3.0. Organisations Involved in the Data Sharing	5
3.1. Data Controllers	5
4.0. Data Items to be Shared and Process Involved.....	6
4.1. Types of Data to Be Shared.....	6
4.1.1. Personal Data Shared	6
4.1.2. Sensitive Personal Data Shared.....	6
4.1.3. Detail of Personal Data to be Matched or Linked	6
4.2. Permissions and Prerequisites to Access Shared Data	6
4.3. Detail the Process for sharing.....	7
5.0. Basis for sharing	7
5.1. Legal Basis	7
5.2. Data Protection Act	7
6.0. Information Governance.....	7
6.1. Information Assurance and Security	7
6.2. Management of a Security Incident/Data Loss	8
6.3. Access and Individual's Rights.....	8
6.4. Freedom of Information and Environmental Information Requests	8
6.5. Data Protection Subject Access Requests (SARs)	9
6.6. Retention & Deletion of Shared Data.....	9
6.7. Review of Data Sharing Agreement.....	9
6.8. Closure of Agreement.....	9
7. Signatories.....	9
Annex A: Privacy Impact Assessment (PIA).....	11
Annex B: Detailed Advice from SGLD - 21st October 2013	22
Annex C: Glossary of Acronyms	24

Data Sharing Agreement

1.0. Introduction/Background

The Scottish Survey of Literacy and Numeracy (SSLN) is a sample-based survey which monitors national performance over time in literacy and numeracy at P4, P7 and S2. The SSLN is carried out in partnership by Education Analytical Services (EAS) and the Assessment and Skills policy division in the Scottish Government (SG), the Scottish Qualifications Authority (SQA) and Education Scotland (ES). Each partner has responsibilities for specific aspects of the survey and work together to ensure the smooth running of the survey.

EAS are responsible for the management of the project and the design, analysis, delivery and reporting of the SSLN. The SG Assessment and Skills policy division has responsibility for the focus and direction of the SSLN to ensure that it complies with Curriculum for Excellence and Ministerial requirements. SQA have responsibility for all operational aspects on the SSLN, including the development and trialling of assessment tasks, printing and distribution of survey materials, the administration of the survey in schools and data capture of the survey results. ES are responsible for the production of Professional Learning Resources (PLRs) for schools and practitioners based on the findings of the SSLN.

Summary of the Survey Cycle:

- Registration Process: SQA collect school contact and participation information in preparation for the survey. This data needs to be shared with EAS so they know which schools are participating so they can then calculate the pupil and teacher sample and allocate assessments.
- Sampling and Booklet Allocation: EAS collate the pupil and teacher samples for participating schools before allocating assessments and questionnaires. This data now needs to be shared with SQA so they can send the appropriate materials out to schools.
- Survey completed by schools: Once SQA have sent the survey materials out to schools, they are given approximately one month to complete the survey and return the materials to SQA.
- Return of materials and collation of results: The survey materials are returned to SQA and they collate all the responses in line with specifications provided by EAS in preparation for data validation and analysis. Once this is complete, SQA shares this data with EAS.
- QA of results: EAS quality assure the response data.

Data Sharing Agreement

- Publication of report and PLRs: The report is published by SG in the Spring after the survey was completed. The response data is then shared with ES for the production of the PLRs.

2.0. Purpose of the Data Sharing

2.1. Aims of Data Sharing

The data sharing is required for the efficient operation of the survey. As specific aspects are completed by different partners, it is necessary for relevant data to be shared between those partners throughout the survey cycle. For example, SQA collect the assessment data for the SSLN which is then analysed by EAS for the report. EAS then provide analysis data on the results of the survey to ES to be used in the PLRs.

Sharing the survey data between these partners allows a report on the national performance of literacy and numeracy to be published by EAS, as well as PLRs to be published by ES, based on the survey data.

Once they become data controllers, ES may wish to commission analysis of the data for the PLRs. If this is the case, it will be necessary for a Confidentiality Agreement to be arranged by ES and signed by the third party. ES will have responsibility for the data whilst it is being analysed by any third party.

2.2. Benefits of Data Sharing

The SSLN allows EAS to monitor the national performance of literacy and numeracy over time. The findings also inform targeted resources for practitioners, used to support improvements in learning and teaching. These PLRs provide both an overview and further detail on children and young people's strengths and areas for improvement in literacy and numeracy. They also provide guidance and advice to help inform learning and teaching practice in line with the SSLN's main survey objectives.

