

Data Sharing Agreement

Between

Somerset County Council

And

Schools/Academies

2016-17

Authors:
Ian Gover
Peter Grogan

Version 1.5

Date of agreement: September 2016

Proposed Review Date: August 2017

Document Control

Amendment History

Version/ Issue No.	Date	Authors	Remarks / Reason for Change
0.1		Ian Gover/Michele Weaver	Initial Draft version
0.2	8 th November 2012	Ian Gover/Michele Weaver/Jon Bazley	Corrections, Children's Social Care added to Appendix A
0.3	11 th November 2012	Ian Gover/ Jon Bazley	Reporting and indications of secure transfer added
0.4	15 th November	Jon Bazley	Corrections, SecureSend details added
0.5	29 th February	Ian Gover	Blue Book replaced with SSTEP
0.6	5 th March	Jon Bazley	Final amendments
0.7	7 th June	Ian Gover	Amendment to 4.2
0.8	13 th Sept	Ian Gover	Further change to 4.2
0.9	4 th Oct	Ian Gover	Change 10.1 – Example Privacy Notices
1.1	19.09.2014	Peter Grogan	Document Revision 2014
1.2	19.09.2014	Ian Gover	Addition of Para 7.5
1.3	19.09.2014	Ian Gover	Update to Appendices
1.4	01.02.2016	Ian Gover	Corrections and change of web address for Information Governance. Rewriting of 5.1
1.4	01.02.2016	Peter Grogan	1.6 Inclusion in the Overarching Information Sharing Protocols with the Avon and Somerset Police and the Local NHS CCG, Partnership and Trusts (as mentioned in 2.3) 1.7 – Inclusion of Caldicott 2 and the data sharing principle and Health and Social Care Act 2015 7.2 Use of EGRESS for non-B2B transfers of email and files containing personal data Appendix A - On data transferred list include "NHS number (proposed)" Appendix C – Remove SecureSend, include reference to EGRESS

1.5	19.08.2016	Ian Gover and Peter Grogan	1.7 Update to ICO Code of Practice and Caldicott 3 consultation 3.6, 4.3, 8.1 Reference to SLA Online 6 Change of heading to 'Meetings around a child'. New section 6.1, change to 6.2 and renumbering of other sections. 6.3 and 6.5 order swapped. New 6.4 added to mention other agencies 10.1 Reference to DPA requirement to Privacy Notice
-----	------------	----------------------------	---

Purpose

- 1.1 There is no statutory requirement for data sharing agreements but the Information Commissioner's Office has advised that such arrangements should be in place to formalise the conditions for the exchange of personal data. To that end the ICO published formal [Code of Practice](#) on how this can be effectively.
- 1.2 This agreement will set out the roles and responsibilities of Somerset County Council (the local authority, hereafter referred to as 'the LA') and the School/Academy in regards to the sharing of data relating to individual children, parents and/or guardians, employees and others associated with a School/Academy.
- 1.3 The purpose of this agreement is to meet the responsibilities of the partner organisations in relation to the Data Protection Act. The School/Academy acts as a Data Controller for the personal data held in relation to its business, with the LA acting as Data Processor for some of this data. Likewise, the LA acts as Data Controller for some data for which School/Academy then acts as Data Processor. This document establishes the data sharing agreements between these public bodies.
- 1.4 In addition, this agreement enhances the ability of the Partner Organisations¹ to support the learning and welfare of children through the sharing and use of data not otherwise readily available to each organisation. The sharing of pupil level data will enable analysis (e.g. for vulnerable groups of pupils in a geographical area), as well as for the School/Academy to feature alongside other Schools/Academies (e.g. in summaries of end of Key Stage assessments).
- 1.5 The agreement details the support which the LA will provide to the School/Academy for:
 - statutory School Census returns
 - statutory performance data returns
 - the sharing of data used within the email system.
 - the support of Management Information Systems (SIMS)
 - the support of Finance systems
- 1.6 The main benefits of the agreement will be:
 - Meeting the requirements of the Data Protection Act and the ICO Code of Practice

