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| **LOCAL AUTHORITY NAME**  Raising the Participation Age and support for 16 and 17 year olds who are Not in Education, Employment or Training  2013 to  **INFORMATION SHARING PROTOCOL** |

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9. **PURPOSE OF THE PROTOCOL**

Local Authorities are working together with schools, colleges and other training providers to implement Raising the Participation Age (RPA) and to continue to support 16 and 17 year-olds who are Not in Education, Employment or Training (NEET).

Under the Education and Skills Act 2008 (ESA 2008) local authorities have a statutory duty to ‘assist, encourage and enable’ young people aged 13 to 19 (and young adults with a learning difficulty and/or disability up to the age of 25) to participate in education or training. This responsibility includes tracking young people’s participation. In addition, the ESA 2008 places two new duties on local authorities with regard to 16 and 17 year-olds relating to RPA:

* A local authority in England must ensure that its functions are (so far as they are capable of being so) exercised so as to promote the effective participation in education or training of persons belonging to its area to whom Part 1 of ESA 2008 applies, with a view to ensuring that those persons fulfil the duty to participate in education or training.
* A local authority in England must make arrangements to enable it to establish (so far as it is possible to do so) the identities of persons belonging to its area to whom Part 1 of ESA 2008 applies but who are failing to fulfil the duty to participate in education or training.

The ESA 2008 also places a duty on sixth forms, colleges and other training providers to:

* Inform local authority support services if a young person (aged 16 or 17) has dropped out of learning (section 13 ESA 2008).

For the purposes of this document, support services include the following: <each local authority area should clearly define which services are to be specifically subject to this protocol>:

*Youth Services, Connexions Services, Information, Advice and Guidance Services, School and College based Learning Mentors, Targeted or Specialist Youth Support Services covering issues such as substance misuse and drugs rehabilitation, leaving care, teenage parents/parents to be, sports and leisure, housing, and health (including mental health), Youth Offending Services/Teams.*

This Information Sharing Protocol (“Protocol”) has been developed to ensure information sharing for the purpose of tracking and monitoring young people’s participation and to enable education providers and local authorities to fulfil statutory duties placed upon them through the ESA 2008. The agreement has been produced to assist education providers and local authorities to facilitate the sharing of all personal, sensitive and non-personal data (“Data”).

This agreement does not give carte blanche licence for the wholesale sharing of information. Information sharing must take place within the constraints of the law, relevant guidance, and service specific requirements and is underpinned with the ethos of informed consent and client confidentiality being tantamount to any information sharing between local authorities and education providers.

All information and Data sharing must be undertaken within the realms of current legislation and legal frameworks.

1. **PRINCIPLES**

Young people have the right to confidentiality and therefore information that identifies individuals should be shared only when there are clear and valid reasons for doing so. This Protocol sets out the conditions under which information should be shared for the purpose of tracking young people’s participation (section 68 ESA 2008).

These arrangements are for all young people aged 13 to 19 and young adults with a learning difficulty and/or disability up to the age of 25 (“Scope”).

This Protocol identifies how the notification and exchange of information will take place between <local authority name> (“Local Authority”) and <education provider name> (“Education Provider”).

This Protocol outlines the principles and operational guidelines for how information and personal Data relating to an individual who is in Scope of this agreement is securely managed between the Education Provider and Local Authority for the purpose of tracking young people’s participation.

The aim of this agreement is to share young people’s information safely in compliance with the law, whilst respecting a young person’s rights to privacy and confidentiality.

To ensure that young people’s Data is adequately and appropriately protected, the Protocol between the Local Authority and Education Provider will be employed as a formal agreement for the exchange and sharing of young people’s personal information.

The following key principles guide the sharing of information and Data between the Education Provider and Local Authority for the purpose of tracking young people’s participation.

The Education Provider and Local Authority are fully committed to ensuring that if they share information and Data for the purpose of tracking young people’s participation, it is in accordance with their legal, statutory and common law duties, and, that it meets the requirements of any additional guidance.