2.3. Implications and Consequences of not Sharing Data

The survey could not be run if partners were unable to share data. EAS would not be able to draw the pupil sample and produce the booklet allocation which would mean SQA would be unable to distribute materials. EAS would also not be able to produce the report and ES would not be able to produce the PLRs as they would not have access to the assessment data collected by SQA.

Data Sharing Agreement

3.0. Organisations Involved in the Data Sharing

Organisation/Business Area Education Analytical Services, Scottish Ministers (Scottish Government)

Information Asset Owner (IAO) (if applicable) Ailie Clarkson

Operational Contact Name Louise Cuthbertson
Operational Contact Job Title: Assistant Statistician

ICO Registration Number: Z4857137

Organisation/Business Area Scottish Qualifications Authority, Assessment Development & Delivery

Information Asset Owner (IAO) (if applicable) Martyn Ware

Operational Contact Name: Marion Menzies
Operational Contact Job Title: SSLN Project Co-ordinator

ICO Registration Number: Z5781759

Organisation/Business Area Education Scotland

Information Asset Owner (IAO) (if applicable) Graham Norris

Operational Contact Name: Graham Norris
Operational Contact Job Title: Assistant Director

ICO Registration Number:

3.1. Details of each Organisation's Role as Data Controller

The SQA initially collects the school level contact information data for the survey, and are therefore the data controller for this data. Once it is passed to EAS, they also become data controllers.

EAS are the data controllers for data on pupil/teacher samples and booklet allocations. This data is then shared with SQA who, at this point, also become data controllers **of this information.**

SQA are the data controllers for the assessment data as they receive it directly from schools. The processed outputs of this data are then passed to EAS who then also become data controllers of this information.

Data Sharing Agreement

EAS then transfer the finalised SSLN survey data to ES for further analysis and preparation of the PLRs. ES then become a data controller.

SQA, EAS and ES are data controllers of historic SSLN survey data as well as the present SSLN survey data.

4.0. Data Items to be Shared and Process Involved

4.1. Types of Data to be Shared

4.1.1. Personal Data Shared

Schools

The name, address and seedcode (unique 7 digit number used to identify schools) of all schools in Scotland are shared, in addition to contact details for the SSLN Coordinator at each school (including name, email address and position at the school). A record of whether schools may require Gaelic materials and whether they are rural is also shared. Participating schools are assigned an SSLN School ID which is used to identify them throughout the survey.

Pupils

The names of participating pupils are not held by SG, instead pupils are identified by their unique Scottish Candidate Number (SCN) and their SSLN Pupil ID (this becomes unique when matched with their SSLN School ID). The pupil data contains stage, gender, deprivation category, responses to all aspects of the survey completed by the pupil and assessment scores.

Teachers

The names of participating teachers are not held by SG, instead teachers are identified by their unique General Teaching Council (GTC) number. The teacher data contains subject taught and responses to the teacher questionnaire.

4.1.2. Sensitive Personal Data Shared

No sensitive personal data is collected, stored or shared as part of the SSLN.

4.1.3. Detail of Personal Data to be Matched or Linked

No current plans to match/link personal data.

4.2. Permissions and Prerequisites to Access Shared Data

Only SQA, ES and EAS staff who work on the SSLN will have access to this data. All EAS and ES staff must complete Disclosure checks and appropriate Data Protection training. All SQA staff are required to confirm that they have read and understood

Data Sharing Agreement

SQA's Data Protection Policy. SQA also provide internal training on the DPA to staff as required. Data is held securely by all partners.

4.3. Detail the Process for sharing

The data sharing is reciprocal and is on an on-going basis. Data is shared between the partners throughout the survey period and the survey is completed annually. The data will be shared using SFTP, a secure way of sharing and transferring files run by SG. The data shared through SFTP is stored on secure servers within SG which can only be accessed from specific computers using a username and password.

5.0. Basis for sharing

5.1. Legal Basis

Under the Education (Scotland) Act 1996, SQA and SG can share data under sections 5(1), 6(2g) and 10(1).

