



Llywodraeth Cymru
Welsh Government



Memorandum of Understanding for the Health and Safety Executive's delivery of licensing, inspections, investigations and enforcement of the Specified Animal Pathogens (Wales) Order 2008

Between the Welsh Ministers and the Health and Safety Executive

17 January 2022

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Section 1 – Memorandum of Understanding

This Memorandum of Understanding (MoU) is between the following parties:

1. Ministers from the Welsh Government (WG) ("Welsh Ministers" or "Service Receiver"); and
2. The Health and Safety Executive ("HSE" or "Service Provider").

Each a "Party" and together referred to below as the "Parties".

Background

1. The [Specified Animal Pathogens \(Wales\) Order 2008](#) (SI No 1270 (W.129)) (as amended) (SAPO) prohibits any person from having in their possession any specified animal pathogen listed in Part 1 of Schedule 1 to SAPO or any carrier in which they know such a pathogen is present unless they have a SAPO licence issued by the Welsh Ministers. It also prohibits the unlicensed introduction into any animal or bird of any pathogen listed in Parts 1 and 2 of Schedule 1 to SAPO.
2. The purpose of SAPO is to prevent the introduction and spread of specified animal pathogens in Wales which, if introduced, could cause serious disease and economic loss to the animal and poultry industries. SAPO licences provide a series of goal setting, risk-based licence conditions, compliance with which has the cumulative effect of ensuring that specified animal pathogens are adequately contained and managed. Licences are usually valid for 5 years. Inspections of laboratories licensed under SAPO may be carried out at any time to ensure full compliance with licence conditions.
3. The purpose of this Memorandum (MoU) is to set out the framework by which the Health and Safety Executive (HSE) will provide, deliver and manage the licensing, inspection, investigation and enforcement requirements under SAPO. These are functions exercisable by the Welsh Ministers either under SAPO or under the Animal Health Act 1981 (AHA), which have been transferred to HSE under [an Agency Agreement](#) dated 25 March 2015 (available on HSE's website), being functions which in the opinion of the Secretary of State for Work and Pensions can appropriately be performed by HSE.
4. This MoU is not intended to create a binding legal obligation between the Parties, however the Parties will observe the terms of it.

Interpretation

5. “Accident” means an unplanned or uncontrolled event involving the escape of a specified animal pathogen from containment.
6. “Dangerous Occurrence” means an unplanned or uncontrolled event involving a specified animal pathogen that has not resulted in its loss of containment, but which had the potential to do so.

Commencement and duration

7. This MoU shall take effect on the date when it has been signed by all the Parties (the “Commencement Date”). This MoU shall terminate on 31 March 2025, unless terminated early. This MoU will be reviewed by both Parties within 6 months of the termination date, for the purpose of determining if it should be extended, amended or replaced.
8. This MoU may be extended for any further period(s) of 24 months on the same terms and as mutually agreed between the Parties.

Statutory obligations

9. In carrying out the obligations required under this MoU, each Party shall ensure that it complies with all statutory and regulatory requirements in force from time to time, in particular (but not limited to) the following:
 - a. fraud;
 - b. bribery;
 - c. freedom of information;
 - d. confidentiality;
 - e. data protection;
 - f. health and safety.

Functions to be performed by HSE

10. Subject to the limitations set out at paragraph 12, HSE shall perform on behalf of the Welsh Ministers the following functions:
 - a. issuing licences under Article 4 of SAPO;

- b. appointment of inspectors under Section 89 of the AHA;
- c. provide representations, where necessary, to the appointed person under Article 9(2) of SAPO;
- d. enforcement under Article 11 of SAPO;
- e. enforcement of the most current version of the “Minimum Standards for Laboratories working with Foot and Mouth Disease Virus in vitro/in vivo”, where this is a condition of a SAPO licence except where, in the opinion of HSE, this applies to measures relating to counter-terrorism or general criminal law.

