



Education & Skills  
Funding Agency

# **Awarding Organisation Agreement**

**March 2018**

# Contents

	<b>Page</b>
Layout of the Documents	<b>3</b>
Awarding Organisation Agreement	<b>5</b>
Schedule 1 – Permitted Purposes	<b>27</b>
Schedule 2 – Governance Arrangements	<b>31</b>
Schedule 3 – Change Control Process	<b>38</b>
Appendix 1 – Useful Contact Details	<b>40</b>

# Section 1

## Layout of the Documents

The use of the Learning Records Service is explained by a number of interrelated documents listed in the tables below. Each document has a tier level assigned to it which determines how that document is governed.

*Tier 1 Document* – this is the Agreement that governs the use of the Organisation Portal and the Personal Learning Record.

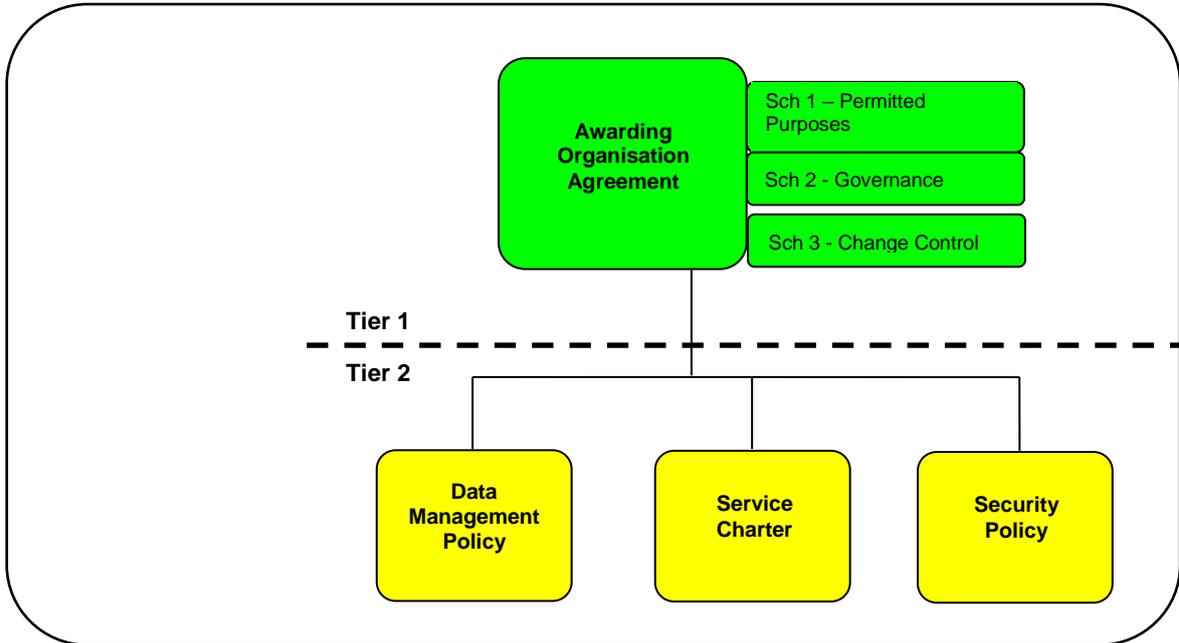
*Tier 2 Documents* – these documents govern the policy and operation of the Organisation Portal and Personal Learning Record.

Document	Description	Tier Level
Awarding Organisation Agreement	This document is the agreement for use of the PLR which includes the Schedules as explained below.	Tier 1
Schedule 1 Permitted Purposes	This Schedule explains the extent of use of the Achievement Data by either Party.	Tier 1
Schedule 2 Governance Arrangements	This Schedule describes the terms of reference of the Advisory Groups that govern Tier 2 documents.	Tier 1
Schedule 3 Change Control Procedure	This Schedule explains the process for changing the Agreement.	Tier 1

