

DATA SHARING AGREEMENT

CHILD WELLBEING AND PROTECTION IN SCOTTISH FOOTBALL

Between:

- (1) **THE SCOTTISH FOOTBALL ASSOCIATION LIMITED**, a company incorporated in Scotland with company number SC005453 and having its registered office at Hampden Park, Glasgow G42 9AY (the “**Scottish FA**”); and
- (2) **The Scottish Schools Football Association**, an organisation in Scotland and having its registered office at Hampden Park Glasgow G42 9AY (the “**Entity**”);

(together the “**Parties**”).

1 BACKGROUND AND PURPOSE

1.1 This Agreement has been designed and informed in line with the Data Sharing Code of Practice as created by the ICO. The primary purpose of the Agreement is to allow the Scottish FA to exchange personal data of: (i) certain adults and/or (ii) young people, with the Entity, and vice versa. This is to ensure the protection of young people involved in football. The sharing will be considered by the Parties on a case-by-case basis in accordance with this Agreement and the training and procedures indicated by the Scottish FA.

1.2 For the purposes of this Agreement:

“adult” means an individual over 16 years of age involved in Regulated Work with young people, or an individual under the age of 16 years but who is in Regulated Work for a Party or parties;

“Agreement” means this data sharing agreement together with the recitals and the Schedule;

“CWPO” means the Child Wellbeing and Protection Officer of the Entity;

“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 (GDPR), 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 an appropriate regulatory authority, and the equivalent in any other relevant jurisdictions, all as amended or replaced from time to time;

“ICO” means the Information Commissioner’s Office or any successor;

“League” means a league of football clubs formed with the consent of the Scottish FA, which for the purposes of this Agreement shall mean the East of Scotland Football League and/or the South of Scotland Football League (as the context so requires);

“Member” means a full member of the Scottish FA as specified in the Scottish FA’s articles of association from time to time;

“Named Contact” the individual(s) nominated and authorised by the Scottish FA or Entity to be responsible for the operation of this Agreement; for the Scottish FA being an individual member of the Well-being and Protection Department of the Scottish FA; for the Entity being the individuals specified by Clause 2.2;

“Regulated Work” means the definition as stated within the Protection of Vulnerable Groups (Scotland) Act 2007, Section 91, Schedule 2 (as amended from time to time);

“Schedule” means the Schedule in four (4) parts attached and signed as relative hereto; and

“young person or people” means an individual, or individuals, under the age of 18 years old.

1.3 This Agreement shall commence on the last date of signature and shall continue until either Party serves one month written notice to the other Party.

1.4 Subject to the terms of this Agreement, the Entity agrees that on becoming aware of information or details of a young person or people who is/are in need of protection within association football in Scotland, it will share certain personal data with the Scottish FA (in its capacity as governing body of association football in Scotland and, in particular, of the Entity). This will be in either or both the circumstances where: (i) a young person is identified as in need of protection; or (ii) where the conduct of an adult has caused, or is likely to cause harm to a young person or people.

1.5 Subject to the terms of this Agreement, the Scottish FA agrees to share certain personal data with the Entity on becoming aware of information or details if: (i) the Scottish FA has information or details of a young person in need of protection where they are involved with Entity; or (ii) details of an adult in Regulated Work who has caused, or is likely to cause harm, to a young person.

- 1.6 The information about young people shall be shared in the following circumstances:-
- 1.6.1 by the Scottish FA to the Entity because: the details of the young person's situation being shared will help protect or safeguard the safety of the young person when they are involved with the Entity;
- 1.6.2 by the Entity to the Scottish FA because: the details of the young person's situation being shared will help protect or safeguard the safety of the young person when they are involved with the Scottish FA or one of its Members or a League; and
- 1.6.3 by the Scottish FA to a relevant Member or a League because: the details of the young person's situation being shared will help protect or safeguard the safety of the young person when they are involved with the Scottish FA or relevant Member or League.
- 1.7 The information about adults shall be shared in the following circumstances:-
- 1.7.1 by the Scottish FA to the Entity because: the adult is, or will be, in Regulated Work with the Entity and disclosure may help to prevent the adult from causing any further harm or risk of harm to young people;
- 1.7.2 by the Entity to the Scottish FA because: the adult is, or will be, in Regulated Work with the Scottish FA or one of its Members or a League and disclosure may help to prevent the adult from causing any further harm or risk of harm to young people; and
- 1.7.3 by the Scottish FA to a relevant Member or a League because: the adult, previously was in Regulated Work with the Entity and is presently in Regulated Work with a relevant Member or League and disclosure may help to prevent the adult from causing any further harm or risk of harm to young people.

2 DATA TO BE SHARED AND PROCEDURE

- 2.1 The data to be shared may comprise personal data (such as name and age) and sensitive personal data (such as details of harm or abuse experienced by young people or perpetrated by adults). The Parties acknowledge and agree that: (a) they will try to anonymise any data shared, as appropriate and as far as possible; and (b) data shared will be strictly limited to only data required for the purpose of sharing. The Parties will use appropriate technical and organisational measures against unauthorised or unlawful processing of such data and against accidental loss or destruction of, or damage to, such data.
- 2.2 The data will only be shared between the Named Contact of the Scottish FA and the CWPO or in his/her absence the Secretary of the Entity: (together the "Contacts").
- 2.3 Before any Party shares any personal data with the other Party, it shall ensure that it has the relevant basis to share the data (as set out in Clause 3). Strictly if permitted, sharing between the Contacts should occur over a telephone call with the relevant disclosing Contact then emailing a copy of the Concern Recording

Form (as at the date of signature hereof the up to date template is as attached as Part 3 of the Schedule) to the receiving Contact via a secure email facility (where available). This ensures that each organisation with necessary involvement has a consistent record of the information.

