** INFORMATION SHARING PROTOCOL**

# SUMMARY SHEET

**Title of Agreement: Legal Interventions for School Non-attendance**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Organisation Name | Head Office Address | Phone | Email | Named Data Protection Officer | ICO Notification reference |
| Essex County Council | County Hall, Market Road Chelmsford, CM1 1QH | 08457 430430 | [dpo@essex.gov.uk](mailto:dpo@essex.gov.uk) | Paul Turner | Z6034810 |
| ECS Pupil Attendance | Top Floor, Corner House, Market Place, Braintree Essex CM7 3HQ |  | [admin@ecspupilattendance.co.uk](mailto:admin@ecspupilattendance.co.uk) | Clare Morgan | ZA532736 |

**Version Control**

|  |  |
| --- | --- |
| Date Protocol comes into force | 01 July 2022 |
| Date of next Protocol review | 01 July 2025 |
| Protocol Lead Organisation | Essex County Council |
| Protocol drawn up by (Author(s)) | Lauri Almond/Phillip Turner |
| Status– DRAFT/FOR APPROVAL/APPROVED | Approved |
| Version | v.2 |

**Wider Eastern Information Stakeholder Forum**

This Information Sharing Protocol is designed to ensure that information is shared in a way that is fair, transparent and in line with the rights and expectations of the people whose information you are sharing.

This protocol will help you to identify the issues you need to consider when deciding whether to share personal data. It should give you confidence to share personal data when it is appropriate to do so but should also give you a clearer idea of when it is not acceptable to share data.

Specific benefits include:

* minimised risk of breaking the law and consequent enforcement action by the Information Commissioner’s Office (ICO) or other regulators;
* greater public trust and a better relationship by ensuring that legally required safeguards are in place and complied with;
* better protection for individuals when their data is shared;
* increased data sharing when this is necessary and beneficial;
* reduced reputational risk caused by the inappropriate or insecure sharing of personal data;
* a better understanding of when, or whether, it is acceptable to share information without people’s knowledge or consent or in the face of objection; and reduced risk of questions, complaints and disputes about the way you share personal data.

Please ensure all sections of the template are fully completed with sufficient detail to provide assurance that the sharing is conducted lawfully, securely and ethically.

|  |  |  |
| --- | --- | --- |
| Item | Name/Link /Reference | Responsible Authority |
| Data Protection Impact Assessment (DPIA) |  |  |
| Supporting Standard Operating Procedure |  |  |
| Associated contract |  |  |
| Associated Policy Documents |  |  |
| Other associated supporting documentation |  |  |

1 – Purpose

|  |
| --- |
| The sharing is necessary to enable the Attendance Compliance Team and ECS to securely share information to refer to ECC for legal intervention in relation to non-school attendance on behalf of Essex schools. This information will only be shared with ECS, where express consent has been obtained from the schools commissioning their services.  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:  <https://schools.essex.gov.uk/pupils/Attendance_Compliance/Documents/Code%20of%20Conduct%20April%202019.pdf>  Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximize 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. |

2 – Information to be shared

|  |  |
| --- | --- |
| ECS | Data field/description |
|  | * Child name |
|  | * Child address |
|  | * Date of Birth |
|  | * School name |
|  | * Full names of parent/carers |
|  | * Address of parent/carers |
|  | * Parent/carer date of birth |
|  | * UPN |
| Essex County Council/ ECS | Data field/description |
|  | * Whether payment is made to discharge the offence |
|  | * Details of school attendance patterns and any recorded unauthorised absences that occur |
|  | * Relevant information relating to the investigation into a case, where further discussion is required in relation to the findings |
|  | * Any court date booked in relation to a case and the resulting outcome |
|  | * Letters to schools on the issue. |

3. Legal basis

The identified conditions for processing under the Data Protection Act 2018:

|  |  |  |
| --- | --- | --- |
| Personal Data (identifiable data) | Special Categories of Data  (Sensitive identifiable data – if applicable) | Law Enforcement data  (if applicable e.g. community safety) |
| Article 6: *[please click Choose an item and select]* | Article 9: (if appropriate): *[please click Choose an item and select]* | DPA Part 3 (if appropriate): *[please click Choose an item and select]* |
| Legal Obligation | Substantial Public Interest | Administration of Justice |
| Public Task | Choose an item. | Choose an item. |
| Legitimate Interests | Choose an item. | Choose an item. |

