

School and Birmingham City Council Data Sharing Agreement 2015

This Data Sharing Agreement dated 13 April 2015 sets out the terms and conditions under which personal data held by the school will be shared with Birmingham City Council. The Agreement is entered into with the purpose of ensuring compliance with the Data Protection Act 1998 and Article 8 of the European Convention on Human Rights, as implemented under the Human Rights Act 1998.

The Parties:

1. The School, whose details are set out on the signature page; and
2. Birmingham City Council ("the Council") of the Council House, 1 Victoria Square, Birmingham

The above organisations are hereinafter referred to individually as a "Party" and collectively as the "Parties". "Third Party" means any party other than a Party to this Agreement.

Purpose and background

3. The parties (as set out above) have agreed to enter into this Data Sharing Agreement to facilitate the sharing of Personal Data between the School and the Council for the purposes of
 - a) allowing the Council to comply with its legal obligations under the Children's Act 1989; and
 - b) allowing both the Council and the school to comply with their legal obligations in respect of the Raising of the Participation Age, as set out in the Education and Skills Act 2008;
4. The Council, particularly through its Directorate for People, has a number of statutory duties it must fulfil under legislation. The statutory duties on the Council and more particularly the Directorate for People are on the Department for Education website at the following links:
www.education.gov.uk/childrenandyoungpeople/strategy/a00198443/statutory-duties-of-local-authorities; and
<https://www.gov.uk/government/publications/participation-of-young-people-education-employment-and-training>

5. These include the following statutory duties imposed on the Council:
- ensuring that children and young people are safe and protected from harm;
 - providing support services to support children and young people's health and well-being;
 - providing or arranging secure sufficient suitable education and training provision for all young people aged 16 to 19 (and for those up to the age of 25 with a learning difficulty assessment or education, health and care plan);
 - making available to all young people aged 13-19 (and for those up to the age of 25 with a learning difficulty assessment or education, health and care plan) support to encourage, enable or assist them to participate in education or training;
 - identifying young people in the local authority's area who are covered by the duty to participate and encourage them to find suitable education or training; and
 - maintaining a tracking system to identify 16 and 17 year olds who are not participating in education or training.

IN CONSIDERATION of the respective undertakings, warranties and representations given by each of the parties as set out in this Agreement, it is hereby agreed as follows:

1 Definitions and interpretation

- 1.1 The following words and phrases shall have the following meanings unless the contrary intention is expressly stated:

'Agreement' means this agreement and any other documents referred to as forming part of this Agreement.

'Data' means personal data (having the meaning ascribed under the Data Protection Act 1998) that are under the control of the School and in respect of which it has agreed to share with the Council, the details of which conform to the Department for Education defined Common Basic Dataset as amended from time to time by the Department for Education; including the Nation Client Caseload Information System requirements as particularised at the following webpage:
<https://www.gov.uk/government/collections/common-basic-data-set>

"Data Subject" means an individual who is the subject of personal data. For the purposes of this Agreement, that means children who are, or who have been, or who are seeking to be, enrolled in a school in Birmingham.

'Data Security Obligations' means technical and organisational processes and procedures that will protect the data against unauthorised or unlawful processing and accidental loss, theft, use, disclosure, destruction and/or damage and which include:

- (a) technical security measures;
- (b) treating and safeguarding the data as strictly private and confidential;
- (c) minimising disclosure of the data to third parties to the fullest extent possible;
- (d) allowing access to the data strictly on a 'need to know' basis employing appropriate access controls at all times;
- (e) copying, reproducing and/or distributing the data only to the extent necessary for performance of the Services; and
- (f) maintaining adequate back-ups for the data to enable the Data to be recovered in the event of damage or loss.

'Privacy Laws' means all applicable privacy laws in England and Wales for the time being, including the Data Protection Act 1998 together with all subordinate legislation, directions of any competent privacy regulator, common law decisions, relevant regulatory guidance and codes of practice;

'Privacy Notice' means the School's Privacy Notice/Privacy Statement/ Fair Processing Notice.

'Processing' has the meaning ascribed by the Data Protection Act 1998.

'Sensitive Personal Data' has the meaning ascribed by the Data Protection Act 1998.

'School' means the establishment as identified on the signature page.

1.2 In this Agreement:

- 1.2.1 references to clauses are references to the clauses of this Agreement;
- 1.2.2 headings shall not affect its interpretation;
- 1.2.3 words importing a gender shall include all genders and references to a 'person' shall include a reference to a body corporate, association or partnership;
- 1.2.4 the word 'including' shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word, and the word 'include' and its derivatives shall be construed accordingly.

2. Commencement

2.1 This Agreement shall commence on the date that all signatures have been obtained ('Commencement Date') and shall be reviewed on a bi-annual basis.

3. The basis for sharing

3.1 The Parties recognise and accept that:

3.1.1 The School is authorised to share the Data with the Council by virtue of schedules 2 and 3 of the Data Protection Act 1998, as set out below:

Data Protection Act 1998 (schedule 2), in respect of non sensitive Personal Data

5. The processing is necessary—

(a) for the administration of justice,

(b) for the exercise of any functions conferred on any person by or under any enactment,

© for the exercise of any functions of the Crown, a Minister of the Crown or a government department, or

(d) for the exercise of any other functions of a public nature exercised in the public interest by any person.

