

## **i-Advice pilot – Terms and Conditions**

### **1 Scope of the ICO's i-Advice proof-of-concept pilot**

- 1.1 In consideration of the mutual obligations of the parties set out under these Terms and Conditions, the parties agree to be bound by these Terms and Conditions.
- 1.2 The support offered by the ICO ("us", "we"), to you, the organisation ("you", "your", or "participant") which is participating in the i-Advice proof-of-concept pilot ("pilot") is solely in relation to your proposition for innovative processing of personal data (the "Proposed Innovation").
- 1.3 We will use our reasonable skill and care in providing our feedback and advice (our "Feedback"). Unless we expressly document otherwise, our Feedback will be based on the specific information that you share with us and our understanding of the UK data protection law framework in force at the time. Only specific data protection law issues are open to the ICO's Feedback through the pilot.
- 1.4 Any Feedback we provide only represents informal advice based on the information provided to us and is not legally-binding. As a result, our Feedback should not be viewed as a full examination or audit and will not identify all of the risks associated with the Proposed Innovation, your activities or all possible areas of non-compliance. This remains the case even if we raise issues that you have not expressly brought to our attention.
- 1.5 You agree that you remain responsible for your compliance, and your Proposed Innovation's compliance, with all legal and regulatory obligations, whether in respect of data protection law or otherwise.
- 1.6 You are not required to comply with the Feedback, and you are always free to take your own independent legal advice.
- 1.7 The Feedback is to you only and is specific to your circumstances. It must not be shared with any other party (either in part or in full) without our express written permission. This does not prevent you from disclosing the Feedback to your employees, agents, consultants, advisors, representatives or sub-contractors, provided that they are subject to obligations not to disclose the Feedback to third parties, and that the Feedback is only used for the purposes of advising or assisting you.

- 1.8 Any Feedback is given without prejudice to any decision or action that we may take in the future, including any enforcement or other regulatory action. The positions reflected in the Feedback may change over time, for example on receipt of further information by us, or following a change in law, court judgments, regulatory guidance or ICO policy. We also reserve our right to share internally any information relating to the Proposed Innovation where it is deemed necessary and proportionate for the exercise of our regulatory functions.
- 1.9 Being accepted into the pilot does not prevent regulatory action by us or by any other competent data protection authority or by any other regulatory body or authority. The Feedback does not affect rights conferred on third parties (such as your customers), nor does it bind any courts, and may not reflect the views of other regulatory bodies or authorities.

## 2 The scope of the ICO's role in the pilot

- 2.1 We will use reasonable care in our dealings with you in relation to the pilot and your Proposed Innovation. However, given the nature of the pilot and of our Feedback (and subject to clause 3.2), we do not accept any liability or responsibility for : (i) any opinions expressed or information included in any of our Feedback, (ii) the time it may take for us to provide any Feedback, and/or (iii) any other liability under or in relation to the pilot, your Proposed Innovation and/or these Terms and Conditions, whether in contract, tort (including negligence) or otherwise.
- 2.2 Nothing in these Terms and Conditions seeks to limit our liability in any way which is not permitted by law, including our liability to you for fraud or fraudulent misrepresentation.

## 3 Terms of the pilot

- 3.1 By written notice, either you or the ICO may terminate your involvement in the pilot at any time, and with immediate effect.

- 3.2 We will endeavour to provide Feedback but we not under any obligation to do so as part of the pilot.
- 3.3 Should you wish to raise a complaint about the running of the pilot, you should email [I-AdviceProject@ico.org.uk](mailto:I-AdviceProject@ico.org.uk) with you concerns.

## 4 Intellectual property

- 4.1 You will retain your intellectual property rights in, and responsibility for, all content and materials that you contribute to the pilot , which either (i) already exist at the start of your involvement with the pilot; or (ii) are otherwise developed by you outside of the pilot ("Existing Intellectual Property").
- 4.2 You will only submit Existing Intellectual Property that you have the right to share, use and develop, and you will fully comply with any third party licenses relating to the Existing Intellectual Property.
- 4.3 All intellectual property rights obtained, created or developed by you during your participation in the pilot relating to your Proposed Innovation ("New Intellectual Property") will vest in you, subject to any contrary agreement you may have with a third party.
- 4.4 The ICO may use Existing Intellectual Property and New Intellectual Property as is reasonable in connection with the pilot or its regulatory functions (the "Use"), and you grant or must procure the grant of royaltyfree and non-exclusive licences to the ICO, for the Use of the Existing Intellectual Property and the New Intellectual Property.
- 4.5 You warrant and undertake to ensure that the Use by the ICO of any Existing Intellectual Property and/or New Intellectual Property will not infringe the rights of any third party.
- 4.6 You agree to defend, indemnify, and hold harmless the ICO from and against any liability or loss (including, without limitation, any legal costs) incurred by the ICO as a result of, or in connection with, the ICO's Use of Existing Intellectual Property and New Intellectual Property.

