



# The Social Utility Trust

A Path to Data Partnerships



Research

Design

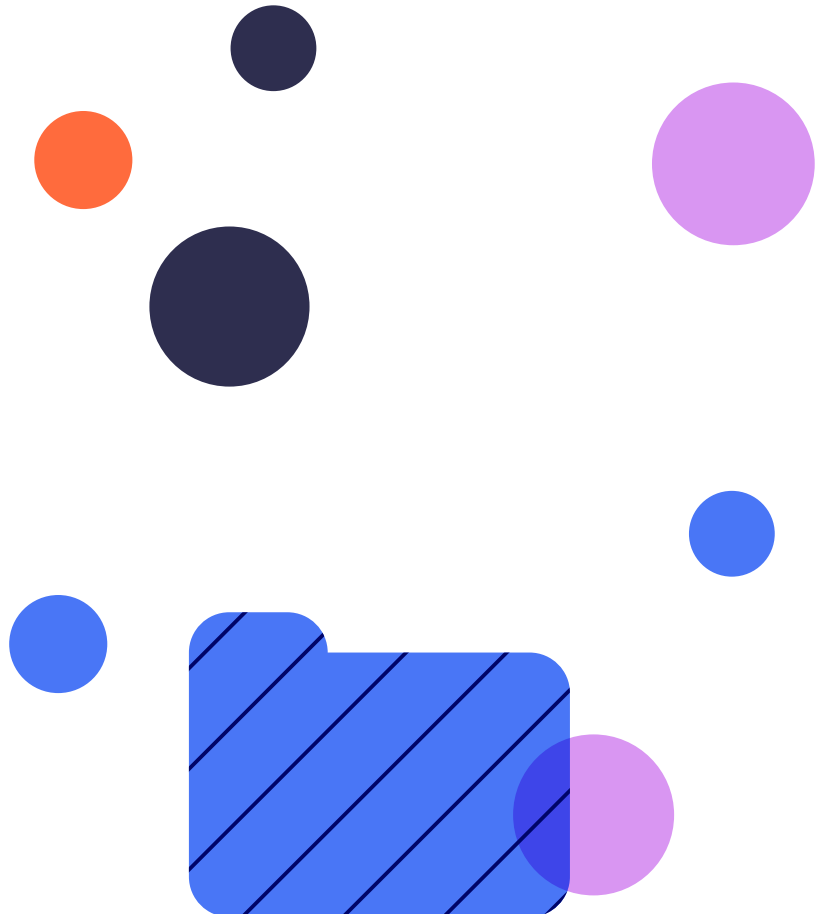
Implement

### Intended audience

- Project owners looking for an appropriate vehicle for their data partnership.

### Limit of liability

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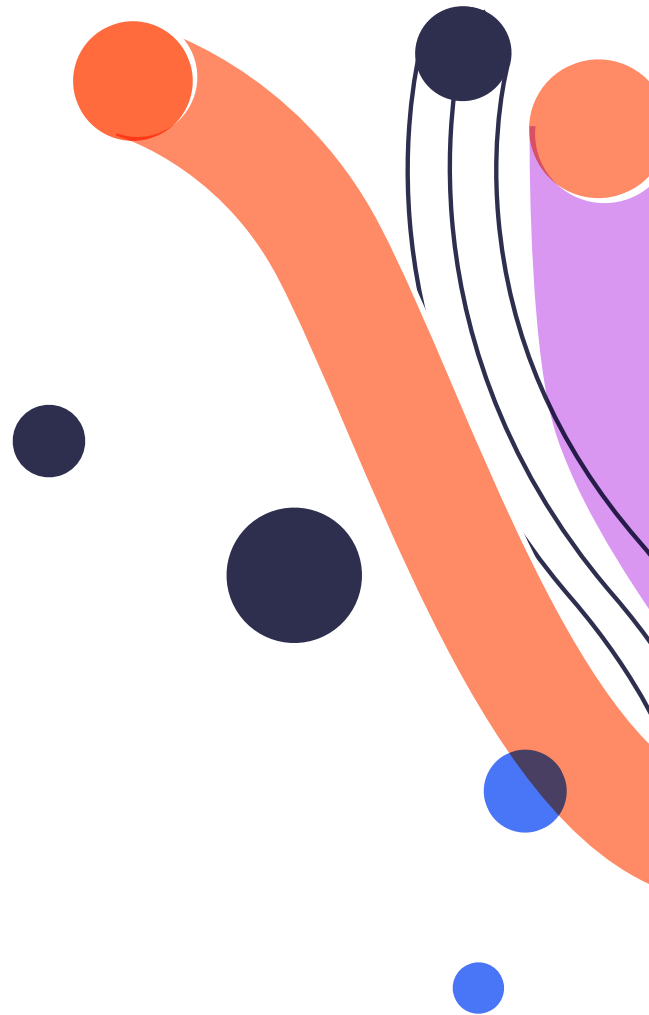
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- Part 1