Please list below relevant legislation or statute empowering this sharing activity:

|  |
| --- |
| Section 23 of the Anti-Behaviour Act 2003 empowers designated local authority officers, head teachers (Deputy Headteachers and Assistant Headteachers) and the police to issue penalty notices in cases of unauthorised absence from school.  The Education Penalty Notices (England) Regulations 2004 – The issuing of penalty notices must conform to all requirements of the Human Rights Act and equal opportunities legislation.  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. Responsibilities

|  |  |  |
| --- | --- | --- |
| For the purposes of this Protocol the responsibilities are defined as follows:  For help go to [Controllers and processors | ICO](https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/key-definitions/controllers-and-processors/) | Tick box | Organisation Name(s) |
| The Sole Data Controller for this sharing is: |  |  |
| The Joint Data Controllers for this sharing are: |  | Both Partners to this ISP |
| In the case of Joint Data Controllers, the designated single contact point for Individuals is: |  | Essex County Council |
| Data Processors supporting the processing carried out under this protocol are (please list names): |  |  |

This Protocol will be reviewed three years after it comes into operation, or sooner should a breach occur or circumstances change, to ensure that it remains fit for purpose. The review will be initiated by the Lead Organisation (see page one).

5. Data Subject Rights

It is each Partner’s responsibility to ensure that they can comply with all of the rights applicable to the sharing of the personal information. Partners will respond within one month of receipt of a notice to exercise a data subject right. It is for the organisation initiating this ISP to identify which rights apply, and then each Partner has a legal responsibility to ensure they have the appropriate processes in place.

|  |  |
| --- | --- |
| Data Subject Rights  Select the [applicable rights](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/) for this sharing according to the legal basis you are relying on | Check box to confirm processes are in place |
| UK GDPR Article 13 & 14 – Right to be Informed – Individuals must be informed about how their data is being used. This sharing must be reflected in your privacy notices to ensure transparency. |  |
| UK GDPR Article 15 – Right of Access – Individuals have the right to request access to the information about them held by each Partner |  |
| UK GDPR Article 16 – Right to Rectification – Individuals have the right to have factually inaccurate data corrected, and incomplete data completed. |  |
| UK GDPR Article 17 (1) (b) & (e) – Right to be forgotten – This right may apply where the sharing is based on Consent, Contract or Legitimate Interests, or where a Court Order has demanded that the information for an individual must no longer be processed. Should either circumstance occur, the receiving Partner must notify all Data Controllers party to this protocol, providing sufficient information for the individual to be identified, and explaining the basis for the application, to enable all Partners to take the appropriate action. |  |
| UK GDPR Article 18 – Right to Restriction – Individuals shall have the right to restrict the use of their data pending investigation into complaints. |  |
| UK GDPR Article 19 – Notification – Data Controllers must notify the data subjects and other recipients of the personal data under the terms of this protocol of any rectification or restriction, unless it involves disproportionate effort. |  |
| UK GDPR Article 21 – The Right to Object – Individuals have the right to object to any processing which relies on Consent, Legitimate Interests, or Public Task as its legal basis for processing. This right does not apply where processing is required by law (section 3). Individuals will always have a right to object to Direct Marketing, regardless of the legal basis for processing. |  |
| UK GDPR Article 22 – Automated Decision-Making including Profiling – the Individual has the right to request that a human being makes a decision rather than a computer, unless it is required by law. The individual also has the right to object to profiling which places legal effects on them. |  |
| Freedom of Information (FOI) Act 2000 or Environmental Information Regulations (EIR) 2004 relates to data requested from a Public Authority by a member of the public. 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/exception and to identify any perceived harms. However, the decision to release data under the FOI Act or EIR is the responsibility of the agency that received the request. |  |

6. Security of Information

The Partners to this protocol agree that they will apply appropriate technical and organisational security measures which align to the volume and sensitivity of the personal data being processed in accordance with article 32 of the UK GDPR as applied by the Data Protection Act 2018.