11. In performing the functions set out at paragraph 10, HSE shall:

- a. comply with the terms of this MoU including the service levels and performance requirements set out at Annex A to this MoU;
- b. regulate, enforce and investigate licensed facilities in accordance with this MoU, licence conditions, HSE’s Enforcement Policy Statement (EPS), HSE’s Enforcement Management Model (EMM) and SAPO;
- c. adopt a regulatory approach that is as far as possible consistent with the existing legislative frameworks for human pathogens and genetically modified organisms. Such an approach shall be coordinated, risk based, goal setting and integrated.

Limitations on functions to be performed by HSE

12. Nothing in this MoU shall prevent the Welsh Ministers from exercising any function under SAPO. The Welsh Ministers shall provide HSE with written notice of their intention to exercise any such function and HSE, having received such notice, will not exercise any such function without the agreement of the Welsh Ministers.

13. It is established policy that Crown bodies are subject to the same arrangements on specified animal pathogens as all other laboratories. HSE will check their compliance with the SAPO licensing regime in the same manner as for other licence holders. As the licensing, inspection, investigation and enforcement legal powers referred to above are not applicable to Crown bodies, except through established policy and agreement, HSE will utilise an administrative approach to hold Crown bodies accountable. The said administrative approach will be agreed with the Welsh Ministers.

Undertakings of HSE

Appointment of Inspectors

14. HSE shall appoint, on behalf of the Welsh Ministers, members, officers or servants of HSE as Inspectors for the purposes of SAPO and the AHA in so far as it relates to SAPO ('Inspectors').
15. HSE shall ensure that sufficient trained and competent specialist inspectors are available to undertake and deliver the work agreed for each financial year.
16. HSE Inspectors shall exercise the powers and enforcement functions set out in Articles 6 to 8 and Schedule 2 of SAPO as well as relevant sections of the AHA in its application to SAPO.
17. For the avoidance of doubt, the enforcement functions referred to in paragraph 10 include the enforcement of the most current version of the "Minimum Standards for Laboratories working with Foot and Mouth Disease Virus *in vitro/in vivo*", arising from Article 65(d) (and Annex XII) of Council Directive 2003/85/EC on "community measures for the control of foot-and-mouth disease" where this is a condition of a SAPO licence. Such enforcement functions do not apply where, in the opinion of HSE, the measures relate to counter-terrorism or general criminal law. "General criminal law" does not extend to conduct which would constitute an offence under SAPO and the AHA.
18. HSE may assign to Inspectors and other members, officers or servants of HSE such duties, and may delegate to any of them such authorities and discretion, as it considers appropriate in order to enforce SAPO.

Content of licences

19. HSE shall ensure that all SAPO licences include appropriate conditions as reflected in the published guidance "Guidance for licence holders on the containment and control of specified animal pathogens" (HSG280) including risk assessment, management arrangements, containment, training and competence, transport, waste management, notification, emergency arrangements, operating, procedures, cooperation with Inspectors and (where appropriate) EU requirements.
20. Licences should require licence holders to ensure that their employees, officers or agents at the licensed site cooperate with the Inspector and comply with any requirement imposed by the Inspector with respect to the containment of specified animal pathogens (eg permitting the inspector to enter licensed premises, taking of photographs, making and taking copies of documents and complying with the requirements of enforcement notices).

Accidents and Dangerous Occurrences

21. HSE shall ensure that the requirements set out in Annex A to this MoU regarding the handling of Accidents and Dangerous Occurrences are complied with.

Price and payment

22. The Welsh Ministers shall pay HSE the costs incurred in performing the functions specified in paragraph 10 in accordance with the following arrangements:

- a. the Welsh Ministers shall pay HSE for agreed planned work and for reactive work to support licensing arrangements according to an annual costed programme of work (the 'Programme of Work'). The Programme of Work will be set out and agreed with the Welsh Ministers within a month of the start of the financial year;
- b. HSE shall notify the Welsh Ministers as soon as possible if the agreed sums set out in the Programme of Work are likely to be different;
- c. the Welsh Ministers shall be responsible for additional costs only where the Welsh Ministers have consented to that additional expenditure in writing before it has been incurred;
- d. payment for each financial year will be to HSE on a biannual basis on receipt of a valid invoice. Payment shall be made within 30 days of receipt of an undisputed invoice;
- e. an invoice shall be considered valid where it includes a description of the work and the number of hours spent on planned and reactive work.