As ES is an Executive Agency of the Scottish Ministers, they are considered to be part of SG and therefore no legal basis is required for data sharing between ES and EAS (SG).

5.2. Data Protection Act

The Data Protection Act (DPA) (1998) provides a set of principles which prohibit the misuse of personal information without stopping it being used for legitimate purposes. The principles state that personal data must be:

- Fairly and lawfully processed;
- Processed for limited purposes;
- Adequate, relevant and not excessive;
- Accurate;
- Not kept longer than necessary;
- Processed in accordance with the data subject's rights;
- Kept secure;
- Not transferred abroad without adequate protection;

In order for processing to be lawful under the Data Protection Act a condition under Schedule 2 must be met. The SSLN meets condition 5(c) of Schedule 2.

6.0. Information Governance

Information will be shared and managed in line with the Scottish Government's Data Handling Policy.

Information will be shared and used only for those purposes set out in section 2.0.

Data Sharing Agreement

6.1. Information Assurance and Security

Personal and/or other protectively marked data will be shared using the method(s) set out at 4.3 and will be encrypted to appropriate government and industry standards. Data will be dealt with by parties stated in paragraph 4.2.

Data will be accessed from within the SG or SQA networks. The SG network and its security procedures are accredited under the CESG GSI Code of Connection and are reviewed and renewed annually.

SQA will ensure that appropriate technical security solutions to manage security risks are in place. These include:

- Password management and system access controls
- A secure web browser configuration.
- An appropriate Anti-Virus solution.
- A security patching policy.
- Appropriate network firewall protection.

6.2. Management of a Security Incident/Data Loss

EAS and SQA will follow their respective processes for dealing with security incidents and data loss. Any security incident and/or data loss will be reported immediately to the Scottish Government Departmental Security Unit and other partners should be notified.

6.3. Access and Individual's Rights

EAS and SQA are subject to the requirements of the Freedom of Information (Scotland) Act 2002 and the Environmental Information Regulations and shall assist and co-operate with each other to enable each organisation to comply with their information disclosure obligations. In the event of one department receiving a request for information under the terms of the Act or the Regulations that involves disclosing information that has been provided by the other organisation, the organisation in question will notify the other to allow it the opportunity to make representations on the potential impact of the disclosure.

6.4. Freedom of Information and Environmental Information Requests

Information requests for SG should be addressed in writing to:

ceu@scotland.gsi.gov.uk

Or:

The Scottish Government
St Andrew's House
Regent Road

Data Sharing Agreement

Edinburgh
EH1 3DG

Information requests for the SQA should be addressed in writing to:

foi@sqa.org.uk

Or:

Freedom of Information Officer
SQA
The Optima Building
58 Roberson Street
Glasgow
G2 8DQ

6.5. Data Protection Subject Access Requests (SARs)

EAS and SQA will follow their respective processes for dealing with subject access requests under the Data Protection Act 1998.

6.6. Retention & Deletion of Shared Data

Under the research exemption of the DPA, the SSLN may keep the data for as long as is required. If it is decided that the data should be destroyed, it will be destroyed securely by all partners.

6.7. Review of Data Sharing Agreement

The agreement will be reviewed 12 months from the date of the first signature or earlier if it needs updating or improving.

6.8. Closure of Agreement

The DSA should be renewed annually until the conclusion of the SSLN. Once the SSLN has concluded, the data may still be retained on record. As in 6.6, if it is decided that the data should be destroyed, it will be destroyed securely by all partners.

7. Signatories

Organisation/Business Area Education Analytical Services, Scottish
Government

Information Asset Owner (IAO)
(if applicable) or Equivalent

Name: Ailie Clarkson

Signature:

Date:

Organisation/Business Area Scottish Qualifications Authority

Information Asset Owner (IAO)
(if applicable) or Equivalent

Name: Martyn Ware

Data Sharing Agreement

Signature:

Date:

Organisation/Business Area Education Scotland
Information Asset Owner (IAO)
(if applicable) or Equivalent

Name:

Graham Norris

Signature:

Date:

Data Sharing Agreement

Annex A: Privacy Impact Assessment (PIA)

Title of Proposal:	SSLN (Score: 23)
Lead Official:	Elisabeth Boyling
DG, Division:	Education Analytical Services, Director-General Learning and Justice

Outline of Project

The Scottish Survey of Literacy and Numeracy (SSLN) is a sample-based survey which monitors national performance over time in literacy and numeracy at P4, P7 and S2. The findings of the SSLN are also used to produce Professional Learning Resources (PLRs) for schools and practitioners.