2.4 If one Party shares data with another Party it shall record its data sharing decision and: (i) what information was shared and for what purpose; (ii) who it was shared with; (iii) when it was shared; (iv) the justification for sharing; and (v) whether the information was shared with or without consent (the “**Decision Form**”) (as at the date of signature hereof the up to date template is as attached as Part 4 of the Schedule).

2.5 The Concern Recording Form and the Decision Form should not be printed but stored within a confidential electronic file that has limited access for the relevant Contacts of each Party.

2.6 The Concern Recording Form and Decision Form with information in relation to a young person and/or adult will not be retained any longer than is necessary to achieve the purposes of this Agreement. Notwithstanding the foregoing, the Parties agree that the Concern Recording Form and Decision Form with information relating to a young person shall be retained until the young person is no longer involved within association football in Scotland or they become 18 years old. The Concern Recording Form and Decision Form with information in relation to an adult’s conduct will be retained until the organisation is informed that the individual has been listed under the Protection of Vulnerable Groups (Scotland) Act 2007 or relevant disciplinary action has been taken. Without prejudice to the foregoing, if the outcome is that the adult is found not to have harmed a young person or placed a young person at risk of harm, the Concern Recording Form will be retained by each Party strictly in accordance with that Party’s own retention schedule pursuant to the Data Protection Legislation.

2.7 Each Party shall ensure once the retention period(s), referred to in Clause 2.6 above, expire(s) that such data (including any copies thereof) shall be deleted in a secure manner; and once completed, shall confirm to the other Party’s Named Contact that this has been done.

2.8 Neither Party shall disclose any data received from the other Party under or in relation to this Agreement to a third party, unless required to do so in accordance with law or, in the case of the Scottish FA, in accordance with a Data Sharing Agreement within another Member.

2.9 The Scottish FA reserves the right to amend the Concern Recording Form and/or Decision Form templates from time to time, and shall provide to the Entity such updated templates of the Concern Recording Form(s) and/or Decision Form(s) accordingly.

3 **BASIS FOR SHARING – YOUNG PEOPLE**

3.1 The Parties shall issue a consent form to all young people (in the form as at Schedule Part 2) confirming that for child protection matters their information may be

shared (the “**Consent Form**”). If the young person and/or parent/carer (as required by the Consent Form) grants consent, this meets the requirement under Data Protection Legislation. In order to process personal or sensitive personal data the data controller must be able to rely on a processing ground defined under Data Protection Legislation.

3.2 If the young person and/or parent/carer does not provide consent, or later revokes that consent (whether orally or in writing), each Party will need to assess whether it has legitimate grounds to share any further information which may include where sharing is justified for the purposes of the “vital interests” of the young person. The Parties acknowledge and agree that this test will only be met in limited circumstances (where there is a genuine concern as to the safety of a young person). This decision making process should be recorded in writing.

3.3 In all cases, each Party will ensure (as far as is possible and only when safe for the young person to do so) that they notify a young person and/or their parent/carer that they intend to share the data with the other Party or in the case of the Scottish FA sharing the data with a Member (pursuant to Clause 1.7.3) and for what purposes.

4 **BASIS FOR SHARING – ADULTS**

4.1 The Parties shall issue a form to all adults, a version of which is at the Schedule Part 1 confirming that for child protection matters their information may be shared (the “**Fair Processing Notice Form**”) (in the form as at Schedule Part 1). This meets the notice requirement under Data Protection Legislation that data subjects are informed of how their personal information will be used. The Fair Processing Notice Form must be signed and dated by the adult. The Parties will have responsibility to implement the process to ensure each adult in Regulated Work signs the Fair Processing Notice Form as soon as reasonably practicable following signature of this Agreement for those currently in the role following commencement of this Agreement or for every new person appointed following commencement of this Agreement prior to commencing the Regulated Work.

4.2 When sharing information about an adult, the Parties acknowledge and agree that they can only do so to the extent that this is required to protect the “vital interests” of young people. The Parties acknowledge and agree that this test will only be met in limited circumstances (where there is a genuine concern as to the harm or risk of harm to a young person/people).

5. **SUBJECT ACCESS REQUESTS**

5.1 In accordance with Data Protection Legislation, the Parties acknowledge that they may receive a data subject access request (“**DSAR**”) from a young person and/or parent/carer and/or an adult. The Party receiving the DSAR will take responsibility for the DSAR and will discuss this with its legal adviser and the other Party before releasing any information. The Parties acknowledge and agree that they must comply with Data Protection Legislation in considering and responding to DSARs.

6. ADDITIONAL POINTS

- 6.1 Subject to Clause 1.3, this Agreement will be reviewed every two years or sooner if other child wellbeing and protection documents are being updated due to changes in legislation or in response to a review of policies and procedures. No variation of this Agreement shall be effective unless it is in writing and signed by the Parties.
- 6.2 Should the Entity fail to comply with this Agreement, this will be referred to the Scottish FA Compliance Officer for consideration in relation to Article 5.1(b) under the Board Directive that was issued for Child Wellbeing and Protection practice.
- 6.3 The Parties shall comply with Data Protection Legislation when processing data under or in relation to this Agreement.
- 6.4 This Agreement and any dispute arising out of or in connection with this Agreement (including non-contractual disputes or claims) shall be governed by, and interpreted in accordance with, the law of Scotland. The parties irrevocably agree that the Scottish courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement (including non-contractual disputes or claims).

August 2021