

MAISP Tier 3 - Data Protection Protocol for data sharing between the Council and post 16 providers

INTRODUCTION

This agreement is a Tier 3 Protocol under the Tier 2 Agreement for data sharing for educational purposes.

REFERENCE NUMBER T3EPSP001

VERSION 1.0

DATE AGREEMENT COMES INTO FORCE: 01/09/2024

PURPOSE

The purpose of this agreement is to:

- Support young people who should be in education or training by providing a framework for the sharing of personal data to enable the Council, schools and colleges to carry out their statutory duties around Post 16 education
- Support schools by providing a framework for the sharing of destination data for the purpose of evaluating and improving policies, guidance and support for current and future students and to help meet Gatsby Benchmark requirements. In some cases, consent from students is required in order to receive this data.

SCOPE

The Council and Education settings have statutory duties under the Education and Skills Act 2008 in respect of young people's education and training. This protocol sets out the information that the respective parties will share with one another to support the effective delivery of these duties and public tasks.

ORGANISATIONS COVERED BY THIS AGREEMENT AND THEIR ROLES

This agreement is for Surrey County Council and the providers of post 16 education: schools and colleges. All parties are Data Controllers in their own right.

DATA PROCESSING AND IMPACT ASSESSMENTS (DPIA)

The Council has undertaken a DPIA (Data Protection Impact Assessment) for this processing.

THE LEGAL FRAMEWORK

Each signatory agency to this Protocol undertakes to co-operate fully with each-other within the parameters of the following legislative instruments:

- Data Protection Act 2018
- UK General Data Protection Regulation (UK GDPR)

- Human Rights Act 1998
- Common Law Duty of Confidentiality

LEGAL BASIS FOR PROCESSING

Each partner shall ensure that it processes shared personal data fairly and lawfully. The legal basis for sharing the data is below – see also the sections on Duties of the Council and Duties of Education Providers.

Article 6(1)(c) For compliance with a legal obligation

Article 6(1)(e) For the performance of a task carried out in the public interest

The relevant legislation is the Education and Skills Act 2008,
<http://www.legislation.gov.uk/ukpga/2008/25/part/1/chapter/2>

This is supported by statutory guidance

https://assets.publishing.service.gov.uk/media/660e971663b7f8001fde187f/Participation_of_young_people_in_education_employment_or_training.pdf

Consent – Consent from students is not needed for most of the processing and sharing set out in this agreement. The DfE Destinations Data Good Practice Guide for Schools https://assets.publishing.service.gov.uk/media/5bc0b84fed915d732e704654/Destinations_good_practice_guide_for_publishing.pdf makes it clear that:

Local authorities have a statutory duty to record the destinations of 16 year olds and to track and support all young people in their area (16 and 17 year olds). This duty extends to young people with special educational needs and disabilities up to the age of 25.

Schools and post-16 educational institutions have a statutory duty to provide data to local authorities to support these duties.

As these are statutory duties, local authorities and schools / colleges do not need consent to collect this data.

The guidance also makes clear that local authorities can share destination information with the school that the young person attended.

However, the guidance does state that schools need to have students' consent in order to track their post-16 destinations (unless the student is at a school sixth form, in which case the school does not need consent). Therefore, schools must ensure that they have valid consent in place before asking the Council to share destination information back to them regarding post 16 students. It is the responsibility of the schools to manage this process.

DUTIES OF THE COUNCIL

Under the Education and Skills Act 2008, Surrey County Council has statutory duties in relation to young people aged between 16-18, or up to 25 where an EHCP is in place. The Council must make arrangements to establish:

- a. The identities of all relevant young people who are resident and/or attended school in Surrey; and
- b. Whether they are participating in education or training; and

c. where they are in education or training, the level at which they are studying and the programmes type; or

d. where they are in employment, whether the employment is with or without training and the name of the employer.

In order to fulfil the Council's tracking obligations, there is a need to know where young people go initially in September. The Council also needs to know who drops out before completing their studies, in order to follow-up with them and offer support to get them into an alternative destination. Information to support this is required from post 16 providers through different collections, including the September guarantee.

