

Appendix C

WITH YOU FOR YOU INFORMATION SHARING AGREEMENT

Between

SHETLAND ISLANDS COUNCIL

**NHS Shetland
Northern Constabulary
Hjaltland Housing Association
Voluntary Action Shetland¹**

¹ The list of voluntary organisations who are members of VAS and have agreed to become Data Controllers in Common and participate in the WYFY process are attached as Appendix 1 to the Agreement.

1. Introduction

- 1.1 This is an Information Sharing Agreement (the Agreement) supported by the Shetland Personal Information Sharing Policy (the Policy). The Policy forms part of the Agreement. All parties to the Agreement have formally approved the Policy and agree to adhere to its terms.
- 1.2 The Agreement forms part of the With You For You (WYFY) Guidance. All parties to the Agreement have formally approved the WYFY Guidance and agree to adhere to its terms.

2. Purpose

- 2.1 The purpose of the Agreement is to facilitate the exchange of information for the carrying out of the WYFY process.
- 2.2 WYFY aims to listen to the Customer, identify their goals and to begin to provide flexible solutions and support to achieve this within 21 days.
- 2.3 WYFY results in the completion of the Understanding You form which is a multi-agency document detailing information about the Customer and how all the agencies involved with, and in agreement with, the Customer are working together to best meet their needs.
- 2.4 All parties to the Agreement recognise the importance of sharing information with each other, in line with the aims of WYFY to serve the best interests of the Customer.

3. Identity of Data Controller

- 3.1 All parties to the Agreement become Data Controllers in Common with regard to the information gathered and processed during the WYFY process.
- 3.2 All parties to the Agreement will be sharing a pool of personal data, each processing the information independently of the other.
- 3.3 All parties to the Agreement remain individually responsible for the information they contribute to the WYFY process.

4. Customers of WYFY

Customers of WYFY are:-

- Adults over 16 years of age who request support or services from more than one agency; and/or
- Adults over 16 years of age who are identified as requiring support or services from more than one agency.

5. Consent

5.1 Consent - General

- 5.1.1 Customers will only be subject to the WYFY process where they have given their explicit consent. This consent must cover how their relevant and appropriate personal information will be handled during the WYFY process and whether or not they have agreed to their personal information being shared among relevant agencies.
- 5.1.2 A Co-ordinator For You will be identified for every Customer in the WYFY process in accordance with the WYFY Guidance, which can be found at: <http://www.shetland.gov.uk/socialwork-health/4u.asp>
- 5.1.3 The Co-ordinator For You will fully explain the purpose of the WYFY process, ensure the Customer is given a copy of the WYFY Leaflet and covered all the points within it before asking the Customer for their consent. The WYFY Leaflet complies with the Data Protection Act 1998 requirements for a Fair Processing Notice and is attached as Appendix 2 to the Agreement.

5.2 Consent – Customer Has Capacity

- 5.2.1 The Co-ordinator For You must be satisfied that the Customer has the capacity to consent to the With You For You process and understands how information will be gathered and shared among relevant staff and agencies.

5.2.2 The Customer's consent will fall into one of four categories:-

1. Full Consent – where the Customer has consented to participating in the With You For You process and to full information sharing among any relevant agencies.

2. Limited Consent – where the Customer has consented to participating in the With You For You process, but only to information sharing among a limited number of specified agencies.

3. Single Agency Consent – where the Customer has consented to participating in the With You For You process with a single agency only and that there is to be no information sharing among agencies. This may result in several agencies completing the Understanding You form independently, but they will not be able to share information with any other agency.

4. Withheld Consent – where the Customer has refused to participate in the With You For You process. In these circumstances, information cannot be shared with any other agency. Services should still be offered to the Customer.

5.2.3 The Co-ordinator For You must record the following information in the Consent box on the Understanding You form:-

- That the customer has given consent, limited consent, single agency consent or withheld consent to the With You For You process.
- How that consent was given – e.g. verbally, with the assistance of a signer, using a communication aid, etc.
- Date & time of obtaining consent.
- That a full explanation of the With You For You process was given and that the Customer received a copy of the With You For You Leaflet.
- The agreed length of time that consent is valid.

