



# **SCOTTISH PARA-FOOTBALL**

**Scottish Para-Football Game Leader Organisations  
Data Sharing Agreement**

**This policy is written to underpin both Scottish Para-Football as well Para-Football Game Leader Organisations who are members of Scottish Para-Football. Therefore this policy will be adopted by each individual Para-Football Game Leader Organisation. If your concern relate to Scottish Para-Football please contact the National Office. However if your concern relate to a Para-Football Game Leader Organisation please contact their Committee directly.**

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## DATA SHARING AGREEMENT between

- (1) **Scottish Para-Football** (Charity Number: **SC048491** ) whose registered office is at Hampden Park, Glasgow, G42 9AY (**Scottish Para-Football**); and Scottish Para-Football Game Leader Organisations
- (2) **Scottish Para-Football Game Leader Organisation,**
- (3) The parties have identified a requirement to share the Shared Data for the Permitted Purpose.
- (A) The parties have agreed to comply with the terms and conditions of this Agreement in respect of the sharing of the Shared Data between the Disclosing Party and the Receiving Party.

### It is agreed

#### 1 Definitions and interpretation

1.1 In this Agreement, the following terms shall have the following meanings:

**Applicable Law** means:

- (a) any law, statute, regulation, byelaw or subordinate legislation in force from time to time to which a party is subject and/or in any jurisdiction that the services are provided to or in respect of;
- (b) the common law as applicable to the parties from time to time;
- (c) any binding court order, judgment or decree;
- (d) any applicable industry code, policy or standard; or
- (e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or business;

**Business Day** means a day, other than a Saturday, Sunday or public holiday in Scotland;

**Commencement Date** means [**30<sup>th</sup> May 2019**], notwithstanding the date or dates hereof;

**Complaint** means a complaint or request relating to any party's obligations under Data Protection Legislation relevant to this Agreement, including any compensation claim from a Data Subject or any notice, investigation or other action from a Regulatory Authority;

**Confidential Information** means information disclosed by or on behalf of one party (the discloser) to the other party (the recipient) under or in connection with this Agreement which is marked as confidential, or which the discloser has indicated to the recipient is confidential,

or which would be regarded as confidential by a reasonable business person, including the Shared Data;

**Controller** has the meaning given to it under Data Protection Legislation;

**Data Breach** means: (i) any unauthorised loss, corruption, damage, destruction, alteration, disclosure or access to any Shared Data; (ii) any unauthorised or unlawful Processing of Shared Data; or (iii) any breach of Data Protection Legislation

**Data Protection Legislation** means all laws in any relevant jurisdiction that relate to data protection, privacy, the use of information relating to individuals, and/or the information rights of individuals including, without limitation, the Data Protection Act 2018, the General Data Protection Regulation, the Privacy and Electronic Communications (EC Directive) Regulations 2003, and all applicable formal guidance, rules, requirements, directions, guidelines, recommendations, advice, codes of practice, policies, measures or publications of any Regulatory Authority, and the equivalent in any other relevant jurisdictions, all as amended or replaced from time to time;

**Data Subject** has the meaning given to that term in Data Protection Legislation;

**Data Subject Request** means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Legislation;

**Disclosing Party** means: (i) in respect of the Scottish Para-Football Shared Data, the Scottish Para-Football; and (ii) in respect of the Partner Shared Data, the Partner;

**Losses** means all losses, liabilities (including provision for contingent liabilities), fines, damages, costs and expenses including legal fees on a solicitor/client basis and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

**Partner Shared Data** means the Personal Data made available by the Partner to Scottish Para-Football, as set out in the Schedule;

**Permitted Purpose** means the purpose for sharing the Shared Data, as set out in the Schedule;

**Personal Data** has the meaning given to that term in Data Protection Legislation;

**process** has the meaning given to it under Data Protection Legislation (and **processing**, **processed** and **processes** shall be construed accordingly)

**Processor** has the meaning given to it under Data Protection Legislation

**Receiving Party** means (i) in respect of the Scottish Para-Football Shared Data, Partner; and (ii) in respect of the Partner Shared Data, Scottish Para-Football;

**Regulatory Authority** means the UK Information Commissioner's Office, or the equivalent national data protection regulatory authority in any relevant jurisdiction;

**Scottish Para-Football Shared Data** means the Personal Data made available by Scottish Para-Football to Partner, as set out in the Schedule;

