



**Australian Government**

**Department of Social Services**

**To execute this Confidentiality Deed Poll correctly:**

1. Complete the Deed Poll either electronically or in writing
2. Print the entire Deed Poll
3. Sign and date the Deed Poll in blue or black pen (both Confidant and witness)
4. **Return** the Deed Poll by:
  - a. **Emailing** the completed, signed, dated and scanned electronic copy to [ada@ada.edu.au](mailto:ada@ada.edu.au) and [LongitudinalStudiesDataAccess@dss.gov.au](mailto:LongitudinalStudiesDataAccess@dss.gov.au) OR
  - b. **Posting** the completed, signed and dated hard copy to:  
Research and Methods  
Longitudinal Studies  
PO Box 9820  
Canberra ACT 2601

**This is not a Data Access application:**

Please note that this document is NOT a request for data, but is a standard legal document that outlines user obligations.

If you are interested in obtaining access to any of the Longitudinal Studies (LS) datasets, you *also* need to complete the following steps through the Australian Data Archive (ADA), a national service for access:

1. Register a user account with ADA Dataverse
2. Go to the DSS Dataverse page  
<https://dataverse.ada.edu.au/dataverse/DSSLongitudinalStudies>
3. Find the dataset you would like to access
4. Click on the files you would like to request, and select 'Request access' button
5. Complete and submit the online form to send the request

# CONFIDENTIALITY DEED POLL

THIS DEED POLL is made in favour of the **Commonwealth of Australia** as represented by the Department of Social Services (**the Commonwealth**)

EXECUTED as a Deed Poll

BY

\_\_\_\_\_ (the **Confidant**)

Insert title, given name and family name

\_\_\_\_\_

Insert institutional email address for Notices (15.1)

\_\_\_\_\_

Insert alternative email address for Notices (15.1)

.....  
**Signature of Confidant**

of

\_\_\_\_\_

\_\_\_\_\_

Organisation and physical mailing address of Confidant

on date: ...../...../20.....  
Day / Month / Year

Australian Data Archive (**ADA**) username \_\_\_\_\_  
Insert ADA username if applicable

**Signed, sealed and delivered by the  
Confidant in the presence of:**

.....  
**Name of witness (print)**

.....  
**Signature of witness**

on date: ...../...../20.....  
Date/ Month / Year

## Background

- A) The Commonwealth of Australia, through the Department of Social Services (**the Commonwealth**), undertakes research and policy development to support the lifetime wellbeing of individuals, families and communities. To support this objective, the Commonwealth funds longitudinal studies that collect information about the lives of Australians and the social, economic, housing and family issues that impact them. The information collected for these studies is collated and put into Datasets.
- B) The Commonwealth offers to provide the Datasets to the Confidant on the terms and conditions set out in this Deed Poll.
- C) The Confidant may, in connection with the Datasets, become aware of Confidential Information that:
  - a) belongs to, or is confidential to, the Commonwealth; or
  - b) is subject to Commonwealth secrecy or privacy laws.
- D) Improper access, use or disclosure of that Confidential Information may:
  - a) cause harm to the Commonwealth or individuals;
  - b) prejudice the Commonwealth's ability to perform its contractual, statutory and other obligations; or
  - c) constitute a criminal offence.

## Operative Provisions

### 1. ACKNOWLEDGEMENT

- 1.1 The Confidant acknowledges the truth and accuracy of the recitals of this Deed Poll in every particular.
- 1.2 The Confidant also acknowledges and agrees that:
  - a) the Confidential Information is valuable to the Commonwealth for reporting purposes;
  - b) the Confidant has no right or interest in any of the Confidential Information other than the right to access and use it on the terms of this Deed Poll; and
  - c) the Confidant has read the Guidelines and will comply with all procedures and requirements specified in the Guidelines as updated by the Commonwealth from time to time.

### 2. DEFINITIONS

#### 2.1 In this Deed Poll:

**ADA** means the Australian Data Archive.

**Authorised User** means a person who has signed this Deed Poll, or a Deed of Confidentiality substantially in the same form as this Deed Poll, and has been given permission by the Commonwealth to access and use the Datasets.

**Business Day** means a weekday other than a public holiday in the Australian Capital Territory.

**Commonwealth** means the Commonwealth of Australia as represented by the Department of Social Services.

**Code** means the *Australian Code for the Responsible Conduct of Research 2018* (as amended from time to time).

**Confidant** means the signatory of this Deed Poll.

**Confidential Information** means the Datasets in their original format and information that is:

- a) by its nature confidential;
- b) designated in writing by the Commonwealth as confidential;
- c) a subset or extract of the original Dataset in the original format without aggregation or contains Unit Record Data; or
- d) personal information under the *Privacy Act 1988* (Cth).

