

EPDP Phase 2 Preliminary Recommendation #13: Terms of Use

The EPDP Team recommends that appropriate agreements, such as terms of use for the SSAD, a privacy policy and a disclosure agreement are put in place that take into account the recommendations from the other preliminary recommendations. These agreements are expected to be developed and negotiated by the parties involved in SSAD, taking the below implementation guidance into account.

Implementation guidance:

Privacy Policy for SSAD Users

The EPDP recommends, at a minimum, the privacy policy SHALL include:

- Relevant data protection principles, for example,
- The type(s) of personal data processed
- How and why the personal data is processed, for example,
 - o verifying identity
 - o communicating service notices
- How long personal data will be retained
- The types of third parties with whom personal data is shared
- Where applicable, details of any international data transfers/requirements thereof
- Information about the data subject rights and the method by which they can exercise these rights
- Notification of how changes to the privacy policy will be communicated

Further consideration should be given during implementation whether updates to the RAA are necessary to ensure compliance with these recommendations.

Terms of Use for SSAD users

The EPDP recommends, at a minimum, the terms of use SHALL address:

- Indemnification of the controllers based on the following principles:
 - o Requestors are responsible for damages or costs related to third party claims arising from (i) their misrepresentations in the accreditation or request process; or (ii) misuse of the requested data in violation of the applicable terms of use or applicable law(s).
 - o Nothing in these terms limits any parties' liability or rights of recovery under applicable laws (i.e. requestors are not precluded from seeking recovery from controllers where those rights are provided under law).
 - o Nothing in these terms shall be construed to create indemnification obligations for public authority requestors who lack the legal authority to

enter into such indemnification clauses. Further, nothing in this clause shall alter potentially existing government liability as a recourse for the operators of the SSAD.

- Data request requirements
- Logging requirements
- Ability to demonstrate compliance
- Applicable prohibitions

Disclosure agreements for SSAD users

The EPDP recommends, at a minimum, disclosure agreements SHALL address:

- Use of the data for the purpose indicated in the request
- Requirements for use of data for a new purpose other than the one indicated in the request
- Retention of data
- Lawful use of data