DUTIES OF POST 16 PROVIDERS

Under the Education and Skills Act 2008, supplemented by guidance from the Department of Education, all providers of education and training are required to provide relevant information about young people as requested by the local authority. This includes

(a) the name, address and date of birth of the pupil or student;

(b) the name and address of a parent of the pupil or student;

(c) information in the institution's possession about the pupil or student.

A parent or guardian can request that only (a) and (b) are passed to their local authority or provider of youth support services by informing the education provider. This right is transferred to the young person once he/she reaches the age 16.

There is no need for the learner to opt-in to sharing the information above, only to opt-out of (c) if they wish to.

Statutory guidance from the Department for Education, available via the link below, makes it clear that providers must notify the Local Authority when a learner drops out of learning so that they can be contacted swiftly and offered support to help them re-engage. For this reason, the Council requires providers to share telephone numbers in addition to addresses, as written communication has a poor response rate.

Additionally, education providers who do not have sixth forms want to know the destination of their post-16 students. This is not a statutory requirement but would enable the providers to review student destination data for the purpose of evaluating and improving policies, guidance and support for current and future students and will help them to meet their Gatsby Benchmark requirements. National guidance on improving careers education advises that all schools should be tracking post-16 destinations for 3 years after the pupil completes Year 11. This enables them to understand the learner journey beyond statutory schooling and support the development of an effective careers guidance strategy.

CATEGORIES OF DATA SUBJECT

- Young people aged 16 and 17, and those aged up to 25 who have an Education Health and Care Plan, who are subject to the duty to participate in education or training
- Their parents and/or carers
- Staff who work with/support the children and young people

WHAT INFORMATION WILL BE SHARED

Information shared with the Council by Providers – Statutory sharing

The Council requires information to be provided for Learners on Roll, Leavers, Early Leavers and September Guarantee. Each of these collections are described below and are all required in line with the Education Skills Act and the DfE's Statutory Guidance referenced above. Appendices One and Two contain the full data request sheets.

The personal data to be shared includes:

Unique learner Number (ULN), name, address, date of birth, phone numbers, courses studied, destination data and gender

Special category data – ethnicity and health information where relevant to education

Early Return for Learners on Roll

For Schools

The first school census return, made in the autumn term to DfE is not made available to Local Authorities immediately, which means that the Council cannot ascertain where learners have gone in time to record destinations and, crucially, identify young people whose status remains unknown in time to complete the annual Activity Survey for the DfE.

If the Council cannot identify where all 16 and 17 year olds have gone by early October, the Council will be forced to contact every young person whose destination is unknown since the September Guarantee return, which will mean telephoning and potentially carrying out home visits to learners who are happily enrolled in sixth forms. This tends to attract complaints from both learners and their parents and is needless. It will also reflect very badly on the Council within statistics published by the DfE.

Local Authorities need to have arrangements in place to confirm young people's current activity at regular intervals and all post-16 providers have a statutory obligation to provide information under the Education and Skills Act 2008. The Council is therefore requesting that all post-16 providers share with us information on the young people they have on roll, in advance of the first official funding return. The address information will be entered into the Council's system to establish whether learners come under Surrey from a DfE perspective, which will depend on where they attended school between the ages of 11 and 16, rather than their home address. There are quirks to the DfE system which mean that Surrey residents may not necessarily come under the jurisdiction of Surrey County Council. We will not contact any learners who are recorded as being on roll within our institutions.

For Colleges

The first ILR return to the ESFA, R04, is made in December. If we were to wait until this point, we would not be able to ascertain where learners have gone in time to record destinations and, crucially, identify young people whose status remains unknown and contact them in time to complete the annual Activity Survey for the Department for Education (DfE). This return must be made at the beginning of each January. If we cannot identify where all 16-18 year olds have gone by the end of September, we will be forced to contact every young person whose destination is unknown since the September Guarantee return, which will mean us telephoning and potentially carrying out home visits to learners who are happily enrolled in your colleges. This tends to attract complaints from both learners and their parents and is needless. It will also reflect very badly on the Local Authority within statistics published by the DfE.

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Information on Leavers – For both Schools and Colleges

We require post-16 providers to share information on all young people, from Year 12 who leave at the end of the summer term.

Early Leavers/Withdrawals – For both Schools and Colleges

For learners who drop out of their studies early, the Council requires notification as soon as practicable and within a fortnight of their confirmed withdrawal date.

