



# Data Sharing Agreement Generator User Guide (prototype V.2)

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# 1. DSA Generator prototype

## 1.1 What is the DSA Generator prototype?

The Data Sharing Agreement (DSA) Generator is a prototype of a digital tool that NSW Government agencies can use to create or update existing data sharing agreements. The purpose of the tool is to make appropriate sharing of data safer and easier for agencies by providing them with a simple online process for creating comprehensive and fit-for-purpose DSAs.

Please note the DSA Generator is only a **prototype** to test whether this is something agencies want and need. It does not generate a DSA and only the first section of the tool has been developed. We hope it gives you an idea of how the tool could work in practice.

## 1.2 The development of the DSA Generator

The Data Analytics Centre at the NSW Department of Customer Service (DCS) is developing the DSA Generator to support appropriate cross-agency sharing of NSW Government data. The tool demonstrates the NSW Government's commitment to building data sharing capability and delivering improved and better integrated customer services.

The design of the tool is based on an assessment of 16 DSAs from across NSW Government and several other jurisdictions. The purpose of this assessment was to identify commonalities and distinct attributes across a diverse sample of DSAs to help inform the development of a standardised data sharing tool for the NSW Government. Based on this research, a fast-track prototype was developed in June 2019 and tested with data users across government.

The DAC has updated the prototype based on user feedback and is now in the second stage of testing. The updated prototype is currently being tested with representatives from across local, state and federal public sector agencies. Testing of the prototype will continue until December 2019 and then a decision will be made regarding the tools development.

## 1.3 Why build the DSA Generator?

While most people agree that appropriate sharing of data across government will help deliver better customer outcomes, lack of standardised processes and confusing data sharing rules are a major barrier to information sharing. This is reflected in the high transaction costs and significant length of time it can take to negotiate the terms of a DSA.

In NSW Government, DSAs are generally negotiated via complicated Memorandums of Understanding (MoUs) which, depending on the agencies, can take several years and multiple MoUs to execute. The lack of standardisation around government information sharing means that agreements are often created from scratch, or existing agreements are

used that are not necessarily appropriate or beneficial for either agency. The content of these agreements also vary significantly between agencies, making it challenging to achieve a shared understanding of responsibilities between parties.

## 1.4 Alignment with best practice and standards

The DSA Generator has been designed to promote compliance with relevant NSW Government legislation and policies, as well as promote good data management and sharing practices.

Key principles underpinning the tool are that it should:

- promote appropriate, legal and ethical data sharing
- not be overly burdensome to either party
- be fit-for-purpose and tailored to both parties needs
- be based on a model of shared responsibility.

The tool also aligns with the internationally recognised data sharing risk management framework – the Five Safes – which has now been adopted by the DAC, Australian Bureau of Statistics (ABS), StatsNZ, Eurostat, and several other authoritative data bodies internationally.

## 1.5 How will the DSA Generator benefit NSW Government agencies?

- **It will save time and resources** by standardising, streamlining and simplifying the process for creating DSAs.
- **It will build confidence and trust** among agencies sharing data by introducing a robust and transparent DSA process.
- **It will reduce confusion and risks** by providing clarity around the responsibilities of all parties when sharing government data.
- **It will improve auditability and transparency** by creating a centralised digital history of the DSA.

## 1.6 How the DSA Generator will work

When creating an agreement, the agency requesting access to the data (the Data Recipient) will need to initiate the process by answering a few questions about who they are, what data they would like access to, and how they intend to use it. They will then submit their answers to the agency providing the data (Data Provider) for review and approval.

The Data Provider will receive an email notifying them of the Data Recipient's agreement request and a link to access it. If the Data Provider approves the agreement request, they will need to provide information about the datasets being shared and whether they would like to specify any security controls for the use, disclosure, storage, retention and disposal of the data.

If both parties approve the Agreement, it can be submitted to both parties' Authorised Representatives for final approval. The Agreement can be accessed using the unique ID and edited and updated at any point in time. However, all parties to the Agreement will be notified via email and asked to approve any changes.

## 1.7 Before using the DSA Generator

### **Discuss the agreement with the Data Provider**

Before using the tool, the Data Recipient will need to establish contact with the Data Provider to ensure they have the data being requested and that the Data Recipient can answer the questions in the tool. For example, they will need to know the Data Provider's contact details and be able to provide a brief description of the data being shared.

Having an informal discussion prior to using the tool can also help to expedite the agreement process by creating trust between parties. It is recommended that the Data Recipient refer to the Summary of Questions below to help guide this discussion.

### **Obtain agency approval and nominate an Authorised Representative**

The Data Recipient and the Data Provider will also need to need obtain agency approval to execute the Agreement and nominate an Authorised Representative to approve it.

Different DSAs will require different levels of authorisation. For example, while authorisation at the Director-level may be suitable for one agreement, Secretary authorisation may be required for another. It is important to refer to your agency's delegation manuals and ensure the nominated Authorised Representatives have the necessary authority to approve the Agreement.

## 1.8 When to use it

### **Only to share data between NSW Government agencies**

The first iteration of the prototype is aimed at facilitating data sharing between NSW Government agencies. This is because the tool only complies with NSW legislation and policies. We're starting small and we will expand the tool to other levels of government and jurisdictions over time.

### **Only in situations where data cannot be made open to the public**

This could be because the data is sensitive, contains personal information or health information, or contains legal, environmental, commercial or financial information that may be considered sensitive. As a rule of thumb, anything with a [NSW Government Dissemination Limiting Marker](#) (DLM) of 'Sensitive' or above should be shared under an agreement. If that data is not sensitive, then the Data Provider should consider making it publicly available.

### **Before data is physically shared or made accessible to the Data Recipient**

Failure to negotiate an agreement before data is shared can lead to data sharing arrangements that are unlawful, inequitable, overly-burdensome, and potentially harmful to individuals and communities.

