



**Department
for Education**

**Data Sharing Agreement (DSA) for the
sharing of data**

between

the Department for Education

and

Essex County Council

**In Respect of the Exchange
Of 16-19 Funded Provision Information**

DfE and Local Authority data share

[Date of final agreement]



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1. Participants

Contact details:

Department for Education (“the DfE”)
Education and Skills Funding Agency - Data
Science.
Cheylesmore House,
5 Quinton Road,
Coventry, CV1 2WT

Essex County Council (“the LA”)
County Hall
Market Road
Chelmsford, CM1 1QH
0345 7430430
contact@essex.gov.uk

Participants and role of the data share

The DfE is a data controller of the data to be supplied to the LA. It processes the data for purposes described in its information management charter and relevant privacy notice. The DfE information management charter and ESFA privacy notice, together with contact details for the DfE’s data protection officer, are published here:

<https://www.gov.uk/government/organisations/department-for-education/about/personal-information-charter>

<https://www.gov.uk/government/publications/esfa-privacy-notice>

The LA requires the data as a data controller. It processes the data for purposes described in its relevant privacy notice.

The data share is necessary to enable the LA to fulfil its statutory duties related to participation of individuals in England in education, training and employment.

2. Formalities

This DSA will come into effect on [Insert date here]. *(This will be the date that the DSA is signed by both Participants.)*

The date of the review of this DSA is **April 2019**

Governance for data share approval

The DfE has approved the sharing of personal data through its Data Sharing Approval Panel (DSAP) to establish that any sharing of personal data under this DSA is legally compliant and in line with GDPR principles. As part of this approvals process officials, including senior data and legal experts, assess the application for public benefit, proportionality, Data minimisation, legal underpinning, and that the strict information security standards we enforce have been satisfied. DfE’s aim is to be transparent about all requests and we publish details regarding all personal level Data sharing.

Monitoring and reviewing arrangements

The arrangements described in this DSA will be reviewed as described above or sooner where a variation of arrangements is requested or the DfE or the LA serves notice to suspend sharing under the terms of the DSA. Where a material variation to



the DSA is requested (for example, where there is a request to vary the data to be shared by the DfE or the purpose for which the data will be processed by the LA), then that request will be referred to the DSAP for further approval.

3. Nature and classification of the data share

The data, which includes personal data and Special Category Data as defined in Data Protection legislation, is described in Annex A of the DSA.

The data is shared in accordance with the frequency described in Annex A of the DSA.

In accordance with the HM Government classification scheme, the data is classified and labelled as OFFICIAL

4. Permitted uses of the data in respect of this DSA

The LA agrees only to process the data for the purposes set out in Annex A. Where the LA seeks to process the data for purposes other than those described in Annex A, it will obtain the prior written agreement of the DfE and a variation to Annex A will be recorded.

5. Data protection

Each Participant agrees to ensure it complies with and will maintain compliance with its obligations under the General Data Protection Regulation (2018) (GDPR), Data Protection Act 2018 and related data protection legislation in relation to its control of the data shared under the DSA including, but not limited to, ensuring the data is processed:

- lawfully, fairly and in a transparent manner in relation to individuals;
- for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- accurate and, where necessary, kept up to date;
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;
- in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures

Each Participant acknowledges that, as a controller of the data, it is responsible for, and must be able to demonstrate compliance with, its accountability responsibilities under Article 5 of the GDPR in relation to the data shared under the DSA

6. Legal basis for processing data

The DfE and the LA are legally obliged to handle personal data according to the requirements of the GDPR, the Data Protection Legislation and the Human Rights Act (HRA) 1998, along with any other relevant legislation.



The data is processed by the DfE in accordance with the Apprenticeship, Skills Children and Learning Act 2009 (section 122).

The data is processed by the LA in accordance with provisions of the Education and Skills Act 2008 and the Apprenticeships, Skills, Children and Learning Act 2009 (section 41)

Lawful conditions for processing personal data

The DfE and the LA each processes the data for the purposes described in the DSA in performance of the DfE and LA's respective public tasks.

Third party data processing

The LA is permitted to contract with a third party to process the data on its behalf, subject to the LA ensuring the third party is contractually required only to process the data on behalf of the LA in accordance with the terms and conditions in this DSA and details of the third party are notified in Annex .