**Datasets** means any or all data from:

- a) General Release or Restricted Release of the household and person level Unit Record Data from The Household, Income and Labour Dynamics in Australia (HILDA) survey, also known as Living in Australia;
- b) The household and person level Unit Record Data from the HILDA Cross-National Equivalent File (CNEF);
- c) General Release or Restricted Release of the household and person level Unit Record Data from The Longitudinal Study of Australian Children (LSAC), also known as Growing up in Australia;
- d) General Release of the household and person level Unit Record Data from The Longitudinal Study of Indigenous Children (LSIC), also known as Footprints in Time;
- e) General Release of the household and person level Unit Record Data from The Longitudinal Study of Humanitarian Migrants, also known as Building a New Life in Australia (BNLA);
- f) General Release, Restricted Release or International Release of the household and person level Unit Record Data from Journeys Home (JH);
- g) Any linked datasets associated with any or all of the above.

**Deed** means this Confidentiality Deed Poll.

**Document** includes:

- a) any paper or other material on which there is writing;
- b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning to persons qualified to interpret them; and
- c) any article, material or media from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device.

**Electronic Communication** has the same meaning as in the *Electronic Transactions Act 1999* (Cth).

**Eligible Data Breach** has the meaning given in the *Privacy Act 1988* (Cth).

**General Release** means a release of data from which Personal Information has been removed and other information has been modified by various methods such as top coding and the application of classification codes as set out in the

Guidelines.

**Guidelines** means the Longitudinal Studies and Use Guidelines as amended by the Commonwealth from time to time, published on the Dataverse website available at <https://dataverse.ada.edu.au/dataverse/DSSLongitudinalStudies>

**Information System** has the same meaning as in the *Electronic Transactions Act 1999* (Cth).

**Intellectual Property** means copyright (and all associated rights, including moral rights), and all rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs, and circuit layouts, and any other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

**International Release** means Researchers applying from international institutions will receive the majority of the Journeys Home dataset, as well as data on the total income\* of respondents. Overseas applicants should note that the dataset does not include any variables specifically related to the receipt of income support payments.

**Personal Information** has the meaning given in section 6 of the *Privacy Act 1988* (Cth).

**Privacy Act** means the *Privacy Act 1988* (Cth).

**Privacy Commissioner** means the person appointed under section 14 of the *Australian Information Commissioner Act 2010* (Cth) as the Privacy Commissioner.

**Registered Australian Privacy Principle code (APP code or APPC)** has the meaning given in section 6 of the Privacy Act.

**Release** means a dataset that differs from another dataset from the same survey in that it contains additional information based on new responses from survey respondents. For the purposes of this Deed Poll, a Release does not include a new version of the same release of the data in which changes have been made to the previously released information from respondents.

**Research Material** means any generated data and research findings based on research and the analysis of a Dataset created by the Confidant or a student or employee of the Confidant's university or organization who is an Authorised User of the same or later release of the same Dataset.

**Restricted Release** means a release of data from which the names and addresses of respondents have been removed but includes other information at a more granular level than the General Release and access and use of which is governed by stricter requirements.

**Term** means the term of this Deed Poll, which is from the date of commencement specified in clause 4 until:

- a) the Confidant deletes or destroys all copies of the Datasets it holds in accordance with clause 7; or
- b) the Deed Poll is terminated in accordance with clause 14.

**Unit Record Data** means records about individual respondents from the Dataset, as opposed to aggregated data.

### 3. INTERPRETATION

### 3.1 In this Deed Poll:

- a) headings are for convenience only; and unless the context indicates a contrary intention:
  - i. a reference to a "person" includes a reference to a partnership or incorporated body as well as an individual;
  - ii. all references to clauses are clauses of this Deed Poll;
  - iii. where any word or phrase has been given a defined meaning, any other part of speech or other grammatical form about that word or phrase has a corresponding meaning;
  - iv. a reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, is a reference to that amended statute or other legislation;
  - v. each provision of this Deed Poll will be interpreted without disadvantage to the party who (or whose representative) drafted that provision, that is, the contra proferentem rule does not apply to this Deed Poll.

## 4. COMMENCEMENT

- 4.1 This Deed will be taken to have commenced on the date the executed Deed is received by the Commonwealth and will continue in effect for the Term.

## 5. DATA QUALITY

- 5.1 The Datasets are provided to the Confidant on an as is basis and the Commonwealth and the ADA is not responsible for their accuracy, completeness, quality or fitness for purpose.