## 1.9 How long it takes

The tool asks both parties approximately 30 questions each. The time it takes to complete will vary depending on the type of data being shared, the sensitivity of the project, the level of trust between the parties, and other contextual factors.

For less sensitive agreements, the tool allows users to skip through several questions. For more sensitive agreements, users will be required to answer more questions in more detail. Some agreements can require multiple iterations before it is approved by all parties.

Please note that the prototype only contains the first section of questions. A full summary of questions that we plan to include in the beta version of the tool is available on pages 7-12 (data recipients) and page 13 (data providers) of this Guide.

## 1.10 Important Information

- The tool will generate a unique ID for each DSA. You will need to enter this ID to access the DSA.
- All questions in the tool can be saved and returned to at a later date.
- When sharing personal information, it is recommended that the Data Provider obtain legal advice before the DSA is approved.
- Any signatory to the DSA can edit the agreement at any time. However, all parties (including each party's Authorised Representative) will be notified and asked to approve of any changes.
- Your answers to some questions may indicate that the data sharing arrangement is unlawful and result in the tool disqualifying the DSA. In this instance, seek legal advice before proceeding.

## 1.11 Warranties

DCS makes no warranty that the Agreement generated is legally appropriate for any specific data sharing arrangement and accepts no legal liability for use of the Agreement. Users of the tool should obtain legal advice specific to the circumstances of their data sharing arrangement and the legal rights and liabilities that may arise from the agreement generated.

DCS will maintain a private catalogue of all DSAs created using the tool. The purpose of this catalogue will be to improve data sharing practices across the NSW Government. The details of generated agreements will not be disclosed or published without all parties consent.

## 1.12 Contact us

The DSA Generator is in the second stage of testing and represents a low fidelity prototype. We value your feedback so please try the tool out and let us know what you think via [datansw@customerservice.nsw.gov.au](mailto:datansw@customerservice.nsw.gov.au)

## 2. Questions for Data Recipient

Below is a summary of all the questions that must be answered by the Data Recipient. Please note the prototype of the tool only includes the first section of questions and only questions marked with an asterisk are mandatory.

Once complete, the Data Recipient's responses are submitted to the Data Provider for review and approval. If approved, the Data Provider is required to provide further information to complete the Agreement. Refer to page 12 for the Data Provider questions.

Q.	Purpose	Data Type	Comment
1	<b>Would you like to: *</b> (1) Create a new data sharing agreement (2) Renew / edit an existing data sharing agreement (TBD) (3) Respond to a data sharing agreement request (TBD)	Multiple choice	Renew / respond option has not been developed.
<b>Q.</b>	<b>Agreement type</b>		
2	<b>Is the data sharing agreement: *</b> (1) Between two parties (2) Between more than two parties (TBD)	Multiple choice	Multi-party agreement has not been developed.
<b>Q.</b>	<b>Before you get started</b>		
3	<b>Have you discussed this agreement with the Data Provider, and have they provided their 'in principle' support for the provision of the data? *</b> (1) Yes (2) No	Multiple choice	'No' response takes you to disqualification page.
4	<b>Have you obtained approval from your agency to execute the agreement? *</b> (1) Yes (2) No	Multiple choice	'No' response takes you to disqualification page.
<b>Q.</b>	<b>Data Recipient Information</b> All questions in this section are mandatory and will be published in the draft data sharing agreement.		
5	<b>Data Recipient Name*</b> Unless you are completing this form on behalf of someone else, this should be your name.	Text	Auto-fill functionality TBD.
6	<b>Position Title*</b>	Text	
7	<b>Department or Agency*</b>	Multiple choice	Text option to be built in.
8	<b>Email*</b>	Email format	Must contain *.gov.au
9	<b>Phone*</b>	Numeric	10 digits



	<p><b>Authorised Representative</b>  The Data Recipient must nominate an Authorised Representative to approve the data sharing agreement. The Authorised Representative will have overall accountability for monitoring and enforcing the terms of this agreement.</p> <p>Note that different data sharing agreements will require different levels of authorisation - refer to your agencies delegation manuals and ensure the nominated Authorised Representative has the necessary authority to approve the agreement.</p> <p>All questions in this section are mandatory and will be published in the draft data sharing agreement.</p>		
10	<b>Authorised Representative name*</b>	Text	
11	<b>Title*</b>	Multiple choice	
12	<b>Email*</b>	Email format	Must contain *.gov.au
13	<b>Phone*</b>	Numeric	10 digits
	<p><b>Data Provider Information</b>  The Data Provider is typically the custodian or steward of the data you are requesting access to. You will need to establish contact with the Data Provider before using this tool to ensure you can answer the questions below. All questions in this section are mandatory and will be published in the draft data sharing agreement.</p>		
14	<b>Data Provider Name*</b>	Text	
15	<b>Department or Agency*</b>	Multiple choice + text	
16	<b>Email*</b>	Email format	Must contain *.gov.au
17	<b>Phone*</b>	Numeric	10 digits
	<p><b>Data Description</b>  All questions in this section are mandatory and will be published in the draft data sharing agreement.</p>		
18	<b>Briefly describe the data to be shared*</b> Provide a brief description of the data to be shared. Include the type of data, geography and other critical information.	Text	
19	<b>Upload a data specification*</b> If you have already completed a data request form which includes a detailed description of the data, please upload that. If not, please use the template attached (include formatting of data). Note – you can amend this specification at a future time if necessary.	File upload	Must give the document a title.
20	<b>What is the frequency of data provision requested? *</b> (1) One-off (2) Ongoing (please specify the frequency of sharing)	Multiple choice + text option	
21	<b>Start date for access to the data*</b>	Date	Must be later than current date
22	<b>End date for access to the data (if applicable)</b>	Date	Must be later than start date