Document	Description	Tier Level
Learning Records Service Service Charter v2	This document describes the service levels, availability and service hours	Tier 2
Learning Records Service Security Policy v2	This policy states how the physical and information technology (IT) assets of the Organisation Portal are protected. A "living document", it will be regularly updated as technology, regulatory and advisory requirements change and to reflect current industry best practice.	Tier 2
Learning Records Service Data Management Policy v2	This details the rules and management of Achievement Data between the Parties, Third Parties, Learners, Learning Providers, Permitted Organisations Awarding Organisations and any other parties strictly within the scope and purpose set out in this Agreement, including compliance with the Data Protection Act 1998 and the Freedom of Information Act 2000. This policy also includes the Privacy Notice and the Standard Privacy Notice Text.	Tier 2

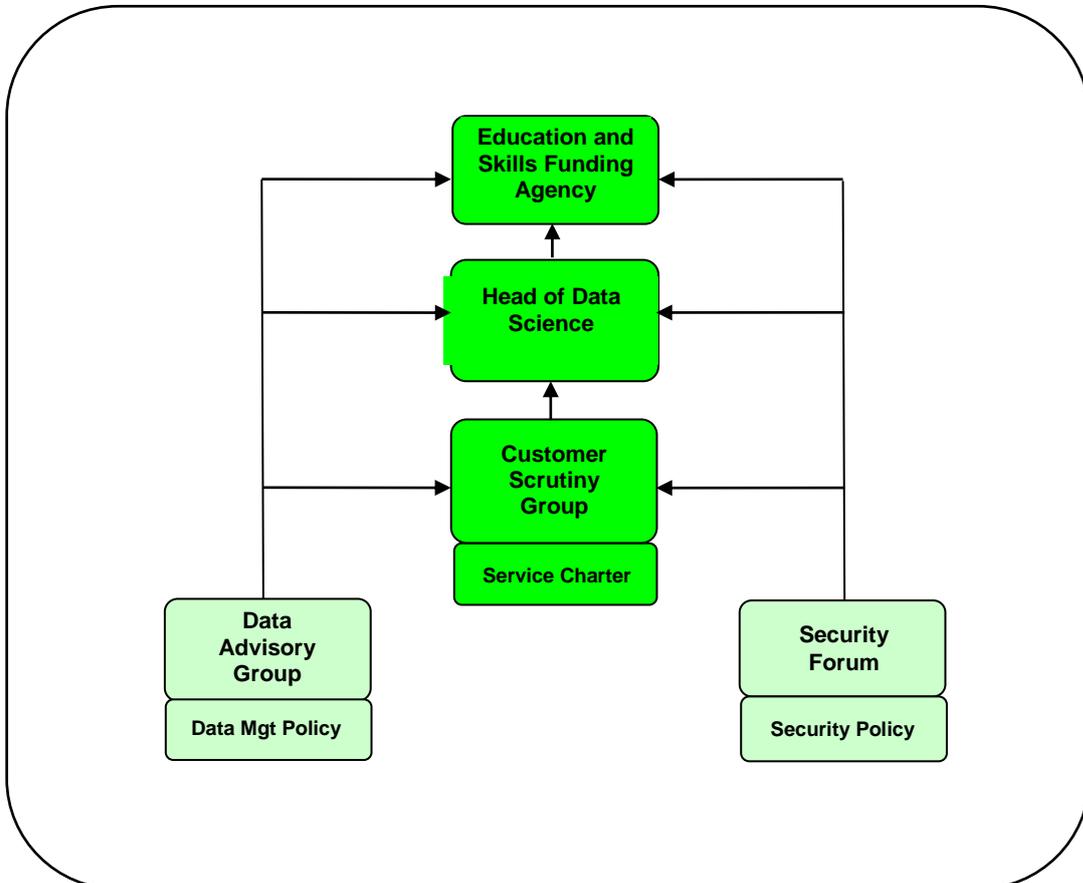
### Diagram 1 – Document Structure and Tier Levels

This diagram shows the relationships between the documents, giving their tier level positions.



### Diagram 2 – Governance Model

This diagram shows the relationship between the Advisory Groups and the escalation paths.