# What is a data social utility trust (SUT)?

A data social utility trust is a legal structure that can be used to create a data partnership.

## What is a social utility trust?

A social utility trust (SUT) is a means of holding and administering assets in the public interest.

To start an SUT, you need three things.

- 1 **Settlor(s) appropriate an asset (or assets) for a particular purpose** (the intended purpose or goal). This appropriation of assets must be of social utility, i.e., in the public interest, as with cultural, educational, philanthropic, religious, or scientific purposes. A social utility trust cannot have profit or operation of a business as its primary purpose. The appropriation is recorded in the trust deed.
- 2 **The transfer of these assets** (land, buildings, monetary amounts, copyright, digital data, etc.) by the settlor(s) to an SUT.
- 3 Trustees **agree** to act as administrators and hold the assets.



## What is a trust deed?

The trust deed (sometimes referred to as the “deed of incorporation” or “incorporating document”) is a trust’s founding document. It states the SUT’s core aspects (appropriation, transferred assets, original trustees) and the basis for its operation, including how future trustees are appointed, their powers, term duration, etc. Once created and formalized by all parties, the trust deed can only be amended with court approval.

This trust deed is created by several people: project owners, settlors, and original trustees. Community involvement is also desirable at this stage. Seek help from legal professionals to draft this founding document. The trust deed must be notarized, i.e., signed by a notary.

In its suite of design tools, TIESS provides a [data SUT deed template](#) with a [brainstorming tool](#) and a [decision support tool](#).

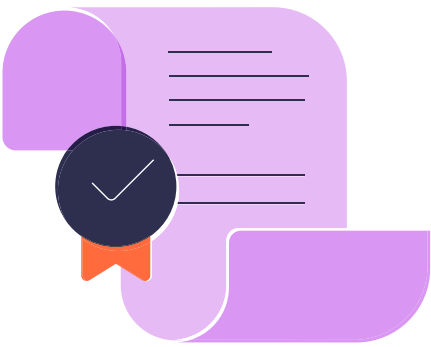


## Who are the key players in the creation of an SUT?

1 **Settlors** are the persons (or organizations) who transfer one of their assets to the trust, determine its purpose (appropriation), and appoint original trustees.

2 **Trustees** are persons appointed by the settlors (or as set forth in the trust deed) to hold the assets and administer the trust so that it achieves its purpose (appropriation). They are the stewards of the SUT.

3 **The SUT community** is made up of all people who may benefit from it and those who may be affected by, contribute to, or carry out its activities.



## How does a data social utility trust compare?

A data SUT is the same legal vehicle and has the same core components. The only difference is that trustees oversee data, a digital infrastructure, or even software.

**A data social utility trust is a means by which various players can establish responsible and trustworthy data governance for a common purpose in the public interest.**

- Part 2

# When is a data SUT appropriate?

## If the purpose of your data partnership is to share and/or pool...

- personal data or information
- sensitive data other than personal information (business data, strategic data)
- data from organizations that are used to working in silos and would benefit from uniting around a common purpose

**...a data trust may be a good vehicle for your partnership.**

Implementing a data SUT is complicated, so it is not necessarily the best option if it does not involve personal information or sensitive data (health, business, etc.). Resources used to create it must be commensurate with the need to protect data. If, however, the data partnership involves **personal information**, a data social utility trust should be seriously considered since it **enables tight control over data**, clearly identifies who is **responsible** for the data (the trustees), and aligns well with the legal **privacy** regime (the SUT is based on a purpose<sup>1</sup> that cannot be changed).

