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Home Office

Memorandum of Understanding

Between

The Home Office

And

Department for Education

**In Respect of the Exchange
Of Information Assets**

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Contents

1.	Introduction	3
2.	Legal	4
3.	Freedom of Information	3
4.	Information Handling	5
5.	Purpose of Information Sharing	6
6.	Method of Information Sharing	6
7.	Monitoring, Review and Termination Arrangements	6
8.	Issues, Disputes & Resolution	7
9.	Costs	7
10.	Signatories	8
11.	Annex 1 Document Control Personnel	9
12.	Annex 2 Information Exchange Specific (“process- level”) agreements	10
13.	Annex 3 Contacts	11
14.	Annex 4 Glossary of Terms	13
15.	Annex 5 Process Level MoU – Locating Immigration Offenders	14
16.	Annex 6 Monthly Ad-oc Request Template	17

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1. Introduction

- 1.1. This Memorandum of Understanding (MoU) sets out the high level agreement between the Department for Education (DfE) and Home Office (HO) that governs the exchange of information assets needed to better deliver their respective businesses.
- 1.2. The DfE was formed on 12 May 2010 and is responsible for education and children's services.
- 1.3. All references to Home Office (HO) in the document refer to the work of UK Visas & Immigration, Immigration Enforcement (the work previously undertaken by the former UK Border Agency) and Border Force (BF) only and not the whole of the Home Office and its Executive Agencies.
- 1.4. UK Visas & Immigration is responsible for making decisions every year about who has the right to visit or stay in the country, with a firm emphasis on national security and a culture of customer satisfaction for people who come here legally.
- 1.5. Immigration Enforcement is responsible for preventing abuse, pursuing immigration offenders and increasing compliance with immigration law. Its main aim is to support the government's commitment to reduce net migration which is achieved through the implementation of a range of strategies and partnership working with a number of key stakeholders including other Home Office commands, e.g. BF, the police and local authorities.
- 1.6. BF was created as a directorate of the Home Office on 1 March 2012. BF is a law enforcement command within the Home Office. BF secures the UK border by carrying out immigration and customs controls for people and goods entering the UK.
- 1.7. This MoU is not a contract nor is it legally binding. It does not in itself create lawful means for the exchange of information; it simply documents the processes and procedures agreed between the parties.
- 1.8. All relevant information exchanges ('process level' agreements) including 'proof of concept exercises' will be recorded at Annex 2 of this MoU. The specific agreement must reference this umbrella MoU as the basis for the exchange and as a minimum include:
 - purpose for exchange;
 - (physical) method of exchange;
 - benefit (to both parties) of the exchange;
 - primary business owner(s) in both departments;
 - length of exercise, if long term a review date of 6 months minimum from commencement must be included;
 - specific legislation; and
 - the level of assurance or approval given for the exchange to take place.

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2. Legal

- 2.1. Both Parties are legally obliged to handle personal information according to the requirements of the Data Protection Act 1998 (DPA) and the Human Rights Act 1998 (HRA).
- 2.2. As well as meeting the requirements of the DPA, both DfE and HO are bound by legal obligations of confidence, with the unlawful disclosure of information by officers constituting an offence.
- 2.3. Information can only be exchanged where there is a legal basis and for the purpose set out at paragraph 5.1 and Annex 5 paragraphs 15.1.1-4. No information should be exchanged that is not covered by relevant legislation and does not comply with the overarching principles of the DPA and HRA.
- 2.4. In the absence of a statutory (data sharing) gateway Home Office will rely on its common law powers to share information where it is appropriate.
- 2.5. Once HO have received information it will rely on powers set out in a number of Acts to further process that information including a legal obligation under Section 55 of the Borders, Citizenship and Immigration Act 2009, which came into force on 2 November 2009, which requires HO staff to make arrangements to safeguard and promote the welfare of children in discharging its immigration, nationality and general customs functions.
- 2.6. Where it is suspected that an offence under section 24 or 24A of the Immigration Act 1971, or section 35 of the Asylum and Immigration (Treatment of Claimants) Act 2004 has been, or is being committed, the DfE will rely on their common law powers and utilise the exemptions granted under Section 29(3) of the DPA by sharing their data with the HO to assist in the process of identifying potential new contact details (including addresses) for the individual(s) and their family members.
- 2.7. DfE has a duty to promote the well-being of children under section 7 of the Children and Young Persons Act 2008. Information may also be shared with the HO under this section if the sharing is necessary in the particular circumstances to fulfil that function. This is to be considered on a case by case basis and documented by DfE as appropriate.
- 2.8. Information exchanged as a result of this and any associated agreements which then form part of the permanent record of the receiving body becomes the responsibility of the receiving body under the terms of the DPA. The receiving body becomes the data controller for that information and as such adopts all of the DPA obligations for that information.