The SSLN is carried out in partnership by Education Analytical Services (EAS) in the Scottish Government (SG), the Scottish Qualifications Authority (SQA) and Education Scotland (ES). Each partner has responsibilities for specific aspects of the survey and work together to ensure the smooth running of the survey. This requires partner to share the data collected for the SSLN.

The data to be shared includes:

- **School Contact Details:** This contains details of all schools in Scotland including address and seedcode, in addition to contact details for the SSLN Coordinator for each school and whether they will be participating. This data is shared between EAS and SQA.
- **Sample and Booklet Allocation:** This includes details on the pupils (e.g. SSLN school and pupil ID, gender and deprivation category) and teachers (e.g. SSLN school ID and subject taught) sampled for the survey but does not contain individuals names. The booklet allocation data shows which assessment materials have been assigned to each individual.
This data is shared between EAS and SQA.
- **Assessment and Questionnaire Data:** This is the completed survey data collected from schools. This is collected by SQA then sent to EAS for validation and analysis. The final data is then sent to ES to be analysed for the PLRs.

This PIA is to assess the privacy impacts on sharing SSLN data.

The PIA screening questions should be used to focus on the privacy risks of the project. The requirement of the answers is to identify these privacy risks. So that they can be mitigated, or to explain what controls have been put in place to minimise them.

Stakeholder perspectives should also be considered as each question is answered.

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Scoring threshold- anything below a score of 60 small scale PIA - with anything scoring above 70 indicating a full PIA would be required.

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(1) Does the project apply new or additional information technologies that have substantial potential for privacy intrusion?

Any technical documentation on these technologies should be made available to better understand their impact.

<input type="checkbox"/> Smart Cards <i>(Used to provide identification, authentication, or data storage)</i> (3) impact score	<input type="checkbox"/> Radio frequency identification tags <i>(Used to store or, access, patient information)</i> (3) impact score
<input type="checkbox"/> Biometrics <i>(Used to identify individuals)</i> (3) impact score	<input type="checkbox"/> mobile phone location or GPS <i>(Used to determining the device's current location)</i> (3) impact score
<input type="checkbox"/> Intelligent transportation systems <i>(transfer of Communications between computers and electronic traffic control equipment from different manufacturers).</i> (3) impact score	<input type="checkbox"/> Visual Surveillance, video recording, Digital images <i>(These are often connected to a recording device or IP network)</i> (3) impact score
<input type="checkbox"/> profiling <i>(studying a collection of personal data)</i> (3) impact score	<input type="checkbox"/> Data Mining <i>(is the automatic or semi-automatic analysis of large quantities of data).</i> (3) impact score
<input checked="" type="checkbox"/> Logging of electronic traffic <i>(Data of telephone calls made and received, emails, sent and received and web sites visited.)</i> (3) impact score	<input type="checkbox"/> Other (please Specify) (3) impact score Introduction of cloud storage.

please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question	Possibility <input checked="" type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High	Total Impact Score 3
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Data Sharing Agreement

Describe use of Technology in the project:

A call log will be kept of those who have contacted the SSLN Helpline or Mailbox. This will link the reason of the call to the specific school/LA which will allow us to improve our service to them as we will have information on previous queries and responses.

Data Sharing Agreement

(2) Does the project involve new identifiers, re-use of existing identifiers, or intrusive identification, identity authentication or identity management processes?

<input type="checkbox"/> Name (4) impact score	<input checked="" type="checkbox"/> Telephone Numbers (4) impact score
<input type="checkbox"/> Home Address (5) impact score	<input type="checkbox"/> Date of Birth (5) impact score
<input checked="" type="checkbox"/> Business Address (4) impact score	<input type="checkbox"/> Driving Licence Number (5) impact score
<input type="checkbox"/> Postcode (3) impact score	<input type="checkbox"/> Passport / ID Card Number (5) impact score
<input checked="" type="checkbox"/> Unique identifying number e.g. store loyalty card, library card etc (3) impact score	<input type="checkbox"/> Photographs / images (which could be used to identify an individual) (5) impact score
<input checked="" type="checkbox"/> Email Addresses (3) impact score	<input type="checkbox"/> Digital Signature (3) impact score
<input type="checkbox"/> Other (Please specify) (3) impact score	

<p>please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question</p>	<p>Possibility <input checked="" type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High</p>	<p>Total Impact Score 14</p>
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Data Sharing Agreement

Details of how Identifier will be used:

The telephone numbers and business addresses will be those for schools and LAs which are largely available online already.

