**End User Organisation Policy**

# **BACKGROUND**

## The Health and Social Care Information Centre of Trevelyan Square, Leeds, also known as NHS Digital ("**NHS Digital**") has drafted this End User Organisation Policy to govern the use of certain systems, functionality, data and services which are described on NHS Digital's online landing page and supporting repository of information and documents ("**Portal**").

## References to "**you**" and "**your**" in this End User Organisation Policy shall refer to the entity or persons which accepts the terms of this End User Organisation Policy.

## The End User Organisation Policy shall govern the connection to, and use by you of, the Services selected below:

|  |  |  |
| --- | --- | --- |
| **Menu of Services : Tick which Services apply** | **Yes** | **No** |
| **NHS Digital SMSP-PD (**[**https://developer.nhs.uk/library/systems/nhs-digital-smsp-pds/**](https://developer.nhs.uk/library/systems/nhs-digital-smsp-pds/)**)** |  |  |

# **YOUR AGREEMENT**

## By signing this End User Organisation Policy, you confirm that:

### you agree to and will comply with this End User Organisation Policy including all obligations and processes set out or referred to in this End User Organisation Policy; and

### you have read, understood and agree to all the information referred to in this End User Organisation Policy; and

### you shall comply with the special terms which are relevant to the Services as identified on the Portal as “**End User Organisation Special Terms**”.

# **NHS DIGITAL'S RESPONSIBILITIES**

## The relevant services to you are provided by a third party IT services supplier ("**Supplier**") with whom you have a separate contract either directly or through a commissioning body for services and this End User Organisation Policy shall not create any responsibility on NHS Digital for the management or enforcement of your contract with your Supplier.

## Your Supplier has a connection to certain systems, functionality and/or data either directly via NHS Digital or via another supplier who has a connection via NHS Digital ("**Connection**"); The Connection is governed by a 'Connection Agreement' between the connecting supplier and NHS Digital. The Connection can be suspended and/or terminated in accordance with the terms of the Connection Agreement. NHS Digital provides these systems, functionality and/or data as a shared resource for the health and social care service in England and therefore NHS Digital does not provide you or your Supplier with any commitments with regards to performance or availability of the Services.

# **YOUR RESPONSIBILITIES**

## You are responsible for:

### compliance with the terms of this End User Organisation Policy;

### choosing to receive the Services; and

### ensuring that the systems and the services provided to you by your Supplier meet your requirements.

## You shall use the Services and any of the related systems and functionality provided by or facilitated by NHS Digital only for their intended purposes and in accordance with any fair usage policies and any applicable laws, and not in a way that could damage, disable, overburden, impair or compromise any systems or security or interfere with other users. You shall operate the Services for real-time direct care only and you shall ensure that you and your Supplier comply with all obligations set out or referred to on the Portal.

## The following matters are out of scope of this End User Organisation Policy (and should be addressed in the contractual arrangements with Supplier):

### ensuring the Supplier's provide systems and services which are secure, are clinically safe, and are compliant with laws;

### all arrangements with Supplier for the testing, assurance, acceptance and deployment to you of the Supplier's system and services; and

### ensuring that your Supplier provides updates to and maintains its system and services and provides helpdesk and incident management services.

# **TARGET OPERATING MODEL**

## The **"Target Operating Model"** or **"TOM"** is aself certification tool published on the Portal which is used for assurance, onboarding and lifecycle management.

## Your Supplier is subject to a number of processes (for example assurance, onboarding, and lifecycle management) including those relating to the TOM. As part of your acceptance of the Services, you are required to:

### populate the relevant sections of the TOM; and

### update the TOM as necessary.

## NHS Digital shall be entitled (acting reasonably) to request evidence from you regarding your compliance with your obligations in relation to the following: (a) the TOM; (b) your data sharing agreements and data processing agreements; (c) clinical assurance; (d) safety security and information assurance; (e) information governance. You shall acknowledge NHS Digital's request and cooperate with that request by providing evidence to the satisfaction of NHS Digital within 7 days of receipt of the request. NHS Digital will request evidence no more than annually except where there is a reasonable likelihood that non-compliance has occurred or will occur.

## NHS Digital shall be entitled to retain a copy of your completed TOM and any evidence or supplemental documents provided in accordance with clause 5.3 for as long as required.

## Via the TOM or via other methods notified to you on the Portal, NHS Digital may collect relevant information from your Supplier to optimise your use of the Services.

# **REMEDIES**

## Where there is evidence of an actual, possible or potential breach of your requirements in relation to this End User Organisation Policy (including your obligations in relation to the TOM) NHS Digital:

### will raise its concerns with you; and

### may suspend or terminate (itself or by notifying the Supplier to do so) your right to access or receive the Services.

## If NHS Digital chooses to suspend or terminate the Services in accordance with clause 5.4.2 NHS Digital will explain in a report why those actions were taken. You will have 7 days following your receipt of the report to raise any concerns with the report (including any supporting evidence) and/or propose a remediation plan to address the underlying issues. All communication should be via your Supplier unless directed otherwise by NHS Digital. Any such remediation plan shall have remedy completion period of less than 30 days and shall be subject to approval by NHS Digital, consulting with your Supplier. If such approval is granted:

### you will provide evidence to NHS Digital, or the Supplier if directed to by NHS Digital, of the actions taken as part of the remediation plan at specified points during the implementation period; and

### NHS Digital will not exercise the discretion to suspend or terminate your right to access or receive the Services until the remedy completion period set out in the remediation plan has expired, or earlier if there is evidence of a likely or actual failure which cannot be further remedied.

# **CLINICAL SAFETY AND CYBER SECURITY**

## In order to protect yourselves and all other users of the Services, you shall report all relevant actual or suspected clinical safety and security incidents to NHS Digital which are of interest to or under the remit of NHS Digital. You shall co-operate with NHS Digital's investigations into clinical safety and security incidents and shall provide all assistance required by NHS Digital to resolve such clinical safety and security incidents.

## You shall not knowingly transmit any data, send or upload any material that contains viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

# **DATA**

## Without prejudice to your status, role and/or obligations as a Data Controller (as defined in the Data Protection Act 1998/General Data Protection Regulation), you shall agree to and comply with such data sharing agreements and/or data processing agreements as are required from time to time.

# **COSTS AND GOVERNANCE**

## You are responsible for meeting all of your own costs associated with achieving and maintaining compliance with this End User Organisation Policy and any conditions imposed on your Supplier(s) by NHS Digital.

## The Services may operate a governance structure involving different supplier and end user organisation parties, and you may contribute to and attend relevant meetings at your own cost subject to limits on the numbers of attendees which shall be set by NHS Digital, and you shall use reasonable endeavours to attend multi party meetings when requested to.

# **UPDATES AND AMENDMENTS**

## This End User Organisation Policy may be updated from time to time by NHS Digital and updates or new versions shall take effect from the date you are notified of the change.

# **LAWS AND JURISDICTION**

## This End User Organisation Policy shall be governed by the laws of England and Wales and the courts of England shall have exclusive jurisdiction.

By signing below you agree to this End User Organisation Policy:

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| --- |
| Signed for and on behalf of  Organisation:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  by |
| Signature: |
| Name: |
| Position: |
| Date: |