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3. Freedom Of Information

- 3.1. Both parties are subject to the requirements of the Freedom of Information Act (FoIA) 2000 and shall assist and co-operate with each other to enable each party to comply with their information disclosure obligations.
- 3.2. In the event of a FoIA request being received which relates to an activity utilising the other party's information, the respective party will notify the other to allow it the opportunity to make representations on the potential impact of disclosure.

4. Information Handling

- 4.1. Both Parties are data controllers, and subject to the data protection principles set out in the DPA. Additionally, as part of Her Majesty's Government, both DfE and HO must process personal data in compliance with both the mandatory requirements set out in [Information Assurance Standard 6](#) and the [Security Policy Framework](#) issued by HM Cabinet Office, when handling, transferring, storing, accessing or destroying information assets.
- 4.2. Each party will expect the other to have taken every reasonable measure to comply with the above standards and may conduct a risk assessment of the exchange against these requirements.
- 4.3. The exporting party will ensure that data integrity meets their party's standards, unless more rigorous or higher standards are required and agreed at the information exchange specific MoU stage.
- 4.4. DfE and HO must ensure effective measures are in place to manage potential or actual incidents as per Cabinet Office guidance, as defined in its [Checklist for Managing Potential Loss of Data or Information](#).
- 4.5. Without limiting the exporting party's legal obligations under Data Protection legislation or otherwise, the receiving party will ensure that they:
 - Only use the information for purposes that are legal under the legal basis on which they received it;
 - Even where not legally required to do so, will, as a courtesy, notify the exporting party if they are going to use the information for any purpose other than that for which they received it (in the event there is an urgent need to share they will be informed as soon as possible afterwards);
 - Store data received securely;
 - Notify the exporting party if they are going to disclose information received from that party to another party or body due to a legal or moral requirement (in the event there is an urgent need to share they will be informed as soon as possible afterwards);
 - Ensure that only people who have a genuine business need to see that data will have access to it;

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- Report any data losses, wrongful disclosures or breaches of security relating to information originating in the other party to the designated contacts immediately (within 24 hours of becoming aware). This includes both advising, and consulting with, the other party on the appropriate steps to take, e.g. notification of the Information Commissioner's Office or dissemination of any information to the data subjects;
- Only hold data while there is a business need to keep it and destroy it in line with Government guidelines; and
- Regularly review the assessment of risks to information and the effectiveness of measures taken to mitigate risks.

5. Purpose of information sharing

5.1 Information may be shared (in accordance with the relevant legislation) between parties for the following purposes :

- In the interest of promoting the education or well-being of children in England.
- To protect and maintain the welfare of a child or children.
- To prevent and/ or detect crime, including abuse of the immigration system.
- In the interest of protecting/ securing national security.

6 Method of information sharing

6.1 The method of transfer must be in accordance with the standards and benchmarks relating to the security of that transfer and in accordance with Cabinet Office and other HMG guidance.