# Awarding Organisation Agreement

## Agreement Details

This agreement is made on (date dd/mm/yyyy):			
Between the Department for Education (DfE), through the Education & Skills Funding Agency (ESFA), an executive agency of the DfE Cheylesmore House, Quinton Road, Coventry, CV1 2WT (“ESFA”, “He”, “His”) and			
Insert name of your organisation:		Company Number (if applicable):	
whose registered address is at:			

## General

- (1) This Agreement sets out the terms and conditions on which Awarding Organisations can use the Organisation Portal to maintain the Personal Learning Record (PLR) and the Permitted Purposes for use of the supplied Achievement Data.
- (2) The ESFA collects and retains Achievement Data in order to fulfil his statutory remit under the Apprenticeships, Skills, Children and Learning Act 2009, as amended. The Organisation Portal is a service offered by the ESFA free of charge. The strategic intent is to enable Learners to view all of their Achievement Data, on-line, and in one place in the PLR.
- (3) The PLR is a source of information to support Learners in their decision making in relation to further study, employment or skills development. The ESFA recognises that the Awarding Organisation is the authoritative source of Achievement Data.
- (4) Learners, at their own discretion, may give consent to Third Parties to access their PLR.
- (5) The ESFA may share Achievement Data with government departments and agencies within England, Wales and Northern Ireland if they are Permitted Organisations:

- (6) In consideration of Your compliance with Your obligations under this Agreement for use of the Organisation Portal and Your submission of Achievement Data with a valid ULN in accordance with the process described at Appendix C of the Data Management Policy the ESFA shall provide to You the use of the Organisation Portal and grants You a limited non-exclusive non-transferable revocable licence to Access the Organisation Portal. By Accessing the Organisation Portal You agree to be bound by this Agreement. If You do not agree to this Agreement then You are not permitted to Access the Organisation Portal and should not attempt to do so.
- (7) It is acknowledged that whilst this Agreement may imply that a direct relationship exists between Awarding Organisations and individual Learners, this relationship may in fact be managed mainly through Learning Providers.
- (8) This Agreement relies upon the Parties acting in good faith and always in the interests of the Learner(s).

## 1. Definitions

1.1. The following definitions shall have the following meanings:

<b>“Access”</b>	means accessing the Organisation Portal to
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	use the PLR and verify Learners' ULN details;
<b>“Achievement Data”</b>	means the given name and family name of a Learner together with the unit or qualification code, the grade, the achievement award date, the name of the Awarding Organisation, and optionally Learner date of birth and gender, Learning Provider UKPRN, Learner postcode and the language for assessment and where applicable a provisional status for the qualification;
<b>“Advisory Groups”</b>	means the groups set up in accordance with the Governance Arrangements to facilitate discussion and agreement in the use of the Organisation Portal and which are comprised of appropriate representatives from the ESFA, Awarding Organisations and other parties;
<b>“Agreement”</b>	means this agreement between the ESFA and You which includes the numbered Clauses together with the Schedules and any other documents which may be agreed in writing by the Parties and incorporated by reference into the Agreement;
<b>“Authorised User(s)”</b>	means personnel authorised by a Party to Access the Organisation Portal and who have been issued with a valid username and password;
<b>“Awarding Organisation”</b>	means an organisation that has been recognised by a Regulator to operate as an awarding organisation and to provide regulated qualifications ;
<b>“Change Control Procedure”</b>	means the procedure relating to any change, variation or amendment to this Agreement as set out in Schedule 3;
<b>Education and Skills Funding Agency or “ESFA”</b>	means the executive Agency of the Department for Education (DfE) and that is responsible for funding the provision of apprenticeships, traineeships and further education in England.
<b>“Commencement Date”</b>	means the later date of signature of this Agreement by authorised representatives of both Parties;
<b>“Confidential Information”</b>	means any information, however it is conveyed, that relates to an organisation's or other entity's business, affairs, developments, trade secrets, know-how, personnel and suppliers, including Intellectual Property, together with all information derived from the above, and any other information which ought reasonably to be considered to be confidential or which is clearly designated as being