¹ Somerset LA, Somerset School and Academies

- Reducing the administrative burden on School/Academy – as data will only be input once but used many times for the benefit of children and employees
- Providing better targeted services to all children and employees
- Ensuring the safety and wellbeing of individual children and employees
- Inclusion in the Overarching Information Sharing Protocols with the Avon and Somerset Police and the Local NHS CCG, Partnership and Trusts (as mentioned in 2.3)

1.7 This agreement takes regard of the following statutes and guidance:

- The Data Protection Act 1998²
- Section 10 of the Children’s Act 2004³ for agencies covered by the duty to co-operate to improve well-being of children
- Section 11 of the Children’s Act 2004 on the duty to safeguard and promote the welfare of children
- *Working Together to Safeguard Children* (HMG 2010)⁴ which sets out how organisations and individuals should work together to safeguard and promote the welfare of children
- *Healthy Child Programme* (DH, 2009)⁵
- This data sharing is conducted under the legal framework contained in the Children Act 1989, the Education Act 1996, the Learning and Skills Act 2000 (S 117) and current data protection legislation. It also reflects the requirements of the *Protocol on Data Sharing and rationalisation in the School Sector* (DfES, Feb 2004)⁶
- Data Sharing Code of Practice (ICO Feb 2014)⁷
- Caldicott 2 and the data sharing principle⁸
- Caldicott 3 consultation⁹
- Health and Social Care Act 2015¹⁰

² <http://www.legislation.gov.uk/ukpga/1998/29/contents>

³ <http://www.legislation.gov.uk/ukpga/2004/31/contents>

⁴ <https://www.education.gov.uk/publications/eOrderingDownload/00305-2010DOM-EN-v3.pdf>

⁵ http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107566

⁶ [https://www.education.gov.uk/publications/standard/ arc_Governancemanagementandfinance/Page6/DFES-1916-2005](https://www.education.gov.uk/publications/standard/arc_Governancemanagementandfinance/Page6/DFES-1916-2005)

⁷ <https://ico.org.uk/media/for-organisations/documents/1065/subject-access-code-of-practice.pdf>

⁸ <https://www.gov.uk/government/publications/the-information-governance-review>

⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535024/data-security-review.PDF

¹⁰ <http://www.legislation.gov.uk/ukpga/2015/28/contents/enacted>

2 Regular Data Transfer via Capita B2B (Base to Base) or alternative

- 2.1 Capita B2B is the secure transfer of child level data from the School/Academy Information Management System (SIMS) to the LA's Capita ONE central database system. Data is transferred via a secure internet connection. Data transfer from the School/Academy SIMS system is via a daily scheduled routine for basic student data and a weekly scheduled routine for Attendance data. For a full list of student level data items currently shared please see Appendix A.
- 2.2 Information will be used to inform provision of LA Services to individual children to ensure their well-being and safety. It will be used to help identify children missing from education and to target intervention and support through monitoring of key indicators such as attendance and exclusions.
- 2.3 Information held in the LA's Capita ONE system may also be shared with other Children's Trust partners, such as the NHS, Avon and Somerset Police Authority (ASPA) and both private sector and third sector providers. This will only be done where to do so is in compliance with statutory guidance and legislation regarding the duty to co-operate to improve well-being of children and the Data Protection Act 1998.
- 2.4 The School/Academy agrees to:
- Transfer via Capita B2B by daily updates of child personal data (including exclusions) and weekly updates of child attendance data
 - Where it is not possible to use Capita B2B the School/Academy agrees to provide changes to the data listed in Appendix A with the exception of the Attendance data. These changes should be provided to the LA at the same time as the School/Academy management information system is updated. In all cases the transfer of the data should be through secure methods (See Appendix C)
 - Work with the LA to resolve any data discrepancies e.g. pupils appearing at multiple Schools/Academies
 - Provide information to and work with the LA in respect of any safeguarding issues or concerns

