Data Sharing Agreement

Between

Somerset County Council

And

Settings, Academies and other Education Providers

2018-19

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Names used:
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Changes from previous document v1.1

Throughout	Change of the word schools to Education Provider to include MATs and other educational provision
1.5	Change to add in LAs legal duties in sharing data
2.6.1	Addition of Care Act 2014
5.2.2	Addition of paragraph indicating secure transfer of data by non-SIMS schools
5.3	Changes to sending a secure email instruction to aid clarity especially 5.3.3
6.2	Paragraph added to include sharing of data with NHS
7.5	Addition of note about Privacy Notices
7.8	Paragraph added about Carer data
9.3.1	Addition of paragraph about replying to email from Core IT to ensure security
10	Various changes to reporting e.g. Data Protection Officer
11 Appendix A	Young Carer Data item added

Contents

1. What is a Data Exchange Agreement?

1.1. This Data Exchange Agreement sets out the policies, procedures, roles and responsibilities of how parties will share personal data.

1.2. The introduction of the General Data Protection Regulation makes it a requirement for organisations that share personal data to have an agreement.

1.3. The main benefits of this agreement between the LA and Education Providers will be:

- Meeting the requirements of the data protection laws and regulations and the ICO Code of Practice;
- Reducing the administrative burden on Education Providers – 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.

1.4. This agreement should be ratified and signed by the Education Provider by recording approval on the electronic form supplied each year. The LAs agreement is given by the provision of the agreement.

1.5. The data as to which Education Providers have signed up to the agreement will be provided to teams within the LA but not shared with other agencies unless covered by this agreement or by other statutory or legal requirements.

1.6. The LA will contact each Education Provider to inform them of the Agreement and may adjust the services it offers considering an Education Provider not signing the agreement.

2. What are the LA Justifications for receiving pupil level data?

2.1. The LA has justifications for receiving pupil level data as detailed below:

2.2. DfE Admissions Codes

2.2.1. Education Provides are required to co-ordinate admissions with the LA at either First Time Admissions or Secondary Transfer stages. Regular submissions of student record updates to the LA are necessary to ensure that admissions process runs smoothly. This relates especially to the need for letters generated to parents to be based on accurate information and to ensure that accurate and up-to-date information is available when admissions decisions are made to ensure that all pupils and families are treated as equitably

as possible and that the relevant admissions policy and Education Providers Admissions Code of Practice are complied with.

2.3. Education Act 2002

2.3.1. Section 175 of this Act places a duty on both the Education Provider and the LA to safeguard and promote the welfare of children. The LA's ability to fulfil this role is dependent on ongoing receipt of core pupil data from Education Providers to ensure properly informed decisions are reached. Without this the LA would have to make decisions and allocate resources based on an incomplete pupil dataset. This would lead to inefficiencies and pose an obvious increased risk to vulnerable children and young people.

2.4. Education Act 1996

2.4.1. Section 436A imposes a duty on the LA to identify and monitor children missing education. This was further clarified by Ofsted's report 'Pupils Missing out on Education' Nov 13. The LA's ability to perform its duties effectively is reliant on the regular transmission of electronic pupil updates from all Education Providers in Somerset.

2.4.2. Section 14 (1) requires the LA to conduct Educational Provision place planning. This is dependent on regular pupil updates being received from Education Providers. (However, Personal Identifiable data at individual level is not be used for planning purposes).

2.4.3. Section 444 places responsibilities on the LA in terms of enforcing pupil attendance. Electronic updates from the Education Providers about pupil attendance are required to support this.

2.5. Exclusions

2.5.1. Education Providers are obliged by its funding agreement to follow current law and DfE advice on Exclusions. Exclusions will be reported to the LA by the Education Provider electronically from the Educational Provider MIS system.

2.6. Other Legislation

2.6.1. Other legislation relevant to these procedures and under which information may be shared includes:
- Academies Act 2010;
- the Children Act 2004;
- the Learning and Skills Act 2000 (S 117);
- the Data Protection Act 2018;
- the General Data Protection Regulation;
- Crime and Disorder Act 1998;
- Equality Act 2010;
- Education and Inspections Act 2006;
- Education Act 2011;
- Care Act 2014;

- Children and Families Act 2014.

2.6.2. These procedures reflect the requirements of the *Protocol on Data Sharing and rationalisation in the Schools Sector* (DfES, rev. 2005).