Similarly the email addresses are for teachers and LA contacts in their professional capacities. Again, some of these are already available online.

The unique SSLN identifiers allow SG to link assessment data with gender and deprivation category information. However, no information shared will allow this identifier to be matched with other identifiers, such as name, date of birth or address of teachers or pupils.

(3) Might the project have the effect of denying anonymity and pseudonymity, or converting transactions that could previously be conducted anonymously or pseudonymously into identified transactions?

<input type="checkbox"/> data is anonymised (3) impact score	<input checked="" type="checkbox"/> data is not anonymised (3) impact score
<input type="checkbox"/> encrypted (3) impact score	<input type="checkbox"/> Other please specify (3) impact score

ICO Code of Practice on Anonymisation

http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/anonymisation.a.spx

<p>please note that more than one impact box can be ticked</p> <p>The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question</p>	<p>Possibility</p> <p><input checked="" type="checkbox"/> Low</p> <p><input type="checkbox"/> Medium</p> <p><input type="checkbox"/> High</p>	<p>Total Impact Score</p> <p>3</p>
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Data Sharing Agreement

Details of how data will be analogous:

School contact details are not anonymous, however these can largely be found in the public domain already (e.g. online), particularly school addresses and phone numbers.

Pupil records of those pupils that have been sampled will be stored in secure servers by the relevant partners, however these records are anonymised using the SSLN School and Pupil ID. No identifiable information will be shared. Unique SSLN web area login details for pupils and teachers will also be shared between SQA and EAS, however these would not allow identification of individuals. The SSLN Web area contains no personal data, only the online survey elements that have been assigned to each pupil and teacher.

SG hold pupils' SCNs (Scottish Candidate Numbers) securely on SCOTS, but we do not hold pupils' names. SCNs will not be shared. Similarly, SG hold teachers' GTC Numbers (General Teaching Council Number) securely on SCOTS but, again, teachers' names are not held and GTC numbers will not be shared. There is separation between the pieces of information that would allow the identification of an individual pupil or teacher.

Data Sharing Agreement

(4) Does the project involve multiple organisations, whether they are government agencies (eg in ‘joined-up government’ initiatives) or private sector organisations (eg as outsourced service providers or as ‘business partners’)?

<input checked="" type="checkbox"/> Government Agency (3) impact score	<input type="checkbox"/> Joined up Government (4) impact score
<input type="checkbox"/> Out sourced Service provider (5) impact score	<input type="checkbox"/> Business Partner (3) impact score
<input type="checkbox"/> Other (Please specify) (3) impact score	

please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question	Possibility <input checked="" type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High	Total Impact Score 3
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Business case details for the data sharing:

The survey is run in partnership between the Scottish Government, SQA and Education Scotland. Each partner is responsible for different aspects of the SSLN, however some of these aspects overlap and so data needs to be shared between the partners.

Data Sharing Agreement

(5) Does the project involve new or significantly changed handling of personal data that is of particular concern to individuals? Such as information on the following:

No

<input type="checkbox"/> Potential for Identity theft (e.g. financial) (5) impact score	<input type="checkbox"/> Vulnerable Individuals (5) impact score
<input type="checkbox"/> Racial or ethnic origin (5) impact score	<input type="checkbox"/> Political opinion (5) impact score
<input type="checkbox"/> Religious beliefs (5) impact score	<input type="checkbox"/> Trade union membership (5) impact score
<input type="checkbox"/> Health Conditions (5) impact score	<input type="checkbox"/> Sexual Life (5) impact score
<input type="checkbox"/> Court Proceedings (5) impact score	<input type="checkbox"/> Persons at Risk (5) impact score
<input type="checkbox"/> Other (Please specify) (5) impact score	

<p>please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question</p>	<p>Possibility <input type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High</p>	<p>Total Impact Score N/A</p>
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Data Sharing Agreement