2.5 The LA agrees to:

- Make the data available to Children’s Services professionals via the Capita ONE system to reduce the need for multiple and frequent data requests made to the School/Academy directly
- Notify the School/Academy if they become aware of any inaccuracies or possible discrepancies in the data they receive to ensure that data held by both parties is accurate and up to date
- Provide advice and guidance to support the data transfer process

3 School/Academy Pupil and Workforce Census and Local Data Collections

3.1 The School Census is a statutory return completed by all state funded Schools/Academies within England. The School Census collects information about individual pupils and information about the schools themselves, such as their educational provision. Data is collected on a termly basis. Data items vary according to each census but all Census returns include child and employees’ personal data.

3.2 Academies are responsible for the completion, approval and submission of their Census returns to the DfE. Academies agree to provide a copy of their electronic data file to the LA for each census at the time of submission to the DFE (this will include any subsequent re submissions of data or changes to data agreed directly with the DFE).

3.3 LA Maintained Schools are legally required to send their census returns to the LA for approval.

3.4 The LA will use School/Academy summative data in the production of regular statistical information about all Somerset Schools/Academies which are of mutual benefit.

3.5 Other data items that are required to support either the LA or the School/Academy in fulfilling statutory functions will be agreed between the Partner Organisations.

3.6 The LA via the SSTEP (or SLA Online) SLA agrees to:

- Provide advice and guidance to the School/Academy in the preparation of data for each School Census return

- Support the School/Academy in production of the census data file from the SIMS system

3.7 The LA agrees to work with the School/Academy to define and make available data held on the Capita ONE System for the purpose of benchmarking and School to School Support.

4 Attainment Data Collections

4.1 The School/Academy is required to submit attainment data to the DfE for particular Key Stages as set out in the Assessment and Reporting Arrangements. The LA uses attainment data to target the provision of services and for supporting improvements in Schools/Academies and other providers.

4.2 The School/Academy agrees to:

- Securely transfer data to the LA before the end of the academic year for the various Key Stage assessments in electronic format
- Provide individual performance data (not already covered by other data collections) for vulnerable groups of pupils to the LA to fulfil statutory obligations for these pupils
- Provide other assessments (not already covered by the other data collections) to facilitate analyses requested of the LA by School/Academy, the Headteacher Association and Compact if the School/Academy agrees to these arrangements and partakes in these groups

4.3 The LA via the SSTEP (or SLA Online) SLA agrees to support the secure transfer process by giving the School/Academy advice on the collection, recording and submission of the data required by the DfE.

5 Careers South West Services (if appropriate)

5.1 For pupils of 11 years and over, the School/Academy has a legal duty to pass certain information to the LA in relation to statutory duties. The LA may engage the services of outside agencies and agrees to securely supply information which they have about children on behalf of the School/Academy. However, the School/Academy will not pass on any information they have received from the School/Academy if parents (or children themselves if aged 16 or over) have notified the School/Academy

that the Careers South West Services should not receive information beyond the name and address.

6 Meetings around a Child

- 6.1 This section concerns interaction with outside agencies such as case conferences with Health and Social Care, Meetings around a Child and Family Group meeting.
- 6.2 It will be necessary for personal and sensitive data to be shared with the School/Academy to meet Caldicott 2 (Caldicott 3 once adopted) principles and ensure continuity of care.
- 6.3 The School/Academy must ensure that all personal data relating to Health and Social Care is securely collected, processed, transferred, and stored in according to the Data Protection Act.

The transfer of personal data between the School/Academy and the LA will always be by secure methods (See Appendix C).

- 6.4 The school/LA will make sure that the transfer to agencies outside of the LA is also secure (See Appendix C).
- 6.5 Once the intervention involving the young person is complete the school should observe the relevant retention schedules for the data which might include returning such records to the LA.