**Shared Data** means the Scottish Para-Football Shared Data and/or the Partner Shared Data, as the case may be;

**Staff** means all persons employed by a party and who perform its obligations under this Agreement together with that party's officers, staff, other workers, agents or subcontractors who perform its obligations under this Agreement; and

**Technical and Organisational Measures** means technical and organisational measures which ensure a level of security of Personal Data which is appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

1.2 In this Agreement:

- (a) a reference to this Agreement includes its schedules, appendices and annexes (if any);
- (b) a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- (c) a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- (d) words in the singular include the plural and vice versa;
- (e) any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- (f) the table of contents, background section and any clause, schedule or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;
- (g) a reference to any Applicable Laws (including to the Data Protection Legislation and each of them) and to terms defined in such Applicable Laws shall be replaced with or incorporate (as the case may be) references to any Applicable Laws replacing, amending, extending, re-enacting or consolidating such Applicable Law (including particularly the Data Protection Legislation) and the equivalent terms defined in such Applicable Laws, once in force and applicable;
- (h) a reference to a law includes all subordinate legislation made under that law; and
- (i) in the case of any inconsistency:

- (i) between any provision of the schedule(s) or appendices and annexes (if any) to this Agreement and any term of this Agreement, the latter shall prevail.
- (ii) between any provision of any other agreement between the parties in respect of the processing of the Shared Data and any term of this Agreement, the latter shall prevail to the extent of that conflict.

## **2 Basis for sharing**

- 2.1 The Disclosing Party shall share and the Receiving Party shall manage and use the Shared Data in accordance with this Agreement.
- 2.2 The Receiving Party shall comply with all Data Protection Legislation in connection with the processing of the Shared Data and the exercise and performance of its respective rights and obligations under this Agreement and shall not by any act or omission cause the Disclosing Party (or any other person) to be in breach of any Data Protection Legislation.
- 2.3 The Disclosing Party shall comply with all Data Protection Legislation in respect of the performance of its obligations under this Agreement.
- 2.4 The parties agree that:
  - (a) the Disclosing Party and the Receiving Party shall be Controllers;
  - (b) this Agreement relates to the ongoing and routine sharing and ad-hoc sharing of the Shared Data; and
  - (c) it is necessary to share the Shared Data for the Permitted Purpose.

## **3 General contractual obligations**

- 3.1 Each party warrants and undertakes to the other party that:
  - (a) it shall provide a copy of this Agreement to the applicable Regulatory Authority where required;
  - (b) it shall maintain an applicable register in respect of its processing activities (including, without limitation, its processing of the Shared Data for the Permitted Purpose) and provide a copy of such register to the applicable Regulatory Authority on request;
  - (c) it has the right, power and authority to enter into this Agreement and to perform its obligations under this Agreement; and
  - (d) entering this Agreement will not cause that party to be in breach of any other contract to which it is a party or to be in breach of any statutory or other legal requirement.

#### **4 Disclosing Party's obligations**

- 4.1 The Disclosing Party shall respond to enquiries from Data Subjects and the applicable Regulatory Authority concerning the processing of the Shared Data by the Receiving Party, including a Data Subject Request, Complaint, audit or investigation, unless the parties have agreed that the Receiving Party will so respond, in which case the Disclosing Party will still respond to the extent reasonably possible and with the information reasonably available to it if the Receiving Party is unwilling or unable to respond. Responses will be made within a reasonable time.
- 4.2 The Disclosing Party warrants that the Shared Data has been collected, processed and transferred in accordance with the Data Protection Legislation as applicable to that Shared Data.

#### **5 Receiving Party's obligations**

- 5.1 The Receiving Party will:
- (a) implement appropriate Technical and Organisational Measures;
  - (b) implement procedures so that any third party it authorises to have access to the Shared Data, including Processors, will respect and maintain the confidentiality and security of the Shared Data;
  - (c) enter into a written contract with any Processor, containing appropriate undertakings from the Processor as may be required under Data Protection Legislation; and
  - (d) process the Shared Data solely for the Permitted Purpose.