23	<b>Agreement valid until*</b> Please note the agreement will commence on the data is approved by both parties Authorised Representatives.	Date	Must be later than start date and end date (if applicable).
<b>Q. Purpose and Intended Use</b> Only the questions marked with an asterisk (*) are mandatory and will be published in the data sharing agreement. The additional questions are asked to ensure the Data Provider has enough information to make an informed decision about your agreement request.			
24	<b>Is there a specific legislative basis for permitting access to the data? *</b> For example, Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (the Care Act) or Section 71 of the Housing Act 2001 (Housing Act). (1) No (2) Yes (please specify the name and relevant section of the Act)	Multiple choice + text	
25	<b>Why are you requesting access to the data? *</b> Briefly describe the purpose(s) for which the data has been requested e.g. a specific research question or policy decision that the data will be used to inform. Your answer will be used to populate the Approved Purpose(s) section of the agreement. More details can be uploaded in a Project Plan or Scoping document in section 7 of this form.	Text	
26	<b>What are the anticipated outcomes of the project/program/initiative and how will the data requested help achieve these outcomes?</b> For example, are any decisions or actions intended to be taken as a result of the data sharing? If the intended outcomes are positive, it may be worth mentioning which individuals, groups, demographics or organisations will be positively affected by this project.	Text	
27	<b>If known, what methods will be used to process, analyse and/or interpret the data?</b>	Text	
28	<b>What, if any, risks or ethical issues could arise from the use of the data?</b> Consider individuals that may be affected by your use of the data. For example, could the way the data is interpreted, used or published cause harm or expose individuals to risk of being re-identified? Could the data be used to target, profile or prejudice people, or unfairly restrict access? (1) No risk assessment has been completed (2) A risk assessment has been completed and no risks/ethical issues have been identified (3) A risk assessment has been completed and the following risks and/or ethical issues have been identified (please specify the risks and briefly state strategies for mitigating risks, if known).	Multiple choice + text	
29	<b>Does your project/program/initiative require other approvals (e.g. ethics, legal and/or financial)?</b> (1) No (2) Yes (please specify who you require approvals from and at what stage are you acquiring these approvals)	Multiple choice + text	
<b>Q. Data Linkage</b>			

	Data linkage is a method of bringing data from different sources together about the same person, entity, place or event to create a new, richer dataset. This question is mandatory and will be published in the draft data sharing agreement.		
30	<b>Will the data be linked with any other data? *</b> (1) Yes (2) No		If 'No' skip to question 35.
<b>Q.</b>	<b>Data Linkage Information</b> It is recommended that you discuss the linkage process with the relevant linkage organisation before answering the questions below. Only the question marked with an asterisk (*) is mandatory. The additional questions are asked to ensure the Data Provider has enough information to make an informed decision about your agreement request.		
31	<b>What data sources will be linked with the shared data?</b>	Text	
32	<b>What identifying characteristics will be used to link the data (e.g. name, postcode, sex, ethnicity) and why are they necessary to the projects purpose?</b>	Text	
33	<b>Which linkage organisation is doing the data linkage? *</b> In most situations, an <u>Accredited Integrating Authority</u> will be required to do the data linkage. (1) Australian Bureau of Statistics (ABS) (2) NSW Data Analytics Centre (DAC) (3) Australian Institute of Health and Welfare (AIHW) (4) Centre for Health Record Linkage (CHeRel) (5) Other (please specify)	Multiple choice + text option	
34	<b>What method(s) will be used to link the data?</b> (1) Rule-based matching methods (e.g. deterministic or exact matching) (2) Score-based matching methods (e.g. probabilistic linkage) (3) Other (please specify)	Multiple choice + text option	
	<b>Storage</b> This question is mandatory and will be published in the draft data sharing agreement.		
35	<b>Where will the data be stored? *</b> (1) In the receiving agency's storage environment (2) In the providing agency's storage environment (3) In a third party's storage environment (please name the organisation)	Multiple choice + text option	If (2) skip to Q.42
<b>Q.</b>	<b>Storage and Security</b> All questions in this section are mandatory and will be published in the draft data sharing agreement.		
36	<b>How will the data be stored? *</b> (1) In a Government Data Centre (2) Via a Commercial Cloud Service (3) On-premises (e.g. ABS Data Lab) (4) Other (please specify)	Multiple choice	If (2) also answer Q. 41
37	<b>How will the data be delivered into the storage system? *</b> (1) Secure File Transfer Protocol (2) Online file sharing service (3) Other (please specify)	Multiple choice	

38	<p><b>How long will the data be retained? *</b></p> <p>Retention requirements exist for certain types of sensitive data. While agencies have their own data retention policies, you must also ensure you adhere to NSW legislation (e.g. the State Records Act 1988 (NSW) and any relevant sector-specific data retention laws. Data that contains personal or health information should be kept for no longer than necessary for the purposes for which it may lawfully be used.</p> <ol style="list-style-type: none"> <li>(1) Permanently</li> <li>(2) For the duration of the project / agreement</li> <li>(3) Beyond the duration of the project / agreement (please specify how long you will retain the data and your justification for retaining the data for that period)</li> </ol>	Multiple choice + text option	
39	<p><b>Specify the security measures in place to protect the data from unauthorised access and use *</b></p> <p>This includes the security procedures and technical mechanisms in place to ensure the data remains secure and protected. For example, agency control of user credentials for authentication, data encryption, information dispersal, data separation, governance policies etc. Safeguards must align with the classification of the information being shared - refer to the <a href="#">handling guidelines for DLMS</a>. If you do not know the classification of the data, contact the Data Provider</p>	Text	
40	<p><b>Who will be responsible for enforcing security controls and managing access to the data within your organisation? *</b></p> <p>Include their name, title, email and phone. If the shared data contains personal information or health information, please include a list of all Authorised Users, including their name, title, email, phone.</p>	Text	
<p><b>Q. Cloud Storage</b></p> <p>Data may be stored outside of NSW via cloud services – provided that an appropriate risk assessment has been done, and records are managed in accordance with all the requirements applicable to the <a href="#">NSW Government Cloud Policy</a>, the <a href="#">State Records Act 1998 (NSW)</a>, as well as with <a href="#">PPIPA</a>, <a href="#">HRIPA</a>, <a href="#">GIPAA</a> and any other applicable laws. However, care must be taken not to take or send records of the State in contravention of any legal responsibilities or business interests the agency may have. See <a href="#">State Records guidance Using Cloud Computing Services</a> and <a href="#">Storage of State records with service providers outside of NSW</a> for more details. You must not transfer the data outside Australia without the prior written approval from the agency providing the data.</p>			
41	<p><b>Will the data be stored in Australia?*</b></p> <ol style="list-style-type: none"> <li>(1) Yes</li> <li>(2) No (please specify where the data will be stored)</li> </ol>	Multiple choice + text	Only required if 'Commercial Cloud Service' was selected in Q.36.
<p><b>Q. Outputs</b></p> <p>This question is mandatory and will be published in the generated agreement.</p>			
42	<p><b>Will the results of the data or analytics work conducted on the shared data be published or disclosed? *</b></p> <p>For example, will the data be shared with a contracted supplier to your organisation or will the data insights be published to an external audience?</p> <ol style="list-style-type: none"> <li>(1) No</li> <li>(2) Yes (please specify the nature of the publication and the likely audience)</li> </ol>	Multiple choice + text	