7. Monitoring Review and Termination Arrangements

- 7.1. This agreement will run indefinitely but will be subject to an annual review. Any changes needed in the interim may be agreed in writing and appended to this document for inclusion at the following review.
- 7.2. Reviews outside of the schedule can be called by representatives of either party.
- 7.3. Either party may terminate this agreement within one month's written notice to the other or with immediate effect in the event of breach of its obligations by any other Party to this MoU
- 7.4. Annex 3 outlines the contacts for document control, the version history of this MoU and the review dates for it.

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8. Issues, Disputes and Resolution

- 8.1. Any issues regarding party level, ongoing delivery aspects of the information supply, such as data integrity or quality, should be addressed through “business as usual” channels as detailed in Annex 3.
- 8.2. Where a problem arises it should be reported immediately, in writing to the designated contacts (listed in Annex 3). The contacts will endeavour to resolve the problem within 2 working days.
- 8.3. Where it is not possible to resolve the issue within 2 working days the issue will be escalated to the senior management team for each partner. They will be notified with an explanation of why the dispute has not been resolved so that they can take appropriate action for resolution or plan contingency arrangements.
- 8.4. Where the “business as usual” channels fail to reach agreement, the parties will attempt to negotiate a settlement in the spirit of joint resolution within 20 working days of a formal notification being received. Contacts detailed in Annex 3.
- 8.5. Specific strands of activity that may affect this MoU should be discussed at a “business as usual” level to consider the possible impact on the MoU; once the potential changes have been identified then a formal change notification should be sent to the ‘MoU Change Control’ contact detailed at Annex 1, section 11.1.
- 8.6. External changes affecting the operational delivery responsibilities of the parties will also necessitate the reviewing and potential amendment of this agreement.

9. Costs

- 9.1 No charges will be made by either party in relation directly to this MoU. There may, however, be costs involved in specific information exchanges in relation to IT issues; these will be detailed in the respective process level agreement.

10. Signatures

SIGNED BY:

For, and on behalf of,
Department for Education

For, and on behalf of,
Home Office

[Redacted]
(Name)

[Redacted]
(Name)

[Redacted]
(Role/ title)

(Role/ Title)

(Signature)

(Signature)

(Date)

(Date)

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11 Annex 1 – Document Control

11.1 Document Control Personnel

Key personnel	Name	Organisation (Team)
Author		Home Office
		DfE
Approver		Home Office
		DfE
Review Control		Home Office
		DfE

11.2 Version History

Version	Date	Summary of changes	Changes marked
0.1, 0.2, 0.3	11/12/14	Draft version	Y
0.4	12/01/15	Draft version	Y
0.5	05/03/15	Draft version	Y
0.6	12/03/15	Draft version	Y
0.7	18/05/15	Draft version	Y
0.8	01/06/15	Draft version	Y
0.9	04/06/15	Draft version	Y
1.0	05/06/15	Final version	N
1.1	27/11/15	New draft version including updated purpose	Y
1.2	16/12/15	Responding to previous comments	N

11.3 Review dates

Version	Publication date	Review date
1.2		18.12.16

Version 0.1

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12. Annex 2 – Information exchange specific (“process-level”) agreements

12.1. Data Provided From HO to DfE

Reference	Legal Basis	Business Owner	Start date
Annex 5	Common Law	Home Office Removals Casework	January 2016

12.2. Data Provided From DfE to HO

Reference	Legal Basis	Business owner	Start date
Annex 5	Common Law in conjunction with Section 29(3) exception of the DPA Section 7 of the Children and Young Persons Act 2008	National Pupil Database & Transparency Team	January 2016

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13. Annex 3 - Contacts

13.1 DfE – Business As Usual

Contact	E-mail	Responsibility
[REDACTED] NPD Requests mailbox	NPD.Requests@education.gsi.gov.uk	Security Incidents
[REDACTED]	[REDACTED] (always copying in NPD.Requests@education.gsi.gov.uk)	Legal issues
[REDACTED] / NPD Requests mailbox	NPD.Requests@education.gsi.gov.uk	[REDACTED]
[REDACTED] / NPD Requests mailbox	NPD.Requests@education.gsi.gov.uk	Freedom of Information Requests
[REDACTED]	[REDACTED] (always copying in NPD.Requests@education.gsi.gov.uk)	Protocol for dealing with cross-party complaints