#### **6 Data Breaches**

- 6.1 If a Data Breach occurs in relation to the Shared Data processed by the Receiving Party, the Receiving Party shall:
- (a) notify the Disclosing Party of the Data Breach without undue delay, (but in no event later than 24 hours after it becomes aware of the Data Breach);
  - (b) provide the Disclosing Party without undue delay (wherever possible, no later than 36 hours after becoming aware of the Data Breach) with such details as the Disclosing Party reasonably requires regarding:
    - (i) the nature of the Data Breach, including the categories and approximate numbers of Data Subjects and Shared Data records concerned;
    - (ii) any investigations into such Data Breach;
    - (iii) the likely consequences of the Data Breach; and



- (iv) any measures taken, or that the Receiving Party recommends, to address the Data Breach, including to mitigate its possible adverse effects;

provided that, (without prejudice to the above obligations) if the Receiving Party cannot provide all these details within the timeframes set out in this clause 6.1(b), it shall (before the end of such timeframes) provide the Disclosing Party with reasons for the delay and when it expects to be able to provide the relevant details (which may be phased), and give the Disclosing Party regular updates on these matters; and

- (c) without prejudice to any other rights or remedies of the Disclosing Party under this Agreement, or at law or otherwise, restore to the last available backup any of the Shared Data that has been lost, damaged or destroyed by the Data Breach.

## **7 Data protection impact assessments**

7.1 Each party shall provide such reasonable assistance as the other party may require in the preparation of any data protection impact assessment in relation to activities carried out under or in connection with this Agreement, or in connection with the processing of the Shared Data, where either party considers that:

- (a) a data protection impact assessment is necessary; or
- (b) the risks identified by a previous data protection impact assessment may have changed.

7.2 Such assistance may, at the discretion of the requesting party, include:

- (a) a systematic description of the envisaged processing operations and Permitted Purpose of the processing of the Shared Data;
- (b) an assessment of the necessity and proportionality of the processing operations of the Permitted Purpose;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects;
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of the Shared Data; and
- (e) any prior consultation with the relevant Regulatory Authority which may be necessary.

## **8 Data Subject Request and Complaint handling**

8.1 The Receiving Party shall notify the Disclosing Party promptly if it receives:

- (a) a Data Subject Request; or
- (b) a Complaint, an audit or an investigation.

which relates, or is likely to relate, to any of the Shared Data.

8.2 When receiving and responding to a Data Subject Request, a Complaint, an audit or an investigation, the relevant Receiving Party shall:

- (a) promptly comply with the Disclosing Party's reasonable instructions, including any relevant policies or procedures made available by the Disclosing Party;
- (b) at all times ensure the Disclosing Party is aware of any notifications, and any responses provided; and
- (c) promptly assist the Disclosing Party, or its designated representative, with all Data Subject Requests which may be received from any Data Subject in relation to any Shared Data.

## **9 Confidentiality**

9.1 Subject to clauses 9.2 and 9.3 each party shall keep confidential and shall not disclose to any other person Confidential Information disclosed to it by or on behalf of the other party, except as expressly permitted under this Agreement or with the prior written approval of the other party.

9.2 Subject to clause 9.4, a party may disclose the other party's Confidential Information to:

- (a) its Staff on a need-to-know basis and only to the extent necessary for the purposes of this Agreement; and
- (b) its professional advisors,

under conditions of confidentiality substantially the same as in this clause 9.

9.3 Clause 9.1 shall not apply to information which:

- (a) is lawfully received by the recipient from a third party free of any obligation of confidence at the time of its disclosure;
- (b) is or comes into the public domain through no fault of the recipient or its Staff;
- (c) is independently developed by the recipient, without access to or use of such information; or
- (d) is required by law, by court or governmental or regulatory order to be disclosed provided that the relevant party, where possible, notifies the other party at the earliest opportunity before making any disclosure.

9.4 To the extent any Confidential Information is Shared Data:

- (a) clauses 9.3(a) to (c) (inclusive) shall not apply, and
- (b) such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with clauses 2 to 8 (inclusive) of this Agreement.

9.5 Each party shall give notice to the other of any unauthorised misuse, disclosure, theft or loss of the other party's Confidential Information promptly upon becoming aware of the same.

9.6 The obligations under this clause 9 shall survive termination of this Agreement.

## **10 Liability**

10.1 Each party shall be liable for any breaches of Data Protection Legislation caused by its own or its Staff's acts or omissions including any fines, penalties, compensation payable to Data Subjects and any other remedial action necessary including changes to any information technology system and additional staff training resulting from its breach of this Agreement or a breach of Data Protection Legislation.

