

# **Data Sharing Agreement**

**Between**

**Somerset County Council**

**And**

**Schools/Academies**

Authors: Ian Gover Michele Weaver Jon Bazley (based on Data Exchange Agreement produced by Sharon Passmore)
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## 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 <sup>th</sup> November 2012	Ian Gover/Michele Weaver/Jon Bazley	Corrections, Children's Social Care added to Appendix A
0.3	11 <sup>th</sup> November 2012	Ian Gover/ Jon Bazley	Reporting and indications of secure transfer added
0.4	15 <sup>th</sup> November	Jon Bazley	Corrections, SecureSend details added
0.5	29 <sup>th</sup> February	Ian Gover	Blue Book replaced with SSTEP
0.6	5 <sup>th</sup> March	Jon Bazley	Final amendments
0.7	7 <sup>th</sup> June	Ian Gover	Amendment to 4.2

## **Purpose**

- 1.1 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, staff and others associated with a School/Academy.
- 1.2 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 act as Data Processor. This agreement intends to simplify the process of establishing data sharing agreements between the two public bodies.
- 1.3 Another purpose is to enhance the ability of the Partner Organisations<sup>1</sup> 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).
- 1.4 The agreement also 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
- 1.5 The main benefits of the agreement will be:
  - Meeting the requirements of the Data Protection Act
  - Reducing the administrative burden on School/Academy - data will only be inputted once but used many times for the benefit of children and staff
  - Providing better targeted services to all children and staff

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<sup>1</sup> Somerset LA, Somerset School and Academies

- Ensuring the safety and wellbeing of individual children and staff

1.6 This agreement takes regard of the following statutory guidance:

- The Data Protection Act 1988<sup>2</sup>
- Section 10 of the Children's Act 2004<sup>3</sup> 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)<sup>4</sup> which sets out how organisations and individuals should work together to safeguard and promote the welfare of children
- *Healthy Child Programme (DH, 2009)*<sup>5</sup>
- 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)<sup>6</sup>
- Data Sharing Code of Practice (ICO 2012)<sup>7</sup>

## 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.

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

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

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

<sup>5</sup> [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_107566](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107566)

<sup>6</sup> [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)

<sup>7</sup> [http://www.ico.gov.uk/~media/documents/library/Data\\_Protection/Detailed\\_specialist\\_guides/data\\_sharing\\_code\\_of\\_practice.pdf](http://www.ico.gov.uk/~/media/documents/library/Data_Protection/Detailed_specialist_guides/data_sharing_code_of_practice.pdf)

2.3 Information held in the LA's Capita ONE system may also be shared with other Children's Trust partners, such as NHS Primary Care Trust, 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 especially noting the duties to secure transfer and safe storage.

2.4 The School/Academy agrees to:

- Transfer via Capita B2B scheduled daily updates of child level personal data (including exclusions) and weekly updates of child level 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 staff level 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 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:
- 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 assessment (not already covered by the other data collections) to facilitate analyses requested of the LA by School/Academy, the Headteacher Association or Compact and agreed by the school

4.3 The LA via the SSTEP SLA agrees to support the 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 Careers South West Services, including name and address of the pupil and parent. The information is passed to Careers South West Limited for Information, Advice and Guidance. The LA agrees to supply to the Careers South West Services information which they have about children on behalf of the School/Academy, but 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 name and address.

## **6 Social Care**

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

6.2 The School/Academy must ensure that all personal data relating to Social Care is safely stored according to the Data Protection Act.

6.3 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 the email system and its associated personal data is a key service within the LA.

7.2 The LA will not release the personal data associated with the School/Academy to outside parties.

- 7.3 The School/Academy will maintain and update the database of names using the correct procedure taking particular care to ensure that School/Academy based or personal distribution lists are updated.
- 7.4 If the School/Academy wishes to copy the global address lists onto its own database then they may do so as long as they adhere to the principles of the Data Protection Act specifically relating to the security of the data, keeping the data up to date and the maintenance of residual mailboxes held on the County system.