## 6. UNDERTAKING OF NON-DISCLOSURE

- 6.1 The Confidant must keep Confidential Information secure, secret and confidential at all times.
- 6.2 The Confidant must not transfer any Dataset or any part of a Dataset outside Australia without the prior written consent of the Commonwealth.
- 6.3 The Commonwealth may impose any conditions it considers appropriate when giving consent under this clause 5 and the Confidant must comply with these conditions.
- 6.4 The Confidant will not be taken to have breached their obligations under this clause 5 to the extent that the Confidential Information is:
- a) authorised or required by law or by this Deed to be disclosed; or
  - b) in the public domain otherwise than due to a breach of this Deed;
  - c) disclosed on a confidential basis within the Confidant's university or organisation to the extent necessary to facilitate compliance with any applicable statutory record keeping requirements relating to the university or organisation, which specifically relates to electronic records management or data file management by information technology teams; or

- d) disclosed on a confidential basis in connection with their individual research purpose where the recipient is an Authorised User of the same or later release of the same Dataset.

6.5 Where the Confidant intends to disclose Confidential Information to another person pursuant to clause 6.4(a), the Confidant must:

- a) ensure the extent and manner of the disclosure is strictly limited to what is authorised or required by law; and
- b) the Confidant has:
  - i. given the Commonwealth sufficient notice to enable it to seek a protective order or other relief from disclosure; and
  - ii. provided all assistance and co-operation which the Commonwealth reasonably considers necessary for that purpose.

6.6 The Confidant must:

- c) do all reasonable things necessary, and do all things that may be required by the Commonwealth, to keep the Datasets and all other things recording, containing, setting out or referring to any Datasets, under effective control of:
  - i. the Confidant; or
  - ii. relevant university or organisation staff who are Authorised Users of the same or later release of the same Dataset
- d) immediately notify the Commonwealth if the Confidant becomes aware of any unauthorised access to, or use or disclosure of, the Datasets; and
- e) take all reasonable steps to ensure that the Datasets are protected at all times from any unauthorised use or access.

## **7. SECURITY AND STORAGE**

7.1 The Confidant must store the Datasets in a manner specified in the Guidelines.

7.2 The Confidant must comply with all requirements set out in the Guidelines regarding storage of copies of the Datasets on a cloud server.

7.3 The Confidant must keep all removable drives and Documents containing Unit Record Data in a locked drawer or cabinet to which only the Confidant or other Authorised Users of the same or later release of the same Dataset has access.

7.4 Subject to any applicable statutory record keeping requirements relating to the Confidant's university or organisation, the Confidant must destroy or delete all copies of any Datasets to which they have been granted access, which they no longer require for their individual research purposes, within 30 days.

7.5 The Confidant acknowledges that they are personally responsible for the Datasets to which they have been granted access, until the Confidant has deleted or destroyed the Datasets in accordance with the requirements set out in the Guidelines and notified the Commonwealth of the same.

## **8. PERMITTED USE AND RESTRICTIONS**

- 8.1 The Confidant must not:
- a) perform any matching, sharing, merging or linkage of any of the Datasets without the prior written consent of the Commonwealth;
  - b) attempt to identify any individuals in the Unit Record Data;
  - c) publish any information that may lead to possible identification of respondents; or
  - d) without the prior written consent of the Commonwealth, (which shall not be unreasonably withheld) disclose the Datasets in part or in full to any person, other than:
    - i. an Authorised User of the same or later release of the same Dataset to which the Confidant has been granted access;
    - ii. any employees of the Confidant's university or organisation who require access to the Dataset to facilitate the university's or organisation's compliance with any applicable statutory record keeping requirements which specifically relate to electronic records management or information technology teams, provided the disclosure is made on a confidential basis; or
    - iii. if required to provide context or justification for the Research Analysis as contemplated by the Code provided the recipient has first agreed in writing to the keep the Datasets and any Confidential Information contained therein confidential.

8.2 The Confidant may publish free text responses contained in the Dataset accompanied by contextual information (e.g. sex or age of respondent) only to the extent that the contextual information does not reasonably identify any individual.

8.3 The Confidant may not publish, in any form, any part of the Unit Record Data other than as specified in clause 8.2.

8.4 The Confidant must only use the Datasets for their individual research purposes.

8.5 The Confidant may modify or copy/reproduce the Dataset for their individual research purposes, but may not modify or copy/reproduce the Dataset for any other reason.