	confidential (whether or not it is marked as "confidential");
<b>“Customer Scrutiny Group”</b>	means the Advisory Group tasked with governing the service within the Service Charter and other Tier 2 Documents and acting as the first point of escalation for all other Advisory Groups;
<b>“Data Advisory Group”</b>	means the Advisory Group tasked with devising and implementing policies on data protection, data sharing, data quality and data standards;
<b>“Data Sharing Agreement”</b>	means the agreement entered into between the ESFA and a Permitted Organisation setting out the terms and conditions on which the ESFA will share Achievement Data with the Permitted Organisation;
<b>“Data Management Policy”</b>	means the Tier 2 Document which sets out the policy on the use of Achievement Data in the PLR in order for You, other Awarding Organisations, Third Parties, Learning Providers and/or Permitted Organisations to meet their respective obligations under the DPA;
<b>“Default”</b>	any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party in connection with or in relation to the subject-matter of this Agreement and in respect of which such Party is liable to the other;
<b>“Dispute Resolution Process”</b>	means the process set out in clause 12;
<b>“DPA”</b>	means the Data Protection Act 1998 (as amended);
<b>“Environmental Information Regulations”</b>	means the Environmental Information Regulations 2004 (as amended);
<b>“Event Data Challenge” or “EDC”</b>	means the process by which a Learner can challenge the Achievement Data held in the PLR and which is further described in the Data Management Policy (Section 8.1 and Appendix C);
<b>“FOIA”</b>	means the Freedom of Information Act 2000 (as amended);
<b>“Future Permitted Organisations”</b>	means an organisation that has not signed a Data Sharing Agreement as at the date of signature of this Agreement and is listed in Part B of the table in Schedule 1 to be added

	to Part A of the table as a “Permitted Organisation” if agreed by the Parties pursuant to the Change Control Procedure;
<b>“Governance Arrangements”</b>	means the governance arrangements detailed in Schedule 2;
<b>“Implementation Plan”</b>	means milestone(s) agreed between You and the ESFA to load Achievement Data to the PLR. A template for the Implementation Plan is provided at Appendix D of the Data Management Policy;
<b>“Intellectual Property”</b>	means patents, trademarks, service marks, design rights (whether registrable or otherwise), copyright, database rights, know-how, and other similar rights or obligations whether registrable or not in any country;
<b>“Interface Specification”</b>	means those documents issued to You by the ESFA and which specify all other documentation and guidance needed in order for you to develop Your technical interfaces via either batch file transmission or API (or any future method, if provided by the ESFA), so that you can Access and supply Achievement Data to the Organisation Portal.
<b>“Learners”</b>	means individuals who are awarded units of learning or qualifications by an Awarding Organisation;
<b>“Learning Provider(s)” or “Provider(s)”</b>	means establishments providing assessment, training, careers advice and guidance or teaching towards qualifications who have signed a Learning Provider Agreement; for the avoidance of doubt this includes Learning Providers (in the UK excluding Isle of Man, Jersey and Guernsey) of the following types: schools (state, independent, academies); colleges; training providers (including private, third sector/voluntary & employers); Higher Education Institutions; Prisons /Offender Learning Institutions; Armed Forces (Army, Navy, Air Force); Careers Organisations (to the extent that they are an accredited provider of learning advice services); National Careers Service; Local Authorities career services and Connexions; Private or independent careers service organisations (e.g. school contracted Information Advice and Guidance services)
<b>“Learning Provider Agreement”</b>	means the Data Sharing Agreement between Learning Providers and the ESFA setting out

	the terms and conditions on which the ESFA will share Achievement Data with the Learning Providers and which also covers the terms of use of the Organisational Portal;
<b>“Learning Records Service” or “LRS”</b>	means part of Education and Skills Funding which provides the ULN and PLR services;
<b>“Learning Records Service Service Desk” or “LRS Service Desk”</b>	means the single LRS point of contact for incidents or enquiries relating to the use of the Organisation Portal;
<b>“Ofqual” or “Office of Qualifications and Examinations Regulation”</b>	means the non-ministerial department that regulates qualifications, examinations and assessments in England and established in the apprenticeships, Education and skills, children and learning act 2009 (as amended)
<b>“Organisation Portal”</b>	means the online system or selection of systems, products, services and applications that the Learning Records Service provides to You for the Permitted Purposes;
<b>“Party” and “Parties”</b>	means the ESFA or You or both of us as the context of the Agreement may dictate;
<b>“Permitted Organisation”</b>	means an organisation that has signed a Data Sharing Agreement and is added to Part A of the table in Schedule 1 as agreed by the Parties pursuant to the Change Control Procedure;
<b>“Permitted Purposes”</b>	means the purposes for which the Parties may use the Achievement Data as set out in Schedule 1 or as further agreed through the Change Control Procedure;
<b>“Personal Learning Record” or “PLR”</b>	means that part of the Organisation Portal that stores Achievement and Participation Data;
<b>“Privacy Notice” or “PN”</b>	means the notice to be given to Learners about the use of their personal data and as described in the Data Management Policy;
<b>“Regulated Qualifications Framework” or “RQF”</b>	means the qualifications regulated, general and vocational in England and vocational in Northern Ireland;
<b>“Regulator(s)”</b>	means the Office of the Qualifications and Examination Regulator (“Ofqual”), the Department for Education and Skills (Wales), and the Council for the Curriculum Examinations and Assessment (Northern Ireland) or other applicable regulatory body or person;
<b>“Restrictions”</b>	means the restrictions on the use of

