

From: [redacted - exemption applies]
Sent: 10 May 2017 17:14
To: Bell D (Donna); MacDougall A (Audrey); [redacted - exemption applies] Bruce A (Andrew); [redacted - exemption applies]
Cc: Logan G (Graeme)
Subject: Re: Detailed information about attainment

As part of his interview, one of the print journalists at the school visit asked DFM if there were plans for SG to collect the standardised assessment data and he said no.
[redacted - two words - exemption applies]

Sent from my BlackBerry 10 smartphone.

From: Bell D (Donna)
Sent: Wednesday, 10 May 2017 16:54
To: MacDougall A (Audrey); [redacted - exemption applies] Bruce A (Andrew); [redacted - exemption applies]
Cc: Logan G (Graeme)
Subject: RE: Detailed information about attainment

Hi Audrey, the feedback from Las is quite mixed but it seems like quite a number of them are converging in Feb/March/April. Kit has a note of the ones where they have made a decision.

In terms of the decision re gathering data, Kit and Mick were planning to do a pros and cons paper for DFM- how is that going? I have been deliberately non-committal about collection thus far.

[redacted - one paragraph - exemption applies]

Thanks

Donna

From: MacDougall A (Audrey)
Sent: 10 May 2017 16:28
To: Bell D (Donna); [redacted - exemption applies] Bruce A (Andrew); [redacted - exemption applies]
Cc: Logan G (Graeme)
Subject: RE: Detailed information about attainment

Colleagues

I've had a look at the detailed reports from SNSA and I agree that they are very detailed. This information should be very useful at individual, school and LA level.

We could only use this at national level (ie be able to comment on issues that impact across the country) if:

- Sufficient numbers of children take the assessment at around the same time (eg if half took it at start of year and half at end that would be useful data)
- We actually ask for the data nationally for analysis

What are the latest views of whether we want or need to know this level of detail at national level (eg to assist ES in producing materials) and the accessing of the data by SG? Do we have any views from LAs on the timing of the assessments?

I have no strong views on this but I'd like to make sure I'm in line with others when talking about these issues with stakeholders

From: Bell D (Donna)
Sent: 09 May 2017 13:23
To: MacDougall A (Audrey); [redacted – exemption applies] Bruce A (Andrew)
Cc: Logan G (Graeme)
Subject: RE: Detailed information about attainment

That sounds like a good idea Audrey. I think the teacher survey might be sensible.

We had a presentation of the info available from the SNSA and it looks like there is the potential to get very detailed info on the areas of the curriculum where children are doing well and where they are not. That should help to fill the gap you describe.

Happy to discuss.

Donna

From: MacDougall A (Audrey)
Sent: 08 May 2017 09:29
To: [redacted — exemption applies]
Cc: Logan G (Graeme); Bell D (Donna)
Subject: Detailed information about attainment

Once this week is over one of the issues we might want to think about is [redacted – part sentence – exemption applies]

[redacted – three paragraphs – exemption applies]

I'd like us to have a chat about this after this week.

Audrey

Dr Audrey MacDougall
Chief Social Researcher *and* Head of Education Analysis, Intelligence and Performance
2D South
Victoria Quay
Edinburgh
EH6 6QQ

[redacted – exemption applies]

From: [redacted – exemption applies]
Sent: 09 June 2017 16:49
To: [redacted – exemption applies] Bell D (Donna)

Cc: [redacted – exemption applies]
Subject: RE: Draft paper on use of SNSA data

[redacted – exemption applies], Donna
Sorry not to get into this before now....

A few thoughts (happy to redraft on this basis but thought I'd see what you think first):

[redacted – five paragraphs – exemption applies]

From: [redacted – exemption applies]
Sent: 14 May 2017 20:31
To: MacDougall A (Audrey); [redacted – exemption applies] Bell D (Donna); [redacted – exemption applies] Bruce A (Andrew); [redacted – exemption applies]
Cc: Logan G (Graeme); [redacted – exemption applies]
Subject: RE: Detailed information about attainment

Colleagues

I realise I am not the SG specialist in education stats or policy, however I would draw your attention to two papers we are presenting to SROs next week on Standardisation and Reporting for the SNSA. The first paper on standardisation discusses the rigorous processes (norming, calibrating and equating) proposed for session 2017/18 to ensure that we do have data on a national standard on those aspects of literacy and numeracy covered by the assessments. The second paper on reporting considers the range of reports we will be providing for teachers, schools and local authorities. The issue of national reporting of SNSA is left unresolved

Reporting of Curriculum for Excellence levels is of course primary. However a rich source of standardised data will be available through the SNSA and careful consideration on its use should be made especially as the policy position (as I understand) is that it will be replacing existing standardised assessments in local authorities, the New Group Reading Tests for the Challenge Authorities and the SSLN.

