

# INFORMATION SHARING PROTOCOL

## SUMMARY SHEET

<b>Title of Agreement</b>		<b>Attendance Solutions Essex and Essex County Council</b>		
<b>Organisation Name</b>	<b>Head Office Address</b>	<b>Telephone</b>	<b>Email</b>	<b>ICO Registratio reference</b>
Essex County Council	County Hall. Chelmsford. Essex. CM1 1QH	08457 430430	informationgovernanceteam@essex.gov.uk	Z6034810
Attendance Solutions Essex	The Old Post Office 19 High Street Rowhedge Colchester Co5 7hq	07725667242	Gaynor.snare@attendancesolutionsessex.org	Z3074765
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<b>Agreement owner (Organisation)</b>		Essex County Council		
<b>Agreement drawn up by (Author(s))</b>		Rachel Anderson, Education Welfare Service		
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## Information Sharing Protocol – Attendance Solutions Essex and Essex County Council

### 1. Purpose

To enable the EWS and Attendance Solutions Essex to securely provide regular updates to issue Penalty Notices in relation to non-school attendance on behalf of Essex schools. This information will only be shared with Attendance Solutions Essex, where express consent has been obtained from the schools commissioning their services. To enable Attendance Solutions Essex to manage non-school attendance matters on behalf of the schools within Essex who commission their services.

#### **Circumstances for issuing a penalty notice**

A penalty notice can only be issued in cases of unauthorised absence. It would be considered appropriate to serve a notice in the following circumstances

- overt truancy
- parentally condoned absences
- five or more days of unauthorised leave of absence taken during term-time
- persistent late arrival at school i.e. after the register has closed – where the 'U' code has been used to record such late arrivals

A penalty notice may be issued in line with the agreed Essex Code of Conduct. Further details of the Code of Conduct may be found at the following link:

[http://www.essex.gov.uk/Publications/Documents/Code\\_Conduct.pdf](http://www.essex.gov.uk/Publications/Documents/Code_Conduct.pdf)

### 2. Information to be shared

Attendance Solutions Essex to ensure that copies of all Penalty Notices that they issue are sent to the EWS. The following data will be made available to the EWS during this process:

- Child name, home address and date of birth
- School at which child is on roll
- Full names of parent/carer(s) and address (where different from that of their child) – where a parent/carer's first name is not known, EWS must be provided with at least the first initial
- Date of birth of parent(s), where known



EWS and Attendance Solutions Essex to ensure that relevant information is shared on a regular basis in relation to cases that remain open to the EWS. This information will include:

- EWS to confirm as to whether payment is made to discharge the offence in question
- Details of school attendance patterns and any recorded unauthorised absences that occur
- Relevant information that is obtained through relevant persons – Attendance Solutions Essex and the EWS investigation into a case, where further discussion is required in relation to the findings
- Where prosecution is to be pursued, any court date which is booked in relation to a case and the resultant outcome (e.g. disposal given by court, adjournment dates, etc) – a letter is to be sent to the relevant school with a copy of this letter to be forwarded to Attendance Solutions Essex

### 3. Legal Basis for sharing information

In order to comply with the Data Protection Act (DPA) one requirement is that personal information is shared fairly and lawfully (Principle 1). In order to achieve this, organisations must comply with at least one condition from schedule 2 and, where sensitive information is included, at least one condition from schedule 3 of the DPA.

DPA schedule 2 conditions:

- to fulfil a legal duty; or
- to perform a statutory function; or
- to perform a public function in the public interest; or
- sharing is necessary for the legitimate interests of the data controller, or of the third party or parties to whom the data is disclosed, unless the rights or interests of the data subject preclude sharing.

DPA schedule 3 conditions:

- sharing information is necessary to establish, exercise or defend legal rights; or
- is necessary for the purpose of, or in connection with any legal proceedings; or
- to perform a statutory function; or
- it is in the substantial public interest and necessary to prevent or detect a crime and consent would prejudice that purpose

Other Statute or Law:

Section 23 of the Anti-Behaviour Act 2003 empowers designated local authority (LA) officers, head teachers (deputy and assistant headteachers authorised by them) and the police to issue penalty notices in cases of unauthorised absence from school.



The Education Penalty Notices (England) Regulations 2004 came into force on 27 February 2004.

The issuing of penalty notices must conform to all requirements of the Human Rights Act and equal opportunities legislation.

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

In law, an offence occurs if a parent fails to secure their child's regular attendance at school and that absence is not authorised by the school.

Penalty notices supplement the existing sanctions currently available under S444 Education Act 1996 or S36 Children Act 1989 to enforce attendance at school where appropriate. Penalty Notices offer parents the opportunity to discharge the offence of failing to ensure the regular attendance of their child at school.

#### 4. Access and individuals' rights

Subject Access is an individual's right to have a copy of information relating to them which is processed by an organisation.