Details of the personal data held:

(6) Does the project involve new or significantly changed handling of a considerable amount of personal data about each individual in the database? For example intensive data processing for:

No

<input type="checkbox"/> Welfare Administration (4) impact score	<input type="checkbox"/> Health Care (4) impact score
<input type="checkbox"/> Consumer Credit (3) impact score	<input type="checkbox"/> Consumer Marketing (3) impact score
<input type="checkbox"/> Other intensive data processing (Please specify) (3) impact score	

<p>please note that more than one impact box can be ticked</p> <p>The possibility of privacy intrusion should be assessed as either low, medium, or high in relation to the question</p>	<p>Possibility</p> <input type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High	<p>Total Impact Score</p> <p>N/A</p>
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Data Sharing Agreement

Details of the information held:

(7) Does the project involve new or significantly changed handling of personal data about a large number of individuals?

No

<input type="checkbox"/> Data location (3) impact score	<input type="checkbox"/> Data Profiling (3) impact score
<input type="checkbox"/> Other (Please specify) (3) impact score	<input type="checkbox"/> Consumer Marketing (3) impact score

please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question	Possibility <input checked="" type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High	Total Impact Score N/A
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Data Sharing Agreement

Details of the Information Handling:

(8) Does the project involve new or significantly changed consolidation, inter-linking, cross-referencing or matching of personal data from multiple sources?

No

<input type="checkbox"/> Long data retention periods Is this covered in data sharing Template Personal information not to be kept for longer than necessary. (3) impact score	<input type="checkbox"/> Data sharing Do you have data sharing Template ? (3) impact score
<input type="checkbox"/> Cross referencing (3) impact score	<input type="checkbox"/> Data matching (3) impact score
<input type="checkbox"/> Other (Please specify) (3) impact score	

Data Sharing Agreement

<p>please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question</p>	<p>Possibility <input type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High</p>	<p>Total Impact Score N/A</p>
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Details of the information handling:

(9) Does the project relate to data processing which is in any way exempt from legislative privacy protections?

No

<input type="checkbox"/> law Enforcement Issues (5) impact score	<input type="checkbox"/> National Security Information (5) impact score
<input type="checkbox"/> Other (Please specify) (5) impact score	<input type="checkbox"/>

Data Sharing Agreement

<p>please note that more than one impact box can be ticked</p> <p>The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question</p>	<p>Possibility</p> <p><input type="checkbox"/> Low</p> <p><input type="checkbox"/> Medium</p> <p><input type="checkbox"/> High</p>	<p>Total Impact Score</p> <p>N/A</p>
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Details of the Exemption:

(10) Does the project’s justification include significant contributions to public security measures?

No

<p><input type="checkbox"/> law enforcement Issues (5) impact score</p>	<p><input type="checkbox"/> national security information (5) impact score</p>
<p><input type="checkbox"/> Other Contributions (Please specify)</p>	<p><input type="checkbox"/></p>

Data Sharing Agreement

(5) impact score	
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<p>please note that more than one impact box can be ticked</p> <p>The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question</p>	<p>Possibility</p> <p><input type="checkbox"/> Low</p> <p><input type="checkbox"/> Medium</p> <p><input type="checkbox"/> High</p>	<p>Total Impact Score</p> <p>N/A</p>
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Details of the contribution:

(11) Does the project involve systematic disclosure of personal data to, or access by, third parties that are not subject to comparable privacy regulation?

No

<input type="checkbox"/> Third Party not subject to UK data protection (5) impact score	<input type="checkbox"/> Sale, or exchange of information to parties not covered by UK data protection (5) impact score
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Data Sharing Agreement

<input type="checkbox"/> Unprotected publication in hard-copy or electronically-accessible form (5) impact score	<input type="checkbox"/> Outsourcing aspects of the data-handling to sub-contractors outside the UK. (5) impact score

please note that more than one impact box can be ticked The possibility of privacy intrusion should be assessed as either low, medium ,or high in relation to the question	Possibility <input type="checkbox"/> Low <input type="checkbox"/> Medium <input type="checkbox"/> High	Total Impact Score N/A
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Details of the disclosure:

Data Sharing Agreement

Annex B: Detailed Advice from SGLD – 21st October 2013Data sharing between SG and SQA

We consider that there would be an implied reciprocal power for SG to share data with SQA which is incidental to the functions of SQA highlighted above i.e. sections 5(1), 6(2)(g) and 10(1) of the 1996 Act. In any event even if that implied power did not exist, then under the RAM doctrine the SG would have a power to share data in these circumstances as there is not as far as we are aware any statutory provision prohibiting the SG from sharing personal data in this context.