Reporting

23. HSE shall submit to the Welsh Ministers by 30th June each year a report on the work carried out in performance of this MoU during the preceding financial year (the 'Annual Report'). The Annual Report must contain:

- a. an account of the work done under the Programme of Work for the preceding financial year;
- b. the number of inspection visits undertaken during the preceding financial year;
- c. the outcome of interventions undertaken during the preceding financial year;
- d. information on investigation and enforcement action undertaken during the preceding financial year.

Record keeping

24. HSE must maintain an auditable system for receiving, processing and authorising licences. Current and previous licences must be retained in electronic format. All SAPO documents and licences must be kept securely.
25. HSE must ensure that SAPO documents and licences are marked according to the relevant security marking appropriate to each document or licence.
26. HSE shall produce such accounts, documents, records or explanation as the Welsh Ministers may reasonably request relating to the expenditure, licences issued or interventions undertaken in connection with the MoU. In particular, on a biannual basis HSE shall provide to the Welsh Ministers a record of the hours and costs of planned and reactive administration, management and inspections and the budgetary position (the 'Financial Report').
27. HSE shall keep and maintain full and accurate records of the functions exercised under the MoU and all expenditure reimbursed by the Welsh Ministers for at least six years after the completion of the agreed work. HSE will make such records available for scrutiny free of charge at HSE, by prior arrangement, to auditors acting on behalf of the Welsh Ministers.
28. The Welsh Government will retain copy files of SAPO documents and licences produced before 1 April 2015 for five years from the last paper on the file.

Monitoring of performance

29. HSE shall immediately inform the Welsh Ministers if any of the functions referred to above are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that corrective action will be completed.
30. Performance of the functions referred to above is subject to the provisions set out at Annex A to this MoU. Key performance indicators are also set out at Annex A.
31. Every six months, a performance review meeting will be held between the Welsh Ministers and HSE to review the budget, planned and reactive work, management and delivery of the key performance indicators ('Performance Review Meeting').

Variation

32. Any variation to this MoU, may only be made by mutual consent of the Parties. Either Party may seek to vary the agreed scope of this MoU and work contained in it. Each

Party shall give reasonable notice of any major changes it is seeking in order to enable the other Party to respond as quickly as possible.

33. On receipt of a written request from the Welsh Ministers to vary the agreement, HSE will provide an estimate of the financial, human and other resources necessary to meet the request and shall provide an estimated timetable for effecting the variation requested to the agreed deadline.

34. A variation shall not take effect unless recorded in writing and signed by both Parties.

Termination

35. This MoU or any extension of it may be terminated by either Party.

- a. on the expiry of 6 months' written notice of termination given to the other Party; or
- b. on the expiry of a shorter period of notice than 6 months as agreed by the Parties.

36. In the event of early termination according to paragraph 35:

- a. HSE will submit for payment by the Welsh Ministers a certified statement of the costs properly incurred from the date of the last payment, if any, up to the termination date;
- b. HSE may, in addition to the costs referred to in paragraph 36a, also claim costs that it is legally bound to pay after the termination date as a result of commitments properly incurred before the date of notice of termination, which remain unpaid by the Welsh Ministers at the date of notice of termination.

Disputes

37. Where there is a difference of opinion between the Welsh Ministers and HSE on the interpretation of this MoU, or any matter arising from this MoU, the matter will, in the first instance, be referred to the nominated contacts, a list of whom will be agreed, maintained and updated. If they are unable to reach agreement, the matter will be referred to the signatures of this agreement and then to the Welsh Ministers and the Secretary for Work and Pensions who shall jointly be the final arbiters.

Signatories

38. The duly authorised representative of the Parties affix their signatures below.

We agree to and accept all the terms and conditions of the above MoU.