I am happy to discuss. Papers for the SRO meeting will be posted on eRDM on Tuesday.

[redacted – exemption applies]

From: MacDougall A (Audrey)
Sent: 11 May 2017 11:17
To: [redacted – exemption applies] Bell D (Donna); [redacted – exemption applies] Bruce A (Andrew); [redacted – exemption applies]

Cc: Logan G (Graeme)
Subject: RE: Detailed information about attainment

Can we have some discussion with the ICO. I realise that they won't give a decision in advance but it would be useful to talk through the issues.

[redacted – exemption applies] – can you set up a meeting please.

Audrey

[redacted – exemption applies]

For key facts and figures on Scottish Education see:

http://saltire/Documents/Our%20organisation%20documents/Education_key_facts_and_figures_copendium.pdf

From: [redacted – exemption applies]

Sent: 11 May 2017 11:13

To: [redacted – exemption applies] MacDougall A (Audrey); Bell D (Donna); [redacted – exemption applies] Bruce A (Andrew); [redacted – exemption applies]

Cc: Logan G (Graeme)

Subject: RE: Detailed information about attainment

The pupil report on numeracy looks great. I'd be interested to see the equivalent on reading and writing, given what we know about writing performance from the SSLN.

I agree that we should only collect this data if it meets an identified need (ES resources seems most likely), that we are satisfied the data will be able to meet that need (useful format, consistency etc) and that we don't already hold data that could meet that need. We already have a wealth from data on pupil strengths and weaknesses from the [redacted – part sentence – exemption applies]

From the SSLN we have:

- % of pupils which answered question correctly (by gender and deprivation, also accounting for position of question in booklet) and common wrong answers for 1,750 numeracy questions in each of the 3 surveys years
- As above for over 700 reading questions in each of the 3 surveys years
- Strengths and weaknesses in writing in line with experiences and outcomes (2 surveys)
- Strengths and weaknesses in group discussion in line with experiences and outcomes (2 surveys)

[redacted – one paragraph – exemption applies]

[redacted – exemption applies]

From: [redacted – exemption applies]

Sent: 10 May 2017 17:03

To: MacDougall A (Audrey); Bell D (Donna); [redacted – exemption applies] Bruce A (Andrew); [redacted – exemption applies]

Cc: Logan G (Graeme)

Subject: RE: Detailed information about attainment

My thoughts following on from the NIF Strategic Board meeting on Monday, and the meeting with Professional Associations this morning, are:

Although SG's position is that LA/Schools will continue to have total flexibility as to when to use the SNSA, [redacted – part sentence – exemption applies]
As SNSA's primary purpose is to diagnose current strengths and developmental areas, there could be [redacted - two sentences – exemption applies]

[redacted - one paragraph – exemption applies]

We also need to remember that in 2017/18, the SNSA reporting will not include the full age/stage standardisation. My understanding is that the first year's reporting will be able to show how individual children are doing compared with their peers within the same school, but not against a representative sample of similar children across Scotland.

[redacted – three paragraphs – exemption applies]

These are my current thoughts. I hope they help shape thinking [redacted – exemption applies].

[redacted – exemption applies]



NATIONAL IMPROVEMENT FRAMEWORK –SCOTTISH NATIONAL STANDARDISED ASSESSMENTS PROJECT – SNSA REPORTING FORMATS SRO MEETING – 19-05-17

Purpose

- To provide an overview of the SNSA Reporting Formats provided by ACER
- To seek approval on the recommended SNSA Reporting Formats for year 1 - 2017/2018 .

Proposals for consideration

SROs are asked to agree which of the Reporting Formats should be in place for session 2017/18

ACER can produce a number of reporting formats, some of which are available immediately, some of which will be available in session 2018/19 once we have a national data set and concluded the standardisation processes. We also need to consider what style of report ACER will provide for local authorities.

Background

The statement of requirements sets out the expectations on reports from the SNSA

3.1 Reports – high level

The primary output of the Assessments will take the form of an individual “diagnostic” report to be automatically generated and available to the teacher immediately after an Assessment is completed. In addition, reports which combine the results of groups of Assessments will be available for group, class, school, cluster and local authority levels. Data must be fully cleaned and quality assured. A unique pupil identifier will be used and data will be linked to pupil level information to enable analysis by pupil characteristics.

