

Manx Hockey Association
DATA TRANSFER AGREEMENT (DRAFT)

Background (the legal bit)

The Manx Hockey Association is registered with the Isle of Man Information Commissioner and therefore operates under the Isle of Man Data Protection Act (2018).

This framework agreement has been designed to aid and determine the conditions of processing in respect of the transfer of data between organisations within the same sports' networks where either:

- (i) one or more organisations are processing personal data on behalf of another organisation; and/or
- (ii) personal information is simply being shared between a network of organisations who are each data controllers of the personal data being shared i.e. each is able to determine the purposes and means of the processing of the personal data in its own right.

For example, this agreement may be used to govern the transfer of personal data between the Manx Hockey Association and its affiliated clubs in respect of data shared as part of an event, a club's funding application or performance related data regarding a player or coach.

It could also be used to support the management of networks of organisations sharing information on areas of common interest, such as Manx Hockey Development Committee, Isle of Man Umpires Association, North Hockey or England Hockey (in respect of disciplinary action).

Given the potentially large number of organisations who may be involved in the sharing of data across a particular network, the agreement has been prepared as a framework agreement so that each relevant organisation signs up to the framework agreement by signing the contract details form below once completed and just one organisation (ideally the Manx Hockey Association) maintains and publishes a central list of the parties who are signed up to the framework agreement.

This list should then be readily accessible by each party signed up to the agreement, so it is easy to see who is covered by the framework agreement and who is not.

The framework agreement has been designed so that the 'Conditions of Processing' remain unaltered.

The highlighted text in yellow on the Contract Details Form at the front of the agreement should be amended to reflect the type of personal data and processing activities carried out by the particular network.

The agreement has also been designed to supplement and add to the data protection provisions in any existing services agreement you have in place, but where this is not applicable, references in the Contract Details Form to a specific Linked Contract can be removed and it can just refer to 'Any Linked Contract'.

**CONTRACT DETAILS FORM
FRAMEWORK AGREEMENT FOR
DATA PROCESSING AND TRANSFER**

This Contract Details Form incorporates the attached data processing terms and conditions ("**Conditions**") together with the key terms below and together with any other Contract Details Forms executed on behalf of any other organisations combine together to form the Agreement.

Words defined in the Conditions have the same meaning in this Contract Details Form unless the context otherwise requires it. By signing this Contract Details Form, the Parties agree that the Conditions and the following key commercial terms shall apply to the Agreement.

[Insert name of NGB/Club or other organisation] will keep a current list of the Parties who are signed up to this Framework Agreement at any one time, which shall be made available upon request. A Party may exit this Framework Agreement at any time by sending written notice of exit on all other current Parties. This shall not affect the Framework Agreement between the remaining Parties.

[PARTY]	[INSERT DETAILS OF ORGANISATION SIGNING UP TO THE AGREEMENT]	
TYPE OF DATA SUBJECTS	[i.e. employees, members, customers and potential customers] or as set out in any Linked Contract	
CATEGORIES OF DATA	<i>Standard</i>	[Name, address, email address, telephone number, information regarding trading and billing history, service and usage history, user IDs and passwords, answers to security questions (such as town/county of birth, mother's maiden name, father's name etc.), employment history, job title, business address, department etc., employee number, business email addresses. business telephone/fax/mobile numbers [other]] or as set out in any Linked Contract
	<i>Special categories</i>	[Racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation] or as set out in any Linked Contract
NATURE AND PURPOSE OF TRANSFER	[INSERT DETAILS OF THE PURPOSE FOR THE PROCESSING OF THE INFORMATION E.G. FOR THE PERFORMANCE OF ANY LINKED CONTRACT AND HOW THE TRANSFERREE WILL PROCESS THE INFORMATION.]	

We confirm our agreement to the terms of this Framework Agreement and agree to join this Framework Agreement by signing below.

.....