Signed on behalf of the Welsh Ministers

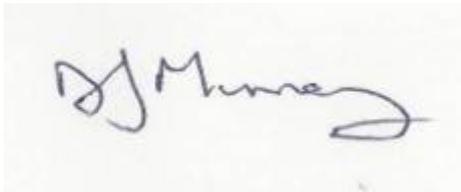


Name: MEGAN GAIZUTYTE

Position: Head of Animal Disease Policy

Date: 10 January 2022

Signed on behalf of the Health and Safety Executive



Name: DAVID MURRAY

Position: Director of Planning, Finance and Procurement Division

Date: 11/01/2022

Annex A – Service levels and performance

General

1. The Welsh Ministers will continue to be responsible for specified animal pathogens policy advice and appointing someone to consider and report on any appeal of an enforcement notice as required.
2. HSE will be responsible for the effective administration, licensing, inspection (including targeted interventions), and enforcement of SAPO. In carrying out these responsibilities HSE may seek veterinary advice from Welsh Government or Animal and Plant Health Agency (APHA) veterinarians.
3. Where practicable, site visits and inspections under SAPO and the Health and Safety at Work etc Act 1974 by HSE are to be coordinated, to ensure HSE make the most efficient use of travel and subsistence.
4. HSE will undertake other relevant activities (eg reviewing guidance) as agreed with the Welsh Ministers in the Programme of Work.

Licensing

5. HSE is to ensure that appropriate procedures are in place for quality assurance of licences before issue.
6. HSE's review of licence applications should consider the information in '[Guidance for licence holders on the containment and control of specified animal pathogens](#)' (HSG280) which sets out the different containment levels, ie SAPO 2-4.
7. The Parties intend that licensing of [SAPO2](#) facilities will be mainly dealt with through a desk based assessment, unless there is a risk based rationale for a pre-licensing check.
8. The Parties intend that licensing of [SAPO3 and SAPO4](#) facilities will be dealt with by pre-licensing inspection unless there is a risk based rationale for doing this administratively. Where a laboratory applies to work with foot-and-mouth-disease virus for the first time, HSE will notify the Welsh Ministers.
9. Licences shall have goal-setting, risk based conditions, which will place an emphasis on safety management systems and the selection of containment and control

measures based on the outcome of risk assessment(s). Examples of such licence conditions are set out in 'Guidance for licence holders on the containment and control of specified animal pathogens' (HSG280).

10. Licence conditions are to be as consistent as possible across SAPO2, SAPO3 and SAPO4 facilities to provide a consistent regulatory approach by HSE.

Reporting and handling of Accidents and Dangerous Occurrences

11. Licence holders are required to notify HSE of Accidents immediately and Dangerous Occurrences within 24 hours of an Accident or Dangerous Occurrence occurring.
12. Where an Accident has occurred HSE must inform the APHA Veterinary Exotic Notifiable Diseases Unit as soon as possible after receiving notification from the laboratory at which the Accident has occurred.
13. On receipt of an Accident or Dangerous Occurrence notification, HSE will review and decide within 10 working days whether the Accident or Dangerous Occurrence meets the mandatory investigation selection criteria. HSE shall record the rationale behind decisions to investigate or not investigate. HSE shall conduct investigations in line with HSE procedures and appropriate enforcement action taken in line with the EPS and EMM.
14. Where HSE identifies significant compliance issues arising from an Accident or Dangerous Occurrence that may have policy implications or may generate wider public interest, HSE will provide the Welsh Ministers with an initial written report within 5 working days of discovering this compliance issue. The Welsh Ministers are to be kept informed of developments and the outcome of related investigations.
15. Where HSE takes enforcement action in the form of a SAPO prohibition notice it will inform the Welsh Ministers by the end of the next working day that the notice has been issued and provide information on the proposed action/next steps.
16. Where HSE intends to enforce by criminal prosecution or HSE action is subject to judicial review, HSE will inform the Welsh Ministers by the end of the next working day of that decision. An estimate of the likely timescale and costs of any proceedings will be provided as soon as reasonably possible thereafter and kept under regular review.
17. A record of all notified Accidents and Dangerous Occurrences shall be kept by HSE and the significant cases discussed at Performance Review Meetings.