3. What data will be collected?

3.1. The full list of data covered by this agreement is shown in Appendix A.

3.2. This list covers all the known data needed by this agreement at beginning of the academic year.

3.3. If there are additions to this data set, then Education Providers will be informed through the normal communications channels.

4. How will the data be used?

4.1. The data will be used to complete statutory and legal responsibilities of the LA as detailed in Appendix B.

4.2. Information will also 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.

4.3. There may be other opportunities that arise during the year that the LA will make Education Providers aware of, seeking permission where needed.

5. How will the data be transferred?

5.1. Both parties must make sure that data is transferred by appropriate Security measures. These measures must agree to comply with the Data Protection legislation regarding security and to ensure that adequate security arrangements are in place, to protect the integrity and confidentiality of the information held.

5.2. By electronic transfer

5.2.1. The Capita B2B (base to base) is the secure transfer of child level data from the Education Provider 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 Education Provider SIMS system is via a daily scheduled routine for basic student data and a weekly scheduled routine for Attendance data.

5.2.2. Educational Provsions that do not use Capita B2B must make sure that any transfer of data is secure and must follow the instructions in 5.3 below.

5.3. <u>By using secure email</u>

5.3.1. By far the most secure way of sending email is by replying to an email from a name@somerset.gov.uk request Egress would have been used meaning that the reply will be secure. Therefore, if data needs to be sent to the LA the Educational Provision should reply to an email sent from an name@somerset.gov.uk account

5.3.2. When sending sensitive data to unknown email accounts (or as a new email):

- use the s2s transfer instructions from the DfE part of the GOV.UK site: (https://www.gov.uk/guidance/school-to-school-service-how-to-transfer-information).

- OR put the personal data in a document that is password protected. Send the document in an email and the password in a separate email. See the instructions given in this document. (https://slp.somerset.org.uk/sites/edtech/Data%20Protection/Data%20Protection/Data%20Protection%20Pack/eLIM%20-%20email%20encryption%20and%20passwords.docx).

5.4. <u>Sending information by post</u>

5.4.1. Limited personal or sensitive data can be sent by post but significant material including Social Care/Health information must be sent using special delivery;

5.4.2. 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;

5.4.3. Include a return address on the envelope;

5.4.4. Label the envelopes and packets 'For Addressee only'.

5.5. <u>Sending information by fax</u>

There are many instances where sending personal details via fax have proven to be unsecure. All other methods of sending the data should be investigated before the use of fax is considered.

5.5.1. Personal and Sensitive material should not be sent by fax unless **absolutely unavoidable**, but if this is necessary you should:

5.5.2. Ensure that a trusted recipient is waiting at the other end of the fax line;

5.5.3. Send a preliminary test page to check that the fax number is correct;

5.5.4. On each page use the 'page X of Y' function to check that the entire document is sent;

5.5.5. Check that any fax autocode is correct for the recipient.

6. Will the data be shared with others?

6.1. 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 relevant data protection acts.

6.2. Educational Provisions should share data with NHS and its agencies to enable eye checks, immunisations and other statutory duties or roles to take place. See section 1.3

7. What does the Education Provider agree to?

7.1. Transfer via Capita B2B by daily updates of child personal data (including exclusions) and weekly updates of child attendance data.

7.2. Where it is not possible to use Capita B2B the Education Provider agrees to provide changes to the data. These changes should be provided to the LA at the same time as the Education Provider management information system is updated.

7.3. Work with the LA to resolve any data discrepancies e.g. pupils appearing at multiple Education Providers.

7.4. Provide information to and work with the LA in respect of any safeguarding issues or concerns.

7.5. Educational Provisions must provide a Privacy Notice to data subjects that details the data that is collected and who it is shared with.

7.6. Attainment Data

7.6.1. Securely transfer data to the LA before the end of the academic year for the various Key Stage assessments in electronic format.

7.6.2. 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.

7.6.3. Provide other assessments (not already covered by the other data collections) to facilitate analyses requested of the LA by Education Provider and the Headteacher Association if the Education Provider agrees to these arrangements and partakes in these groups.

7.7. Meetings around a child

    7.7.1. The Education Provider must ensure that all personal data relating to Health and Social Care is securely collected, processed, transferred, and stored in accordance with the Data Protection Act.