3.15 National level data

Summary national level data will be made available to the Scottish Government and Education Scotland.

3.16 Pupil level dataset

The Scottish Government will have the ability to receive a full dataset (in an acceptable and agreed format) of the results of the assessments at pupil level for each school year. The full scope and format of the data will be agreed between the Scottish Government and the Service Provider and is likely to include pupil level assessment results (age of pupil when assessment was taken, date assessment was taken, raw score, standardised score and age norm – all for each of reading, writing and numeracy), unique pupil identification numbers (such as Scottish Candidate Numbers) and pupil characteristics (as detailed in requirement 2.18).

Once pupils have taken the assessments more than once, longitudinal analysis of pupil progress will be included in any data sets supplied to the Scottish Government.’

ACER have provided, through a workshop and subsequent papers (attached), an overview of the various reporting formats they can furnish in the first year of implementation- 2017/18. They have proposed a number of options under the following categories:

[redacted – seven paragraphs – exemption applies]

Key issues / decisions arising from the Reporting Formats;

1. Clarity of terminology

[redacted – one sentence – exemption applies]

In summary it was agreed that 'children and young people' and 'capacity' would be used consistently in all reports. ACER have asked for flexibility to use other appropriate terms such as learner where it improves the flow of a sentence.

[redacted – one paragraph – exemption applies]

2. Feedback from stakeholder groups

These proto-type reporting formats have been shared with a number of stakeholder groups including, Head Teachers, Professional Associations and Local Authority staff. There has been widespread approval with most recognising that these are an improvement on existing reports from standardised assessments currently in use. In particular the analytical properties of the group reports have been welcomed.

Some concerns about the individual reports have been expressed in relation to parental requests for information on their child. We have consistently advised that these reports are not for parents and that information to parents should be included in the agreed annual reporting formats provided by schools. We have asked, however, for the comparative data on the child's report be placed at the end of the report and clear guidance for teachers in the use of these reports.

3. Content of descriptors

ACER are currently working on the specific content descriptors that will be used on the individual report. These will be related to curricular and benchmark descriptors so as to provide useful diagnostic information, in a language familiar to Scottish teachers.

Recommendations

SROs are asked to:

- a) Agree to the formats for the Individual and Group reports
- b) Consider what style of report ACER will provide for local authorities .

Document Title: Assessment Mock-ups

[redacted – full document, ten pages – exemption applies]

From: [redacted – exemption applies]
Sent: 26 August 2017 09:30
To: [redacted – exemption applies]
Subject: RE: Official Sensitive - SG access to SNSA data

[redacted – exemption applies]

[redacted – three paragraphs – exemption applies]

From: [redacted – exemption applies]
Sent: 23 August 2017 13:14
To: [redacted – exemption applies]
Subject: FW: Official Sensitive - SG access to SNSA data

[redacted – five paragraphs – exemption applies]

The national level report would not provide school or local authority level data – that level of information would be available to the relevant school local authority and regional improvement collaborative to support improvement activity at a local level.

Regards

[redacted – exemption applies]

From: [redacted – exemption applies]
Sent: 29 August 2017 08:40
To: Bell D (Donna)
Subject: FW: Official Sensitive - SG access to SNSA data

DB

I've been thinking about the further advice to DFM on letting people know about the plans re data and will get you a draft to look at before you go on leave. I have also been thinking about what the submission says on LA reports and DFM's response to that. [redacted – three sentences – exemption applies]

On the back of DFM's response below, I have asked [redacted – exemption applies] to [redacted – part sentence – exemption applies]

[redacted – exemption applies]

From: [redacted – exemption applies] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Education and Skills
Sent: 23 August 2017 12:27
To: [redacted – exemption applies] Deputy First Minister and Cabinet Secretary for Education and

Skills

Cc: First Minister; Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Jobs and Fair Work; Minister for Childcare and Early Years; DG Education, Communities & Justice; Robertson FMG (Fiona); Logan G (Graeme); Reid K (Karen) (EdS); Morrison E (Elizabeth) (Education Scotland); [redacted – exemption applies] Bell D (Donna); [redacted – exemption applies] Bruce A (Andrew); Hicks C (Clare); [redacted – exemption applies]

Subject: RE: Official Sensitive - SG access to SNSA data

[redacted – exemption applies]

DFM has noted your submission, he has commented that he thinks that the SG should access National level data and is content to agree with the recommendation reporting to LA's should not provide an overt platform for producing comparative, school-level analysis.