September Guarantee Information

For Schools

The Council needs to know the intended destinations of all Year 11 learners. In addition, the Council needs to know if schools have made offers of sixth form places to any learners who did not attend the main school.

Lastly, to fulfil DfE requirements, the Council needs confirmation of offers made to the school's Year 12 learners for places in Year 13. Although the majority of learners will be on two-year courses, young people often change courses, or institutions, after Year 12 and, to emulate the approach adopted by other Local Authorities, the Council is seeking confirmation for all learners within school sixth forms.

For Colleges

The Council will need to know about learners who are in year 11 and applying to join colleges in the next academic year.

The Council also requires information regarding Year 12 learners who are intending to continue into Year 13 in the next academic year.

SERVICES AND SUPPORT PROVIDED BY THE COUNCIL

Surrey County Council has a duty to provide support for young people and seeks to support college partners wherever possible. In return for the provision of information outlined in the points above, the Council can provide a number of services.

1. Support for any young people identified as being at high risk of dropping out of provision, where the issues impacting them fall within the 'targeted help' area of 'The Surrey Effective Support Windscreen' levels of need (Effective Family Resilience Surrey) www.surreyscp.org.uk/wp-content/uploads/2018/12/Effective-family-resilience-SSCB-Final-March-2019.pdf.

If the child requires targeted support, they will be allocated a Targeted Youth Support worker to co-ordinate their support plans and to work with the educational setting.

2. Advice, guidance and support through the Special Educational Needs and Disabilities (SEND) teams where a young person has an Education, Health and Care Plan or where an assessment for SEN difficulties is pending or sought.
3. For any learners who drop out of college, internal procedures for continued engagement should be followed and Surrey's Tracking Team should be notified (by email to datasharing@surreycc.gov.uk). Surrey's support offer for NEET young people is in development and there will be some provision to re-engage these young people into suitable learning and employment opportunities.
4. A brokerage service to pass on information relating to starts, leavers (including withdrawals) and confirmed offers to other Local Authorities from which colleges accept learners. This has previously been covered by appropriate data-sharing arrangements, but the DfE has now confirmed that Local Authorities may exchange information on young people to be used for tracking purposes without the need for agreements, as part of their statutory duties. This will alleviate the need for colleges to enter into separate agreements with multiple Authorities.

Information shared with schools and colleges by the Council – Consent needed by schools and colleges in some cases

Schools and colleges may wish to collect destination data for their former students. This is not a statutory requirement but would enable the establishments to review student destination data for the purpose of evaluating and improving policies, guidance and support for current and future students. It would also help the establishments to meet their Gatsby Benchmark requirements. The DfE guidance, *Destinations data, Good practice guide for schools, 2018*

(https://assets.publishing.service.gov.uk/media/5bc0b84fed915d732e704654/Destinations_good_practice_guide_for_publishing.pdf) explains the benefits of collecting information on the longer-term outcomes of students. The guidance also explains that the Council can share destination data with schools but that the schools need the young person's consent (unless the student is at a school sixth form, in which case the school does not need consent) to track their destination after 16 years old,

DfE therefore recommend that schools routinely seek consent from their students in Year 11 to collect and maintain information on them once they have left school. It is vital that this consent is obtained in order to collect information about past students.

Schools and colleges may request their students' destinations from the Council only if they hold appropriate and valid consent from the students. It is the responsibility of the schools and colleges to obtain and manage this consent from their students. Information must not be sought from the Council if this consent is not in place.

Subject to appropriate consents being in place, if needed, the data shared will be:

Forename, Surname, DoB, UPN/ULN, Destination

ROLES & RESPONSIBILITIES

Organisations will act as separate Data Controllers, processing for their own purposes. Where a party wishes to appoint a Data Processor to process the shared data, the organisation must ensure that this is governed by a robust contract and detailed written instructions for processing.

INDIVIDUAL RIGHTS

Data subjects can exercise their rights in relation to their personal data by contacting the relevant Data Controller(s). Requests will be managed by the receiving organisation(s) in line with their usual processes. The parties should give each other all reasonable assistance to enable each other to comply with those duties.