10.2 Subject to Clauses 10.3 and 10.4 the maximum aggregate liability of each party under and/or in connection with this Agreement (whether in contract, tort (including negligence) or otherwise), in respect of all acts, omissions (including negligence), breach of statutory duty or breach of warranty of the party and/or its Staff), shall not exceed [£100,000 (one hundred thousand pounds sterling)].

10.3 No party excludes or restricts its liability (if any) to the other parties for:

- (a) death or personal injury caused by their negligence;
- (b) fraud;
- (c) fraudulent misrepresentation;
- (d) wilful default; and
- (e) any other matter for which it would be unlawful for either party to exclude or attempt to exclude liability.

10.4 No party shall in any event be liable to the other under or in connection with this Agreement for any:

- (a) loss (whether direct or indirect) of profit; or
- (b) Losses which are indirect, special, punitive or consequential Losses, even if such Losses were foreseeable and notwithstanding that a Party had been advised of the possibility that such Losses were in the contemplation of the other Party or any third party.

10.5 In relation to any liability to any third party which arises either as a result of a breach by either party to this Agreement or otherwise as a result of a breach by either party of Data Protection Legislation (**Third Party Liability**), the parties agree as follows:

- (a) the parties shall not (as between themselves) be jointly and severally liable in respect of the Third Party Liability;

- (b) each party shall be liable only for Third Party Liabilities that it causes or is determined to cause;
- (c) where a Third Party Liability arises which has been caused by the parties, the parties shall use their reasonable endeavours to agree the extent to which Third Party Liabilities arise as a result of their respective breaches of this Agreement or a breach of Data Protection Legislation as soon as is practicable and in any event within thirty (30) Business Days of the aggregate Third Party Liability being determined; and
- (d) each party shall account and make all payment due to the other party within thirty (30) Business Days following the date of agreement or determination of any Third Party Liability.

## **11 Termination**

- 11.1 This Agreement shall commence on the Commencement Date and shall continue until it is terminated in accordance with this clause 11.
- 11.2 The Disclosing Party may terminate this Agreement for convenience on not less than thirty (30) Business Days prior written notice to the other, at any time.
- 11.3 Either party may terminate this Agreement at any time by giving notice in writing to the other party if that other party:
  - (a) commits a material breach of this Agreement and such breach is not remediable;
  - (b) commits a material breach of this Agreement which is not remedied within 10 Business Days of receiving written notice of such breach;
  - (c) stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
  - (d) is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the terminating party reasonably believes that to be the case;
  - (e) becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
  - (f) has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
  - (g) has a resolution passed for its winding up;
  - (h) has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it; or
  - (i) is subject to any events or circumstances analogous to those in clauses 11.3(c) to 11.3(h) in any jurisdiction;

- 11.4 If a party becomes aware that any event has occurred, or circumstances exist, which may entitle the other party to terminate this Agreement under this clause, it shall immediately notify the other party in writing.
- 11.5 Termination or expiry of this Agreement shall not affect any accrued rights and liabilities of the parties at any time up to the date of termination.

## **12 Consequences of termination**

- 12.1 On termination of this Agreement the relevant Receiving Party shall return or destroy (at the Disclosing Party's option) all Shared Data in its possession or under its control and all copies of such data and certify to the Disclosing Party that it has done so, unless the Receiving Party is prevented by the Data Protection Legislation or Regulatory Authority from destroying or returning all or part of such data, in which event the data will be kept confidential and will not be actively processed for any purpose.
- 12.2 Any clauses in this Agreement that are expressly stated, or by implication intended, to apply after termination of this Agreement shall continue in full force and effect after such termination.

## **13 Assignment**

- 13.1 No party may assign any of its rights under this Agreement, in whole or in part, without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed).
- 13.2 This Agreement shall be binding upon, and ensure to the benefit of, each of the parties, their respective personal representatives and their respective successors in title.

## **14 Variation**

No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

## **15 Entire agreement**

- 15.1 The parties agree that this Agreement and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 15.2 Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.