5.2.4 The Co-ordinator For You must ensure they have completed their own details at the end of the Understanding You form to ensure that there is a record of their name, signature and designation confirming that they sought consent and completed the above information.

5.2.5 Consent, limited consent, single agency consent and withholding consent is recorded when the Customer signs the completed Understanding You form.

5.3 Consent – Customer Withholds Full Consent

5.3.1 The Customer is entitled to provide limited consent, single agency consent or withhold consent and refuse to participate in the With You For You process. It must be stressed to the Customer that withholding full consent will not impact on their right to receive services or have their needs met. However, the Co-ordinator For You should explain that the With You For You process will assist in delivering support to meet the Customer's needs.

5.3.2 If the Customer continues to withhold full consent to the With You For You process and the Co-ordinator For You is concerned about the impact this may have on the Customer, they should seek advice from their Line Manager to determine whether any further action is required to assist the Customer.

5.3.3 Shetland Islands Council has a variety of legal options which can assist in clarifying whether any further action is necessary. Advice should be sought from Shetland Islands Council's Legal Services through any Council Service.

5.4 Consent – Customer Does Not Have Capacity

5.4.1 Where the Co-ordinator For You determines that the Customer lacks capacity to consent to the With You For You process, this must be recorded in the Consent box on the Understanding You form.

5.4.2 In these circumstances, the Co-ordinator For You may accept consent on behalf of the Customer from anyone with appropriate powers under the Adults With Incapacity (Scotland) Act 2000. This may include:-

- A Welfare Guardian
- Someone authorised under a Welfare Intervention Order.
- An Attorney acting under a Welfare Power of Attorney.

Evidence of the appointment must be seen and recorded by the Co-ordinator For You.

5.4.3 Where there is no-one with appropriate powers under the Adults With Incapacity (Scotland) Act 2000, the Co-ordinator For You may wish to consider applying section 13ZA of the Social Work (Scotland)

Act 1968 to ensure that the With You For You process is carried out. This section should only be used in consultation with the Shetland Islands Council's Chief Social Work Officer.

5.4.4 Where there is no-one with the appropriate powers under the Adults With Incapacity (Scotland) Act 2000 and it is not appropriate to use section 13ZA of the Social Work (Scotland) Act 1968, the With You For You process and necessary information sharing should only take place where a multi-disciplinary case conference has determined that it is necessary in accordance with the general principles contained within the Adults With Incapacity (Scotland) Act 2000. The Co-ordinator For You is responsible for arranging the multi-disciplinary case conference and ensuring that the appropriate legal advice is sought.

6. Use of Personal Information

6.1 Information is gathered as described in the WYFY Guidance document. <http://www.shetland.gov.uk/socialwork-health/4u.asp>

6.2 Information regarding the Customer is recorded on a shared computer system. The shared computer system is known as SWIFT and is operated by Shetland Islands Council. The shared computer system can only be accessed by parties to the Agreement once they have completed the Shetland Islands Council User Access Request Procedure which is attached as Appendix 3 to the Agreement.

6.3 All parties to the Agreement accessing the shared computer system are subject to:-

- The Agreement
- The Shetland Islands Council ICT Security Policy & User Request Procedure.
- Their own individual Confidentiality and Data Protection policies.

6.4 What information is recorded on the shared computer system will depend on the category of consent provided by the Customer.

Full Consent – the Customer's information will be stored on, and shared through, the shared computer system.

Limited Consent – only that the Customer has a current Understanding You and the name of their Co-ordinator for you will be stored on the shared computer system.

Single Agency Consent – the Customer's information will not be stored on the shared computer system. The Customer's information will be stored according to the agreed practice and arrangements within that single agency.

Withheld Consent – the Customer's information will not be stored on the shared computer system. The Customer's information will be stored according to the agreed practice and arrangements within the agency involved.

- 6.5 During the WYFY process, it is likely that personal data relating to third parties connected to the Customer will be recorded. However, the third parties are not the focus of the WYFY process and their information will only be used in relation to ensuring the Customer's needs are fully met. Personal data relating to third parties will not be used for any other purpose.