[redacted – one sentence – exemption applies]. These arrangements properly put the focus on improvement at school and local level.

[redacted – exemption applies]

All e-mails and attachments sent by a Ministerial Private Office to another official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the primary recipient. Private Offices do not keep official records of such e-mails or attachments.

From: [redacted – exemption applies]

Sent: 09 August 2017 15:15

To: Deputy First Minister and Cabinet Secretary for Education and Skills

Cc: First Minister; Cabinet Secretary for Health and Sport; Cabinet Secretary for Economy, Jobs and Fair Work; Minister for Childcare and Early Years; DG Education, Communities & Justice; Robertson FMG (Fiona); Logan G (Graeme); Reid K (Karen) (EdS); Morrison E (Elizabeth) (Education Scotland); [redacted – exemption applies] Bell D (Donna); [redacted – exemption applies] Bruce A (Andrew); Hicks C (Clare); [redacted – exemption applies]

Subject: Official Sensitive - SG access to SNSA data

Please find attached a note for DFM setting out the options for SG accessing data/results from the forthcoming National Standardised Assessments.

A steer in advance of the assessments going live would be helpful to allow clear comms lines to be in place.

<< File: NIF - SNSA data access submission - August 2017.doc >>

[redacted – exemption applies]

[redacted – exemption applies]

9 August 2017

Deputy First Minister and Cabinet Secretary for Education and Skills

SCOTTISH NATIONAL STANDARDISED ASSESSMENTS – USE OF ASSESSMENT DATA

Purpose

1. To seek DFMs views on plans for the use of Scottish National Standardised Assessments (SNSA) data, the different levels of data that are available to the Scottish Government, local authorities and regional improvement collaboratives, the views of key stakeholders; and to seek agreement on the data that SG should collect to help identify trends and to drive national policy and improvement priorities.

Priority

2. Routine, although an early response would be helpful to allow us to take forward next steps, including the development of clear communications/media lines in time for the launch of the assessments in the new school year.

Background

3. Our public position has consistently been that Achievement of CfE Level data is the key measure of literacy and numeracy performance, and the standardised assessments are a diagnostic tool for teachers to use to tailor teaching and learning. They are not for accountability purposes or for the creation of league tables. We have made clear in our media lines and in discussion with stakeholders that the assessments are not high stakes “tests”, that the data is not a national performance measure and that we will publish the Achievement of CfE level data at school, local and national level. We have also emphasised that the assessments can be used at any point in the school year so they will not provide a snapshot of performance in the way that, for example, the English SATs do.

4 The primary output of the assessments will be an individual diagnostic report to be automatically generated and available to the teacher immediately after an assessment is completed. In addition, reports which combine the results of groups of assessments will be available at group, class, school, cluster and local authority levels. A unique pupil identifier will be used and data will be linked to pupil level information to enable analysis by pupil characteristics.

5. The pupil information that will populate the SNSA will be taken from SEEMIS, the schools information management system, and as such, the data are owned by local authorities. [Redacted – one sentence – exemption applies].

6. [Redacted – two sentences – exemption applies] Aggregated data (i.e. data that does not identify individual children) at school, local authority and national level

can be made available to the Scottish Government. Based on our discussions, we are now working on the basis that the 32 local authorities are the data owners and controllers – the role of SG will be as a “data processor”. This means that we must reach agreement with the data owners (local authorities) about access to the data. [Redacted – one sentence – exemption applies.]

Levels of information to be gathered by Scottish Government

7. We have not yet reached a formal position on what level of data we want – our line on this has been that we are actively considering what information we will access.

8. Our starting point for considering plans for the data at national level is that schools and local authorities will have full access to all of their data in order to plan and drive local improvement activity. The new regional improvement collaboratives will have local authority staff working within them and, as such, they can make data available to the collaboratives for improvement purposes.

9. It follows that Scottish Government should have access to the data at the level which is proportionate to its intended use:

- The most valuable use of the data at a national level will be to identify strengths and weaknesses in aspects of literacy and numeracy. This will inform the type and level of national support to be made available. It will also inform the development of national policy and priorities and Scottish Government’s annual improvement plan.
- Local authority level data would be useful to us in focusing discussion with regional improvement collaboratives and in helping identify areas where further improvement work is required.
- School level data will, in reality, be of minimal practical use to us. Local authorities and regional improvement collaboratives will be supporting improvement action at school level – based on the wider information about school performance available to them, as well as the SNSA data. As regional improvement collaboratives will have local authority staff working within them, the school level data can be made available through them.