<b>Q.</b>	<b>Upload supporting documentation</b> Upload supporting documentation (optional) that may assist the Data Provider to approve the agreement and apply appropriate safeguards.		
43	<b>Upload supporting documentation (optional)</b> Examples of supporting documentation include, but are not limited to: <ul style="list-style-type: none"> <li>• Project Scoping document</li> <li>• Agency Approval</li> <li>• Ethics Approval</li> <li>• Authorised Users role descriptions</li> <li>• Public Interest Determination</li> </ul>	File upload	Allow multiple files to be uploaded.
<b>Q.</b>	<b>Declaration</b>		
44	<b>I have read and agree to the terms and conditions of this agreement*</b>	Multiple choice	'No' response not accepted
45	<b>I declare that all the information I have provided is true and correct, and I have read and understood the outline of responsibilities above*</b>	Multiple choice	'No' response not accepted
46	<b>I agree that the Department of Customer Service will not be liable for any loss suffered by use of the tool of the generated agreement*</b>	Multiple choice	'No' response not accepted

### 3. Questions for Data Provider

Below is a complete summary of questions to be completed by the Data Provider. These questions can only be answered once the Data Recipient has answered the questions on page 7 of this document.

Once complete, the Data Provider’s responses will be sent to the Data Recipient for review and if no further changes are required, they will be asked to approve the agreement. Once both parties approve the agreement, the draft DSA will be sent to both parties nominated Authorised Representatives for final approval.

Q.	Purpose	Data Type	Comment
1	<b>Would you like to: *</b> (1) Create a new data sharing agreement (2) Renew / edit and existing data sharing agreement (3) Respond to a data sharing agreement request (TBD)	Multiple choice	
<b>Respond to a data sharing agreement request</b> As the Data Provider, you should have received an email with the agreement identification number. You will need to enter this number below to access the agreement.  Only the individual that has been nominated by the Data Recipient as a Data Provider can respond to a data sharing agreement request. If the nominated Data Provider has delegated responsibility for this agreement to another person, you are required to update the Data Provider information in this form.  Before completing this agreement, check that: <ul style="list-style-type: none"> <li>the data requested is not already publicly available</li> <li>you have permission from your organisation to share the data.</li> </ul>			
50	<b>Enter agreement ID number*</b> -----	Numeric	6 digits required.
<b>Respond to agreement request</b>			
51	<b>Would you like to: *</b> (1) Complete/amend the agreement (you will be able to negotiate the terms of the agreement and request further information) (2) Decline the agreement	Multiple choice	If the agreement is declined, the Data Provider is asked to provide a rationale for this.
<b>Type of information</b> Before you complete the agreement, you must identify the type of data requested to ensure it is appropriate for sharing. This is because the type of data in question will determine the circumstances under which the data can be shared. For example,			

	sensitive information will have a higher risk threshold – particularly around privacy and security – than non-identifiable data such as statistics. If you are unclear about what data is being requested, you should clarify this with the Data Recipient.		
53	<p><b>Does your agency own the data? *</b></p> <p>You must only share data owned by your agency. The data cannot be owned by another organisation or infringe on any intellectual property rights of any third parties.</p> <p>(1) Yes (2) No</p>	Multiple choice	'No' response disqualifies the agreement.
54	<p><b>Does the data contain <u>Personal Information</u>, <u>Health Information</u>, or information by which a person could reasonably be identified? *</b></p> <p>(1) Yes (2) No</p>	Multiple choice	If (2), skip to Q. 59.
	<p><b>Personal Information and Health Information</b></p> <p>Data containing personal information or health information must be de-identified before it is shared, except in specific circumstances. If you believe the purpose of the data sharing can be achieved through the use of de-identified data, please discuss this with the Data User before proceeding with this agreement.</p> <p>Please note:</p> <ul style="list-style-type: none"> <li>Personal information means information that can be used to identify an individual. <a href="#">The Privacy and Personal Information Protection Act 1998</a> (PPIP Act) outlines how New South Wales (NSW) public sector agencies manage personal information.</li> <li><a href="#">The Health Records and Information Privacy Act 2002</a> (HRIP Act) outlines how New South Wales (NSW) public sector agencies and health service providers manage the health information of NSW public members.</li> <li>If you are unsure of how to answer the following questions, you should seek advice from your agencies legal team or the NSW Information Privacy Commission.</li> </ul>		
55	<p><b>Please indicate whether the sharing of identifiable personal or health information is permitted by one of the following circumstances: *</b></p> <p>(1) The person to whom the data relates has consented to the disclosure of their data</p> <p>(2) The disclosure of the data is for the “primary purpose” for which it was collected</p> <p>(3) The disclosure of the data is for a “secondary purpose” that is directly related to the primary purpose for which it was collected (and for health information, one of the criteria listed in the HPPs must apply)</p> <p>(4) The disclosure of the data is authorised under specific legislation</p>	Multiple choice	<p>If (1), (2), (3), (5) or (6) skip to Q. 59</p> <p>If (4), answer Q. 57-58.</p> <p>If (8) take to Disqualification Page: ‘Your answers indicate that the sharing of this data could be unlawful. Please seek legal advice</p>