8.6 The Confidant must only publish Research Material that disaggregates to a level of geography as set out in the Guidelines regardless of the level of geography available in the Dataset.

8.7 Subject to the terms of this Deed and the Guidelines, the Confidant may publish data from the Datasets in their Research Material in aggregated or derived form.

## **9. CRIMES ACT**

The Confidant acknowledges that:

- a) there are various computer offences prescribed under the *Criminal Code Act 1995* (Cth), which may attract a substantial penalty, including imprisonment;
- b) the giving of false and misleading information is a serious offence under the *Criminal Code Act 1995* (Cth);
- c) they are aware of the relevant provisions of the *Criminal Code Act 1995* (Cth) relating to the unauthorised access, use or disclosure of information, and



- covenants and agrees not to breach these provisions; and
- d) where applicable, the publication or communication by the Confidant of any fact or Document which has come to their knowledge or into their possession or custody by virtue of this Deed (other than to a person to whom the Confidant is authorised to publish or disclose the fact or Document) may be an offence under section 122.4 of the *Criminal Code Act 1995* punishment for which may be a maximum of two (2) years imprisonment.

## **10. COMMONWEALTH LEGISLATION**

- 10.1 Each party acknowledges and agrees to comply, in connection with the activities contemplated under this Deed Poll, with the law of the Commonwealth in force, including, but not limited to:
- a) the *Privacy Act 1988*; and
  - b) the *Criminal Code Act 1995*.

## **11. INTELLECTUAL PROPERTY AND ACKNOWLEDGEMENT**

- 11.1 The Confidant acknowledges that the Commonwealth owns all Intellectual Property rights in the Datasets.
- 11.2 Except where specified under a separate agreement, the Commonwealth does not own the Intellectual Property rights in any Research Material created by the Confidant or any staff or students at the Confidant's university who are authorised to access the same or later release of the same Dataset. Research Material must not include Unit Record Data.
- 11.3 The Confidant agrees that any of the Research Material produced by the Confidant and made publicly available will include the relevant acknowledgement set out in the Guidelines, as amended by the Commonwealth from time to time.

## **12. PRIVACY AND PROTECTED INFORMATION**

- 12.1 In relation to all Personal Information made available or provided to the Confidant at any time by the Commonwealth or any other person in connection with the activities contemplated under this Deed , the Confidant agrees to:
- a) comply with those provisions of the Privacy Act as if they were an agency bound by the Privacy Act concerning the security, use and disclosure of information to which the Commonwealth is subject in respect of that information and which affects the performance of this Deed;
  - b) co-operate with any reasonable demands or enquiries made by the Privacy Commissioner;
  - c) take all reasonable measures to ensure that such information is protected against loss and unauthorised access, use, modification, disclosure or other misuse and that only Authorised Users or recipients otherwise falling within the scope of clause 8.1.(d) have access to it;
  - d) not transfer such information outside Australia, or allow parties outside of Australia to have access to it, without the prior written approval of the Commonwealth; and
  - e) to promptly notify the Commonwealth of, and co-operate with the Commonwealth in the resolution of, any privacy incident or complaint alleging an interference with privacy.

- 12.2 If the Confidant becomes aware that there are reasonable grounds to suspect there may have been an Eligible Data Breach in relation to any Personal Information held by them as a result of this Deed, the Confidant agrees to:
- a) notify the Commonwealth in writing as soon as possible, which must be no later than within 3 days; and
  - b) unless otherwise directed by the Commonwealth, carry out an assessment in accordance with the requirements of the Privacy Act.
- 12.3 Where the Confidant is aware that there are reasonable grounds to believe there has been, or where the Commonwealth notifies the Supplier that there has been, an Eligible Data Breach in relation to any Personal Information held by the Confidant as a result of this Deed, the Confidant will:
- a) take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom it relates;
  - b) unless otherwise directed by the Commonwealth, take all other action necessary to comply with the requirements of the Privacy Act; and
  - c) take any other action as reasonably directed by the Commonwealth.
- 12.4 The Confidant further agrees to not use Personal Information or engage in an act or practice that would breach an Australian Privacy Principle ("APP") or a registered APP Code ("APPC"), where that section, APP, or APPC is applicable to the Confidant.
- 12.5 In relation to Confidential Information made available by the Commonwealth or any other person at any time that contains Protected Information for the purposes of the social security law or the family assistance law, the Confidant agrees to:
- a) use Protected Information held or controlled by it in connection with this Deed only for their individual research purposes and in accordance with this Deed;
  - b) comply with Part 6 – Division 2 of A New Tax System (Family Assistance) (Administration) Act 1999; and
  - c) comply with Part 5 – Division 3 of the Social Security (Administration) Act 1999.
- 12.6 The Confidant's obligations in this clause are in addition to, and do not restrict, any obligations they may have under:
- (a) the Privacy Act; or
  - (b) any:
    - i. privacy codes; or
    - ii. privacy principles contained in, authorised by or registered under any law,

including any such privacy codes or principles that would apply to the Confidant but for the application of the other provisions of this clause.