    7.7.2. The transfer of personal data between the Education Provider and the LA will always be by secure methods.

    7.7.3. Once the intervention involving the young person is complete the Education Provider should observe the relevant retention schedules for the data which might include returning such records to the LA.

7.8. Young Carers data

    7.8.1. Under the Care Act 2014 and the Children and Families Act 2014, teachers and other professionals have a duty to identify Young Carers.

    7.8.2. This information will be collected as part of the B2B process.

    7.8.3. For Educational Provisions who do not use B2B, a process will be put into place to make sure that the data is transferred securely in line with the instructions in section 5.

8. What does the LA agree to do?

8.1. 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 Education Provider directly.

8.2. Notify the Education Provider 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.

8.3. Provide advice and guidance to support the data transfer process.

9. Support from the LA

9.1. Management Information Systems (MIS)

    9.1.1. The e-Learning and Information Management (eLIM) are the main support agents for Education Providers in maintaining their MIS (SIMS) systems. An agreement exists through SLA Online where LA employees and members are allowed access through to the Education Provider'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 Education Provider servers.

9.1.2. The LA will only take copies of data with the approval of the Education Provider and will ensure that the personal data is stored on the secure network at County Hall or on encrypted portable devices.

9.1.3. On occasions, the data has to be sent to Capita SIMS so that they can solve an issue. On these occasions the Education Provider 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 CAPITAs supportnet homepage or from eLIM.

9.1.4. Where data is collected for Educational Provisions with their agreement for support purposes, the data will only be used for the purpose it has been collected for, and will be securely deleted shortly after the issue has been resolved.

9.1.5. In supporting Education Providers with B2B, the SIMs team will remotely support them within the remit of the SLA Online agreement and its statement regarding access to servers.

9.2. Finance Information

9.2.1. There are elements of personal data associated with finance such as funding for Education Providers taking excluded pupils.

9.2.2. In every case where personal data is involved the communication of the data will be through secure methods.

9.2.3. The Education Provider 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.

9.3. School Census

9.3.1. The LA agrees to:

- Provide advice and guidance to the Education Provider in the preparation of data for each School Census return;

- Support the Education Provider in production of the census data file from the SIMS system;

- Core IT will send an egressed email to schools requesting the data ensuring that the reply will be secure;

- The LA agrees to work with the Education Provider to define and make available data held on the Capita ONE System for benchmarking and School to School Support.

9.4. <u>Attainment Data</u>

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

10. Data security breaches and reporting procedures

10.1. Under the terms of data protection laws each Education Provider is a Data Controller as is the LA.

10.2. This means that each individual body is responsible and liable to report all serious data security breaches to the ICO.

10.3. In the case of Education Providers, the priority for the reporting of security breaches will be the Governors, the Head and the Data Protection Officer for the school.

10.4. It is helpful to inform SCC Information Governance team as they may be able to offer advice or warn other Education Provider if the breach could affect them e.g. SPAM, Phishing, software virus, spree of thefts etc.

10.5. The ICO regards data security breaches as:

    10.5.1. Exposure to identity theft through the release of non-public identifiers e.g. passport number or NHS number;

    10.5.2. Information about the private aspects of a person's life becoming known to others e.g. financial, domestic, health or care circumstances.