## **16 Notices**

- 16.1 All notices to be given to a party under this Agreement shall be in writing in English and shall be delivered by hand or sent by registered prepaid post to the registered office from time to time of the relevant party or to such other address as the relevant party may notify to the other party in accordance with this clause.
- 16.2 A notice shall be treated as having been received:
- (a) if delivered by hand between 9.00 am and 5.00 pm on a Business Day (which time period is referred to in this clause as Business Hours), when so delivered; and if delivered by hand outside Business Hours, at the next start of Business Hours; or
  - (b) if sent by registered prepaid post, at 9.00 am on the second Business Day after posting if posted on a Business Day and at 9.00 am on the third Business Day after posting if not posted on a Business Day.
- 16.3 In proving that a notice has been given it shall be conclusive evidence to prove that delivery was made, or that the envelope containing the notice was properly addressed and posted (as the case may be).

## **17 Severance**

If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

## **18 Waiver**

No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy. No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

## **19 Counterparts**

- 19.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed and delivered an executed counterpart to the other party.
- 19.2 A counterpart may be delivered by a party to the other party by:
- (a) the executing party printing out and signing the signature page of the agreed final form of this Amendment Agreement;

- (b) the executing party scanning that signature page to an electronic file (typically but not exclusively a pdf. file); and
- (c) the executing party (or its legal representative) emailing the file of the scanned signature pages together with a copy of the agreed final form of this Amendment Agreement to the other party (or its legal representative).

19.3 This Agreement may also be validly executed by all parties executing the same copy of it.

**20 Third party rights**

No one other than a party to this Agreement, their successors and permitted assignees shall have any right to enforce any of its provisions.

**21 Governing law and jurisdiction**

**21.1 Governing law**

This agreement and any claim or dispute arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by and construed in accordance with the law of Scotland.

**21.2 Jurisdiction**

Each party irrevocably submits to the exclusive jurisdiction of the Courts of Scotland to settle any claim or dispute that arises out of or in connection with this agreement, its subject matter or formation (including non-contractual disputes or claims).

**IN WITNESS WHEREOF** these presents consisting of this and the preceding 10 pages together with the Schedule annexed as relative hereto are subscribed as follows:

Subscribed for and on behalf of  
**Scottish Para-Football**

at  
on

.....  
Trustee/Secretary/Authorised Signatory

.....  
Full Name

in the presence of

Witness signature

.....

Full name

.....

Address

.....

.....

.....

Subscribed for and on behalf of  
**[Game Leader ]**  
at  
on

.....

Director/Secretary/Authorised Signatory

.....

Full Name

in the presence of

Witness signature

.....

Full name

.....

Address

.....

.....

.....



**This is the Schedule referred to in the Data Sharing Agreement between the Scottish FA and Partner**

**Part 1 – Data Sharing Details**

**1 Permitted Purpose(s)**

1.1 Scottish Para-Football requires to share the Scottish Para-Football Shared Data with Partner for the following purposes:

- (a) Information relating to registered players
- (b) Information relating to registered officials
- (c) Information relating to Safeguarding and Wellbeing concerns and incidents

1.2 Partner requires to share the Partner Shared Data with Scottish Para-Football for the following purposes:

- (a) Information relating to registered players
- (b) Information relating to registered officials
- (c) Information relating to Safeguarding and Wellbeing concerns and incidents

**2 Shared Data**

2.1 Scottish Para-Football shall share the following Scottish Para-Football Shared Data with Partner:

- (a) The relevant data in order for the partner to manage their Association on any level from player, official and Safeguarding and Wellbeing Incidents

2.2 Partner shall share the following Partner Shared Data with Scottish Para-Football:

- (a) The relevant data in order for the partner to manage their Association on any level from player, official and Safeguarding and Wellbeing Incidents

**3 Contact Points**

3.1 The contact point for each party is (or as notified to the other party in writing):

- (a) **Scottish Para-Football**; Secretary, Scottish Para-Football, Hampden Park, Glasgow, G42 9AY – [David.McArdle@Scottishfa.co.uk](mailto:David.McArdle@Scottishfa.co.uk)
- (b) **Partner:** \_\_\_\_\_

**Document Control****Document Details**

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**Change Record**

| Modified Date | Author | Version | Description of Changes |
|---------------|--------|---------|------------------------|
|               |        |         |                        |
|               |        |         |                        |
|               |        |         |                        |

**Scottish Para-Football**  
**Charity Number: SC048491**  
**Hampden Park Glasgow, G42 9AY**  
**Email:**