The social utility trust can also be an incentive to work collaboratively in a given sector if players ordinarily work in silos or compete with one another. The SUT is unique in that it places public interest above individual interests.

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<sup>1</sup> In the context of an SUT, this is an appropriation.

● Part 3

# What roles are involved in creating a data SUT?

## 1 Project owners

Before the SUT is created, project owners help shape and develop the project outline. They define the operational, financial, and strategic aspects required to create the SUT. It's important for them to offer various ways to get involved so as to unite the community from the project's inception.

**When the SUT is first created, project owners may take on different roles.**

They may be settlors, trustees, or members of the SUT community.

## 2 Settlor(s)

Settlors create the data social utility trust by transferring one or more assets to it, appointing original trustees, and determining the SUT's purpose (appropriation).

**Who can be a settlor?**

A natural person, legal person, or several natural persons and/or legal persons.

Settlors also determine the content of the trust deed, including the purpose and various governance mechanisms. It may be appropriate to involve the entire SUT community ahead of its creation in order to ensure that governance is collectively discussed and determined ([see our publication on community engagement](#)).

## 3 Trustees

Trustees are responsible for decision-making in a trust. Even when a trust employs staff, the trustees remain responsible for its decisions. For a comprehensive understanding of the trustees' role, [see our publication](#).

**Who can be a trustee?**

A natural person or, in exceptional circumstances, a legal person, if authorized by a special law.

In the specific case of a data social utility trust, trustees have data-related duties and powers, such as the power to grant or not grant access to data.

#### 4 Contributors

Data contributors are individuals or organizations that **generate, collect, and transfer data** (personal or non-personal information) or **rights to that data** to the SUT.