Data Protection Act 1998 (Schedule 3), in respect of sensitive personal data.

7(1) The processing is necessary—

(a) for the administration of justice,

(b) for the exercise of any functions conferred on any person by or under an enactment, or

© for the exercise of any functions of the Crown, a Minister of the Crown or a government department.

3.1.2 The Council is permitted to process the Data by virtue of schedules 2 and 3 of the Data Protection Act 1998, to comply with its legal obligations set out in the Children's Act 1989, particularly with respect to children who are, or who have been, or who are seeking to be, enrolled in a school in Birmingham.

3.2 The School's Data must abide by the Data Quality and Standards in Principle 4 of the Data Protection Act 1988.

4. Data ownership

4.1 The parties acknowledge and accept that upon receipt of the Data from the School, the Council is deemed to be a Data Controller in its own right in respect of the data.

5. The School obligations

5.1 The School shall provide the Council the Data as required to enable the Council to carry out its statutory responsibilities.

5.2 The School shall ensure that it is lawfully entitled to share the Data with the Council.

5.3 The School shall ensure that it has taken steps to ensure the accuracy of the Data shared with the Council.

6. The Council obligations

6.1 The Council accepts that, upon receipt of the information from the School, it is deemed to be a Data Controller, and as such, it is legally liable for any unauthorised loss or disclosure of Personal Data that occurs once the Data has been transferred by the School to it, and agrees that it shall procure that any employees, agents and/or subcontractors/data processors that may process the Data on behalf of the Council, shall process the Data provided under the terms of this Agreement solely for the purposes specified in this Agreement and for no other purpose, save where permitted by law including the Data Protection Act; and shall

6.1.1 comply with all applicable laws including the Privacy Laws;

6.1.2 comply with the following data requirements in respect of the Data:

(a) process the Data strictly in accordance with this Agreement;

(b) take reasonable steps to ensure the reliability of those of its employees, agents and subcontractors/ data processors who may have access to the Data and use all reasonable

endeavours to ensure that such persons have sufficient skills and training in the handling of personal data and comply with the Privacy Laws;

- (c) take all reasonable steps to investigate any alleged breaches of Birmingham City Council's data security policy in respect of the information shared in accordance with this Agreement;
- (d) have, maintain and comply with the Data Security Obligations;
- (e) not cause or permit the Data to be transferred outside the European Economic Area without ensuring compliance with the EU Model Contract for the transfer of personal data to third Countries.

6.2 To the extent permitted to do so by applicable law, the Council shall notify the School of any communications it receives from third parties relating to the Data which suggest non-compliance by the School, or Birmingham City Council or any other person with the Privacy Laws, including communications from Data Subjects and regulatory bodies in relation to the information provided under this Agreement.

6.3 The Council's policy on data security and transfer are on the Council's website at the following link: www.birmingham.gov.uk/schools-data

7. Warranties

7.1 Each party warrants that it has full and due authority to enter into this Agreement and that entering into and undertaking the activities set out in this Agreement will not cause it to be in breach of any other contract or order of any competent court or regulatory authority.

7.2 The School warrants that it is legally entitled to share the Data.

7.3 The School warrants and undertakes that it and its employees have not done and shall not do or, where they have a duty to act, have not omitted to do and shall not omit to do anything that would cause Birmingham City Council to be in breach of the Privacy Laws.

8. Use of third parties

8.1 The School accepts that the Council is entitled, as a Data Controller, to use a Data Processor to process the Personal Data provided under this Agreement.

8.2 Where the Council uses a Data Processor, that Data Processor shall be employed on the same terms as set out in this Agreement, and that the Council is legally responsible, as the Data Controller, for the actions of the said Data Processor.

9. Review / Variation

The provisions of this Agreement shall be reviewed on the first of:

- a) the bi-annual anniversary of this Agreement or the last review; and/or
- b) changes to legislation or Court decisions which have a material impact on the provisions of this Agreement.

The Parties can vary the terms of this Agreement by prior written agreement.

10. Termination

This Agreement shall be binding on the Parties until either of the following occur:

- a) the prior written agreement of the parties to end this Agreement;
- b) one month following a failure of the parties to successfully undertake and conclude a review of this Agreement in accordance with the provisions of clause 9 above.

In the event of a decision to terminate this Agreement, a programme setting out the procedures and timescales required for the destruction of any Personal Data exclusively provided to the Council shall be agreed by the parties.

Signatories

This Data Sharing Agreement is signed on behalf of the School:

Name:
(Authorised signatory)

Bridget Jones
(Head Teacher)

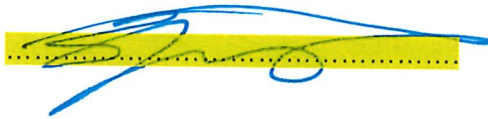
Address

Welsh House Farm School
Welsh House Farm Road
Quinton
B32 2NG

DfE Number
School Name
Telephone No:
E-Mail

330 2245
WELSH HOUSE FARM SCHOOL
0121 464 4355
enquiry@welshhousefarm.bham.sch.wl

Signature



Date

27/1/2017.

On behalf of Birmingham City Council, by

Name:

Peter Hay
Strategic Director
Directorate for People
Birmingham City Council

Signature



Peter Hay
Strategic Director
Directorate for People

Date

3rd January