	<p>(5) The disclosure of the data is reasonably necessary to prevent a serious or imminent threat to human life or health</p> <p>(6) The disclosure of the data is permitted by a Public Interest Direction made by the NSW Privacy Commissioner</p> <p>(7) The disclosure of the data is permitted with HREC approval</p> <p>(8) None of the above</p>		before proceeding with this agreement.
<p><b>Legal Authorisation</b>  An organisation's governing legislation may contain provisions that specify the circumstances under which particular types of information can be disclosed to other parties. If you wish to share information that includes personal information or health information, you must identify a legal source of authority to share it with another NSW Government agency. For guidance on NSW Disclosure Permissions, click <a href="#">here</a>.</p>			
56	<b>Name the Act and the section of the Act that enables the sharing of this data *</b>	Text	Pre-populate with Data Recipient's answer and ask to verify.
57	<p><b>Are there any specific legal restrictions that prevent you from sharing the data? *</b></p> <p>(1) No</p> <p>(2) Yes (please specify)</p>	Multiple choice	'Yes' will disqualify the agreement and recommend you seek legal advice.
<p><b>Data Provider Information</b>  All questions in this section are mandatory and your responses will be published in the generated agreement.</p>			
58	<b>Name*</b>	Text	Pre-populated with Data Recipient's response – option to change.
59	<b>Department or Agency*</b>	Multiple choice + text option	Pre-populated with Data Recipient's response – option to change.
60	<b>Title*</b>	Text	
61	<b>Email*</b>	Email format	Pre-populated with Data Recipient's response –



			option to change.
62	<b>Phone*</b>	Numeric	Pre-populated with Data Recipient's response – option to change.
<p><b>Authorised Representative</b>  The Data Provider must nominate an Authorised Representative to approve the data sharing agreement. The Authorised Representative will have overall accountability for monitoring and enforcing the terms of this agreement.</p> <p>Note that different data sharing agreements will require different levels of authorisation - refer to your agencies delegation manuals and ensure the nominated Authorised Representative has the necessary authority to approve the agreement.</p> <p>All questions in this section are mandatory and will be published in the draft data sharing agreement.</p>			
63	<b>Name*</b>	Text	
64	<b>Title*</b>	Text	
65	<b>Email*</b>	Email format	Must contain *.gov.au
66	<b>Phone*</b>	Numeric	10 digits
<p><b>Shared Data</b>  Only the questions marked with an asterisk (*) are mandatory and will be published in the data sharing agreement. The additional questions are asked to ensure the Data User understands the data being shared and can make an informed decision about whether it is fit-for-purpose.</p>			
67	<b>Provide a brief description of the data to be shared</b> This is only required if the Data Recipients data description is inaccurate or lacks sufficient detail.	Text	
68	<b>Data Quality Statement</b> A Data Quality Statement provides a description of the characteristics of the data to help the user decide whether the data will be fit for their specific purpose and whether it can be compared with other, similar datasets. You can use the <a href="#">NSW Government Data Quality Reporting tool</a> to generate a data quality statement or create your own and upload it below. Please note that you can upload a data quality statement at a later date.	File upload	
69	<b>Do you agree to supply metadata and any relevant metadata standards?</b>	Multiple choice +	

	<p>Metadata are 'data about data' and provides information about the content of the data and the context for which it was created or collected. Please note that you can supply metadata at a later date.</p> <p>(1) Yes (2) No (please specify why you are unable to supply metadata)</p>	File Upload	
70	<p><b>What is the protective marking of the shared data? *</b></p> <p>All data must be classified with a <u>NSW Information Classification DLM</u> to ensure it receives the appropriate level of protection.</p> <p>If there are multiple data sets being shared, please number each data set in the Shared Data description above and classify them separately.</p> <p>In a situation where a data set has multiple types of information, or information at more than one sensitivity level of DLM, the data must be labelled as per the information of the highest level of sensitivity.</p> <p>(1) For Official Use Only (2) Sensitive (3) Sensitive: Personal (4) Sensitive: Legal (5) Sensitive: Cabinet (6) Sensitive: NSW Cabinet (7) Sensitive NSW Government (8) Sensitive: Law Enforcement (9) Sensitive: Health Information</p>	Multiple choice	Functionality will include a new checkbox option for each dataset.
<p><b>Security Controls</b></p> <p>Different kinds of data sharing will require different security controls. This section allows you to tailor the security controls to your specific context. When answering the questions below, please keep in mind the sensitivity of the: shared data, the project/program/initiative for which it is being used, the outputs and any potential impacts they could have. The application of security controls should be proportionate to the risk of unauthorised use and disclosure.</p>			
71	<p><b>Are any specific qualifications/certifications/accreditations required for the people accessing and using the data?</b></p> <p>(1) No (2) Yes (please specify e.g. Working with Children Checks or training in a specific area)</p>	Multiple choice + text option	
72	<p><b>Are any specific security and storage measures required?</b></p> <p>(1) No (2) Yes (please specify additional controls required e.g. multi-factor authentication)</p>	Multiple choice + text option	

73	<p><b>Are any special conditions on use and disclosure required?</b></p> <p>(1) No</p> <p>(2) Yes (please specify conditions required e.g. if the outputs of the data use should be restricted with further anonymisation techniques and why this is necessary)</p>	Multiple choice + text option	
74	<p><b>Specify how the Data User should dispose of the data when required by this agreement, by applicable law, or by circumstances that arise during data sharing activities</b></p>	Text	
<b>Declaration</b>			
75	<p><b>I have read and agree to the terms and conditions of this agreement*</b></p>	Multiple choice	'No' response not accepted
76	<p><b>I declare that all the information I have provided is true and correct, and I have read and understood the outline of responsibilities above*</b></p>	Multiple choice	'No' response not accepted
77	<p><b>I agree that the Department of Customer Service will not be liable for any loss suffered by use of the tool of the generated agreement*</b></p>	Multiple choice	'No' response not accepted

## **4. Additional Information**

### **4.1 What is data sharing?**

For the purpose of this tool, data sharing means the use, viewing, transfer, linkage, disclosure or exchange of data between two or more parties. In some instances, data sharing may occur without having the data move from one place to another. Instead, the Data Provider may allow another organisation or individual to have access to the data.