## **8 Management Information Systems (MIS)**

- 8.1 eLearning and Information Management are the main support agents for Schools/Academies in maintaining their MIS (SIMS) systems. An agreement exists through SSTEP where LA staff 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 secure drives at County Hall or on encrypted laptops or memory.
- 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 data sent 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 LA requires the School/Academy to notify data subjects of which organisations their personal data may be shared with using the current Privacy Notices (see 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 staff.

## **13 Indemnity**

- 13.1 The LA will fully indemnify the School/Academy in respect of any claim, loss, liability or costs incurred arising as a result of a breach of this agreement or as a result of any negligence, or breach of statute or common law in processing the information disclosed to it, where the data passed to the LA by the School/Academy is deemed to be accurate.

13.2 Likewise, the School/Academy will fully indemnify the LA in respect of any claim, loss, liability or costs incurred arising as a result of a breach of this agreement or as a result of any negligence, or breach of statute or common law in processing the information disclosed to it, where the data passed to the LA by the School/Academy is deemed to be inaccurate.

#### **14 Designated Officers**

14.1 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.

14.2 Each Party will ensure that all of its designated officers are fully conversant with the provisions of this protocol and Data Protection principles.

14.3 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.

#### **15 Data security breaches and reporting procedures**

15.1 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. This means that each individual body is responsible for:

- Notifying, on an annual basis, with the Information Commissioner’s Office (ICO) ([www.ico.gov.uk](http://www.ico.gov.uk)) that it processes personal data
- Reporting all serious data security breaches to the ICO

15.2 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.

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.

15.3 The ICO regards serious data security breaches as:

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

- Information about the private aspects of a person's life becoming known to others e.g. financial / domestic circumstances
- 15.4 The ICO will also consider the sensitivity of the data lost and number of individuals affected.
- 15.5 Data security breaches may include the loss of unencrypted laptops, memory sticks, mobile devices, DVDs, paper files or other documents.
- 15.6 In the event of a data loss each Data Controller must:
- Inform the other concerned party (parties) of the loss
  - Inform the Somerset County Council Information Governance Team
  - Inform the data subject of the loss
- 15.7 The Information Governance Team publishes all its policy and guidance activity on: <http://intranet.somerset.gov.uk/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

## Appendix B

### Privacy Notice to Parents

#### PRIVACY NOTICE

#### ***Pupils in School/Academies, Alternative Provision and Pupil Referral Units and children in Early Years Settings***

#### **Privacy Notice - Data Protection Act 1998**

We (**Name of School/Academy**) are the Data Controller for the purposes of the Data Protection Act. We collect information from you and may receive information about you from your previous School/Academy and the Learning Records Service. We hold this personal data and use it to:

- Support your teaching and learning
- Monitor and report on your progress
- Provide appropriate pastoral care
- Assess how well your School/Academy is doing

This information includes your contact details, national curriculum assessment results, attendance information<sup>8</sup> and personal characteristics such as your ethnic group, special educational needs and any relevant medical information. If you are enrolling for post 14 qualifications we will be provided with your unique learner number by the Learning Records Service and may also obtain from them details of any learning or qualifications you have undertaken.

***We will not give information about you to anyone outside the School/Academy without your consent unless the law and our rules allow us to.***

We are required by law to pass some of your information to the Local Authority and the Department for Education (DfE).

If you want to see a copy of the information we hold and share about you then please contact (**Insert name of School/Academy Administrator**).

