

A GUIDE TO DATA-SHARING AGREEMENTS



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KEY TERMS

Before we begin, here are a few definitions of key terms that you will find throughout this guide:

TERM	DEFINITION
Closed data	Data that is only accessible within an organization.
Open data	Data that is accessible to anyone, sometimes with conditions for use.
Personal data	Data about an identifiable individual (e.g., phone number, address, age, gender, ethnicity).
Sensitive personal data	Personal information that requires heightened privacy protection, such as data related to health, finance, race, political opinions, sexual orientations, religious beliefs, and genetic data. Note: What is considered sensitive can vary from person to person.
Confidential data	Data not intended for public dissemination. If exposed, it could harm the organization (reputational risk) or individuals whose personal data is shared. Confidentiality is not a steady state. For example, a strategic plan might be confidential initially, but become public later.
Restricted data	Highly sensitive confidential data that poses a significant risk if disclosed (e.g., social security numbers).

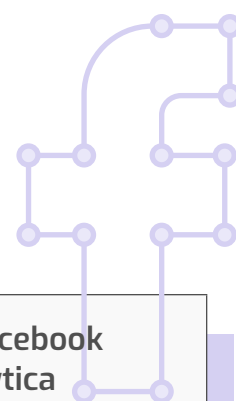
INTRODUCTION

Organizations are increasingly seeking to use actionable data as a means to solve problems, improve services, enhance decision-making capabilities, and foster innovation. However, closed and open data sources are sometimes insufficient to meet an organization's information needs. This might occur if the sources only reflect one facet of a complex problem, or if the [data quality](#) is inadequate.

Data sharing between various stakeholders presents an opportunity to address this knowledge gap. Its benefits include, but are not limited to, new perspectives, value creation and open innovation, improved decision-making, forecasting accuracy, benchmarking insights, and trust-building.

Data sharing always involves risks. What is stopping others from using the data that you shared with them for unethical practices? How can you ensure that they are managing your data responsibly, thereby minimizing any potential harm that could result from the use of said data?

Thankfully, tools such as data-sharing agreements ensure that those benefiting from your shared data comply with the law and your sharing conditions. Data-sharing agreements act as safeguards, helping organizations mitigate the risks associated with data sharing while realizing the benefits of collaboration. This guide explains the value and implementation of **data-sharing agreements** with external parties.



The infamous case of Facebook and Cambridge Analytica

In the 2010s, Facebook allowed Cambridge Analytica to collect personal information from millions of Facebook users without their consent or knowledge. An investigation found that Cambridge Analytica sold this data to politicians seeking analytical assistance for their political campaigns.

The data misuse and privacy violations sparked public outrage and heightened interest in privacy as a way to mitigate serious risks of harm. **Data-sharing agreements can play a crucial role in preventing such abuses.**

In the aftermath of the scandal, Cambridge Analytica declared bankruptcy. Facebook was fined billions of dollars due to its privacy violations, lost billions of dollars in market capitalization in a matter of days, and the scandal sparked the #DeleteFacebook movement.

1. WHY USE DATA-SHARING AGREEMENTS?

If your organization currently shares or plans to share your data with other parties, you are likely grappling with the following questions:

How can I ensure that the use of my data aligns with my organization's goals and values?

How can my organization protect the interests of the communities and individuals we serve when sharing their personal and potentially sensitive data with other stakeholders? How do we build and maintain trust with these communities and individuals?

How can my organization ensure other organizations use our data responsibly and ethically, while also protecting personal, confidential, or restricted information?

How can I ensure that my organization benefits from new information generated by sharing data with others?

If these considerations matter to you, then a data-sharing agreement is undoubtedly a critical tool for your organization or digital data partnership.

Why should you use data-sharing agreements?

Data-sharing agreements help clarify the roles and responsibilities regarding how shared data should be accessed, managed, and used by all concerned parties. They hold all parties accountable to the legally binding terms and conditions defined in the agreements.

Am I legally required to sign a data-sharing agreement before sharing my data?

In certain jurisdictions, signing data-sharing agreements when sharing personal information is a legal requirement. For instance, in compliance with [Bill 25](#) in the province of Quebec in Canada, private and public organizations disclosing personal information for research or statistical analysis without direct consent must engage in an agreement with the recipient, specifying that the information:

1. is accessible only to individuals who need it in order to perform their duties and who have signed a confidentiality agreement.
2. cannot be used for purposes other than those outlined in the research activities presentation;
3. cannot be matched with information from any other unauthorized file;
4. cannot be disclosed, published, or disseminated in a form that identifies the individuals involved.