### **4.2 What is a data sharing agreement?**

For the purpose of this tool, a data sharing agreement is defined as an agreement between two or more parties to share data according to certain terms and conditions. Data sharing agreements identify the parameters which govern the collection, transmission, storage, security, analysis, re-use archiving and destruction of the data.

While most cross-government data sharing agreements in NSW are not legally binding, they are a useful mechanism to help establish trust between parties and ensure the data is shared appropriately, in line with legal and ethical requirements, as well as the Data Provider expectations.

## 5. Sample Data Sharing Agreement template

### Data Sharing Agreement between the [Q.7] and the [Q.15]

This Agreement does not replace the requirements on agencies to comply with:

[Privacy and Personal Information Protection Act 1998 \(NSW\)](#) (PIIP Act)

[Health Records and Information Privacy Act 2002 \(NSW\)](#) (HRIP Act)

The NSW Department of Customer Service (DCS) developed the Data Sharing Agreement Generator as a tool to assist with the development of data sharing agreement. Any use of the Agreement must be tailored to a specific data sharing arrangement and is the responsibility of the agencies creating the data sharing arrangement. DCS makes no warranty that the Agreement is legally appropriate for any specific data sharing arrangement and accepts no legal liability for use of the Agreement. Parties to the agreement should obtain legal advice specific to the circumstances of their data sharing agreement and the legal rights and liabilities that may arise from the Agreement.

#### 1. Parties

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##### 1.1 This Data Sharing Agreement is made between and binds the following parties:

[Organisation name]

[insert agency address]

[Organisation name]

[insert agency address]

#### Operative Provisions

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In consideration of the mutual promises set out in this DSA, the parties agree to be bound by the following terms:

#### 2. Interpretation

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##### Definitions

Unless the contrary intention appears, a capitalised term has the meaning shown opposite that term in the table below:

Term	Meaning
Approved Purposes	has the meaning given in item 3 of the Schedule.

<b>Authorised User</b>	has the meaning given in clause 3.
<b>Authorised Representatives</b>	the persons identified in item 22 and 23 of the Schedule.
<b>Commencement Date</b>	the date this Agreement is last signed by a party's Authorised Representative.
<b>Confidential Information</b>	has the meaning given in clause 0.
<b>Data Custodian</b>	has the meaning given in clause 5.
<b>Health Information</b>	has the meaning given to that term in HRIPA.
<b>HRIPA</b>	<i>Health Records and Information Privacy Act 2002 (NSW).</i>
<b>Information Sharing Schedule</b>	a schedule, substantially in the form of Annexure A, by which a specific set of Shared Information is to be Shared, and recording the terms and conditions specific to that Shared Information.
<b>NSW Data and Custodianship Policy</b>	the NSW Data & Information Custodianship Policy v1.0 dated June 2013.
<b>IM Framework</b>	the framework set out at <a href="http://finance.nsw.gov.au/ict/information-management-framework">http://finance.nsw.gov.au/ict/information-management-framework</a> and in related documents, or any website or information that supersedes this information.
<b>Personal Information</b>	has the meaning given to that term in PPIPA.
<b>PPIPA</b>	<i>Privacy and Personal Information Protection Act 1998 (NSW).</i>
<b>Share</b>	to disclose.
<b>Shared Information</b>	the information Shared by an Originating Party with a Recipient Party in accordance with this MOU, being information specified in a signed Information Sharing Schedule.
<b>Schedule</b>	the schedule to this MOU.

## Interpretation

In this DSA:

- a) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- b) a reference to any legislation or to any provision of any legislation includes any modification, re-writing or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it;
- c) a reference to a clause, annexure or schedule is to a clause of, annexure or schedule to this MOU;
- d) a reference to this MOU includes any annexure or schedule;

- e) words of inclusion are not words of limitation; and
- f) the singular includes the plural and vice versa.

### **3.1 Commencement of the DSA**

This DSA takes effect on and from the Commencement Date specified in section 8 of the Schedule.

## **3. Use of Shared Information**

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The Data Recipient agrees it will:

- a) use the Shared Data for the Approved Purpose(s) only, in consultation with the Data Provider;
- b) where necessary (that is, in relation to Shared Data that includes Personal Information or Health Information), nominate certain authorised users to have access to the Shared Data (**Authorised Users**) and ensure that only Authorised Users have access to the Shared Data; and
- c) seek the authorisation and approval of the Data Provider before making public, or disclosing to any third party, the Shared Data or any document incorporating the Shared Data; and

it will not:

- a) permit access, or release any Shared Data, to a third party (except as set out in the Agreement or with the express consent of the Data Provider); or
- b) produce any information based on, or incorporating, the Shared Data that generates Personal Information or Health Information (that is, it re-identifies a person), unless permitted by law.

For the purposes of this clause 6, another division within the Data Recipient's agency is not deemed to be a third party. Any specific restrictions on intra-agency transfer should be noted in the Data Sharing Schedule above.

## **4. Licence**

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The Data Provider grants to the Data Recipient a non-exclusive, non-transferable, royalty free licence to use, reproduce and adapt the Shared Data for the Approved Purposes (on the terms, and subject to the restrictions, set out in this DSA).

## **5. Quality and responsibility for the Shared Information**

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The Data Provider must ensure that the Shared Data complies with the requirements specified in the Data Sharing Schedule, and must use its best efforts

to ensure that the Shared Data is fit for the purpose(s) for which it was created with respect to its accuracy, completeness and quality.