10. In accessing anonymised assessment data, we need to consider the level of data that we want and what the implications of having that data would be. As you are aware there has been considerable media interest in this work, so we are expecting that we will receive FOI requests for all of the data that we collect from the SNSA. Consideration of each of these options is explored in more detail below.

[redacted – twenty four paragraphs – exemption applies]

32. We would be happy to arrange a discussion for DFM with Learning Directorate policy and analysis officials if that would be helpful.

Next steps

29. We are currently working with local authorities to put in place the necessary data sharing agreements [redacted – part sentence – exemption applies] Once we have the data sharing agreements in place, and are clear about the level of data we are looking to gather we will agree reporting requirements with ACER. Because schools can use the SNSA at any point in the school year, any data or report from ACER will not be received by SG until summer 2018 at the earliest. In the meantime we can consider any potential handling issues that may arise.

Conclusion

30. **The Deputy First Minister is invited to:**

- [redacted – one sentence – exemption applies]
- [redacted – one sentence – exemption applies]
- **provide a view on the level of data that SG should access;**
- **agree that we recommend reporting to local authorities should not provide an overt platform for producing comparative, school-level analysis** [redacted – part sentence – exemption applies].

[redacted – exemption applies]

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
First Minister Cabinet Secretary for Economy, Jobs and Fair Work Cabinet Secretary for Health and Sport Minister for Childcare and Early Years			X X x		X
Paul Johnston Fiona Robertson Karen Reid Graeme Logan Elizabeth Morrison [redacted – exemption applies] Donna Bell Andy Bruce Clare Hicks [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] Audrey MacDougall [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies] [redacted – exemption applies]					DG Learning and Justice Director of Learning Education Scotland Education Scotland Education Scotland Education Scotland DD Strategy and Performance DD Curriculum and Assessment DD People and Infrastructure NIF Unit NIF Unit NIF Unit NIF Unit NIF Unit NIF Unit NIF Unit Head of Education Analytical Services Learning Analysis Learning Analysis Special Advisor Special Advisor First Minister’s Policy Office Communications Smarter

From: Bell D (Donna)
Sent: 29 July 2017 12:26
To: [redacted – exemption applies] Robertson FMG (Fiona)
Cc: [redacted – exemption applies]

Subject: RE: Data use submission

[redacted – two sentences – exemption applies]. Given that we are working within that constraint, is there anything else you think we can add to give us more flexibility and that would give you more comfort on what you would like to do? Happy for you to add that in.

You might want to discuss further with Delina and/or Fiona? Otherwise I am happy for you to put this forward once you have added your thoughts and it has been sense checked.

Thanks

Donna

From: [redacted – exemption applies]
Sent: 26 July 2017 15:06
To: [redacted – exemption applies] Bell D (Donna); [redacted – exemption applies]
Cc: [redacted – exemption applies]
Subject: RE: Data use submission

[redacted – two paragraphs – exemption applies]

We've been round various drafts of this now, so is it better to meet up and discuss? I know leave makes this a little tricky, but...

Cheers,

[redacted – exemption applies]

From: [redacted – exemption applies]
Sent: 25 July 2017 16:08
To: Bell D (Donna); [redacted – exemption applies]
Cc: [redacted – exemption applies]
Subject: Data use submission
Importance: High

Donna

I have re-worked this as discussed, [redacted – one sentence – exemption applies]. Copied to others too for any comment/input – this has changed considerably from the previous version that I circulated. Grateful if you could get back to me by 2pm tomorrow if possible so that I can get this into shape before I finish up on leave tomorrow evening.

Thanks

[redacted – exemption applies]

**XXXXX COUNCIL
DATA PROCESSOR AGREEMENT**

AGREEMENT

between

XXXXXXXXXX, a local authority incorporated under the Local Government etc (Scotland) Act 1994 and having its head office at XXXXXXXXXXXXXXXX (hereinafter referred to as "the Council")

and

THE SCOTTISH MINISTERS,
[designation]
(hereinafter referred to as "SG").

(together the "Parties" and each a "Party").