## 5 Confidentiality

- 5.1 You must clearly identify to the ICO, in writing, which information you provide to us you consider to be your confidential information and provide clear reasons why you regard such information to be confidential ("your confidential information").
- 5.2 We will protect your confidential information as we do our own commercially sensitive information.
- 5.3 During the term of the pilot and for so long as your confidential information remains confidential in nature and not available to the public, we will not use or disclose your confidential information without your prior written consent: (i) other than to provide Feedback or other support in connection with the pilot or to fulfil any of the ICO's rights, obligations or regulatory functions , including as set out in this clause 5; and/or (ii) unless permitted or required to do so by law, statutory directions, court orders or government regulations; and/or (iii) unless otherwise permitted under these Terms and Conditions.
- 5.4 The ICO may use information obtained from you (including your confidential information) to help develop and provide guidance, policies and resources (on an anonymised basis) to the public.
- 5.5 The ICO may disclose your confidential information to such of its employees, agents, consultants, advisors or representatives to the extent that such disclosure is reasonable in relation to the pilot, including for us to provide Feedback, and for the purposes set out in this clause 5, provided always that such persons are made aware of and comply with the obligations of confidentiality under these Terms and Conditions.
- 5.6 We are bound by the Freedom of Information Act 2000 and as such can be asked to disclose certain information that we hold, which could include information which you give to us concerning you and/or your involvement in the pilot. The ICO will endeavour to let you know if we are asked to share any information that relates to you and will seek to apply relevant exemptions from disclosure where appropriate.

## 6 Communications relating to the pilot

- 6.1 The ICO may, at its discretion, make public anonymised, aggregated information on the pilot and its participants. This includes reporting on the outcomes of the pilot in accordance with the funding conditions set by the Regulators' Pioneer Fund.
- 6.2 Your involvement in the pilot does not represent an approval or endorsement by the ICO of you or your Proposed Innovation. Neither you nor anyone acting on your behalf may make any statement or announcement, either expressly or by implication, that suggests that the ICO has approved, endorsed, or otherwise accepted that you or your Proposed Innovation complies with regulatory requirements as a result of your involvement in the pilot.
- 6.3 Your organisation is not permitted to communicate to any third party that you are in the pilot, before, during, or after the pilot period, without the ICO's express written and specific consent. This includes, but is not limited to, communications to any organisation, media outlet, existing or future customers, and data subjects.

## 7 Privacy and data protection

- 7.1 Unless otherwise agreed, any personal data (such as your staff's contact details) provided to the ICO as part of your participation in the pilot will be processed by the ICO as a data controller in line with our privacy notice.
- 7.2 You are responsible for providing a copy of the ICO's privacy notice to any employees or other data subjects whose personal data you share with the ICO during your participation in the pilot.
- 7.3 Given that the ICO will only be processing minimal amounts of business-related personal data in relation to your time in the pilot, we do not at this stage deem it necessary to enter into a separate data sharing agreement with you. However, you must ensure that any transfer of personal data to the ICO is completed in compliance with applicable law (including applicable data protection law).

- 7.4 The ICO will implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including from unauthorised or unlawful processing of personal data, or accidental loss or destruction of, or damage to, that personal data, and will process all personal data received from you in compliance with the provisions and principles set out in data protection legislation.

## 8 General

- 8.1 General words within these Terms and Conditions must not be given a restrictive meaning simply because they are followed by particular examples intended to be included in the general words.
- 8.2 Only you and we have rights under these Terms and Conditions. A person who is not a party to these Terms and Conditions, has no rights to enforce it or enjoy any benefits under it.
- 8.3 These Terms and Conditions constitute the whole and only agreement between us and you relating to your participation in the pilot. You acknowledge that you have not relied on any representation made by or on behalf of the ICO which is not set out in these Terms and Conditions.
- 8.4 Remedies under these Terms and Conditions are cumulative and may be exercised concurrently or separately.
- 8.5 If any provision of the Terms and Conditions is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Terms and Conditions without modifying the remaining provisions.
- 8.6 Any waiver or relaxation, either partly or wholly, of any of the Terms and Conditions shall be valid only if it is communicated to the other in writing and expressly stated to be a waiver, and shall not constitute a waiver of any right or remedy arising from any other breach of the Terms and Conditions.
- 8.7 Any formal notice to be given under the Terms and Conditions shall be in writing.
- 8.8 Any matter, claim or dispute arising out of or in connection with these Terms and Conditions, whether contractual or non-contractual, is to be governed by and determined in accordance with English law. You and we irrevocably submit to the jurisdiction of the English courts.