7 E-mail

- 7.1 The maintenance of secure email systems and their associated personal data is a key service within the LA. The LA and the School/Academy are responsible for ensuring the most secure and appropriate methods for email are used to avoid unauthorised disclosure of personal data.
- 7.2 The LA will use Egress to secure personal and confidential data
- 7.3 The LA will update the Corporate email system with secure contacts, as advised by the Schools and Academies, and ensure distribution lists are maintained.
- 7.4 The School/Academy will maintain and update their own database of names using the correct procedures taking particular care to ensure that School/Academy based or personal distribution lists are updated.

- 7.5 The LA will, on a periodic basis, make available to Schools/Academies a list of secure mail accounts for contacts within the LA which can be uploaded to their own mail systems.
- 7.6 The school addresses on the Global Address List cannot be assumed to be secure and care must be taken in line with appendix C to ensure that personal data is transmitted securely

8 Management Information Systems (MIS)

- 8.1 e-Learning and Information Management (eLIM) are the main support agents for Schools/Academies in maintaining their MIS (SIMS) systems. An agreement exists through SSTEP (or SLA Online) where LA employees and members are allowed access through to the School/Academy's server(s) to help with the maintenance of the system. In addition, there are occasions when personal data has to be extracted from the School/Academy servers.
- 8.2 The LA will only take copies of data with the approval of the School/Academy and will ensure that the personal data is stored on the secure network at County Hall or on encrypted portable devices.
- 8.3 On occasions the data has to be sent to Capita/SIMS so that they can solve an issue. On these occasions the School/Academy will always be asked for permission. The security of system used by CAPITA to ensure that the requirements of the Data Protection Act are met can be found on a document titled '**Sending Data to SIMS**' which can be obtained from CAPITA's supportnet homepage or from eLIM.

9 Finance Information

- 9.1 There are elements of personal data associated with finance such as funding for a School/Academy taking excluded pupils.
- 9.2 In every case where personal data is involved the communication of the data will be through secure methods (See Appendix C).
- 9.3 The School/Academy will ensure that all financial data sent from the LA is stored in a secure area and in accordance with the Data Protection Act especially those relating to the necessary retention periods.

10 Privacy Notices

- 10.1 The DPA requires the School/Academy to notify data subjects of the organisations their personal data may be shared with using Privacy Notices (see information - Appendix B).
- 10.2 The personal and sensitive data will only be processed if a condition from Schedule 2 and a condition from Schedule 3 of the Data Protection Act 1998 are met. The LA and DfE will use the data to provide and plan services for children and School/Academy. Data will only be used in the best interests of the individual.

11 Appropriate Security Measures

- 11.1 Both parties agree to comply with the Data Protection Act 1998 regarding security and to ensure that adequate security arrangements are in place, in order to protect the integrity and confidentiality of the information held.
- 11.2 Both parties agree not to transfer personal information by unsecured email, only to use secure electronic mechanisms such as B2B, S2S secure transfer website or other approved and agreed secure methods (See Appendix C).

12 General Data Protection Responsibilities

- 12.1 This agreement must be ratified and signed by the School/Academy and the LA.
- 12.2 It is the responsibility of both parties to this agreement to ensure that they have notified with the ICO that they are properly registered to share information, in accordance with this protocol, as required under the Data Protection Act 1998.
- 12.3 Both parties agree to keep the information no longer than is necessary to plan and deliver services for children and employees.

13 Designated Officers

- 13.1 Each Party will confirm which individuals (“designated officers”) are authorised contacts and ensure that any change is notified promptly to enable records to be kept up to date.
- 13.2 Each Party will ensure that all of its designated officers are fully conversant with the provisions of this protocol and Data Protection principles.
- 13.3 Each Party will keep adequate records to ensure ease of administration, covering all aspects and documentation of the data sharing process. This information will be accurate and up to date. The information held will be reviewed with other Partners by arrangement each year.