Signed on behalf of [insert name of NGB/Club or other organisation]

Name:

Title:

Date:

CONDITIONS OF PROCESSING

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of this Agreement:

“Agreement”

means each separate agreement between the Parties named in the relevant Contract Details Form incorporating these Conditions and the details set out in the respective Contract Details Form;

Contract Details Form

means the document headed Contract Details Form signed on behalf of each Party for each Agreement. Reference to the Contract Details Form shall mean the respective form for each separate Agreement;

“Data Protection Laws”

means the Isle of Man Data Protection Act (“DPA 18”) together with any other laws applicable to the protection of personal data in force from time to time in Isle of Man and any related regulations and guidance (as from time to time amended, extended, re-enacted or consolidated) and all subordinate legislation, regulations and guidance made pursuant to any of them;

“Information”

means any and all information and personal data disclosed directly or indirectly by or on behalf of the Transferor to the Transferee from time to time;

“Linked Contract”

means any contract involving the exchange of personal data between Parties to this Agreement;

“Party”

means one of the parties named in the Contract Details Form, who together shall be referred to as the Parties;

“Transferee”

means in relation to the particular Information whichever Party is receiving that Information from the other Party;

“Transferor”

means in relation to the particular Information whichever Party is transferring that Information to the other Party

1.2 The terms “personal data”, “process”, “data controller”, “data processor”, “data subject” have the meanings attributed to them in the Data Protection Laws.

1.3 Reference to ‘writing’ or similar expressions shall include reference to any communication effected by facsimile, electronic mail and/or any comparable means but shall not include communication by SMS or similar text messaging facilities.

1.4 Any obligation on any Party not to do and/or omit to do anything is to include an obligation not to allow that thing to be done and/or omitted to be done.

1.5 The phrase “and/or” means either of the alternatives and both of the alternatives as the case may be.

1.6 Where a Party incurs an obligation under this Agreement and such obligation is created by the use of words such as “shall”, “will”, “undertakes to”, “must”, “agrees to” or any other verb which implies that a Party has so incurred such obligation, it is agreed that all obligations shall not be distinguishable from one another by reason only of the verb used when creating such obligation. Any obligation under this Agreement by a Party not to do any act or thing shall be deemed to include an undertaking not to permit or suffer the doing of that act or thing.

1.7 Any reference to “procure” or “ensure” shall create a primary obligation and not a secondary obligation or guarantee.

1.8 This Agreement will apply to the extent that any personal data is transferred from one Party to another Party.

2. **INFORMATION**

2.1 The provisions of this clause 2 shall only apply in relation to Information where the Transferee acts as the data processor of the Transferor. They shall not apply to the extent that each Party is acting as a data controller under this Agreement.

2.2 The Parties hereby acknowledge and agree that the Information may comprise, contain and/or incorporate confidential information in which the Transferor has a proprietary interest and that the disclosure of it in any way and/or the use of it in any way other than as authorised by the Transferor would cause harm to the Transferor.

2.3 Subject to clause 2.5, the Transferee hereby agrees to maintain as confidential and not to directly or indirectly use, or disclose to (or permit to be used by or disclosed to) any third party, any part or the whole of the Information, except in the proper performance of any Linked Contract with the Transferor or as specifically authorised by the Transferor in writing.

2.4 The Transferee will allow access to the Information only to those agents, employees, representatives and staff who need to see and use it for the purposes of performing any Linked Contract with the Transferor or as otherwise set out in the Contract Details Form.

2.5 The obligations of confidentiality set out in clause 2.3 and 2.4 shall continue indefinitely except that they shall not apply to Information:

2.5.1 which the Transferee proves by documentary evidence was already in its possession and at its free disposal prior to disclosure by the Transferor or was developed by it without reference to any of the Information;

2.5.2 which is after the date of this Agreement disclosed to the Transferee without any obligations of confidentiality by a third party who is not in breach of any duty of confidentiality in doing so;

2.5.3 which is or becomes generally available to the public in printed publications through no default and/or omission on the Transferee’s part; or

2.5.4 to the extent it is required to be disclosed by law and/or the rules of any recognised stock exchange and/or regulatory authority on condition that the Transferee gives the Transferor as much advance notice of such disclosure as possible.

2.6 The Transferee hereby undertakes to immediately upon the Transferor’s demand at any time deliver up to the Transferor or at the Transferor’s option destroy any and all materials comprising, including and/or incorporating the Information (which shall include but shall not be limited to all documents and records whatsoever in any form and on whatever media and all copies of them whether prepared or written by the Transferee or the Transferor or its or their respective agents, employees, officers or sub-contractors individually, collectively or jointly with the Transferor or a third party or provided by the Transferor) in the Transferee’s possession, power or control and shall furnish the Transferor with a certificate signed by a duly authorised representative certifying the Transferee’s compliance with this clause.