	Achievement Data set out in the table to Schedule 1 and included in the Data Sharing Agreement between a Permitted Organisation and the ESFA or in the Learning Provider Agreement between a Learning Provider and the ESFA
<b>“Security Forum”</b>	means the Organisation Portal security advisory board established under the Governance Arrangements;
<b>“Security Policy”</b>	means the Tier 2 Document which describes the security measures, systems and procedures to be implemented to protect the Achievement Data and the Organisational Portal;
<b>“Service Charter”</b>	means the Tier 2 Document which sets out the service levels upon which the ESFA shall provide the use of the LRS;
<b>“Third Party”</b>	means a person or organisation that the Learner has chosen to give password protected access to their PLR;
<b>“Tier 1 Documents”</b>	means the Agreement and Schedules that govern the use of the Organisation Portal and amended only by the Change Control Procedure as set out in Schedule 3;
<b>“Tier 2 Documents”</b>	means the documents which govern the policy and operation of the Organisation Portal as listed in Section 1 – Layout of the Document;
<b>“Unique Learner Number” or “ULN”</b>	means the Unique Learner Number, a unique number assigned to each Learner through the Learning Records Service; and
<b>“User Agreement”</b>	means an agreement which sets out the terms and conditions of use that individuals have to sign up to before Access to the Organisation Portal is granted.

- 1.2. This Agreement references the Tier 2 Documents which further detail the Parties’ responsibilities in relation to the operation of and Access to the Organisation Portal.
- 1.3. This Agreement supersedes any previous Awarding Organisation Agreement relating to the LRS Service Layer or previous versions of this agreement entered into between the Parties.
- 1.4. In the event of any conflict or question of interpretation between:

1.4.1 this Agreement and/or the Learning Provider Agreement, this Agreement shall take precedence as regards all references to the PLR or Organisation Portal; and

1.4.2 between this Agreement and the Tier 2 Documents, this Agreement shall take precedence.

## **2. Changes to this Agreement**

Any request by a Party for a change to the Tier 1 Document, including for the avoidance of doubt: a change to the definition of Achievement Data, a change to the definition of Permitted Purposes, or the addition of an organisation to the list of Permitted Organisations, shall be subject to the Change Control Procedure set out in Schedule 3.

## **3. The Parties' responsibilities**

3.1. The ESFA shall:

3.1.1 send out a communication in September 2012 and on an annual basis to all Learning Providers registered with the LRS stressing the importance of providing accurate ULNs to the PLR and to Awarding Organisations and the consequences of a failure to do so;

3.1.2 operate, host and maintain the Organisation Portal in accordance with this Agreement and the Data Management Policy and Security Policy and to the service levels contained in the Service Charter. In particular, the ESFA shall implement appropriate technical and organisational measures to ensure integrity and security of the Achievement Data held in the Organisation Portal against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration, disclosure or corruption and to ensure the security of the Organisation Portal;

3.1.3 provide You with the means for Authorised Users to Access the Organisation Portal; and

3.1.4 provide You, via the LRS Service Desk, with an opportunity to provide general feedback on the use of the Organisation Portal in order to assist Him with the development of the Organisation Portal;

3.1.5 provide You with reasonable help and support, including the LRS Service Desk, for Your use of the PLR in accordance with the Service Charter; and