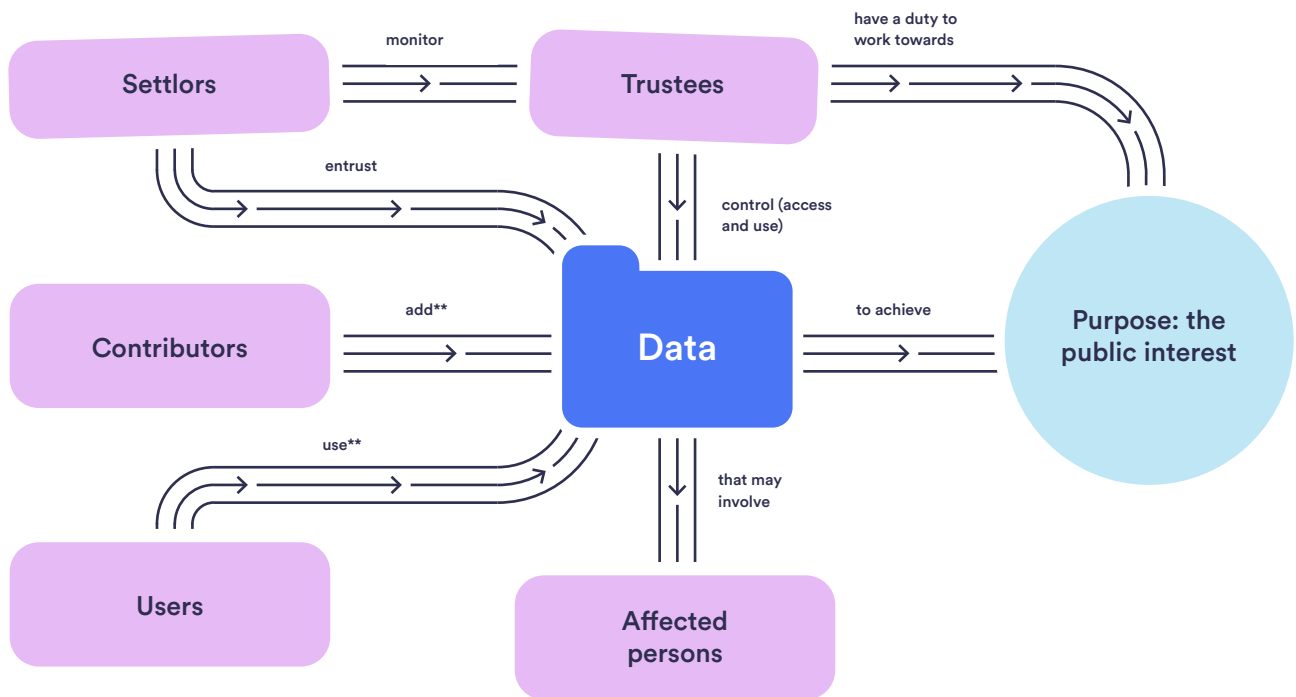
#### 5 Users

Data users are the persons or organizations authorized **to use shared data**. The data social utility trust must include a protocol to grant or deny user status based on pre-established criteria.

#### 6 Affected persons

In situations where **personal information is collected**, natural persons affected by its collection or use are stakeholders who need to be involved in some way ([see our publication on this subject](#)).

### Relations between the players\*



\* **Diagram limitations:** This diagram shows a simplified, reduced version of the relationships between the various stakeholders of a data social utility trust. For example, contributors can be users and/or affected persons, etc. It does not show the different relationships that can be established to ensure collective governance of the SUT.

\*\*These actions require trustee authorization.



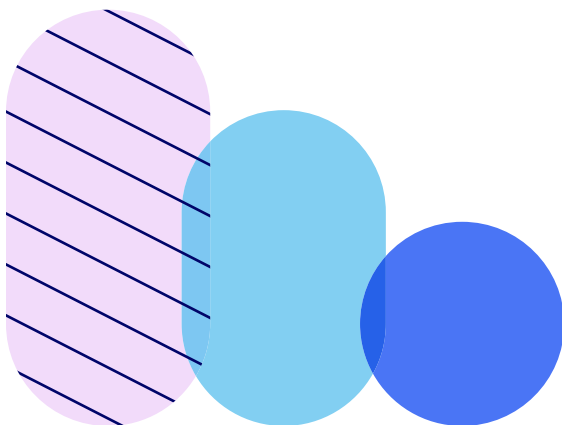
• Part 4

# How can an SUT be used by a data partnership?

This legal vehicle can be used in different types of data partnerships. Here are two examples.