At the Canadian federal level, under the Personal Information Protection and Electronic Documents Act (PIPEDA), a commercial organization may share personally identifiable information with another organization. However, PIPEDA “requires organizations to use contractual or other means to provide a comparable level of protection [to PIPEDA] while the information is being processed by the third party.” The transferring organization remains responsible for the adequate handling of the data by any third party, regardless of jurisdiction.



Did you know?

It is an ethical practice to sign data-sharing agreements before sharing data, even if it is not required by law.

- > A data-sharing agreement reduces risks of shared data being misused or mismanaged by others. It helps protect data privacy and confidentiality of personal and sensitive information, and reduces the chances of unauthorized data breaches.

Using data-sharing agreements helps protect your organization's reputation and trustworthiness.

- > By using data-sharing agreements, your organization demonstrates that it engages in responsible data management practices, and that it holds other parties accountable for how they use your data.

Data-sharing agreements are useful even if you are not sharing confidential or restricted data.

- > New perspectives and information could be generated by other parties through the use of your shared data, whether through new analyses or by cross-referencing your data with other data sources. Your organization may want to access and benefit from this new information since it played a role in its creation.

2. WHAT ARE DATA-SHARING AGREEMENTS?

What is a data-sharing agreement?

A data-sharing agreement is a legally binding document between two or more parties that are sharing or exchanging data, stating the terms and conditions of access and use of the shared data.

Key components of a data-sharing agreement

Data-sharing agreements should be customized and tailored to your organization or partnership's context and needs. However, they are typically composed of the following **8 key sections**:

1. Data-sharing context	Describe the context leading to the data-sharing initiative. Provide a clear justification for the need to share personal or sensitive information.
2. Stakeholders	Describe the various stakeholders that are part of the agreement, their role ⁽¹⁾ as it pertains to the data being shared, and their specific responsibilities.
3. Agreement duration	Describe how long the agreement will last, or whether it will be valid for an indefinite period of time.
4. Data scope and type	Describe the data being provided in the agreement. Be specific: Include for example variables names and descriptions, the file format, frequency of updates, the data source, whether it contains personal information, as well as the level of openness and sensitivity of the data.
5. Data uses	Describe the purposes (primary and/or secondary) for which the shared data can be used.

(1) For example: data producer, data provider, data recipient.

6. Data access

Describe how data will be physically transferred between parties, where it will be stored, the frequency at which the data will be shared, and who (individuals, groups, services, departments) will have access to the data.

7. Data security

Describe the appropriate security measures and standards to ensure that the data is protected when transferred, stored and accessed.

8. Data retention

Describe if and when specific datasets need to be archived or destroyed by the agreement's stakeholders.

When should I use a data-sharing agreement?

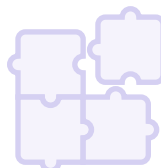
A data-sharing agreement is signed between all relevant parties **before any data is shared**. Here are a few situations where such an agreement is necessary or recommended:

**Sharing personal data for research**

An organization that produces data containing personal information in the field of mobility shares this data with another organization for research into sustainable mobility.

**Public organization funding projects**

A public organization finances an urban experimentation project. In its procurement process and service agreement, it requires the service provider to share evaluation data so it can oversee the experiment results and benefit from the insights gained.

**Collaborative data hubs**

Several organizations form a data hub to exchange evaluation data in the food sector through a federated database. They use data-sharing agreements to facilitate responsible data sharing and improve collaboration.

The next section delves deeper into the steps and best practices to keep in mind when drafting a data-sharing agreement.



Did you know?

Data-sharing agreement clauses can be included in other legal contracts or agreements, such as service agreements or confidentiality agreements.

What is the difference, however, between confidentiality agreements, data-sharing policies, and data-sharing agreements?

- **Confidentiality agreement:** Its sole focus is on protecting sensitive information from being disclosed.
- **Data-sharing policy:** It involves a set of guidelines and principles established by an organization to manage how data is shared both internally and externally to ensure sharing is done in a responsible, ethical and legally-compliant manner. It encompasses a higher-level scope than data-sharing agreements.
- **Data-sharing agreements:** They are typically used for specific projects or collaborations around data sharing and therefore tend to be more detailed than data-sharing policies.

3. HOW TO DRAFT AN EFFECTIVE DATA-SHARING AGREEMENT?

Are you about to share data with other organizations, researchers, or individuals? Now is the time to set up a data-sharing agreement and establish the terms and conditions of how the shared data will be accessed and used.

What do I need to do and know before drafting an agreement?