- 3.1.6 provide You with reasonable help and support, including the LRS Service Desk, in assisting with the resolution of Event Data Challenges, as provided for in the Data Management Policy.
- 3.2. You shall:
- 3.2.1 Access the Organisation Portal in accordance with the terms and conditions of this Agreement and the Tier 2 Documents;
- 3.2.2 use all reasonable endeavours to ensure that either directly or through a Learning Provider, as appropriate, the Learner's ULN has been verified and the Learner has received the Privacy Notice. For the avoidance of doubt You will have discharged your obligation to use all reasonable endeavours by following the process agreed between the Parties referenced in Appendix C of the Data Management Policy.
- 3.2.3 use reasonable endeavours to provide current, complete and accurate Achievement Data into the Organisation Portal. For the avoidance of doubt You will have discharged Your obligation to use reasonable endeavours by following the guidance referenced in Appendix C of the Data Management Policy. You shall use reasonable endeavours to submit any new Achievement Data or any amendments to existing Achievement Data within the PLR to the Organisation Portal within ten (10) working days of such new Achievement Data or the amendments to the existing Achievement Data, as applicable, being produced during the Implementation Plan period. Following this period You shall submit new Achievement Data or any amendments to existing Achievement Data within the PLR to the Organisation Portal within ten (10) working days of such new Achievement Data or the amendments to the existing Achievement Data, as applicable, being produced; and
- 3.2.4 make all reasonable endeavours to ensure any Achievement Data supplied is error and virus free. For the avoidance of doubt you will have discharged your obligation to use all reasonable endeavours by following the guidance referenced in Appendix 2 of the Security Policy.
- 3.3. Neither Party shall:
- 3.3.1 use the Achievement Data nor run queries or otherwise seek to interrogate the PLR in order to use the Achievement Data for any purpose other than the Permitted Purposes, and in the case of the ESFA to comply with Clause 3.1.1;

- 3.3.2 be liable, in any way, for any unauthorised or unlawful processing or accidental loss, destruction, damage, alteration, disclosure or corruption to Achievement Data caused by the other Party, a Learning Provider, Permitted Organisation, Learner or Third Party;
- 3.3.3 be liable, in any way, for any inappropriate guidance given as a result of use of the Achievement Data by a Learning Provider, Permitted Organisation or Third Party.
- 3.4. The Parties acknowledge that Awarding Organisations are the authoritative source of Achievement Data.
- 3.5. The ESFA shall not be liable for any errors, omissions, inaccurate or corrupt Achievement Data including, but not limited to, any defects caused by the transmission of this Achievement Data over electronic networks, however the ESFA shall offer assistance in the resolution of such problems, where appropriate.
- 3.6. The ESFA warrants that he will use best endeavours to process the Achievement Data in accordance with the DPA. The ESFA will meet any proven claims or losses suffered by you directly as a result of the ESFA's failure to comply with this clause.
- 3.7. The ESFA shall use best endeavours to maintain the Organisation Portal to the service levels set out in the Service Charter and will allocate resources accordingly. The ESFA does not warrant that availability of the Organisation Portal will be uninterrupted or error free.
- 3.8. Subject to clause 3.6 save in respect of death or personal injury resulting from His negligence or fraud the ESFA is not liable for any loss You suffer including, without limitation, indirect, special or consequential loss, or any damages arising from loss of use, goodwill, data or profits whether in contract, tort or otherwise arising out of or in connection with the use of the Organisation Portal.
- 3.9. The ESFA agrees to advise Authorised Users of the Organisation Portal, Learning Providers, Permitted Organisations, Learners and Third Parties that the Achievement Data held by the Awarding Organisation remains the authoritative source of Achievement Data and that the ESFA is responsible for maintaining Achievement Data within the PLR.
- 3.10. In the event that after following the process referenced in Appendix C of the Data Management Policy, You are unable to match a Learner's Achievement Data held by You to that Learner's PLR held in the Organisation Portal, then there is no obligation on You to submit the Achievement Data in respect of that Learner.

- 3.11. Subject to the provisions of clause 3.10 You will upload Achievement Data for all Learners funded by the ESFA or in receipt of publicly funded provision in England, Wales and Northern Ireland. You may, in the interest of Learners upload Achievement Data for Learners in England, Wales and Northern Ireland not funded by the ESFA or in receipt of publicly funded provision. For the avoidance of doubt, there is no requirement on You to upload Achievement Data where the award date is prior to the date of signature of this Agreement.
- 3.12. The ESFA will agree with You an Implementation Plan within 30 days of the date of signature of this Agreement (following the template defined in Appendix D - Data Management Policy) including a timescale for uploading the Achievement Data.