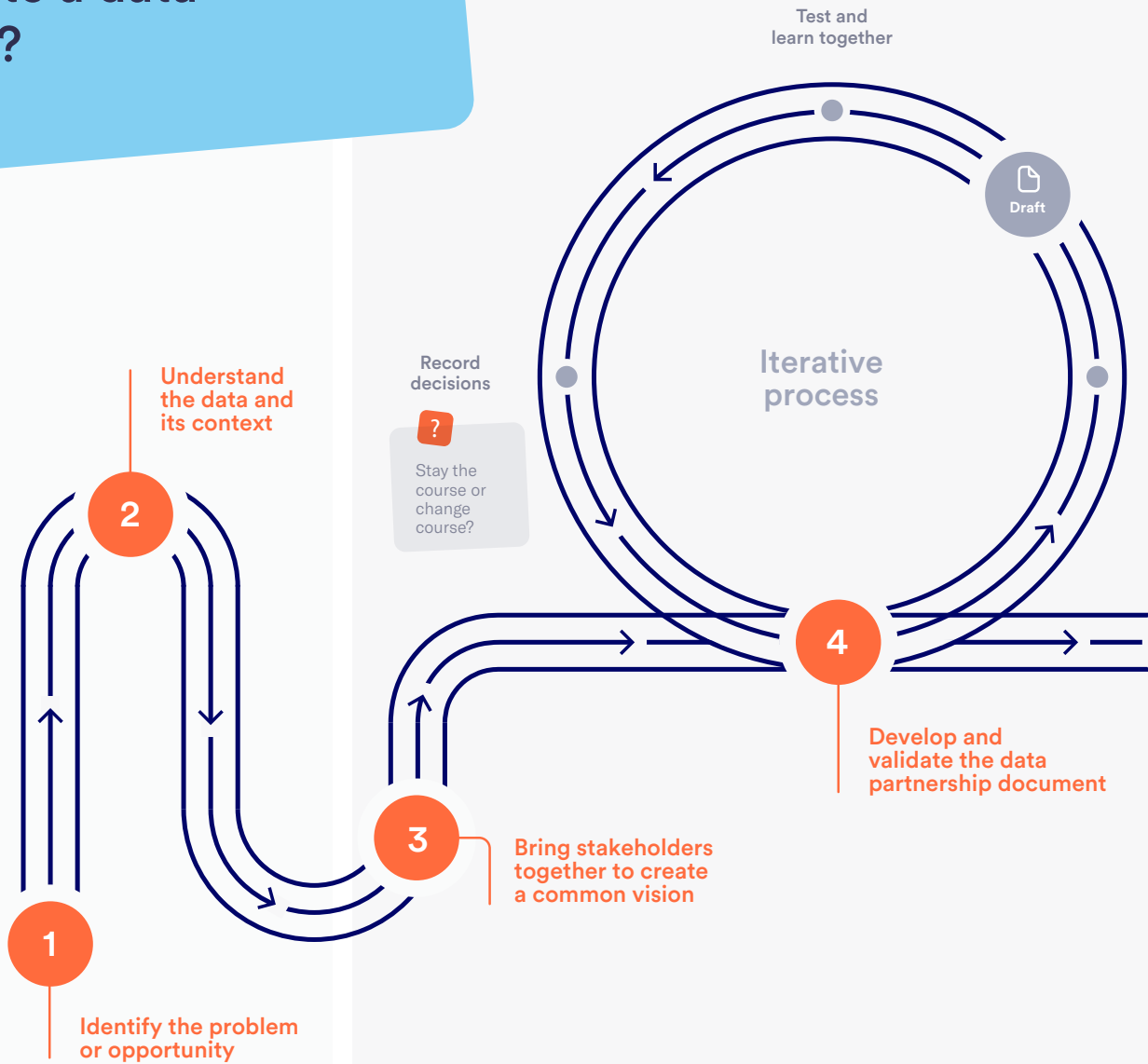
1 In a **data pool**, data is centralized in a common digital infrastructure. Data from various partners are combined and taken as a single data set. Partners can request access to the pool to solve a problem. (External players can request access too, if their requests are expected and desired.) Requests are processed using predetermined decision and technology protocols. In this situation, the data pool is placed in the SUT and the trustees manage data additions and access requests.

2 A social utility trust can serve as a trusted third party. In other words, it acts as a **data intermediary** that serves as a gateway between individuals or organizations that hold data and those that want to access it. The intermediary may offer ways of sharing and accessing data that comply with the highest protection standards, enforce a given level of data quality, and supervise sharing between players. This type of partnership offers advantages over individual contractual arrangements, such as providing a common framework for sharing data and ways to monitor for compliance.