### **13. PRODUCTION OF DOCUMENTS**

- 13.1 The Confidant must immediately comply with a demand made under this clause.
- 13.2 The Commonwealth may demand (without needing to demand in writing) that the Confidant deliver up to the Commonwealth all Documents in the possession or

control of the Confidant containing Confidential Information subject to any applicable statutory record keeping requirements relating to the Confidant's university.

- 13.3 If the Commonwealth makes a demand under this clause, and the Confidant has placed Confidential Information, or is aware that Documents containing the Confidential Information are, beyond their possession or control, then the Confidant must provide full particulars of the location of the Documents containing the Confidential Information, and the identity of the person who has custody or control of the Documents.

## 14. TERMINATION

- 14.1 The Commonwealth may, at any time by notice and at its sole discretion, terminate this Deed and remove the Confidant's access to the Dataset or Datasets.
- 14.2 The Commonwealth may immediately terminate this Deed by giving written notice to the Confidant if it suspects or is satisfied that the Confidant has breached any of their obligations under this Deed.
- 14.3 Subject to any applicable statutory record keeping requirements relating to the Confidant's university, the Confidant must, on receipt of a notice of termination destroy and delete all copies of the Dataset and notify the Commonwealth of the same. For the avoidance of doubt or confusion, the obligation to delete or destroy copies of the Datasets in this clause does not extend to deletion or destruction of any Research Analysis.
- 14.4 The Confidant may terminate this Deed by providing 30 days written notice to the Commonwealth. Upon provision of such notice, the Confidant must destroy or delete all copies of the Datasets accessed or obtained by the Confidant, subject to any applicable statutory record keeping requirements relating to the Confidant's university, and notify the Commonwealth of the same. For the avoidance of doubt or confusion, the obligation to delete or destroy copies of the Datasets in this clause does not extend to the deletion or destruction of any Research Analysis.

## 15. NOTICES

- 15.1 Any notice, request or other communication to be given or served under this Deed must be in writing and delivered by e-mail as follows and in accordance with the Guidelines:

### **Commonwealth**

[ada@anu.edu.au](mailto:ada@anu.edu.au) and [LongitudinalStudiesDataAccess@dss.gov.au](mailto:LongitudinalStudiesDataAccess@dss.gov.au)

### **Confidant**

Any valid and ADA-verified email address, including any alternative email address, provided by the Confidant in the executed Confidentiality Deed Poll.

- 15.2 Any notice, request or other communication will be treated as having been given if:
- a) delivered personally - on delivery;
  - b) sent by prepaid post within Australia - 5 Business Days after it was posted; and
  - c) sent by Electronic Communication - at the time that would be the time of the receipt under the *Electronic Transactions Act 1999* (Cth).

## **16. GENERAL**

### **No exclusion of law or equity**

- 16.1 This Deed must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

### **Remedies cumulative**

- 16.2 The rights and remedies provided under this Deed are cumulative and are not exclusive of any rights or remedies provided by law or any other such right or remedy.
- 16.3 Subject to the other covenants of this Deed, the rights and obligations of the Confidant and the Commonwealth pursuant to this Deed are in addition to and not in derogation of any other right or obligation of the Confidant or the Commonwealth at law or under any other deed or agreement to which either or both of them are parties.

### **Waiver**

- 16.4 A waiver by the Commonwealth of any breach of a condition or provision of this Deed will not be deemed to be a waiver of any continuing or subsequent breach of that provision, or a breach of any other provision. The failure of the Commonwealth to enforce at any time any of the provisions of this Deed shall in no way be interpreted as a waiver of such provision.

### **Severability**

- 16.5 If any provision of this Deed is void, voidable, unenforceable or illegal, then that provision is to be severed from this Deed and the remainder of this Deed will continue with full force and effect.

### **Applicable law**

- 16.6 This Deed is governed by and is to be construed in accordance with the laws of the Australian Capital Territory and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

### **Entire agreement**

- 16.7 This Deed constitutes the entire agreement between the Confidant and the Commonwealth in connection with its subject matter and supersedes all previous deeds, agreements, undertakings or understandings between the parties in connection with its subject matter.