7. Access to Personal Information

- 7.1 The Co-ordinator For You will explain the Customer's right of access to their personal information when they are seeking consent to the With You For You process. The Customer will have received a copy of the With You For You Leaflet (Appendix 2) which provides clear details on how they exercise this right of access.
- 7.2 The Co-ordinator For You will provide the Customer with a copy of the Understanding You form.
- 7.3 If the Customer wants to receive copies of any additional information about them which is referred to within the Understanding You form, they should discuss this in the first instance with their Co-ordinator For You. The Co-ordinator For You should then contact the appropriate agencies to obtain copies of all relevant information which has informed the Understanding You form.
- 7.4 The Customer also has a separate right of access to their personal information under the Data Protection Act 1998. The Customer can therefore submit a Subject Access Request to the appropriate agency

who is responsible for the information they want to access. Such requests will be handled in line with the individual agency's Data Protection Policy.

8. Retention & Storage

- 8.1 Each party to this Agreement is responsible for ensuring all personal information they hold in relation to a Customer participating in the With You For You process is stored and destroyed in accordance with their own Data Protection and/or Retention and Destruction Policy.
- 8.2 Shetland Islands Council is responsible for removing all information relating to the With You For You process held on the shared computer system in accordance with their corporate Retention and Destruction Policy unless the Co-ordinator For You has specified any additional retention requirements.

9. Complaints & Breaches

- 9.1 All parties to this Agreement are responsible for ensuring that their staff are bound by the Agreement and adhere to its terms. All parties are individually responsible for ensuring that all supporting policies and procedures necessary to comply with the Agreement are implemented within their own organisation.
- 9.2 Any breaches of the Agreement must be brought to the immediate attention of the Data Controller within the agency where the breach occurred. The Data Controller must advise the With You For You Partnership of the breach and the outcome of any internal investigation.
- 9.3 Any Customer wishing to make a complaint regarding how their personal information has been handled should do so through:-
- a) the complaints procedure of the agency that has caused concern; or
 - b) contacting directly the Data Controller in the agency that has caused concern; or
 - c) the complaints procedure for the agency that their Co-ordinator For You is employed by; or

d) contacting the With You For You First Point Contact.

10. Rectification, Blocking, Erasure and Destruction

10.1 Each party to this Agreement is responsible for ensuring that their Data Protection Policy covers the procedure for responding to a Customer's notice or a court order requiring rectification, blocking, erasure or destruction of personal data.

10.2 The Customer's notice or a court order requiring rectification, blocking, erasure or destruction of personal data must be dealt with by the appropriate agency who is responsible for the information in question.

11. Review of the Agreement

11.1 An annual review of the Agreement will be undertaken by:-

- Shetland Islands Council – Information Systems Officer, Education & Social Care.
- Shetland Islands Council – Solicitor with responsibility for Data Protection

11.2 The following information will be required to undertake the review:-

- The WYFY Information System Audit and Data Cleansing Results from the Education & Social Care Resources Team.
- The WYFY Quality Assurance Framework Performance Reports from each party to the Agreement.
- A report from any Data Controller who has been notified of a breach under the Agreement and the outcomes of any internal investigation as detailed at paragraph 9.2 above.

11.3 An annual report will be prepared and presented for consideration to the WYFY Partnership, the Shetland Data Sharing Partnership and each party to the Agreement.

11.4 Any party to the Agreement or the WYFY Partnership can request an additional review of the Agreement is carried out as a result of any

complaints or breaches that have come to their attention under paragraph 9 above.

11.5 The findings of a review carried out under paragraph 11.1 or 11.4 above may recommend that the WYFY Partnership consider whether there should be any sanctions imposed or actions taken as a result of any complaint or breach under the Agreement. The following is an illustrative list of actions to be taken or sanctions to be imposed and is not exhaustive:-

- The Agreement is to be amended.
- A particular party to the Agreement must improve working practices and management of risks.
- Removal of individual access rights to the shared computer system.
- Termination of the Agreement among all parties.
- Referral to the Information Commissioner's Office.