The Data Recipient is responsible for ensuring the fitness of the data for any further use. The Data Recipient must take appropriate measures to ensure that the most 'up to date' version of the data is used and that the data fit to support the new purpose.

The data custodianship of information will be determined as follows:

- a) the Data Provider remains the data custodian of the Shared Data in the form it was Shared, and it delegates certain management responsibilities in relation to the Shared copy of that information to the Data Recipient; and
- b) the Data Recipient will be the data custodian of information generated by it, which incorporates the Shared Data,

the relevant party in the circumstances being the '**Data Custodian**'.

The applicable Data Custodian must, in relation to the Shared Data:

- a) exercise functions relating to access to information under the *Government Information (Public Access) Act 2009* (NSW);
- b) exercise functions relating to State records under the *State Records Act 1998* (NSW), if the State records relate to or are made in connection with the exercise of its other functions; and
- c) comply with the NSW Data and Information Custodianship Policy and other aspects of the IM Framework, as applicable.

If the Data Recipient receives a request under the *Government Information (Public Access) Act 2009* (NSW) in relation to the Shared Data, it must transfer that request to the Data Provider.

## **6. User Support**

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The Data Provider will provide the Recipient Party with technical assistance to the extent reasonably required to permit use of the Shared Data in accordance with the Approved Purposes.

## **7. Information and records management arrangements**

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### **Transfer of the Shared Data**

The Data Provider must deliver the Shared Data to the Data Recipient in accordance with the agreed specifications and timing set out in the relevant Data Sharing Schedule and the security requirements set out in clause 10.



The Data Provider must notify the Data Recipient in writing, or by updating the Agreement via the DSA Generator, of any delay in the arrangements for the provision of the Shared Data.

### **9.1 Information management**

The Data Recipient must create appropriate and accurate records of any document or information incorporating the Shared Data.

The Data Recipient will develop a plan for managing the Shared Data that is consistent with its approach to compliance with the IM Framework.

If applicable, the Data Recipient will retain the master list of how the source data unique identifier from the Data Provider links to their source system unique identifier. This list will only contain source system unique identifiers and will not contain Personal Information.

### **9.2 Retention and disposal**

The Data Recipient must only dispose of Shared Data:

- a) according to the agreed transfer, storage and disposal method and timeframe agreed in the schedule that applies to the Shared Data;
- b) in accordance with the Data Recipient's internal standards or procedures;
- c) in accordance with the *State Records Act 1998* (NSW) and related authorities and guidance, and;
- d) inform the Data Provider (if required by the Data Provider).

## **10 Security arrangements**

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### **Transfer**

The Data Provider must deliver the Shared Data securely to the Data Recipient by transferring it in accordance with the security measures and to the named person specified in the Data Sharing Schedule.

### **Secure storage**

Once received by the Data Recipient, the Data Recipient is responsible for ensuring the security of the Shared Data until it is disposed of in accordance with clause 9.3.

The Data Recipient must comply with:

- a) the *NSW Government Cyber Security Policy*,
- b) *Information Classification and Labelling Guidelines*,
- c) the NSW Government Cloud Services Policy and Guidelines (where applicable),

in relation to the Shared Data, and must make reasonable arrangements to ensure that the Shared Data is secure from any unauthorised use or disclosure (using its

information security management system, where appropriate). Such arrangements should take into account the confidential nature of the Shared Data and the existence of Personal Information or Health Information, where applicable.

The Shared Data will have the classification and labelling status set out in relevant Information Sharing Schedule.

## **11 Compliance with laws and policy**

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Each of the parties will comply with laws and policies applicable to it, including those specifically mentioned in this DSA, and otherwise.

The parties will agree a source of authority for the Sharing of Shared Information that includes Personal Information or Health Information before such Shared Information is transferred.

The parties acknowledge that this DSA is not, of itself, a source of authority for collection, retention, use or disclosure of Personal Information or Health Information.

## **12. Confidentiality**

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### **Non-disclosure**

The Data Recipient acknowledges and agrees:

- a) that all data shared pursuant to the terms of this DSA is confidential (except where the Data Provider has agreed otherwise or the information is already publicly available) (**Confidential Information**), and is of value to the Data Provider; and
- b) to keep the Confidential Information confidential at all times.

The Data Recipient must:

- a) take all reasonable steps and do all things that may be reasonably required by the Data Provider to keep the Confidential Information confidential, including all documents, and all other things recording, containing, setting out or referring to any Shared Data, under effective management of the Recipient Party and protected from any unauthorised use or access;
- b) immediately notify the Originating Party if it becomes aware of any unauthorised access to, or use or disclosure of, any Confidential Information; and
- c) take steps to ensure that the Confidential Information is not given to a person who is not an Authorised User, including by the measures specified in clause 10.

This DSA does not exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

### **Disclosure as required by law**

The Data Recipient may disclose Confidential Information to the extent that it is required to disclose such information in accordance with law.

The Data Recipient undertakes to provide the Data Provider with as much notice as is reasonably practical to enable the Data Provider to seek a protective order or other relief from disclosure and to provide all assistance and co-operation which the Data Provider reasonably considers necessary for that purpose.

## **12 Privacy**

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### **Privacy**

The parties acknowledge and agree that in addition to being Confidential Information, Shared Data may also comprise Personal Information or Health Information. In respect of such Personal Information or Health Information, the Data Recipient agrees:

- a) to comply as if it were an agency bound by the Information Protection Principles under PPIPA and the Health Privacy Principles under HRIPA;
- b) that it will inform each of its Authorised Users of, and procure that each undertake in writing, to observe the provisions of this DSA and laws and policies applicable to it;
- c) to take all reasonable measures to ensure that the Shared Data is protected against loss and against unauthorised access, use, modification, disclosure or other misuse and that only Authorised Users have access to it, including by the measures specified in clause 10;
- d) not to transfer such information outside Australia, or allow parties outside Australia to have access to it, without the prior written approval of the Data Provider;
- e) the Data Provider will provide amended personal/health information to the Data Recipient if an individual seeks alteration to his/her personal/health information;
- f) to immediately notify the Data Provider when it becomes aware of a breach or likely breach of any of the provisions of PPIPA or HRIPA; and
- g) to notify the Data Provider of, and co-operate with, the Data Provider, in the resolution of, any complaint alleging an interference with privacy.