The Data Controllers should communicate any rectification, erasure or restriction of processing to each other in relation to data they have shared.

PRIVACY INFORMATION

Each Data Controller is responsible for ensuring that they have appropriate privacy information in place reflecting the data sharing covered by this protocol. The Council's privacy notice is published at <https://www.surreycc.gov.uk/council-and-democracy/your-privacy/our-privacy-notice/post-16-destinations>

ONWARD DISCLOSURE

Information shared under this protocol may only be onwardly disclosed by the receiving Data Controllers where it is necessary and lawful to do so and for a purpose consistent with this sharing.

Information provided to the Council by education and learning providers will be added to learners' records which are used by staff to carry out public tasks and duties around safeguarding and promoting the education and welfare of children and young people.

This may include sharing information with the Department for Education, Ofsted and/or local partners where necessary and lawful.

INTERNATIONAL TRANSFERS

Shared personal data will not be transferred outside of the UK or EEA without the consent of the originating Data Controller and without the appropriate safeguards.

EXCHANGE OF INFORMATION

Information must be shared via secure methods including Egress email, TLS email or other secure method where agreed by partners. All information required by the Council should be sent to the dedicated mailbox datasharing@surreycc.gov.uk, to which a small number of named Council staff have access.

DATA QUALITY

All information shared must be fit for purpose. Each originating signatory remains responsible for the accuracy of the data that they share. By signing this agreement, you are confirming that your organisation has the necessary processes and checks to ensure the accuracy of the information.

SECURITY

All signatories will apply the appropriate technical and organisational security measures needed for the volume and sensitivity of the personal data being processed in accordance with the requirements

of the DPA and UK GDPR and/or local practice commitments.

DATA AND SECURITY BREACHES

In the case of any data or security breaches occurring that affect any data shared they must:

- Be brought to the attention of the nominated officer in the partner organisation without delay and within 48 hours of the breach being detected
- Where the organisation in which the data or security breach occurred determines that the ICO (Information Commissioners Office) needs to be informed, the organisation should do so without undue delay and within 72 hours of the organisation becoming aware of the breach.

RECORDS, RETENTION & DISPOSAL

Parties should hold the shared information securely and compliantly in line with their own procedures. When no longer required, information should be destroyed by the parties in line with their own retention policy and confidential waste disposal policy.

The Council holds pupil information until a learner's 25th birthday; unless there is an EHCP in place, in which case information is held from end of plan plus six years.

REVIEW This agreement is subject to biennial review.

CONTACT DETAILS FOR COUNCIL'S DPO - DPO@surreycc.gov.uk

WITHDRAWAL FROM THIS AGREEMENT

An organisation can withdraw from this agreement by writing to the Council and giving 40 days' notice. Where there is a legal requirement for information to be shared with the Council, this must still be shared, even if the organisation has withdrawn from this agreement.

AGREEMENT - This agreement commences from the date it is signed.

Appendix One - Information to be provided by Schools to the Council

Learners on Roll

This covers all learners currently in Years 12 and 13, as well as high needs learners in Year 14 and above.

- UK Provider Reference Number (UKPRN)
- Unique learner Number (ULN)
- Family Name
- Given Names
- Date of birth
- Gender
- Ethnicity
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (district)
- Address 5 (Town)
- Postcode
- Course (A' levels, BTEC, etc. – not by individual subject)
- Planned end date
- Home Telephone Number
- Student Mobile Number

Schedule of Returns:

On or before 2nd October.

Leavers

This covers learners in Year 12 who completed their courses.

- Unique Learner Number (ULN)
- Given Names
- Family Name
- Date of Birth
- Ethnicity
- Destination (Employment; with employer name and whether with or without training, if known; unknown)
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Email address
- Home Telephone Number
- Student Mobile Number

Schedule of Returns:

On or before 2nd October.

September Guarantee – Year 11 Intended Destinations

This provides indicative information on intended destinations for **all** learners in Year 11 at your School.

- Unique Learner Number (ULN)
- Given Names
- Family Name
- Date of Birth
- Ethnicity
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Home Telephone Number
- Student Mobile Number
- Offer of Learning next year (Y/N)
- Intended Destination (i.e. name of college/school, apprenticeship or employment)

Schedule of Returns:

Indicative return on 3rd May.