|  |  |
| --- | --- |
| There are good quality access control systems in place |  |
| Paper information is stored securely |  |
| Paper and electronic information is securely destroyed with destruction log for electronic information |  |
| Laptops and removable media such as memory sticks are secured when not in use |  |
| Technical security appropriate to the type of information being processed is applied |  |
| Arrangements are in place to meet the requirements for confidentiality, integrity and availability |  |
| Disaster recovery arrangements are in place |  |
| Encryption of personal data is fully implemented |  |
| Data minimisation has been considered |  |
| Can pseudonymised or anonymised data be used to meet your processing needs? |  |
| There are sufficient access controls for systems/networks in place |  |
| Routine and regular penetration tests are carried out |  |
| Article 40 Codes of Conduct are adhered to (where applicable) |  |
| Appropriate security is applied to external routes into the organisation; for example, internet firewalls and remote access solutions |  |
| Confirm entry in Records of Processing Activity |  |

Partners receiving information will:

* Ensure that their employees are appropriately trained to understand their responsibilities to maintain confidentiality and privacy
* Protect the physical security of the shared information
* Restrict access to data to those that require it, and take reasonable steps to ensure the reliability of employees who have access to data, for instance, ensuring that all staff have appropriate background checks
* Maintain an up-to-date policy for handling personal data which is available to all staff
* Have a process in place to handle any data breaches involving personal data, including notifying relevant third parties of any breach
* Ensure any 3rd party processing is agreed as part of this protocol and governed by a robust contract and detailed written instructions for processing.

7. International Transfers **(Not applicable)**

# 8. Format & Frequency

* The format the information will be shared in depends on the medium by which the data is shared.
* The frequency with which the information will be shared is as and when required, and within 5 working days of the need arising.

# 9. Data Retention

Information will be retained in accordance with each partners’ published data retention policy available on their websites, and in any event no longer than is necessary for the purpose of this protocol. All data beyond its retention will be destroyed securely.

# 10. Data Accuracy

Please check this box to confirm that your organisation has processes in place to ensure that data is regularly checked for accuracy, and any anomalies are resolved

# 11. Personal Data Breach Notifications

Where a data breach linked to the sharing of data under this protocol is likely to adversely affect an Individual, all involved Partners must be informed within 48 hours of the breach being detected. The email addresses on page 1 should be used to contact the Partners. The decision to notify the ICO can only be made after consultation with all other affected Partners to this protocol, and where notification to the ICO is required, it must be made within 72 hours of the breach being detected. Where agreement to notify cannot be reached within this timeframe, the final decision will rest with the Protocol Lead Organisation as depicted on page one.

All involved Partners should consult on the need to inform the Individual, so that all risks are fully considered, and agreement is reached as to when, how and by whom such contact should be made. Where agreement to notify cannot be reached, the final decision will rest with the Protocol Lead Organisation as depicted on page one.

All Partners to this protocol must ensure that robust policy and procedures are in place to manage data breaches, including the need to consult Partners where the breach directly relates to information shared under this protocol.

# 12. Complaint Handling

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

# 13. Commencement of Protocol

This Protocol shall commence upon date of the signing of a copy of the Protocol by the signatory partners. The relevant information can be shared between signatory partners from the date the Protocol commences.

# 14. Withdrawal from the Protocol

Any partner may withdraw from this protocol upon giving 4 weeks written notice to the Protocol Lead Organisation stated on page one, who will inform other partners to the protocol. The leaving Partner must continue to comply with the terms of this Protocol in respect of any information that the partner has obtained through being a signatory. Information, which is no longer relevant, should be returned or destroyed in an appropriate secure manner.

# 15. Agreement

This Protocol has been approved by the responsible person within each organisation (DPO/SIRO/Caldicott Guardian/Chief Information Officer). Signed copies should be retained by the Lead Organisation for the lifetime of the Protocol plus two years. Email copies of the approval are available on request

|  |  |
| --- | --- |
| Protocol Partner Organisation |  |
| Partner Organisation | ECS Pupil Attendance |
| Role of Partner Signatory | Company Director |
| Name of Partner Signatory | Clare Morgan |
| Date | 01/11/2022 |

Signed Protocols, or emails of approval should be sent to the Lead Organisation at: [igteam@essex.gov.ukv](mailto:igteam@essex.gov.ukv)