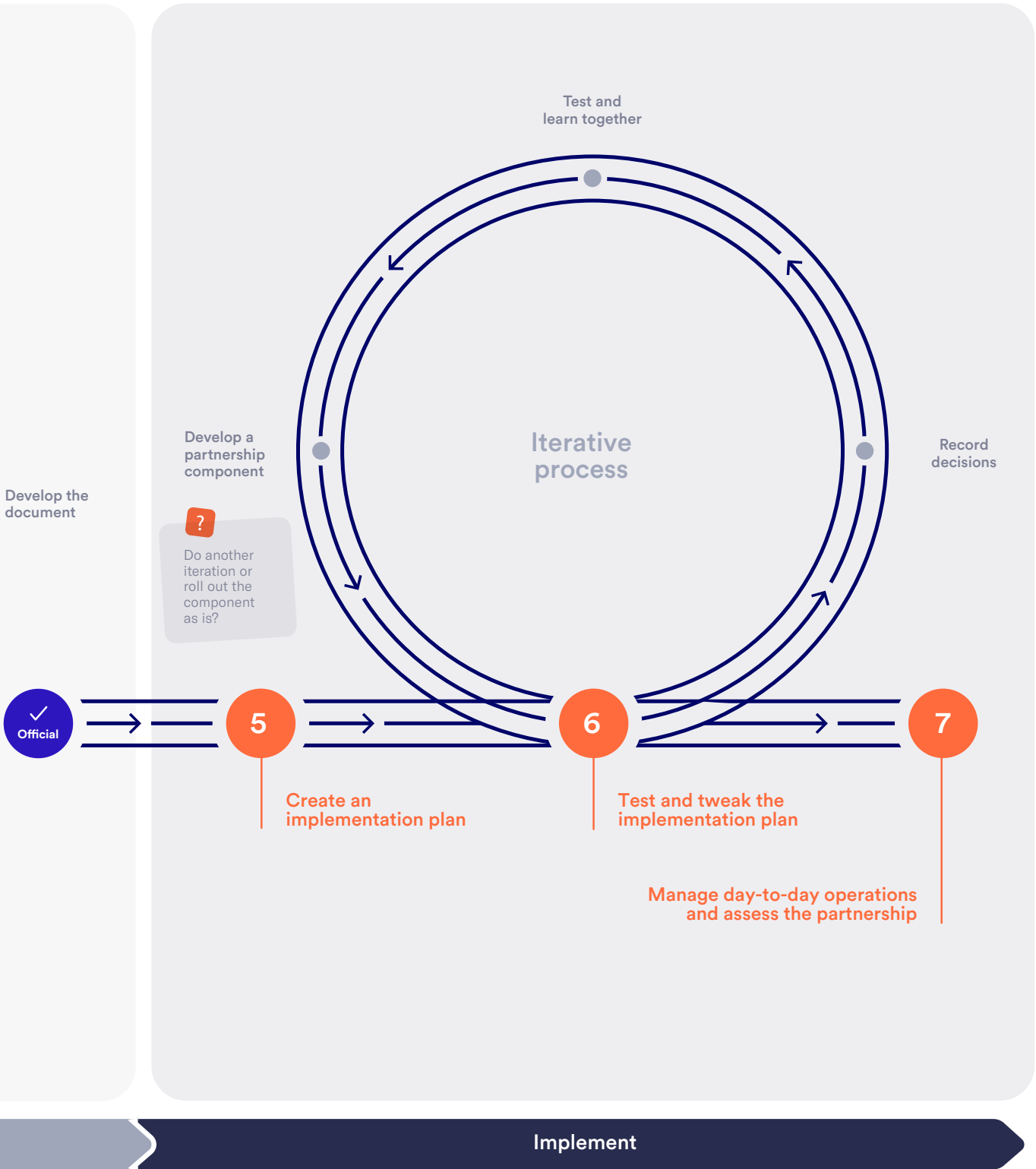
• Part 5

# How do you create a data SUT?



Research

Design



## Steps



## Details

1

### Identify the problem or opportunity

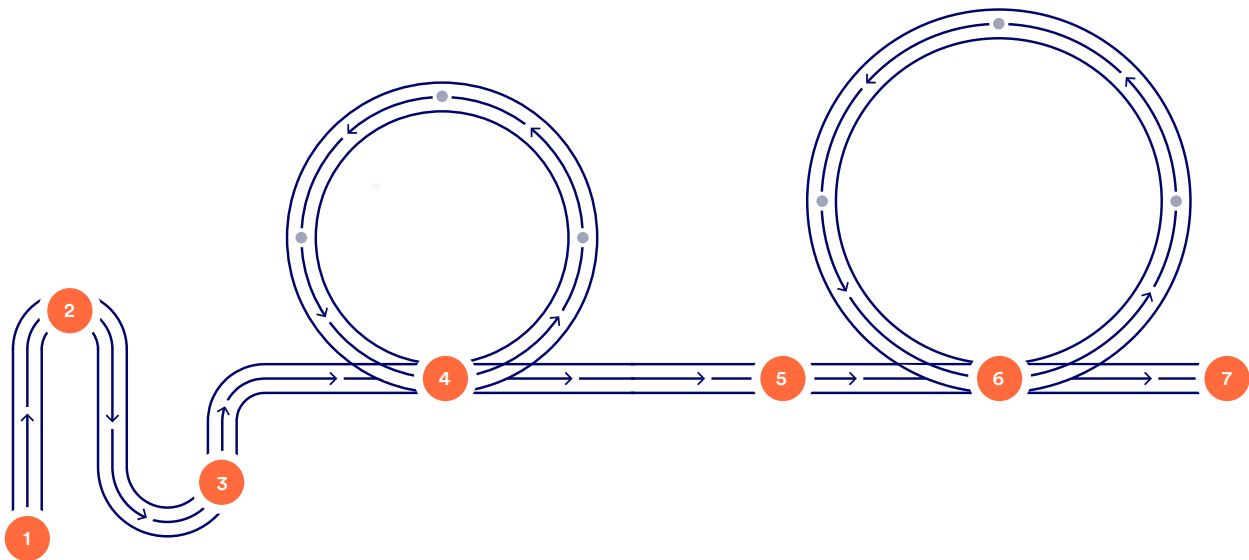
In this step, you clearly identify the problem or opportunity. Project owners bring their partners together (including future contributors, collectors, and users) to answer initial questions. For example, why do the players want to share their data? Do these goals align or complement one another? Etc. It's essential to first understand the needs of potential stakeholders in depth.

2

### Understand the data and its context

In this step, players analyze the data that could help them solve problems or seize opportunities. This means understanding the nature, origin or source, format, quality, limitations, etc. of the data, **as well as identifying stakeholders who may be involved in or affected by the initiative.**

This must be done early in the process, since the success of a data SUT depends primarily on the ability to bring the right stakeholders together. For example, if the data describes the movements of certain populations (sensitive personal data), these populations will be the first to experience risk if the SUT is mismanaged, so it makes sense to include them in project governance.



## Steps

3

**Bring stakeholders together to create a common vision of objectives for the SUT to address**

4

**Develop a data SUT**



## Details

This step involves using stakeholder ideas and brainstorming, as well as the results of steps 1 and 2, to build a shared vision of what the data SUT could be, the needs it would meet, and its purpose. Players also create a common understanding of how shared data can help solve a problem.