WHEREAS:

- (a) SG are offering to provide a system of Scottish National Standardised Assessments ("SNSA") to the Council and to other local authority bodies;
- (b) SG has appointed ACER (defined below) to provide the SNSAs to the Council and to other local authority bodies;
- (c) The Council is a data controller of the personal data held on the education management information system known as SEEMiS ("SEEMiS") in terms of the Data Protection Legislation;
- (d) Data held on SEEMiS for which the Council is the Data Controller is also accessible by Council authorised users of Glow. It is agreed that an "SNSA tile" will be made available in Glow, to allow Council authorised users operating in Glow to directly link to SNSA from Glow, without the necessity for separate log-in for such authorised users;
- (e) In providing SNSA, the Council will require to provide its consent to the transfer of Personal Data held on SEEMiS to ACER; to in turn allow ACER to process the data to support the development of SNSA;
- (f) SG is to and shall act as a conduit whereby the Council appoints SG as their data processor so that SG can appoint ACER as the Council's sub-processor allowing the Personal Data (held on SEEMiS) to flow directly from the Council via SEEMiS to ACER; and

- (g) the Data Protection Legislation requires such processing by third parties to be regulated by a written contract.

NOW THEREFORE IT IS AGREED AS FOLLOWS:-

1. DEFINITIONS

- 1.1 In construing this Agreement (as defined below) the following expressions shall have the meaning set out opposite:

"ACER" means ACER International United Kingdom Limited, a company with company number 05572704, whose registered address is at Column House, London Road, Shrewsbury, Shropshire, United Kingdom, SY2 6NN;

"Agreement" means this data processing agreement, including the Schedules;

"Data Protection Legislation" means applicable data protection laws including the Data Protection Act 1998, and when it comes into force on 25 May 2018, the General Data Protection Regulation (2016/279) and any subsequent Data Protection Legislation that may be introduced;

"Data", "Personal Data", "Sensitive Personal Data", "Special Category Personal Data", "Data Controller", "Data Processor", "Data Subject" and "Processing" shall have the meanings ascribed to them by the Data Protection Legislation as in force (and "Process", "Processes" and "Processed" shall be construed accordingly) save that the expression "personal data" as used in this Agreement shall refer solely to personal data of which the Council is the data controller and which SG is processing on behalf of the Council in terms of this Agreement; and

"Schedules" means the schedule attached to this Agreement and "Schedule" means any one of them or a particular numbered Schedule.

2. In respect of any Personal Data which SG Processes on behalf of the Council SG hereby warrants –

2.1 that the Processing of such Personal Data will be subject to appropriate technical and organisational measures to comply with Data Protection Legislation. In particular, this will include measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall include as a minimum standard of protection, compliance with the requirements set out in Schedule 2 of this Agreement;

2.2 that it will take reasonable steps to ensure compliance with the measures described in clause 2.1; and

- 2.3 that it will Process such Personal Data only in accordance with documented instructions from the Council, the said instructions being summarised in Schedule 1 of this Agreement.
3. In respect of any Personal Data which SG (and any sub-processor appointed under this Agreement) Processes on behalf of the Council, the Council hereby warrants:
 1. that such Processing, where carried out in the manner and for the purposes set out and in accordance with this Agreement, shall be lawful; and that the Council shall notify SG immediately in writing should any event occur which deems the Processing unlawful (including, but not limited to, the Data Subject withdrawing his or her consent to Processing); and
 2. all Personal Data is necessary, accurate and up-to-date.
4. Each Party agrees to indemnify the other Party for any losses or expenses incurred by the other Party as a result of the first Party failing to comply with the terms of this Agreement (which, for the avoidance of doubt, shall include the costs of defending any action brought by or on behalf of the Information Commissioner including criminal prosecution or the imposition of a civil penalty).
5. Neither Party shall be liable to the other Party under or in connection with this Agreement, whether arising from contract or delict (including negligence) or otherwise, for any (i) loss of profits, business, revenue or goodwill; or (ii) special, indirect or consequential loss or damage. Neither Party excludes or limits liability to the other Party for (a) fraud or fraudulent misrepresentation; (b) death or personal injury caused by negligence; or (c) any matter for which it would be unlawful for the Parties to exclude liability.
6. Either Party may terminate this Agreement on one month's written notice to the other Party, or immediately in the event of a breach of this Agreement by the other Party.
7. Data which SG Processes on behalf of the Council will at all times remain the property of the Council. Should either Party for any reason terminate this Agreement, the Council will decide whether the Personal Data will be returned to the Council or deleted. All Processing by SG will end except for any Processing required by law or which is necessary to bring this Agreement to an end. The Council may at any time require SG to stop processing the Personal Data and to delete and return them to the Council. This Clause shall not prevent SG from carrying out the statistical analyses to anonymised data derived from the Personal Data, as described in the Schedules and from retaining such non-personalised statistical data after the termination or expiry of this Agreement.
8. Should SG wish to sub-contract the Processing, they must impose on any sub-contractor the same contractual obligations in respect of data

protection security as has been established between SG and the Council and set out in this Agreement at Schedule 2.