The right to respect for private and family life

The data will be processed by the LA only in accordance with the lawful basis set out in this agreement and any contact that is necessary with a data subject as part of the LA fulfilling its purpose in processing the data will minimise intrusion.

Common law duty of confidentiality

Both Participants acknowledge that they owe a Common Law Duty of Confidentiality in relation to its processing of the data. This Duty does not give rise to an absolute right, and an obligation of confidence can be overridden where it can be demonstrated that it is in the public interest to disclose the information. Each party acknowledges an overriding public interest in ensuring that it can fulfil its statutory duties by processing the data as described in the DSA.

7. Processing requirements

Fairness

The data is required by the LA to enable it to fulfil its statutory obligations. The processing of the shared data by the LA in accordance with its statutory obligation enables the LA to maximise the number of individuals for which it has an obligation in England who are in education, employment or training in England.

Privacy notices

Both Participants shall ensure that their respective Privacy Notices, as referred to in Section 1 of the DSA, sufficiently describe the data sharing activity specified in the DSA, including the purpose of the processing and the lawful basis for the processing.

Data minimisation

Only the minimum of personal data is to be processed by the Participants to fulfil their respective purposes. Where either party identifies that the data includes personal data that exceeds the minimum necessary in order to enable the LA to fulfil its purpose, the DfE or LA should notify the other party in order to vary arrangements in order to minimise its further processing of personal data.



Accuracy of data

Each participant will maintain systems and processes to maintain the accuracy and integrity of the data.

Method of delivery of data

The data is to be transmitted by the DfE to the LA using a method commensurate with the classification, volume and sensitivity of the data.

The data is sent by the DfE to the key recipient for the LA in a suitably encrypted and password protected file. The password to access the file is only supplied separately to the key recipient of the LA after the key recipient acknowledges safe receipt of the encrypted file.

Where the key recipient for the LA cannot accept the encrypted file as described above due to technological constraints, the data is transmitted by the DfE using an alternative securely encrypted process to afford the LA restricted access to the data.

Key recipient of data

The LA will provide details of the key recipient of the data in Annex B of the DSA. The key recipient must be an employee of the LA. It is the responsibility of the LA to ensure that the most up-to-date details of the key recipient are supplied to the DfE.

8. Handling of requests in relation to the data

Each Participant is responsible for handling a data protection Subject Access Requests (SAR) that it receives from individuals who are the subject of the shared data in accordance with its obligations under the GDPR, Data Protection Act 2018

Each Participant is responsible for handling a request for information under the Freedom of Information Act 2000 (FoIA) in accordance with its obligations under the FoIA.

9. Data security

Systems and processes used in processing the data

The DfE will ensure that the data, when processed for its own purposes as a data controller, is processed in accordance with the security requirements under the HM Government Security Policy Framework. The policy applied by the DfE can be accessed here:

<https://www.gov.uk/government/publications/security-policy-framework>

The LA will process the data as a controller of the data only for the purposes in this DSA using systems and processes to safeguard the data in accordance with its legal obligations, the classification of the data, and the security policy requirements for protection of personal data required of the LA.

The LA's policy to safeguard the data can be accessed here:



POLICY_Data_Protec
tion.docx



Passwords Network
& Systems Security P



Retention and destruction of data

The LA shall only retain the data as long as necessary in order to fulfil its purpose for processing the data in accordance with the DSA, and is responsible for the secure destruction of the data in accordance with Local Authority guidelines when retention of the data is no longer necessary.

Onward disclosure of data

Both Participants will ensure that only people who have a genuine business need to see the data will have access to it for the purposes set out in this DSA.

Assurance of compliance

The LA, as a data controller of the data, is responsible for assuring itself of any contracted third party's compliance with GDPR, the Data Protection Act and any other relevant legislation in relation to the contracted third party processing the data on behalf of the LA.

Security breaches, security incidents, loss or unauthorised disclosures of data

Each Participant is responsible for the management of a security breach, security incident, loss or unauthorised disclosure of data in relation to its control of the data shared under this DSA, including any notification to the Information Commissioner.

A security breach is a situation where the rules on handling and protecting information or equipment have been broken.

A security incident is a situation which results in the loss or theft of, or unauthorised access to, the parties involved in data sharing or equipment.