13.2 DfE – Escalation

Contact	E-mail	Responsibility
[REDACTED]	[REDACTED]	Security Incidents
[REDACTED]	[REDACTED]	Legal issues
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	Freedom of Information Requests

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		Protocol for dealing with cross-party complaints
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13.3 Home Office – Business As Usual

Contact	E-mail	Responsibility
	HomeOfficeIMT@homeoffice.gsi.gov.uk	Security Incidents
		Legal issues
	Freedom.informationteam@homeoffice.gsi.gov.uk	Freedom of Information Requests
N/A	HomeOfficeCustomerComplaints@homeoffice.gsi.gov.uk	Protocol for dealing with complaints

Home Office – Escalation

Contact	E-mail	Responsibility
	HomeOfficeIMT@homeoffice.gsi.gov.uk . To contact in the first instance who will (if necessary) escalate matter further to	Security Incidents
		Legal issues
	Freedom.informationteam@homeoffice.gsi.gov.uk	Freedom of Information Requests
Complaints	As above	Protocols for dealing with complaints

14. Annex 4 - Glossary of Terms

DPA	Data Protection Act 1998
E&E	Evidence and Enquiry Unit, Home Office
GPMS	Government Protective Marking Scheme
GSI	Government Secure Intranet
HRA	Human Rights Act 1998

Version 0.1

Draft I

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MIDA	Management Information & Data Analysis Service
MoU	Memorandum of Understanding
DfE	Department for Education
SPoC	Single Point of Contact
FOIA	Freedom of Information Act 2000
BF	Border Force
HO	Home Office - Visas & Immigration and Immigration Enforcement and Border Force
NATT	(HO) National Absconders' Tracing Team

Version 0.1

Draft I

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15. Annex 5 – Locating Immigration Offenders

15.1 Purpose of the exercise

15.1.1 The purpose of the exercise is to establish if DfE hold information that may/ will support Home Office Immigration Enforcement's key objectives of preventing abuse of immigration control and support the Home Office in its commitment to upholding a duty of care for missing children. In addition, the purpose of the exercise is to establish if DfE hold information that may/will assist the HO:

- To identify and locate individuals who the Home Office suspect have committed an immigration offence under Section 24 of the Immigration Act 1971 or 24A of the Immigration Act 1971, or section 35 of the Asylum and Immigration(Treatment of Claimants) 2004.
- To identify the most recent address and where appropriate any previous addresses that it holds for these subjects in the last 5 years at the date of request in order to maximise the success of tracing missing children and their families and those who have committed an immigration offence.
- (Where appropriate) bring the family (back) into compliant reporting
- To secure the safety and wellbeing of any child

15.1.2 Strategic aims of the data sharing

- Re- establish contact with children and families the HO has lost contact with and trace immigration offenders
- To protect the interest and safety of any child
- To reduce harm resulting from abuse of immigration control
- Combat illegal migrant working and those that benefit from it
- Create a hostile environment for those who seek to benefit from the abuse of immigration control
- To reduce the illegal migration population

15.1.3 HO will only request information from DfE in cases where:

- HO confirm they have lost contact with the child and their family members;
- An individual or family member has committed, or is believed to have committed an immigration offence as listed at section 15.1.1 above, and
- The HO believes the family and child are still in the UK; and
- In addition, the HO will request information where the child is an unaccompanied minor and the HO has lost contact with that child giving rise to concerns over their wellbeing.

15.1.4 Any information received as a result of this exercise will be used in conjunction with other information already held by the HO or obtained by the HO, in the course of carrying out its functions, to assist in the process of identifying potential new contact details (including addresses) for the individual(s) and their family members.