9. The specific written approval of the Council must be acquired prior to any such sub-contracting. The Council hereby approve SG appointing ACER, as a data sub-processor in connection with this Agreement, and to ACER appointing Twig World Limited and Amazon Web as sub-sub-processors in connection with this Agreement.
10. Data held on SEEMiS for which the Council is the Data Controller is also accessible by Council authorised users of Glow. It is agreed that an "SNSA tile" will be made available in Glow, to allow Council authorised users to directly link to SNSA from Glow, without the necessity for separate log-in for such authorised users.
11. The Council shall provide its consent to the transfer of Personal Data held on SEEMiS to ACER; to in turn allow ACER to process the data to support the development of SNSA.
12. The Council may on giving at least two (2) weeks written notice, audit SG's and any sub-contractor's compliance with this Agreement. The Council undertakes not to use or disclose any confidential information belonging to SG or any third parties acquired in the course of each audit.
13. SG will advise the Council without undue delay after becoming aware of any security breaches within its own or sub-contractor's organisation which involve the Council's personal data including, but not limited to an actual, potential or attempted breach. Upon becoming aware of any of the circumstances referred to, SG shall immediately take all reasonable steps necessary to:
 - 13.1 as soon as reasonably practicable provide to the Council full details (using such reporting mechanism as may be reasonably specified by the Council from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof;
 - 13.1.1 remedy such breach or protect the SG system against any such potential or attempted breach or threat; and
 - 13.1.2 prevent an equivalent breach in the future.

Such steps shall include any action or changes reasonably required by the Council.
14. SG will ensure that all staff who are directly involved in Processing on behalf of the Council receive the appropriate training in data protection procedures, identify and keep records of training received by such staff and contents of all courses for the duration of this Agreement. SG shall, subject to its authorised sub-contractors, ensure that no other agents or employees of SG are given access to the Personal Data.

15. The Council must give prior written authorisation for any transfer or disclosure of Personal Data outside the European Economic Area or to an international organisation, unless required to do so by Union or Member State law to which SG is subject; in such a case, SG shall inform the Council of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest. For the avoidance of doubt, the Council understands that the servers on which Personal Data related to SNSA will be held are currently located in Dublin, Ireland (main server) and Frankfurt, Germany (back-up server) and authorises the transfer of Personal Data by SG within the European Economic Area.
16. The Parties recognise that the Council is entering into this agreement on the basis of the statements made herein, and in particular, the organisational and technical security measures to be applied to the Personal Data by SG acting through ACER and the sub-sub-processors. If SG should process the Personal Data in a way beyond what is permitted in this Agreement (for example, by storing the Personal Data on unencrypted removable media), it is doing so on its own behalf and assumes the responsibilities of Data Controller in respect of any such unauthorised processing. This clause does not legitimise any such activity as between the Parties and any unauthorised processing (a) requires to be notified to the Council as breach, in terms of clause 13 above; and (b) entitle the Council to terminate this Agreement immediately in terms of clause 6 above.
17. The Council agrees that the sub-contractor ACER shall perform secure back-ups of all Council Data. SG shall ensure that such back-ups are available to the Council upon reasonable advance notice. SG shall ensure that any system on which ACER holds the back-up data, is a secure system that complies with the requirements of this Agreement.
18. SG shall:
 - 18.1 Process the Personal Data only to the extent, and in such manner, as set out in paragraph 3 of Schedule 1 which details the permitted uses of the Personal Data or as required by law or any regulatory body;
 - 18.2 take reasonable steps to ensure the reliability of any SG personnel who have access to the Personal Data;
 - 18.3 ensure that all SG personnel required to process the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 18;
 - 18.4 ensure that SG personnel who are involved in the processing of Council data are bound by appropriate obligations of confidentiality;
 - 18.5 ensure that none of the SG personnel publish, disclose, or divulge any of the Personal Data to any third party unless directed to do so in writing by the Council;