2.7 The Transferee acknowledges and agrees with the Transferor that:-

2.7.1 The Information remains the property of the Transferor at all times;

2.7.2 The Transferor shall have the right of access to the Information at any time;

2.7.3 The Transferee will at all times maintain adequate security for the Information;

2.7.4 Any and all copyright in the Information and any and all other intellectual property rights (whether existing now and/or in the future) in or arising in or connection with the Information shall at all times belong to the Transferor; and

2.7.5 If any intellectual property rights arise as a result of the collection, use and/or arrangement of the Information, the Transferee assigns such intellectual property

rights (whether existing now and/or in the future) to the Transferor and/or will procure such assignment to the Transferor with full title guarantee, free from third Party rights and for the full term during which those rights and any renewals or extensions subsist.

3. DATA PROTECTION – DATA PROCESSOR

3.1 The provisions of this clause 3 shall only apply in relation to Information where the Transferee acts as the data processor of the Transferor. They shall not apply to the extent that each Party is acting as a data controller under this Agreement.

3.2 The Transferee shall only process personal data in the Information of the type described in the Contract Details Form in the manner and for the purposes described in the Contract Details Form.

3.3 The Transferee shall also only process the Information for a maximum period which is equal to the duration of the Agreement.

3.4 The Transferee agrees to:

3.4.1 only process personal data in accordance with the relevant principles under the Data Protection Laws and all guidelines, statutory orders and codes of practice issued by relevant supervisory authorities or regulators pursuant to or in connection with Data Protection Laws;

3.4.2 only process the personal data for and on behalf of the Transferor for the purposes of performing any Linked Contract with the Transferor or as otherwise set out in the Contract Details Form and in accordance with any other instructions issued by the Transferor in writing from time to time unless otherwise required by law or any other regulatory body (in which case the Transferee shall, where permitted, inform the Transferor of that legal requirement before processing);

3.4.3 not permit any third party to process any of the personal data without the Transferor's prior written consent;

3.4.4 (where consent is provided pursuant to clause 3.4.3) impose upon each such third party sub-processor (and procure each such third party sub-processor's compliance with) the terms of this clause 3 as if the processing being carried out by the sub-processor was being carried out by the Transferee;

3.4.5 where legally possible ensure that the Transferor has the right to directly enforce any terms relating to processing of the personal data against any such third party sub-processor;

3.4.6 not transfer or allow the transfer of the personal data outside the European Economic Area without the Transferor's prior written consent;

3.4.7 notify the Transferor from time to time of the location of the personal data and, where relevant of any computer system on which the personal data is held by the Transferee;

3.4.8 ensure that only such of the Transferee's personnel who may be required by the Transferee to assist it in meeting its obligations under this Agreement shall have access to the personal data. The Transferee shall ensure that all the Transferee's personnel used by it in relation to this Agreement have undergone training in data protection and in the care and handling of personal data and are obliged to comply with the terms of this Agreement;

3.4.9 immediately notify and provide full details to the Transferor of any breach or potential breach of this clause, take all measures necessary to remedy or address the breach or potential breach and cooperate with the Transferor to resolve such issue;

3.4.10 immediately notify and provide full details to the Transferor of any potential or actual loss of personal data, take all measures necessary to remedy or address the breach or potential breach and cooperate with the Transferor to resolve such issue;