Data sharing between SG and ES

In relation to the sharing of data between **SG and ES**, we consider that this does not amount to data processing for the purposes of the DPA. The DPA sets out responsibilities/legal obligations for the sharing of data between data controllers. ES is an Executive Agency of the Scottish Ministers created to carry out certain functions of the Scottish Ministers which are delegated to them for that purpose. We consider ES to be part of the Scottish Government and therefore it would be the data controller. There would therefore be no “processing” of data for the purposes of the DPA. If ES were a different department from the SG then there would be data processing in the light of the terms of section 63(2) of the DPA which provides that each government department shall be treated as a person separate from any other government department. Following on from this each government department would be a data controller. Therefore, in relation to this data sharing, no legal basis is required.

Data sharing between ES and SQA

There does not appear to be any data sharing between **ES** and **SQA** but only between **SG** and **ES**.

Conclusion

In order to cover the data sharing between the SG and SQA under the SSLN, the agreement would need to refer to section 5(1), 6(1)(g) and 10(1) of the Education (Scotland) Act 1996

Data Sharing Agreement

Statutory Provisions***Education (Scotland) Act 1996*****Section 5****5.— Advisory function.**

(1) SQA shall provide the Secretary of State with such advice in respect of any matter to which its functions relate as he may, from time to time, require.

(2) SQA may provide the Secretary of State with such advice in respect of any matter to which its functions relate as it thinks fit.

Section 6**6.— Incidental functions.**

(1) SQA shall have power to do anything whether in Scotland or elsewhere which, in its opinion, is calculated to facilitate or is conducive or incidental to the carrying out of its functions.

(2) The powers of SQA shall include power, for the purposes of or in connection with the carrying out of its functions—

(a) to fix and recover charges for services provided by it in accordance with criteria determined from time to time by the Secretary of State;

(b) subject to subsections (3) and (4) below, to enter into contracts including contracts for the employment of staff;

(c) to acquire, hold and, subject to **paragraph 18 of Schedule 1** to this Act, to dispose of land and other property;

(d) subject to subsections (5) and (6) below, to borrow such sums as it thinks fit including such sums for the purpose of meeting any liability or obligation transferred to it under or in pursuance of any provision of this Part of this Act and in connection with such borrowing to grant such security or give such guarantee or indemnity as it thinks fit;

(e) subject to subsection (8) below, to raise funds, accept gifts of money, land or other property and apply them or administer them in trust,

(f) subject to subsection (8) below, to invest any sums not immediately required by it for the purpose of carrying out its functions or for the purpose of meeting any liability or obligation transferred to it in pursuance of this Part of this Act;

(g) to carry out, commission or assist in the carrying out of research;

(h) to promote or assist in the promotion of publicity;

(j) to publish or assist in the publication of material;

(k) to confer fellowships and other awards on persons whom it considers to have made an outstanding contribution to the advancement of education or training;

(l) subject to subsection (7) below, to form or promote, or to join with any other person in forming or promoting, companies [under the **Companies Act 2006**]¹.

Section 10**10.— Provision of information by SQA.**

Data Sharing Agreement

(1) SQA shall provide the Secretary of State with all such information as he may reasonably require relating to the carrying out or proposed carrying out of its functions.

Annex C: Glossary of Acronyms

Acronyms within the data sharing agreement:

SSLN - Scottish Survey of Literacy and Numeracy

EAS – Education Analytical Services

SG – Scottish Government

SQA – Scottish Qualifications Authority

ES – Education Scotland

PLRs – Professional Learning Resources

IAO – Information Asset Owner

SCN – Scottish Candidate Number

GTC – General Teaching Council

SFTP – Secure File Transfer Protocol

DPA – Data Protection Act

SARs – Subject Access Requests

DSA – Data Sharing Agreement

PIA – Privacy Impact Assessment

LA – Local Authority

SGLD – Scottish Government Legal Department