- 18.6 provide a written description of the technical and organisation methods employed by SG for processing Personal Data (within the reasonable timescales required by the Council);
 - 18.7 assist the Council in complying with its obligations relating to data security, breach notification, data protection impact assessments and related prior consultation procedures taking into account the nature of processing and the information available to SG;
 - 18.8 save only to the extent permitted under the Data Protection Legislation, on termination of this Agreement, howsoever arising, return to the Council or destroy, at the request of the Council, all Personal Data in the possession or control of SG and, at the request of the Council, provide written confirmation that this has been done; and
 - 18.9 immediately inform the Council if, in SG's opinion, a documented instruction from the Council infringes the Data Protection Legislation.
19. The SG shall notify the Council (within five business days) if it receives:
 - 19.1 a request from a Data Subject to have access to that person's Personal Data; or
 - 19.2 a complaint or request relating to the Council's obligations under the Data Protection Legislation.
 20. The SG shall, at the Council's expense (where such expense has been reasonably and properly incurred by SG), provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:
 - 20.1 providing the Council with full details of the complaint or request;
 - 20.2 assisting the Council with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions;
 - 20.3 providing the Council with any Personal Data it processes in relation to a Data Subject (within the reasonable timescales provided by the Council); and
 - 20.4 providing the Council with any reasonable information requested by the Council.
 21. The rights and obligations under this Agreement are in addition to, and not instead of, any rights or obligations arising between the Parties under the Data Protection Legislation.

22. This Agreement shall be interpreted according to Scots Law and the parties hereto submit to the exclusive jurisdiction of the Scottish Courts.

IN WITNESS WHEREOF this document consisting of this and the preceding two pages, together with the Schedule annexed hereto, are executed as follows:

Signed for the Council

Signed for SG

Name and Designation
of Council Signatory (Please Print)

Name and Designation
of SG Signatory (Please Print)

Date and Place of Signing

Date and Place of Signing

Witness Signature

Witness Signature

Name and address of Witness (Please Print)

Name and address of Witness (Please Print)

SCHEDULE ONE: DATA PROCESSING INSTRUCTIONS

Description of Data Processing

The data processing activities carried out by SG under this Agreement (acting through their data sub-processor, ACER) may be described as follows:

1. Subject matter

Learner educational and background information. School staff information.

2. Duration

From 24 October 2016 to 23 October 2019 or for such further or other period ACER UK is contracted to administer and implement the Scottish National Standardised Assessments.

3. Nature and purpose

To administer and implement the Scottish National Standardised Assessments including analysis of and reporting on assessment responses, delivery of assessments and associated service such as training and information services (including, but not limited to helpdesk related services).

4. Data categories

Any data held by the Council (including data provided by SEEMiS) that is deemed necessary by the Council, for the proper conduct of, and reporting on, the Scottish National Standardised Assessments. Data to be collected includes but is not restricted to:

- Learners: personal data, including unique identifier, socio-economic information, home circumstances and additional support needs, sensitive personal data relating to ethnicity
- School and local authority staff: personal data including unique identifier, email address and the school and/or local authority to which they are attached.

5. Data Subjects

Learners, school staff and other participants in the Scottish National Standardised Assessments.

6. Outputs

In addition to the SNSA assessment results, ACER shall, upon request of SG and / or the Council, provide anonymised reports to SG and / or the Council which may include all anonymised SNSA Data to allow trend analysis to be conducted.

SCHEDULE TWO: INFORMATION SECURITY PROVISIONS

1. Legal requirements

1.1 ACER shall, in respect of the processing of Personal Data provided by the Council under this Agreement, comply with any specific security provisions imposed by the Data Protection Legislation.

2. Practical security measures

2.1 ACER, as a minimum requirement, shall give due consideration to the following types of security measures:

- 2.1.1 Information Security Management Systems;
- 2.1.2 Physical Security;
- 2.1.3 Access Control;
- 2.1.4 Security and Privacy Enhancing Technologies;
- 2.1.5 Awareness, training and security checks in relation to personnel;
- 2.1.6 Incident/Response Management/Business Continuity; and
- 2.1.7 Audit Controls/Due Diligence.

2.2 SG and the Council acknowledge a that the Data shall be transferred from SEEMiS to ACER and that ACER and SEEMiS shall agree the secure mechanism for the direct transfer of Data from the Council via SEEMiS to ACER, subject to the prior written approval of the Council.

2.3 No data shall be stored on unencrypted mobile media or sent unencrypted across the internet unless sent by the Council to SG, ACER or any of the other sub-contractors.