Programme of Work

18. HSE shall agree the Programme of Work with the Welsh Ministers within a month of the start of each financial year, which shall include:
- a. the planned objectives, for example, licence renewal inspections and proactive strategic topic based intervention programme for the forthcoming year;
 - b. HSE resources;
 - c. the cost;
 - d. estimated reactive work and requirement for provision of technical advice, guidance or information relevant to specified animal pathogens (eg technical advice on international standards, attendance at international meetings if necessary).

Key Performance Indicators

Key Performance Indicator (KPI)	Output	Measured
KPI 1 – Responsiveness	<p>HSE issues licences and licence renewals to an appropriate quality within 3 months of receiving a complete application or notification of a significant change, or within 15 working days of all outstanding matters having been resolved.</p> <p>Ad hoc enquiries are to be dealt within 30 working days or, if urgent, to the agreed deadline.</p>	<p>HSE will deliver required outputs against agreed timescales – measured at monthly operation performance review meetings and summarised at 6 monthly HSE/Welsh Government meetings.</p>
KPI 2 – Assessment of Compliance	<p>HSE carries out regulatory activities, investigations, and where appropriate, enforcement of SAPO licence conditions, with experienced and qualified staff, to meet the requirements of this MoU and HSE’s inspection and investigation</p>	<p>HSE will deliver inspection reports, letters, notices, desk-based reviews and investigation reports to HSE expected quality standards and in line with agreed timescales – measured by data quality checks by Ops Manager (SPC/Admin/74) and</p>

Key Performance Indicator (KPI)	Output	Measured
	procedures, and EPS and EMM.	summarised at 6 monthly HSE/ Welsh Government meetings.
<p>KPI 3 – HSE to deliver service improvements to Scottish Government and stakeholders, resource, and cost savings</p>	<p>HSE through intervention, aims to improve safety performance and raise standards across the biological agents sector and to do so in the most efficient and effective manner. HSE uses intelligence to target inspections to areas of greatest risk.</p>	<p>HSE/Welsh Government review meetings (held as necessary) and Annual Report will include discussion of the following parameters:</p> <p>Targeting of intervention plans.</p> <p>Comparison of inspection scores at and between SAPO 4 laboratories.</p> <p>Comparison of year on year number of reported accidents and dangerous occurrences for SAPO.</p> <p>Review of performance statistics to identify if changes are necessary to improve efficiency and effectiveness.</p>
<p>KPI 4 – Performance against budgeted cost</p>	<p>HSE to deliver the agreed service and Programme of Work on time and within budget.</p> <p>HSE to notify Welsh Ministers as soon as possible if the agreed sums in Programme of Work are likely to be different.</p>	<p>Assessed as part of the Performance Review Meetings.</p>

Annex B – Article 26 of the GDPR, Joint Controller Declaration

Purpose

1. The purpose of this annex is to explain the respective roles that Welsh Ministers and HSE will play in managing the processing of personal data associated with SAPO licensing and inspections, carried out under SAPO or the AHA, and on behalf of the Welsh Ministers. The Welsh Ministers and HSE are joint controllers of the personal data collected, as both parties determine the purposes and means of processing personal data as part of the functions defined in this MoU.

Data protection

2. The Welsh Ministers and HSE will comply with all relevant provisions of GDPR and the Data Protection Act 2018, as applicable.
3. The Welsh Ministers and HSE will act as joint controllers, in respect of any personal data pursuant to this MoU; they will process such personal data only to the extent necessary to meet the requirements of this MoU; and they will appoint external controllers/processors as necessary.
4. Neither the Welsh Ministers nor HSE will transfer any personal data it is processing outside the United Kingdom.
5. The Welsh Ministers and HSE will ensure that they have appropriate technical and organisational procedures in place to protect any personal data they are processing. This includes protection against any unauthorised or unlawful processing and any accidental disclosure, loss, destruction or damage. The Welsh Ministers will promptly inform HSE, and vice versa, of any unauthorised or unlawful processing, accidental disclosure, loss, destruction or damage to any such personal data. Both parties will also take reasonable steps to ensure the suitability of their staff having access to such personal data.