The Local Authority will use the Data to carry out their statutory duties and responsibilities:

* To encourage, enable or assist young people to participate in education, employment or training
* To track and support young people
* To support vulnerable young people to engage

Principle 7 of the Data Protection Act 1998 requires that appropriate measures should be in place to protect personal information from unauthorised access, loss, damage or destruction. The Local Authority and Education Provider are responsible for the security of information they receive and hold. The Education Provider and Local Authority must take all necessary care and employ appropriate physical, technical and organisational safeguards to protect the personal data under this Protocol. The Education Provider must agree with the Local Authority the standards required for protecting the data, for example, safeguards for information in electronic format, security of data in transmission.

**3. CONSENT**

It is policy to gain young people’s consent to share their information wherever practical. If information sharing is necessary, but the gaining of consent is impractical (e.g. where there has been no contact with the young person for a period of time) information can still be shared between the Education Provider and the Local Authority. The legal basis for sharing without consent in this instance is that it is necessary for the exercise of the Secretary of State’s function of providing services under *Section 114 of the Learning and Skills Act 2000*. This is in conjunction with the Children Act 2004 section 10, 11 and 12.

The Data Protection Act 1998 has put in place numerous safeguards regarding the use of personal Data by organisations. The Act gives rights to those about whom Data is held, known as data subjects. This includes:

* the right to know the types of Data being held
* why it is being held, and
* to whom it may be communicated.

Privacy notices are designed to meet those needs of the Act. Privacy notices must be issued to new learners at the Education Provider for which Data are being provided in the school census or Individualised Learner Record (ILR).

1. **AUDIT**

The Education Provider and Local Authority must have appropriate governance and risk assessment measures in place, to assure the safe storage, access and utilisation of young people identifiable Data. Policies should be available for audit purposes with evidence of clear review dates. Evidence to be retained for 7 years.

1. **THE LEGAL FRAMEWORK FOR SHARING**

The principal legislation concerning the protection and use of this information is listed below:

* Education and Skills Act 2008
* Education Act 2011
* Human Rights Act 1998 (article 8)
* Freedom of Information Act 2000
* Data protection Act 1998
* Common Law Duty of Confidence

1. **BREACH OF AGREEMENT**

In accordance with the Data Protection Act, the Data Controller maintains all responsibility for personal Data regardless of whether a Data Processor is acting on behalf of the Data Controller in that instance. If this Protocol is breached the Data Controller will bear responsibility. The Data Controllers covered in this Protocol should therefore ensure that they have taken appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss to, destruction of, or damage to, personal Data. If the Data Processor uses the data covered in this Protocol in an unlawful manner they may be subject to prosecution.

Without prejudice, any breach of the Protocol shall constitute a material breach, and thus the responsible party will notify the Protocol partner as soon as it is discovered, and shall use best endeavours to rectify any breach assessing the extent and risk to any individual persons whose Data has been lost, damaged or misused, in order to minimise and to mitigate its effects.

1. **CONCLUSION**

This agreement acknowledges and provides a means whereby members of the public, staff, education providers and the local authorities can be confident that where information and Data is shared between the Education Provider and Local Authority for the purpose of tracking young people’s participation, it is done so appropriately and securely and will not be utilised outside the scope of tracking young people’s participation for the purposes of delivering the duties outlined in section 68 of the ESA 2008.

1. **APPENDIX A – Declaration & Agreement**

We the undersigned have read and fully understand the contents of this Information Sharing protocol, and confirm agreement and compliance.

**Signed on behalf of the London Borough of** <local authority name>**:**

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| Signatory Name: |  |
| Job Title/Position in Organisation: |  |
| Signature: |  |
| Date: |  |
| Contact Details (email & telephone number): |  |

**Signed on behalf of** <education provider name>**:**

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| Date: |  |
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