#### **4. Content on the PLR**

- 4.1. You agree that any Intellectual Property in the Organisation Portal is owned by the ESFA or suppliers to the ESFA and that You do not have any right, title or interest in any such Intellectual Property apart from what is granted to You under this clause.
- 4.2. You shall own any Intellectual Property in the Achievement Data that You contribute to the Organisation Portal save where such Intellectual Property is already owned by a third party or is already the Intellectual Property of the ESFA.
- 4.3. You shall not delete or remove any proprietary notices contained within the Organisation Portal or relating to the Achievement Data.
- 4.4. The Organisation Portal shall not contain, hold or display any logo, branding or other proprietary marks, other than those belonging to or licensed by the ESFA.
- 4.5. The ESFA shall only share Achievement Data held on the PLR with Third Parties, Learners, Learning Providers and Permitted Organisations for the Permitted Purposes described in Schedule 1.
- 4.6. Where the ESFA shares Achievement Data with a Permitted Organisation for the purpose of the Permitted Organisation's statutory functions the ESFA warrants that He has independently checked and satisfied himself that:
- 4.6.1. processing of Achievement Data is part of the statutory functions of the Permitted Organisation; and
  - 4.6.2. the processing of the Achievement Data is necessary to enable the Permitted Organisation to perform its statutory functions.

- 4.7. The ESFA shall inform all Third Parties, Learning Providers and Permitted Organisations that are authorised to Access the Organisation Portal or which may otherwise process the Achievement Data that there are Restrictions as to how the Achievement Data may be processed and the purposes for which such Achievement Data may be processed. The ESFA shall ensure that all Learning Providers and Permitted Organisations with access to the PLR are subject to a Learning Provider Agreement or a Data Sharing Agreement as applicable which requires them to comply with such Restrictions. For the avoidance of doubt, the ESFA, You, Third Parties, Learning Providers and Permitted Organisations may not use Achievement Data or other information obtained from the Organisation Portal for commercial gain.
- 4.8. Without prejudice to any alphanumeric listings, all Achievement Data stored in the PLR shall be held impartially and objectively and made available to support the PLR functionality. The ESFA shall not in any way manipulate the Achievement Data or the Organisation Portal functionality in order to favour one Awarding Organisation over another.
- 4.9. The ESFA shall implement an Achievement Data integrity and quality measurement methodology, to ensure that Achievement Data has not been accidentally changed and to ensure that the Achievement Data accurately reflects Achievement Data received from You and other Awarding Organisations. The Achievement Data integrity and quality measurement methodology will be shared through the Data Advisory Group.
- 4.10. In the event of an Event Data Challenge the Parties shall follow the agreed process, which is referenced in Appendix C of the Data Management Policy. You shall provide information as required to ensure the LRS Service Desk can resolve the Event Data Challenge and if required update the Organisation Portal. You will take responsibility for correcting any data on the Organisation Portal if Achievement Data supplied by You was incorrect.
- 4.11. In the event of any dispute between You and the ESFA relating to the submission, acceptance or rejection of Achievement Data, the Parties shall follow the escalation procedures set out in the Governance Arrangements.
- 4.12. For the purposes of audit, the ESFA shall on written demand by You confirm the current nature and extent of any sharing of Your Achievement Data to a Permitted Organisation, such confirmation to be issued in writing by the ESFA within 10 days of such demand from You being made. The ESFA warrants that such audit will be true, accurate and complete. In the event of a finding that the sharing of Achievement Data is beyond the Permitted Purpose the ESFA will take immediate steps to rectify the breach or to revoke Access by the Permitted Organisation, if

the breach is not rectified to His reasonable satisfaction within 10 days of such breach being brought to His attention.

## **5. Access**

5.1. Each Party shall:

5.1.1 ensure that only Authorised Users Access the Organisation Portal;

5.1.2 ensure that any person allowed to Access the Organisation Portal has been vetted in accordance with their internal procedures; and

5.1.3 be responsible for managing and monitoring Authorised Users' Access to the Organisation Portal in compliance with the Tier 2 Documents.