10.6. The ICO will also consider the sensitivity of the data lost and number of individuals affected.

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

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

    10.8.1. Informing the other concerned parties of the loss;

    10.8.2. Informing the LA Information Governance Team or other LA Officer;

    10.8.3. Informing the data subject of the loss;

    10.8.4. The school should record any breach.

11. Appendix A - List of Data Items transferred between Education Providers and the LA (as of April 2017):

Data Item	Statutory/Legal Reason and Purpose
Pupil Address Date of Birth EAL Ethnic Source Ethnicity First Language Forename Former UPN FSM Eligible/Date Gender Guardians Medical Flag Middle Names Mode of Travel NCY Preferred Forename Preferred Surname Religion Service Family Surname Traveller Family UPN Young Carer Young Carer Notes Young Carer Start and End Dates Youth Support Services Agreement Indicator **School History** Boarder End Date Enrolment Status LA Number Part Time Registration Group School Name School Number Start Date	To support the LA Statutory Function in many areas. Examples below: <u>Admissions and Entitlements</u> - DfE Statutory guidance on Home to School Transport and associated legislation; SCC Home to School Travel Policy including discretionary transport section but excluding SEN transport entitlement; Section 19 Education Act 1996 as amended by section 3A of the Children, Schools and Families Act 2010; DfE Statutory guidance Exclusion from maintained schools, academies and pupil referral units in England and associated legislation; DfE Statutory guidance Alternative provision; DfE Statutory guidance on School Admissions Code 2014, School Admissions Appeal Code 2012 and associated legislation; Eligibility checking service for free school meals for all Somerset schools with the exception of academies; Eligibility checking of funding for 2-year-old Entitlement and Early Years Pupil Premium. <u>Education Welfare Service</u> - To ensure education providers have safeguarding high on their daily work and that an education voice is available in all such discussions, meeting the needs of Working Together 2015 and Keeping Children Safe in Education 2016; Children Act 2004, sections 13. (Sections 14 - 16 refer to the functions, procedure and funding of Local Safeguarding Children Boards). Secondary - Local Safeguarding Children Boards Regulations 2006, SI 2006/90. The Local Safeguarding Children Boards (Amendment) Regulations 2010 - SI 2010/622 (under Children and Young Persons Act 2009). <u>Ethnic Minority Achievement and Traveller Education Services</u> - Statutory duty to promote the educational achievement of vulnerable and disadvantaged groups; Statutory duty under the Equality Act 2010 for LA, schools and academies to have due regard for the need to eliminate harassment and discrimination, advance equality of opportunity, foster good relations and tackle prejudice; LA, schools and academy Statutory duty to set specific and measurable equality objectives and publish information.
Attendance Attendance Mark Absence Reason	The Education Act 1996; Children's Act 2004 – allows Education Providers to inform the LA of Attendance in a timely manner. Safeguarding purposes.
SEN NHS Number (Proposed) SEN History SEN Need SEN Status/Date	The SEND Code of Practice provides Statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations. It relates to children and young people with Special Educational Needs (SEN).
Exclusions Category End Date Reason Start Date	School Standards and Framework Act 1998; Education Act 2002; Education and Inspections Act 2006; DfE Guidance 2012 – allows Education Providers to inform the LA of Exclusions in a timely manner. Safeguarding purposes.

12. Appendix B

	Data Description	Purpose	From	To	Statutory/Support	Timescales	Mechanism
Processes							
1	Student Core Data (as per above)	Supports Statutory Duties	Education Providers	Local Authority	Supports LA Statutory Function	Daily/Weekly/ Termly/Annually	B2B from SIMS, or alternative School system
2	School Census	Statutory Requirement from DfE for LA Education Providers	Education Providers	Local Authority	Statutory/Supports LA Statutory Function	Termly	SIMS (file export or B2B) or alternative School system
3	Early Years Foundation Stage (EYFS)	Statutory Requirement from DfE	Education Providers	Local Authority	Statutory	Annually	SIMS (file export or B2B) or alternative School system
4	Phonics Screening Check	Statutory Requirement from DfE	Education Providers	Local Authority	Statutory	Annually	SIMS (file export or B2B) or alternative School system
5	Key Stage 1 (KS1)	Statutory Requirement from DfE	Education Providers	Local Authority	Statutory	Annually	SIMS (file export or B2B) or alternative School system
6	Key Stage 2 (KS2)	Supports Reporting to LA and Education Providers	DfE	Local Authority	Supports LA Statutory Function	Annually	DfE via NCA Tools
7	Key Stage 4 (KS4)	Supports Reporting to LA and Education Providers	DfE	Local Authority	Supports LA Statutory Function	Annually	DfE via EPAS Online, NCER, Key to Success
8	GCSE Results Day	Supports Reporting to LA and Education Providers	Education Providers	Local Authority	Supports LA Statutory Function	Annually	SIMS (file export or B2B) or alternative School system
9	A Level Results Day	Supports Reporting to LA and Education Providers	Education Providers	Local Authority	Supports LA Statutory Function	Annually	SIMS (file export or B2B) or alternative School system
10	FFT Aspire	Supports Target Setting and Self Evaluation in Education Providers	FFT (formally) Fischer Family Trust)	LA/ Education Providers	Supports LA Statutory Function	Updated Throughout Year	FFT Aspire Online Portal
11	ALPs and LPUK post 16 Data	Supports Target Setting and Self Evaluation in Education Providers	Alkemygold Ltd and Learning Plus UK	LA/Post 16 Education Providers	Supports LA Statutory Function	Updated Throughout Year	ALP and LPUK Dashboards