- 3.4.11 from time to time on request provide full details in writing of the Transferee's data processing activities in respect of the personal data, including the address of all locations where such processing takes place, and allow its data processing facilities, procedures and documentation which relate to the processing of the personal data to be inspected and audited (on reasonable written notice) by the Transferor, a representative or auditor of the Transferor or a regulatory body in order to ascertain compliance with Data Protection Laws and the terms of this Agreement; and
 - 3.4.12 on termination of this Agreement return (or, at the Transferor's discretion at any time upon instruction from the Transferor, permanently delete) all personal data processed on behalf of the Transferor pursuant to this Agreement (and permanently delete any copies, save to the extent retention is required by law).
- 3.5 Where the Transferor requires assistance from the Transferee in order to respond to requests, queries and/or investigations in respect of the personal data within the Information or requires that the Transferee help the Transferor in reconstructing and/or otherwise safeguarding the personal data within the Information or requires that the Transferee assists the Transferor in complying with Data Protection Laws, the Transferee shall (at its cost) provide the Transferor with such assistance as the Transferor reasonably requests within any timescales specified by the Transferor. If no time scales are specified, the Transferee must respond to and comply with the Transferor's request within the earlier of a reasonable period of time of receiving the request for assistance or the time period needed to allow the Transferor to comply with its obligations under the Data Protection Laws.
- 3.6 Where the Transferee will be collecting personal data on behalf of the Transferor, the Transferee shall:
- 3.6.1 ensure that it informs the data subject at the time of collecting the personal data that the Transferor is the data controller in respect of the data, the purposes for which the Transferor will be using the personal data and the possible recipients of the personal data all as notified by the Transferor to the Transferee from time to time and the other matters required under Data Protection Laws; and
 - 3.6.2 obtain the data subject's consent to any purposes for processing personal data where required in accordance with the Data Protection Laws.
- 4. DATA PROTECTION – DATA CONTROLLER**
- 4.1 The provisions of this clause 4 shall apply in relation to Information where the Transferee acts as the data processor of the Transferor and they shall also apply to the extent that each Party is acting as a data controller under this Agreement.
- 4.2 Subject to clause 3.6, Transferor warrants that:
- 4.2.1 all personal data provided by or on behalf of the Transferor shall have been lawfully obtained and retained by the Transferor (or its nominated third party);
 - 4.2.2 all necessary consents and data processing notices have been provided in relation to the processing of personal data; and
 - 4.2.3 the Transferor is lawfully entitled to provide, procure the provision of or authorise the Transferee to obtain (as the case may be) personal data for the purposes envisaged by this Agreement.
- 4.3 The Transferee will keep, and provide to the Transferor upon request, a complete, accurate and up-to-date record of all processing activities carried out by the Transferee utilising personal data from the Transferor including but not limited to:
- 4.3.1 details of the data controller, the data processor (and where applicable the Data Protection Officer of the data controller and data processor);
 - 4.3.2 details of those employees who have access to the personal data and the types of processing carried out on behalf of the data controller;
 - 4.3.3 where applicable, information on any transfer of personal data to a country outside the EEA (including the identification of the country receiving the personal data and the adequate safeguards used); and

4.3.4 a general description of the security measures implemented in respect of the personal data.

4.4 Each Party shall:

4.4.1 implement and at all times maintain an information security management system that:

- (a) operates and has robust back up and disaster recovery procedures in place;
- (b) is able to comply with any rights of data subjects exercised under Data Protection Laws; and
- (c) includes all appropriate technical and organisational measures necessary or desirable to:
 - (i) ensure a level of security appropriate to the risk against unauthorised or unlawful processing, accidental loss or destruction of or damage to personal data;
 - (ii) protect the rights of the data subject; and
 - (iii) enable the personal data to be processed in compliance with obligations equivalent to those imposed on the Transferor under the Data Protection Laws;

and ensure that all personal data processed by it is subjected to the controls of the information security management system implemented and maintained in accordance with this clause 4.4;

4.4.2 immediately notify the other Party of any contact with or investigation or audit of it in relation to data processing and/or personal data by any regulatory authority prior to providing any information, unless it is prevented from doing so by law or court of competent jurisdiction;

4.4.3 comply with all Data Protection Laws;

4.4.4 co-operate with any regulatory authority for data processing; and

4.4.5 not do or omit to do anything which will place the other Party in breach of any Data Protection Laws.

5. GENERAL

5.1 The parties agree that the terms of the Agreement are supplemental to the terms of any Linked Contract and that the Agreement will form part of any Linked Contract so that they together form one contract

5.2 Each Party will be liable under this Agreement for the acts and/or omissions of any agent, employee, sub processor or sub-contractor as if they were its own acts and/or omissions under this Agreement.

5.3 Without prejudice to any other right or remedy a Party may have, each Party will indemnify and keep indemnified (on a full indemnity basis) the other Parties against any and all claims, demands, penalties, fines, actions, proceedings, damages, lost profits, damage to goodwill, costs (including professional and legal costs), expenses, special, indirect, and consequential loss and any other loss and/or liability suffered or incurred by or awarded against the other Parties arising out of or in connection with any breach of this Agreement, any tortious act and/or omission and/or any breach of statutory duty by the indemnifying Party, whether or not such losses were foreseeable or foreseen at the date of this Agreement.

5.4 Each Party shall, at the request and cost of the other Party (and irrespective of the termination of this Agreement) sign and execute any documents and/or deeds and/or do any and all such acts and/or things as the requesting Party may require to give effect to the provisions of this Agreement.

5.5 All third party rights are excluded and no third party shall have any right to enforce this Agreement.

5.6 This Agreement is governed by Isle of Man Law and the Parties the Parties each agree to submit to the non-exclusive jurisdiction of the Isle of Man Courts in relation to any disputes connected with this Agreement.