15.2. Information to be shared

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15.2.1 The HO will share with DfE to meet the objectives in 15.1.1 where a) there is an open breach on HO systems and the HO suspects that an immigration offence has been committed under Section 24 or 24A of the Immigration Act 1971 or Section 35 of Asylum and Immigration (Treatment of Claimants) Act or b) where the child in question is an unaccompanied minor and HO has lost contact with the child giving rise to ~~safeguarding~~ concerns over their wellbeing. The details supplied will be extracted from the HO Casework Information Database (CID) and will include:

- Surname
- Middle Name (if known)
- Forename
- Address
- Post Code
- Gender (if known)
- Date of Birth
- Nationality
- CID PER ID

15.2.2 The DfE will match this information against records and then in response provide the HO with information relating to those individuals that matched DfE records.

15.2.3 The data will be shared on a monthly basis ~~through an automated bulk checking process~~. The number of records to be shared for the ~~bulk~~ checking process will be in the region of 1500 in any given month. In exceptional circumstances (for example where there are ~~safeguarding~~ concerns over the wellbeing of children) the HO may ~~also include request that~~ up to 50 records that will be identified in this monthly feed are to be checked manually with DfE ~~in any given month~~. Any significant fluctuations in volumes will be notified to DfE in advance and with prior agreement with DfE.

15.2.4 Data may also shared on an- ad-hoc basis as set out in section 15.4.4 below

15.2.5 The DfE will extract the information required for this exchange from records held on the Census collections held by DfE

15.2.6 DfE will return the following pupil/ child and school(s) information (the "DfE Return Information"):

- Surname
- Forename
- Middle name
- (If held) Former surname
- (If held) Preferred surname
 - Multiple or sole addresses (for the last 3 to 5 years where held)
 - House number/ name, street name and town/ city
 - Post code
 - Relevant census collection date for this record

Commented [1]: As the reason for checking (offence committed) has been removed – if you could please confirm in your covering e-mail each month that these records are for people where an offence is suspected as in accordance with the MoU – just for our assurance and audit trail purposes.

Commented [2]: Let's not refer to bulk as I'm not sure the legal gateway allows for bulk sharing

Commented [3]: DfE: updated with volumes etc

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- ~~•—Earliest known date at address~~
- ~~•—Latest known date at address~~

- Multiple or sole school information to include for all
 - School number
 - School name
 - School post code
 - Earliest known pupil date at school
 - Latest known pupil date at school
 - Adopted From Care Flag
 - (Once collected) Nationality

On review, HO and DfE will assess the DfE Return Information and consider any reasonable adjustments to this information.

15.2.7 Reporting

The HO will provide DfE with quarterly feedback summarising how useful the DfE data was in achieving the aims set out at sections 15.1.1 and 15.1.2 above.

Commented []: DfE: Inserted as requested.

15.3 Retention and disposal

15.3.1 Once DfE have carried out the matching exercise, they will retain and securely store the original HO request for a period of 4 weeks and then securely destroy it in line with HMG guidelines.

15.3.2 In instances where the DfE Return Information received from DfE does not become part of a permanent HO record, it will be securely destroyed within 6 months of receipt. In instances where the DfE Return Information received from DfE becomes part of a permanent HO record, the HO will become the data controller for the DfE Return Information and as such adopt the associated obligations in respect of further processing of the DfE Return Information.

Commented []: DfE: as discussed this section has been retained but removed the first sentence as agreed with [] on review within 6 weeks. Also changed 3 months to 6 months to destroy docs subject to your review.

15.4. Benefits of the exchange

15.4.1 Potential benefits for both departments include, but are not limited to:

- HO will initiate contact with identified individuals under their duty of care pertaining to missing and vulnerable children.
- HO will initiate contact with identified individuals with a view to encouraging them, and where appropriate provide support to enable them, to depart the UK; where appropriate effect removal or regularise their stay.
- On review, HO and DfE will assess how useful the DfE Return Information was in achieving the aims detailed at Sections 15.1.1 and 15.1.2. A process may then be set up whereby HO will notify DfE of any vulnerable minors identified so that DfE may take action in accordance with their duties and obligations.