The Data Recipient obligations are in addition to, and do not restrict, any obligations it may have under applicable law, or any codes of practice or directions listed in the relevant Data Sharing Schedule.

## **13 Authorised Representatives**

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Each party must nominate an authorised representative (**Authorised Representative**) to be the key contact person responsible for monitoring compliance with this DSA. Any notice required to be given by one party to the other should be directed to the Authorised Representative using the details set out in the Schedule, or as notified from time to time as contemplated by clause 14.1.3.

At the Commencement Date, each party has nominated the applicable person specified in the Schedule as its Authorised Representative.

A party may replace its Authorised Representative (and provide the new appointee's details) by amending the details using the DSA Generator.

<b>1. Data Sharing Schedule: 000012</b>			
<b>2. Data Recipient</b>	Name: [Q.5] Title: [Q.6] Email: [Q.8] Phone: [Q.9]	NSW Department / Agency	[Q.7]
<b>3. Data Provider</b>	Name: [Q.14] Title: to be completed by Data Provider Email: [Q.16] Phone: [Q.17]	NSW Department / Agency	[Q.15]
<b>4. Authorised Representative for Data Recipient</b>	Name: [Q.10] Title: [Q.11] Email: [Q.12] Phone: [Q.13]		
<b>5. Authorised Representative for Data Provider</b>	Name: Title: To be completed by Data Provider Email: Phone:		
<b>6. Shared Data</b>	[Q18]  [If 'yes' to Q.19 file upload: The Data Provider will supply the data as per the agreed Data Specification at Appendix 1.		

7. Frequency of Data Provision	[Q.20]		
8. Data Access Start Date	[Q.21]	9. Data Access End Date	[Q.22 or Not Applicable]
10. Agreement Valid Until	[Insert Authorised Representative's approval date] to [Q. 23]		
11. Legal Source of Authority	Q.24 or Not Applicable]		
12. Approved Purpose(s)	[Q.25]		
13. Anticipated Outcomes of the Data Use	[Q.26 or remove question]		
14. Methods of Data Analysis	[Q.27 or remove question]		
15. Risk / Ethics Assessment	[Q.28 or remove question]		
16. Additional approvals required	[Q.29 or remove question]		
17. Data Linkage	<p>[Q.30 or Not Applicable]</p> <p>If Q.30: Shared Data will be linked with the following data sources: [Q.31]</p> <p style="padding-left: 40px;">The identifying characteristics that will be used to link the data are: [Q.31]</p> <p style="padding-left: 40px;">The organisation undertaking the data linkage is: [Q.33]</p> <p style="padding-left: 40px;">[Q. 34] will be used to link the data.</p>		
18. Data Storage Method	<p>Shared data will be stored [Q.35]</p> <p>Shared data will be stored [Q.36] – If yes to (2) also must answer Q.31</p>		
19. Data Transfer Method	<p>Transfer of data is one-way from the Data Provider to the Data Recipient.</p> <p>The Data Provider will transfer the data via [Q.37 or Not Applicable]</p>		

<b>20. Data Retention Period</b>	<p>Shared data will be retained [Q.38]</p> <p>[If 38 (3): The justification for retaining the data beyond the duration of the project is:]</p>
<b>21. Data Security and Storage Methods</b>	<p>Shared data will be protected in accordance with the security classification and protective marking of the shared data.</p> <p>The following security measures will be implemented and enforced by the Data Recipient: [Q.39]</p> <p><b>The Data Provider also required compliance with the following specific security and storage methods:</b></p> <p>To be completed by the Data Provider</p>
<b>22. Responsibility for Data Security nominated by Data Recipient</b>	<p>Responsibility for monitoring the security of shared data will be assigned to:</p> <p>[Q.40]</p>
<b>23. Authorised Users nominated by Data Recipient</b>	<p>[Q. 40 or Not Applicable]</p>
<b>24. Publishing or Disclosing Data Outputs</b>	<p>The results of the data, or analytics work conducted on the shared data, will [Q.42 will/will not] be made available for internal or external use.</p>
<b>25. Supporting Documents</b>	<p>[Q. 43 or Not Applicable]</p>
<b>26. Data Quality</b>	<p>A Data Quality Statement for the Shared Data is at Appendix 2.</p>
<b>27. Metadata</b>	<p>Metadata for the Shared Data is at Appendix 3.</p>
<b>28. User Support</b>	<p>The Data Provider will provide the Data Recipient support to use the data for the Approved Purpose(s).</p> <p>[If Q.75 (2): The Support Officer contact details are:]</p>

<b>29. Description of Data Exchange Process</b>	The Data Provider will supply the data as per the agreed description of the data in Appendix 1: Data Specification.
<b>30. Data Disposal Method</b>	Any required data disposal will be carried out in accordance with applicable NSW Government standards and the Data Provider's specified disposal method: [Q.76].
<b>31. Classification and Labelling Status</b>	[Q.71]
<b>32. Personally Identifiable Information</b>	<p>The shared data [Q.54 contains/does not contain] Personal Information, Health Information or information by which a person could reasonably be identified.</p> <p>If Q.54 (1): [Q.55 – if (4): [Q.57]</p> <p>PIA undertaken: [Q.56]</p>
<b>33. Authorised Users Qualifications/ Certifications Required</b>	<p>The following qualifications/certifications are required for the people accessing and using the shared data:</p> <p>[Q.72 or Not Applicable]</p>
<b>34. Special conditions on use and disclosure</b>	[Q.74 or Not Applicable]