Specific Welsh Ministers responsibilities

6. The Welsh Ministers have the following specific responsibilities:
 - i. Carrying out any required Data Protection Impact Assessment for any element of business or process change.

- ii. Following Welsh Ministers Data Security Guidance to ensure that the necessary measures are taken to protect personal data.
- iii. Ensuring Welsh Ministerial staff are appropriately trained in how to use and look after personal data and follow approved processes for data handling.
- iv. Ensuring Welsh Ministerial staff have appropriate security clearance to handle personal data collected as part of this process.
- v. Ensuring secure transfer of personal data to HSE as necessary for fulfilment of HSE's regulatory functions.
- vi. Responding to Data Subject Access Requests (SARs) when required.
- vii. Reporting any Personal Data breaches within the Welsh Government to their Data Protection Officer, who will determine in conjunction with the relevant Welsh Government Data Protection Team whether the breach needs to be notified to the Information Commissioner's Office (ICO) and the data subjects.
- viii. Maintaining any processing records for data held on Welsh Government systems in compliance with Article 30 of the GDPR.
- ix. If data held is found to be no longer accurate or up to date, they should notify the other party so that they can amend or erase it, as appropriate.

Specific HSE responsibilities

7. HSE has the following specific responsibilities:

- i. Carrying out any required Data Protection Impact Assessment for any element of business or process change.
- ii. Following HSE Data Security Guidance to ensure that the necessary measures are taken to protect personal data.
- iii. Ensuring HSE staff are appropriately trained in how to use and look after personal data and follow approved processes for data handling.
- iv. Ensuring HSE staff have appropriate security clearance to handle personal data collected as part of this process.
- v. Ensuring secure transfer of personal data to the Welsh Government as necessary for fulfilment of the Welsh Government's regulatory functions.

- vi. Responding to SARs when and where required in relation to personal data being processed as part of the regulatory function.
- vii. Reporting any Personal Data breaches within HSE to their Data Protection Officer, who will determine in conjunction with the HSE Data Protection Team whether the breach needs to be notified to the ICO's Office and the data subjects.
- viii. Maintaining any processing records for data held on HSE systems in compliance with Article 30 of the GDPR.
- ix. Ensuring HSE staff taking enforcement measures adhere to standards set out under 'Investigations for law enforcement purposes' in HSE's 'Privacy Policy Statement'.
- x. If data held is found to be no longer accurate or up to date, they should notify the other party so that they can amend or erase it, as appropriate.

Individual rights

- 8. The GDPR specifies rights for individuals over the processing of their data. These rights, and the processes individuals should follow when wishing to exercise their rights, are listed in both the Welsh Government's and HSE's privacy notice. Both parties should ensure they consult and comply fully with their respective privacy policies in the event of Data Subjects exercising any of their rights under data protection legislation. Both parties will handle and respond to a Data Subject's request in relation to the exercising of her/his rights under the GDPR, even if the s/he has not followed the processes set out in the relevant privacy notice in making such a request, in accordance with the data protection legislation.
- 9. In response to any SAR, the controller that receives the request will undertake a proportionate and reasonable search of data it holds and respond to the SAR applicant within one month of receiving the original request, or within any extended time period as permitted by Article 12(3) of the GDPR. Each controller shall follow its own internal processes for handling SARs.

Personal data breach

- 10. The Welsh Ministers are responsible for reporting any personal data breach, as defined in Article 4(12) of the GDPR, occurring within their authority to their Data Protection Officer, who will determine in conjunction with the relevant Welsh Government Data Protection Team, whether the breach needs to be reported to the ICO DPO. The Welsh Government will also inform HSE of the breach if there is any direct impact on HSE staff or other HSE interest.

11. HSE is responsible for reporting any personal data breach, as defined in Article 4(12) of the GDPR, occurring within their authority to their Data Protection Officer, who will determine in conjunction with the HSE Data Protection Team, whether the breach needs to be reported to the ICO DPO. HSE will also inform the Welsh Ministers of the breach if there is any direct impact on Welsh Government staff or other Welsh Government interest.