Project owners also ensure that people who are not necessarily directly involved in the creation of the SUT but who may still be directly or indirectly affected by the initiative participate in the development of the shared vision.

Project owners (who may be settlors or trustees) bring their partners together (including future contributors, collectors, or users) to explain in concrete terms the main mechanisms and parameters that could shape the forthcoming SUT in order to write a first draft of the trust deed. Stakeholders revise the first draft of the trust deed as many times as necessary to reach a final version that they agree on.

### Tip

**For archiving and learning purposes (and in the interest of transparency), you should track changes made to each version and the reasons for said changes. Feel free to take small steps and test the usefulness of some data on sub-issues. You can run these tests in the next step.**

## The trust deed

The trust deed (sometimes referred to as the “deed of incorporation” or “incorporating document”) is a social utility trust’s instruction manual. It states the SUT’s core aspects (including its purpose and trustees) and the basis for its operation (how trustees are appointed, their powers, term duration, and other rules, particularly with regard to decision-making, etc.). The trust deed governs actions and decisions taken by future trustees, as well as governance in general. The players can discuss the contents of this document before they adopt it.

## Steps



## Details

5

### Create an implementation plan

Many players take part in the implementation phase to work on the practical aspects of operationalizing the data SUT. During this step, they plan and execute the development of components, tools, and processes (or other elements) needed to make the SUT function properly.

First, settlors create the trust, including the final version of the trust deed they developed together, based on elements they discussed as a group.