If you require more information about how the Local Authority (LA) and/or DfE store data, please contact these bodies directly at the following addresses:

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<sup>8</sup> Attendance is not collected for pupils under 5 at Early Years Settings or Maintained School/Academies

- Somerset County Council Information Governance Team, County Hall, Taunton TA1 4DY.
- Email: [informationgovernance@somerset.gov.uk](mailto:informationgovernance@somerset.gov.uk)  
Tel: 01823-357194
- Public Communications Unit  
Department for Education  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT  
  
[www.education.gov.uk](http://www.education.gov.uk)  
[info@education.gsi.gov.uk](mailto:info@education.gsi.gov.uk)  
Telephone: 0870 000 2288
- Careers South West Ltd  
3 Mendip House  
High Street  
Taunton  
TA1 3SX  
[www.careerssw.org](http://www.careerssw.org)
- Capita SIMS  
<http://www.capita-sims.co.uk/>

### **In addition for Secondary School/Academies**

Careers South West Services - Once you are aged 13 or over we are required to pass on certain information to the Careers South West services. Careers South West is the government's support service for all young people aged 13 to 19 in England.

We must provide both your and your parents(s) name and address, and any further information relevant to the Careers South West services' role. However, you (if you are over 16) or your parents can ask that no information beyond name and address be passed to Careers South West.

Please inform **(Insert name of School/Academy Administrator)** if you wish to opt-out of this arrangement. For more information about Careers South West please go to the Careers South West website, see above.

## PRIVACY NOTICE

***School Workforce: those employed or otherwise engaged to work at a school or the Local Authority***

### Privacy Notice - Data Protection Act 1998

We [**Name of the school or Local Authority as appropriate**] are the Data Controller for the purposes of the Data Protection Act.

Personal data is held by the school / Local Authority [**Select which is appropriate**] about those employed or otherwise engaged to work at the school or Local Authority. This is to assist in the smooth running of the school and/or enable individuals to be paid. The collection of this information will benefit both national and local users by:

- Improving the management of school workforce data across the sector;
- Enabling a comprehensive picture of the workforce and how it is deployed to be built up;
- Informing the development of recruitment and retention policies;
- Allowing better financial modeling and planning;
- Enabling ethnicity and disability monitoring; and
- Supporting the work of the School Teacher Review Body and the School Support Staff Negotiating Body.

This personal data includes some or all of the following - identifiers such as name and National Insurance Number and characteristics such as ethnic group; employment contract and remuneration details, qualifications and absence information.

***We will not give information about you to anyone outside the school or Local Authority (LA) without your consent unless the law and our rules allow us to.***

We are required by law to pass on some of this data to:

- the LA [**Delete if not appropriate**]
- the Department for Education (DfE)

If you require more information about how the Local Authority (LA) and/or DfE store data please contact these institutions directly at the following addresses:

- Information Governance Officer  
Somerset County Council  
County Hall  
Taunton  
TA1 4DY  
Email: [informationgovernance@somerset.gov.uk](mailto:informationgovernance@somerset.gov.uk)

- Public Communications Unit  
Department for Education  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT  
Website: [www.education.gov.uk](http://www.education.gov.uk)  
Email: [info@education.gsi.gov.uk](mailto:info@education.gsi.gov.uk)  
Telephone: 0370 000 2288.
- Capita SIMS  
Franklin Court  
Stannard Way  
Priory Business Park  
Cardington  
BEDFORD  
MK44 3 JZ  
Website: [www.capita-sims.co.uk/](http://www.capita-sims.co.uk/)  
Telephone: 01234 838080

## 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
  - 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
- To send sensitive PROTECT level data outside the trusted SCC/NHS network, use the Securesend facility: <https://securesend.somerset.nhs.uk/>

#### 3. Use of phone and by text

- Only Not Protectively Marked (NPM) information can be sent by text. Phones cannot be encrypted and the data may be stored on servers whose security status is unknown to SCC. On no account should PROTECT or RESTRICTED material be sent by text

#### 4. Sending information by post

- Use window envelopes to display the intended address clearly
- Material that is classified as PROTECT or RESTRICTED should be hand delivered. This material should never be left unattended in transit, and should be transported in another secure bag
- Where this is not possible this should be sent by special delivery. This material should also be 'double-wrapped'; an outer envelope protects the inner envelope which is labelled PROTECT or RESTRICTED and contain the addressee's name
- Include a return address on the envelope
- Label the envelope 'For Addressee only' if needed

#### 5. Sending information by fax

- PROTECT or RESTRICTED 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