Here are a few critical steps that you should do prior to drafting your data-sharing agreement:

1. **Define your data use cases.** Use cases establish the intended objectives and purposes of the data's use, and help all parties understand the allowed primary and secondary uses of the data being shared.
2. **Classify your data.** Without proper data classification, you cannot properly assess risk. For example, if the data contains confidential or restricted information, there are particular considerations that must be given to information security practices.
3. **Assess the risks of sharing the data.** The two previous steps help you better assess the risks specific to the context of your data and its potential use and access by other parties. If your data contains personal information, conducting a data privacy impact assessment should be a requirement.
4. **Identify appropriate mitigation measures.** Based on your risk assessment, you should identify appropriate protection measures and safeguards. If the risk is high and the mitigation measures inappropriate, determine whether sharing the data is absolutely necessary and explore alternative strategies.
5. **Identify other conditions for sharing data.** Beyond information security, what does your organization or partnership expect when sharing data with or receiving data from others? For example, a providing organization may place significant importance on reciprocity (as in wanting access to new insights and analyses resulting from the use of its data), whereas a requesting organization will likely expect data quality standards to be met.
6. **Document your decisions and processes** related to the previous steps to foster a climate of trust, transparency, and accountability.

Resources needed to draft data-sharing agreements

While data-sharing agreements should be customized for your situation, using a template accelerates the process. The **six aforementioned steps** can be time consuming. Understanding your data, its use, risks, and necessary conditions is crucial for effective agreements.

To streamline the process, your organization should provide templates, standards and documented processes to help staff effectively and efficiently complete these critical steps. Sharing insights from past agreements helps foster organizational learning and enhances expertise.

If your organization is new to all of this, consult with expert advisors in data governance and management. Seeking professional legal advice also helps ensure that all aspects of your project are properly addressed.

Ensure you fulfill all elements of the below checklist

Clearly define the context and the purpose of the data-sharing initiative	Clearly outline the roles and responsibilities of all parties	State how compliance to the terms and conditions of the agreement will be monitored and evaluated during the duration of the agreement
Describe in detail the types of data to be shared	Define the terms and conditions of use and access of the shared data	
Provide justification regarding the need to share personal, confidential, or restricted data	Define the security mechanisms to protect the shared data throughout its life cycle	





Did you know?

Data-sharing initiatives requiring collaboration between stakeholders should ensure that stakeholders are included in the decision-making process of defining the terms and conditions of a data-sharing agreement. Developing agreements unilaterally can be counterproductive and damage trust between parties.

A 2022 [article](#) written by Caitrin Pilkington from Cabin Radio describes how, in seeking data sovereignty, The Łíídlı́ Kúé First Nation in the Northwest Territories introduced its own license to regain sovereignty over research. The conventional license for research approval, which requests information on the research methodology and how confidential data will be protected, did not address key concerns of the First Nation community regarding how its data might be used for research.

The Łíídlı́ Kúé First Nation took matters into its own hands. Its form, equivalent to a data-sharing agreement, asks researchers to agree that the research data will be co-owned by the First Nation community, to disclose information on how often they will travel and install equipment on their land, and explain how they will educate themselves about the community's customs.



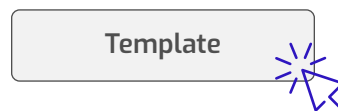
Source: Łíídlı́ Kúé First Nation liidliikue.ca

GET STARTED TODAY!

We hope this guide will have demonstrated that a data-sharing agreement is essential for your organization to benefit from data sharing responsibly.

Template

Click on the link below to explore, use and adapt Open North's data-sharing agreement template.



Free online courses

We recommend enrolling in Open North's online introductory course on the ["Fundamentals of Data Partnerships"](#) to learn more about the benefits, risks, and case studies related to data sharing. [Sign up here](#) for our online training platform (it's free!).

Targeted support services

Open North can support you in drafting data-sharing agreements and creating templates customized to your needs. Contact us at info@opennorth.ca to learn more about our services.

About Open North

Open North is a Canadian nonprofit dedicated to advancing the common good. As an organization with expertise in data governance and digital strategy, we work alongside governments, nonprofits, and mission-aligned businesses to create transformative digital strategies and data governance frameworks.

Open North's team is made up of professionals with a wide range of expertise, including in government, strategic and operational planning, urban planning, community building, information technology, applied research, international development, and policy development. With our diverse backgrounds and skills, Open North's team members bring valuable perspectives and experience to all projects.

Open North is part of Montréal in Common, a project led by the City of Montréal as part of the Smart Cities Challenge, carried out with the financial support of the Government of Canada.

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About the Smart Cities Challenge and Montréal in Common

Montréal in Common is an innovation community led by the City of Montréal, whose partners are experimenting with solutions regarding access to food, mobility and municipal bylaws, with a view to rethink the city. Montréal in Common projects are made possible thanks to the prize awarded to the City of Montréal by the Government of Canada as part of the Smart Cities Challenge.

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