Examples of serious security breaches, incidents, loss or unauthorised disclosure may include, but are not limited to:

- accidental loss or damage to information;
- damage or loss of information by means of malicious software/hacking;
- deliberate or knowingly disclosure of information to a person not entitled to receive the information; emailing classified/sensitive information to personal email accounts;
- leaving classified/sensitive papers in a unsecure or publicly accessible area;
- using social networking sites to publish information which may bring either Participant's organisations into disrepute.

The designated points of contact in Section 1 of the DSA are responsible for notifying the other Participant in writing in the event of loss or unauthorised disclosures of information within 24 hours of the event.

The designated points of contact will discuss and agree the next steps relating to the incident, taking specialist advice where appropriate. Such arrangements will include (but will not be limited to) containment of the incident and mitigation of any ongoing risk, recovery of the information, and assessing whether the DPO / Information Commissioner and/or the data subjects will be notified. The arrangements may vary in each case, depending on the sensitivity of the information and the nature of the loss or unauthorised disclosure.



Where appropriate and if relevant to the incident, disciplinary misconduct action and/or criminal proceedings will be considered.

10. Issues, disputes and resolution between participants

Any issues or disputes that arise as a result of exchange covered by this DSA must be directed to the relevant contact points listed in Annex B. Each Participant will be responsible for escalating the issue as necessary within their given commands.

Where a problem arises it should be reported as soon as possible. Should the problem be of an urgent nature, it must be reported by phone immediately to the designated business as usual contact (listed in annex B) and followed up in writing the same day. If the problem is not of an urgent nature it can be reported in writing within 24 hours of the problem occurring.

11. Costs / charging

There are no charges made to one Participant by the other as a direct result of this DSA.

12. Termination

This DSA may be terminated by giving three months' notice by either Participant.

Both Participants to this DSA reserve the right to terminate this DSA with three months' notice in the following circumstances:

- by reason of cost, resources or other factors beyond the control of the DfE
- if any material change occurs which, in the opinion of the DfE and the LA following negotiation significantly impairs the value of the data sharing arrangement in meeting their respective objectives.

Upon termination, the data held by the LA will retained only for as long as necessary.

In the event of a significant security breach or other serious breach of the terms of this DSA by either Participant the DSA will be terminated or suspended immediately without notice.



13. Signatories

[Name of department/organisation X]

Essex County Council

Name of head of business area:

Margaret Lee
Executive Director, Corporate and Customer
Services and Senior Information Risk Owner
Signature of SIRO:

Signature of head of business area:

.....
Margaret Lee
.....

Date: [date]

Date: 29/10/18

Annex A – Data to be shared

1. The purposes for which the data will be processed by the LA

Data and MI reports are produced to provide a single source of data and information to support LAs with their planning and allocations. The reports include only data owned or used by the ESFA to produce allocations. However, links to other sources of information are included to ensure local authorities can quickly access data and information which they might find useful.

The products aim to provide a balance between a regular supply of data and a comprehensive data source to inform decision making.

The reports have been developed to inform LAs' overview of the provision on offer to young people in their area

2. Description of the data to be shared

16 to 18 Data and MI Report that includes:

- Further education colleges; independent learning providers (ILPs) and; higher education institutions that receive funding from the Education and Skills Funding Agency (ESFA)
- ILR data for FE and schools census data for learner responsive provision

ESFA Funded Pivot Table

- This contains more detailed data than the PDF reports and enables you to conduct further analysis for your LA

3. Schedule for sharing data i.e. frequency / any agreed dates etc.

The reports are produced annually in June and updated in December. This agreement only covers the June 2018 report and December 2018 update.



Annex B - Details of key recipient for the Local Authority

Lindsey Austin
Commissioner for Skills Development
Economy, Localities & Public Health
Essex County Council
County Hall
Market Road
Chelmsford, CM1 1QH
0333 013 0940
lindsey.austin@essex.gov.uk

Key recipient must be an employee of the Local Authority

Annex C - Details of third party with whom an LA contracts to process data on its behalf

Essex Employment and Skills Board
c/o Caroline Betts
Skills Development Manager
Essex County Council
County Hall
Market Road
Chelmsford, CM1 1QH
033301 30973
caroline.betts2@essex.gov.uk

To support ECC's strategic influencing role with local stakeholders