14 Data security breaches and reporting procedures

- 14.1 Under the terms of the Data Protection Act (1998) each School/Academy is a Data Controller in its own right – just as Somerset County Council is also a separate Data Controller.
- 14.2 This means that each individual body is responsible and liable for:
- notifying, on an annual basis, with the Information Commissioner’s Office (ICO) (www.ico.gov.uk) that it processes personal data
 - Reporting all serious data security breaches to the ICO
- 14.3 In the case of Schools/Academies the priority for the reporting of security breaches will be the Governors and the Head, as they are responsible for the data protection at the School/Academy.
- 14.4 It is helpful to inform SCC Information Guidance team as they may be able to offer advice or warn other Schools/Academies if the breach could affect them e.g. SPAM, Phishing, software virus, spree of thefts etc.

The ICO regards data security breaches as:

- Exposure to identity theft through the release of non-public identifiers e.g. passport number/NHS number
 - Information about the private aspects of a person’s life becoming known to others e.g. financial/domestic/health/care circumstances
- 14.5 The ICO will also consider the sensitivity of the data lost and number of individuals affected.

14.6 Data security breaches may include the loss of unencrypted laptops, memory sticks, mobile devices, DVDs, paper files or other documents.

14.7 In the event of a data loss each Data Controller must consider:

- Informing the other concerned party (parties) of the loss
- Informing the LA Information Governance Team or other LA Officer
- Informing the data subject of the loss

14.8 The LA Information Governance Team publishes guidance activity on: <http://www.somerset.gov.uk/organisation/departments/information-governance/>

Appendix A

List of Data Items transferred between the School/Academy and the LA (as of September 2010):

- UPN
- Surname
- Forename
- DOB
- Gender
- Preferred Surname
- Preferred Forename
- Middle Names
- Former UPN
- NCY Actual year
- Ethnicity and Ethnic Source
- FSM Eligible
- Religion
- Part Time
- Boarder
- Medical Flag
- First Language
- Connexions
- Reg Group
- Address
- SEN History
- SEN Provision
- SEN Need
- Exclusions
- Attendance marks (weekly)
- Start date
- End Date
- Service Family
- Traveller Family
- Guardians
- Enrolment Status
- Email address lists
- Data from Children's Social Care
- NHS number (Proposed)

Appendix B

Privacy notices should be placed on the school website for both staff and pupils.

We suggest that these privacy notices are also printed and included in induction packs.

The text for these notices can be found by visiting the gov.net site here:
<https://www.gov.uk/government/publications/data-protection-and-privacy-privacy-notices>

The LA address you need to add to this document is:
<http://www.somerset.gov.uk/organisation/departments/information-governance/>

- Information Governance Team
Somerset County Council
County Hall
Taunton
TA1 4DY
Email: informationgovernance@somerset.gov.uk

Appendix C

Safe transfer of sensitive data

1. By Capita B2B and s2s as outlined in this document

2. By email

- The SCC e-mail system, which includes the LEAD and EDUC domains uses a secure internal network and associated encryption applications.
- Any email leaving SCC LEAD or EDUC domain must be regarded as going over untrusted servers
- Follow all password policy detail correctly
- When sending sensitive data to unknown email accounts, use the 'reply to' function if you are sure of the identity of the recipient
- The LA may provide additional secure email systems such as EGRESS, which will be provided to secure personal data in transit between the LA and Schools/Academies.

3. Use of phones and text messages

- Exercise caution when using mobile phones and text messaging. Phones cannot be encrypted and the data may be stored on servers whose security status is unknown to SCC. On no account should personal or sensitive material be sent by text

4. Sending information by post

- Use window envelopes to display the intended address clearly
- Limited personal or sensitive data can be sent by post but significant material including Social Care / Health information must be sent using special delivery.
- Large parcels of personal and sensitive information such as case files should be double wrapped and sent by tracked special delivery or by bonded courier.
- Include a return address on the envelope
- Label the envelopes and packets 'For Addressee only'

5. Sending information by fax

- Personal and Sensitive material should not be sent by fax unless absolutely unavoidable, but if this is necessary you should:
 - Ensure that a trusted recipient is waiting at the other end of the fax line
 - Send a preliminary test page to check that the fax number is correct
 - On each page use the 'page X of Y' function to check that the entire document is sent
 - Check that any fax autocode is correct for the recipient