Final return on 28th June.

September Guarantee – Confirmed Offers to New Learners

This covers learners currently in Year 11 and any external learners.

- Unique Learner Number (ULN)
- Given Names
- Family Name
- Date of Birth
- Gender
- Ethnicity
- Address 1 (Flat No.)
- Address 2 House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Home Telephone Number
- Student Mobile Number
- School attended

Schedule of Returns:

Indicative return on 4th May.

Final return on 28th June.

September Guarantee – Continuing Learners

This covers existing Year 12 learners returning in September.

- Unique Learner Number (ULN)
- Given Names
- Family Name
- Date of Birth
- Ethnicity
- Address 1 (Flat No)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Home Telephone Number
- Student Mobile Number
- School attended

Schedule of Returns:

On or before 29th June.

Early Leavers/Withdrawals

For all young people who leave your sixth-form before completing their courses.

- Unique Learner Number (ULN)
- Given Names
- Family Name
- Date of Birth
- Ethnicity
- Date of Withdrawal
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Email address
- Home Telephone Number
- Student Mobile Number
- Actual end date
- Withdrawal reason

Schedule of Returns:

As soon as possible after confirmation of withdrawal and within a maximum of two weeks of final leaving date. Regular returns are not necessary unless learners have dropped out.

Appendix Two - Information to be provided by Colleges to the Council

Enrolments/Learners on Roll

This covers learners currently in Years 12 and 13, and high needs learners in Year 14 and above.

- UK Provider Reference Number (UKPRN)
- Unique Learner Number (ULN)
- Family Name
- Given Names
- Date of Birth
- Gender
- Ethnicity
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Home Telephone Number
- Student Mobile Number
- Qualification Type (A/AS Level, BTEC, etc.)
- Qualification Level
- College start date (date on which the learner started college)
- Year of Study (1,2,3)
- Planned end date
- Previous School
- Mode of attendance (full-time or part-time)
- Course duration (one year, two years or three years)
- High Needs Learner (Yes or No)

Schedule of Returns: On or before 2nd October.

Confirmed Offers to New Learners (to inform September Guarantee process)

This covers learners currently in Year 11 applying to join the college for the first time in September.

- UK Provider Reference Number (UKPRN)
- Family Name
- Given Names
- Date of Birth
- Gender
- Ethnicity
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Home Telephone Number
- Student Mobile Number
- Learning Aim Reference
- Aim Type
- Current School/Provider
- Likely High Needs Student learner

Schedule of Returns: On or before 17th May.

Continuing Learners (to inform September Guarantee process)

This covers existing Year 12 learners returning in September.

- UK Provider Reference Number (UKPRN)
- Unique learner number (ULN)
- Family Name
- Given Names
- Date of Birth
- Ethnicity
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Home Telephone Number
- Student Mobile Number
- Learning Aim Reference
- Aim Type

Schedule of Returns: On or before 17th May.

Leavers

This covers learners in Year 12 who are completing their courses in the summer.

- UK Provider Reference Number (UKPRN)
- Unique Learner Number (ULN)
- Family Name
- Given Names
- Date of Birth
- Ethnicity
- Destination
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Email address
- Home Telephone Number
- Student Mobile Number
- Completion Status

Schedule of Returns:

The intended destinations which are available will be requested on 14th June, with a fuller set to be returned by 27th September.

Early Withdrawals

This covers learners withdrawing from Years 12 and 13, as well as high needs learners in Years 14 and above after the September Learners on Roll submission.

- UK Provider Reference Number (UKPRN)
- Unique Learner Number (ULN)
- Family Name
- Given Names
- Date of Birth
- Ethnicity
- Address 1 (Flat No.)
- Address 2 (House No./Name)
- Address 3 (Street)
- Address 4 (District)
- Address 5 (Town)
- Postcode
- Email address
- Home Telephone Number
- Student Mobile Number
- Qualification Type (A/AS Level, BTEC, etc.)
- Qualification Level
- Actual end date
- Withdrawal Reason

Schedule of Returns:

As soon as possible after confirmation of withdrawal and within a maximum of two weeks of final leaving date. Regular returns are not necessary unless learners have dropped out.