Liability for data processing

12. Should one party receive court action, relating to data processed under the Agreement, they are to inform the other party.
13. Should one party become subject to investigation by the ICO and/or receive any notice from them, under Part 6 of the Data Protection Act 2018 relating to data processed under this arrangement, they are to inform the other party.
14. If financial penalties are imposed by the ICO on a party in relation to any data processed under this Agreement and, if in the view of the ICO, one party is responsible for the breach of data protection legislation that resulted in the imposition of those penalties, that party shall be responsible for the payment of the penalties imposed. Where the ICO expresses the view that both parties were responsible then each party will bear such responsibility for any penalty imposed as is expressed by the ICO. If the ICO expresses no view as to responsibility, then each party shall bear responsibility for half of the penalty imposed.
15. If either HSE or the Welsh Government is the defendant in a legal claim before a court of competent jurisdiction by a third party, including a data subject in respect of data processed under this Agreement, the party determined by the final decision of the court to be responsible for the damage and/or distress shall be liable for the losses arising from such damage. Where both parties are liable, the liability will be apportioned between the parties in accordance with the decision of the court. If the court does not apportion liability between the parties then each party shall bear responsibility for half of the penalty imposed, unless it can prove that it is not in any way responsible for the event giving rise to the damage.
16. If either HSE or the Welsh Government receive from any person a claim for compensation for damage and/or distress, pursuant to Article 82 of the GDPR, in respect of data processed under this Agreement, the party which receives the claim will handle it according to their internal procedures. The party to this Agreement that receives a such a claim will notify the other party to this Agreement of the claim if the other party is solely or jointly responsible for the event giving rise to the claim. If HSE and the Welsh Government are jointly responsible for the event giving rise to the claim, each shall bear responsibility for payment of such compensation to the claimant as it

determines as being reasonable, subject to its being accepted by the claimant. The amount of compensation offered and paid by each party to the claimant might be different, depending on the circumstances of each case and the and the level of responsibility of each party for the event giving rise to the claim.

17. The provisions in paragraphs 15 and 16 do not prevent the parties coming to a mutual agreement as to the apportionment of financial responsibility for any losses, cost claims or expenses arising from the processing of data under this Agreement.

Data retention

18. The Welsh Government and HSE will retain personal data associated with SAPO licenses and inspections, in accordance with their respective organisational disposal and retention policies. Each party is responsible for ensuring appropriate technical and procedural functions are in place to ensure the secure and timely destruction of personal data.

The Freedom of Information Act 2000 the Environmental Information Regulations 2004

19. HSE and the Welsh Government are subject to the requirements of the Freedom of Information act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs) and shall assist and cooperate with each other to enable each party to comply with their obligations under this legislation. It is accepted that the party that receives an FOIA or EIRs request is responsible for making the final decision on disclosure in respect of any information in scope of a request that they hold. However, that party will consult the other party to this Agreement as outlined in paragraphs 20 and 21.
20. If a party receives a request for information that has been supplied by the other party ("the Information Supplier"), the party that has received the request for information will consult the Information Supplier as early as possible and before any information is disclosed in response to the request to enable sufficient time for the views of the Information Supplier, including any objections to disclosure, to be taken into account when determining whether the information is to be disclosed or withheld.
21. If a party receives a request for information that it holds and knows or believes the information is held by the other party, the party that received the request will inform the other party as early as possible and before any information is disclosed in response to the request. The purpose of this consultation is to ensure that each party is able to share with the other party any concerns about information that might be disclosed to the requester, that the party holding the information is able to take those concerns fully

into account in its decision-making, and that the parties can co-ordinate their handling of requests for the same information.

Voluntary disclosures or publication of information

22. If a party decides to voluntarily disclose or publish information received from another party, it must obtain the written approval of the Information Supplier before disclosure occurs.