Once information is disclosed from one agency to another, the recipient organisation becomes the **Data Controller** for that information. With regards to subject access requests, the **Data Controller** has a statutory duty to comply with section 7 of the DPA, unless an exemption applies. It is good practise for the recipient organisation to contact the originating organisation. This enables the originating organisation to advise the use of any statutory exemptions that may need to be applied prior to disclosure to the requesting individual. Communication should take place speedily thus allowing the servicing of the request to take place within the Statutory 40 calendar day, time period.

If a party receives a request for information under the Freedom of Information (FOI) Act [2000] that relates to data that has been disclosed for the purposes of this Information Sharing Protocol, it is best practice to seek advice from the originating organisation prior to release. This allows the originating organisation to rely on any statutory exemption under the provisions of the FOI Act and to identify any perceived harms. However, the decision to release data under the FOI Act is the responsibility of the agency that received the request.

Any request for information made under either the Freedom of Information Act or Subject Access request will be dealt with by the relevant partner agency with consultation (where necessary with other involved agencies).

Essex Partner Agencies' Information Sharing Agreements are made publicly available on the Whole Essex Information Sharing Framework website.

## 5. Keeping information secure

Security for the exchange of information will be achieved through

- All portable devices that hold information must have appropriate industry standard encryption
- Information must only be sent via secure email

Partners receiving information will:

- Ensure their employees can only access the shared information appropriate to their role;
- Ensure that their employees are appropriately trained to understand their responsibilities to maintain confidentiality and privacy;
- Protect the physical security of the shared information.
- Ensure that information will be hosted on secure servers based in the UK

## 6. Information format and frequency of sharing

- Verbally (face to face meetings or via the telephone)
- Electronically – via secure email
- Hard copy – via completed forms, print outs, other documents, sent through the Royal Mail system
- Where a piece of information relating to any given case becomes available for sharing by either Attendance Solutions or the EWS, this will be shared within five working days

## 7. Data Retention

All records will be held by Essex County Council in line with current specified archiving guidelines.

Attendance Solutions will retain the data held on their files for a maximum of 10 years or until the child leaves the partner school.

EWS requests that the data shared with Accredited Persons is used within one month and is securely destroyed within 3 months of using the data

## 8. Responsibility for exchanging these data and ensuring data are accurate

- ECC will ensure that data is accurate at the time of sharing with Attendance Solutions Essex.
- Attendance Solutions Essex is responsible for applying relevant quality assurance checks before using the shared information.



- If information is found to be inaccurate, it is the responsibility of Attendance Solutions Essex to notify the Data Controller. The Data Controller will ensure that the source data is corrected and will notify all recipients, who will be responsible for updating the information they hold.
- Attendance Solutions Essex will not be liable for any financial or other costs incurred by other parties to this protocol as a result of any information being wrongly disclosed by another party to this protocol or as a result of any negligent act or omission by another party to this protocol

For the purposes of this Protocol the responsibilities are defined as:

Data Controllers for this Protocol are: Essex County Council

Data Processors are Attendance Solutions Essex

Where Data Processors are a part of this Protocol, the data controller retains full responsibility for the actions of the data processor – if there is a data protection breach then the data controller remains responsible. The key obligation is that the processing by a data processor must be carried out under a written contract which requires the data processor to act only on instructions from the data controller. In the absence of a written contract a Partner to this protocol will be a data controller in its own right and will need to meet all the requirements of the Data Protection Act.

## 9. Complaints

Partner agencies will use their standard organisational procedures to deal with complaints from the public arising from information sharing under this protocol.

## 10. Breach of Confidentiality

*(Provided detail here of what the expectation in the event of a breach of the data sharing initiative. Including who should be contacted and reporting timescales).*

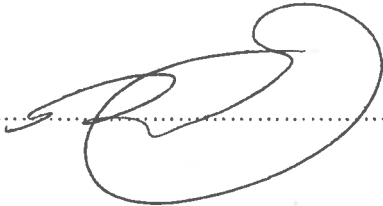
In the event of breach or loss of personal information received under this agreement, the organisation that provided it should be informed as soon as possible, to:

Essex County Council	informationgovernanceteam@essex.gov.uk
Attendance Solutions Essex	



**WEISF**

Print: DAN WILDS  
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Signed:   
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On behalf of  
(Organisation): ESSEX COUNTY COUNCIL  
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11. Agreement

We undertake to implement and adhere to this protocol.

Signed by Governance Lead

Print: Rayna SNAPE  
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Signed: [Signature]  
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On behalf of  
(Organisation): Attenua Solving Sex Ltd

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Signed by Governance Lead

Print: JULIE WEDDEN  
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Signed: [Signature]  
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On behalf of  
(Organisation): Education Welfare Service

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Signed by Governance Lead