6

### Test and tweak the implementation plan

It's a good idea to proceed step by step. Again, several iterations may be required before trustees are appointed and settlors and trustees sign a notarized trust deed.

7

### Manage day-to-day operations and assess the partnership

Once the deed is notarized, we must establish day-to-day operations, give ourselves the means to assess whether it achieves the intended objectives, and also determine what unintended negative consequences its deployment could amplify.

Settlors make sure that trustees pursue the trust's purpose. Trustees ensure that they pursue the trust's purpose.

The SUT community (contributors, users, collectors, and affected persons, individuals and organizations alike) participates in governance as indicated in the trust deed, including decisions regarding the implementation and operationalization plan.

These steps are based on the [Data Partnerships: An Introduction](#) which you can refer to for more details.

# Ready to continue your research?

A selection of resources is available to help you better understand certain concepts in this tool, to help you think through the matter, and to provide concrete suggestions that meet your needs.

Research

Design

Implement

Documents to read (as applicable) during a project's ideation stage



1 Data Partnerships: An Introduction



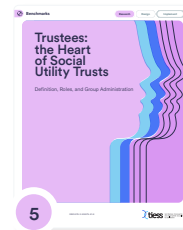
2 Business Models for Data Partnerships



3 The Social Utility Trust: A Path to Data Partnerships



4 Collective Governance of Social Utility Trusts: Four Community Engagement Strategies



5 Trustees: the Heart of Social Utility Trusts: Definition, Roles, and Group Administration

Research

Design

Implement

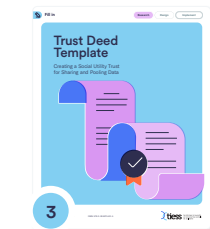
Useful tools to help you create a data social utility trust (FR) or a social utility trust (FR)



1 Brainstorming Tool: 7 Questions to Ask Yourself Before You Create a Data Social Utility Trust



2 Decision Support Tool: Questions and Exercises to Help You Design Your Data Social Utility Trust Deed Together



3 Trust Deed Template: Creating a Social Utility Trust for Sharing and Pooling Data



4 Brainstorming Tool: 9 Questions to Ask Before Creating a Social Utility Trust



5 Decision Support Tool: Questions and Exercises to Design Your Social Utility Trust Deed Together

Research

Design

Implement

These documents will all still be useful after the social utility trust (SUT) has been created. After all, the SUT is a flexible and evolving tool. You may need to review its business model, certain ways of doing things, or the level of community involvement, when possible.

## Further reading

- [Digital Data Partnerships: Building the Foundations for Collaborative Data Governance in the Public Interest \(Open North\)](#). (Open North)
- [Gouvernance de données: la fiducie d'utilité sociale, un outil à fort potentiel – Synthèse de connaissances](#) (FR - Summary: Data Governance: The Potential of Social Utility Trusts). (TIESS)
- “De la fiducie de données en droit civil québécois. Étude exploratoire pour un outil en construction” (FR - Data trusts in Québec civil law: an exploratory study on a tool under development - FR), (2021) 67-2 *McGill Law Journal* 119–156.
- “Introduction à la fiducie québécoise de données” (FR - Introduction to Québec Data Trusts), *Cyberjustice Laboratory Blog* (November 26, 2020).
- “Partager les données à des fins d'intérêt général : des modèles (juridiques) en construction,” (FR - Sharing Data in the Public Interest: Emerging [Legal] Models) *OBVIA Blog* (January 12, 2023).

Did you find this booklet useful?  
Do you have any suggestions to make it better?  
Please complete our [feedback form](#) (FR).

## Acknowledgements

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Québec 



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## About

### TIESS

Territoires innovants en économie sociale et solidaire (TIESS) is a social innovation liaison and transfer body recognized by Ministère de l'Économie, de l'Innovation et de l'Énergie (MEIE). It unites numerous stakeholders in the social and solidarity economy and territorial development, as well as research centres, universities, and colleges. TIESS contributes to territorial development by equipping social and solidarity economy organizations so that they can transform their practices and face social challenges in innovative ways. Discover our other resources: [tiess.ca](https://tiess.ca)