15.4. Physical method of data transfer

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15.4.1 HO will provide DfE with the information as listed at Section 15.2.1 above on an excel spreadsheet (hereafter referred to as 'the file') on a regular (monthly) basis. The file will contain details of those individuals HO wishes to match against DfE records for the purposes outlined at Section 15.1.1 – 15.1.3 above. HO will transfer the file using a secure file transfer system (as detailed in Section 15.4.6 below). At the same time, HO will also provide DfE with a completed request template (see Annex 6); including details required for the matching and serving as notice that the file has been uploaded to the secure file transfer system. The request template will be e-mailed to the NPD requests mailbox (NPD.Requests@education.gsi.gov.uk).

Commented [1]: We have provisional agreement to use MOVEit subject to a successful dummy run. User Access currently being arranged through MOVE it administrators

15.4.2 As an additional layer of security, all files that are made available to and from DfE and sent utilising the secure file transfer system are further encrypted and password protected. The completed request template will include details on the encryption password which will be sent separately.

15.4.3 DfE will aim to respond to each monthly request within 10 working days of receipt. DfE will use the same file (previously referred to as 'the file') when responding and will insert additional information as detailed in Section 15.2.3 in cases where there is a positive match. If there is no positive match, DfE will confirm this in their response. DfE will transfer the file using a secure file transfer system (as detailed in Section 15.4.6 below). DfE will also return the original request template, including details of how the matching exercise went and serving as notice that the file has been uploaded the secure file transfer system. This will be e-mailed to the nominated individual in HO (detailed in the request template) and will provide HO with notice that the file has been uploaded to the secure file transfer system.

Commented [2]: DfE [redacted] grateful for confirmation that this will stay as drafted following our discussion yesterday – you were going to review.

Commented [3]: Happy to leave this as 10 days for now as we can make efficiencies by automation so hopefully manage to achieve this turnaround

15.4.4 In exceptional circumstances HO are able to make case by case ad-hoc requests to DfE utilising the same process as outlined in sections 15.4.1 and 15.4.2 above. These exceptional circumstances include but are not limited to:

- The HO believes there is significant and imminent physical risk to the child or parent/guardian
- Issues of national security

In these instances, HO will ensure that they specify the exceptional circumstances in the request template.

Commented [4]: Not sure these reference are still correct? Should it be 15.2.3 and 15.2.4

15.4.5 DfE will aim to respond to each ad-hoc request within 5 working days of receipt. DfE will use the same file (previously referred to as 'the file') when responding and will insert additional information as detailed in Section 15.2.3 in cases where there is a positive match. If there is no positive match DfE will confirm this in their response. DfE will transfer the file using the secure file transfer system (as detailed in Section 15.4.6 below). DfE will also return the original request template, including details of how the matching exercise went and serving as notice that the file has been uploaded to the secure file transfer system. This will be e-mailed to the nominated individual in HO (detailed in the request template) and provide HO with notice that the file has been uploaded to the secure file transfer system.

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- 15.4.6 Key to Success is the secure file transfer system which will be used to facilitate the transfer of data to and from DfE in all instances (both monthly and ad-hoc). Key to Success (also known as 'WebDav secure file transfer' system) is an online encryption system provided and hosted by SDA Ltd. DfE have created a secure online folder on the 'WebDav secure file transfer' system for the purposes of this MoU, and have set up and limited access to the following users, who can login using their user ID and password:

- [REDACTED]

Commented [REDACTED]: As we have only had assurance on the system and it has not been officially accredited we would prefer NOT to use MoveIT.

If instead the current procedure could be inserted as discussed (i.e. e-mail / Key to Success with encryption).

We will move to the new EGRESS system instead of Key to Success in the coming months but can test and update this at that stage.

15.5 Costs

- 15.5.1 No charges will apply in relation to this data exchange.

16. Annex 6 –Monthly/Ad-hoc request form



Monthly and ad-hoc
request application form