Data Protection Officers' Contacts

The contact details of the Joint Controller Data Protection Officers are:

Welsh Government	HSE
<p>Helen Morris Data Protection Officer Welsh Government</p> <p>Email: DataProtectionOfficer@gov.wales</p>	<p>Sean Egan Data Protection Officer Health and Safety Executive 1.3 Redgrave Court Merton Road, Bootle Liverpool L20 7HS</p> <p>Email: DPO@hse.gov.uk</p>

Schedule 1 - Details of data sharing for SAPO licensing and inspection

1. The contact details of the Department Data Protection Officer are:

HSE: Sean Egan (DPO@hse.gov.uk)

Welsh Government: Helen Morris (DataProtectionOfficer@gov.wales)

2. Details overleaf

Data sharing	Details
Subject matter of the data sharing	<p>The processing is needed in order to support delivery of SAPO licensing and inspections.</p> <p>HSE conducts the inspections on behalf of the Welsh Government and supplies advice and information to holders that consent to receive advice and information from HSE. On occasions where there has been a breach of the law, HSE will investigate and carry out enforcement action where necessary.</p>
Data Minimisation	<p>HSE collects the personal data as a record of the applicant/establishment as part of the application process for a SAPO licence.</p> <p>HSE collects personal data so that it can carry out SAPO inspections on behalf of the Welsh Government.</p> <p>The Annual Report to the Welsh Government is to inform them of the number of inspection visits, the outcome of any interventions and information and enforcement action carried out. The Annual Report is anonymised.</p>
Shared Personal Data – categories of personal data	<p>HSE and Welsh Government officials: Names, work addresses and work contact details.</p> <p>SAPO Licences: Job role, business name and establishment address.</p> <p>SAPO Inspections: Name, job role, work contact details and establishment address.</p>
Shared Personal Data - categories of Data Subject	<p>HSE officials, Welsh Government officials, Consent holders.</p>

Data sharing	Details
<p>The purpose for which personal data is collected</p>	<p>HSE collects data from SAPO licence applications and identifies possible sites for inspection.</p> <p>On behalf of the Welsh Government, HSE inspectors will secure compliance with health and safety law and SAPO at establishments working with specified animal pathogens. The personal data enables HSE to write to consent holders, serve enforcement notices, vary licence conditions, prosecute etc.</p>
<p>What is the legal basis/bases which is relied upon to share this data lawfully (in accordance with the GDPR and/or the Data Protection Act 2018)</p> <p>Please also clarify whether any of the Shared Personal Data qualifies as Special Category Data and the exemption the Department is relying on for processing</p>	<p>Public task: the processing is necessary for HSE to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.</p> <p>HSE performs the public task on behalf of the Welsh Government. An Agency Agreement between HSE and the Welsh Government provides the legal basis for HSE inspectors to undertake SAPO inspections. The MoU provides the detail of how this is achieved.</p>
<p>Legal basis for the Department's processing of Shared Personal Data</p>	<p>The legal basis is set out in 'The Specified Animal Pathogens (Wales) Order 2008' and 'The Animal Health Act 1981'.</p>
<p>Frequency of the data sharing</p>	<p>Reports by HSE to the Welsh Government are shared once a year. Other data is shared on an ad-hoc basis/when licence applications are received.</p>
<p>Method and format of transferring the data</p> <p>Detail the agreed secure methods of transfer and the frequency</p>	<p>The Annual Report, prepared by HSE, is sent via a secure Government email system.</p>

Data sharing	Details
<p>Systems used in processing/limitation on data storage</p>	<p>HSE processes inspection reports and other information electronically. HSE will retain the information on central record and information management systems (called COIN and CM9). HSE destroys most files when they are 10 years old, however exceptions apply and are specified in the business classification scheme and disposal policy.</p> <p>The Welsh Government will retain the information on a central record and information management system (called SharePoint). The Welsh Government appraises files when they are 7 to 10 years old (or as near as possible afterwards) and will not retain records for more than 20 years.</p>
<p>Duration of the data sharing</p>	<p>For as long as the MoU is in operation, ie 17 January 2022 to 31 March 2025, unless extended or renewed in accordance with the terms of the MOU.</p>
<p>Monitoring and review of the Data Sharing Annex</p>	<p>The effectiveness of the data sharing arrangement will be reviewed throughout the operation of the MoU as part of service level management, and when the MoU is renewed.</p>