5.2. You must use reasonable endeavours to ensure that Your Authorised Users are appropriately notified of the requirement to:

5.2.1 ensure the accuracy of the Achievement Data that Your Authorised Users upload to the PLR and to comply with the DPA whilst using the Organisation Portal; and

5.2.2 comply with the User Agreement.

5.3. The ESFA shall monitor Your use and Access of the Organisation Portal:

5.3.1 for audit purposes, to confirm use of the service in accordance with the Agreement;

5.3.2 to resolve any problems with the Organisation Portal; and

5.3.3 to improve the use of the Organisation Portal.

## **6. Data Protection**

6.1. You are the data controller of the Achievement Data held by You. The ESFA is the data controller of the Achievement Data held within the Organisation Portal. The Parties shall comply with the obligations in the DPA and the Data Management Policy.

- 6.2. The Parties shall meet their DPA obligations in accordance with the following DPA principles in relation to Achievement Data that:
- a) must be fairly and lawfully processed;
  - b) must be processed for limited purposes;
  - c) must be adequate, relevant and not excessive;
  - d) must be accurate and up to date;
  - e) must not be kept for longer than is necessary;
  - f) must be processed in line with the rights of individuals;
  - g) must be kept secure; and
  - h) must not be transferred outside the European Economic Area without adequate protection.
- 6.3. In the event of statutory changes that impact the requirement for Achievement Data the ESFA will then invoke the Change Control Procedure at Schedule 3.
- 6.4. Any change to the definition of Achievement Data or Permitted Purposes shall be subject to the Change Control Procedure defined in Schedule 3.
- 6.5. If agreement as to a change to the scope of Achievement Data or Permitted Purpose cannot be reached through the Change Control Procedure defined in Schedule 3, You may raise a dispute following the Dispute Resolution Process.
- 6.6. The ESFA may, in the instance of legislative changes, proceed with the change to the Permitted Purposes. For the avoidance of doubt such action shall not result in placing the Awarding Organisations in immediate conflict with the regulations set out by the Regulator. In such circumstances any objecting Awarding Organisation is entitled to follow the Dispute Resolution Process.
- 6.7. As applicable, in the event that any Learner communicates to You or Your Learning Provider their objection to the use of their Achievement Data on the Organisation Portal, You will immediately inform the LRS Service Desk (or in the case of an objection communicated to the ESFA, the ESFA will process the objection through the LRS Service Desk). The Parties shall cooperate with one another to ensure that the Learner's Achievement Data is only processed in accordance with the DPA.

## **7. Freedom of Information**

- 7.1. You acknowledge that the ESFA is subject to the requirements of the FOIA and the Environmental Information Regulations. You shall assist and cooperate with

the ESFA to enable the ESFA to comply with the ESFA's information disclosure obligations as detailed in the Data Management Policy and within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations ("**Request for Information**").

7.2. The ESFA shall be responsible for determining in His absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Achievement Data and/or any other information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

7.3. In no event shall You respond directly to a Request for Information on behalf of the ESFA unless expressly authorised to do so by the ESFA in writing.

7.4. You acknowledge that (notwithstanding the provisions of this Clause 7) the ESFA may be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning You or the PLR:

7.4.1 in certain circumstances without consulting You; or

7.4.2 following consultation with You and having taken Your views into account;

provided always that where 7.4.1 applies the ESFA shall take reasonable steps, where appropriate, to give You advanced notice, or failing that, to draw the disclosure to Your attention after any such disclosure.

## **8. Confidentiality**

8.1. Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:

8.1.1 treat all Confidential Information provided by the other Party, a Learning Provider, Permitted Organisation or obtained by a Party, Learning Provider, Third Party or Permitted Organisation through Access to the PLR as confidential and safeguard it accordingly; and

8.1.2 not disclose a Learning Provider's, Permitted Organisation's or the other Party's Confidential Information to any other person without the owner's prior written consent, other than:

8.1.2.1 to Authorised Users or other staff who need to know such information, provided that before any disclosure takes place the Party disclosing the Confidential Information shall

ensure that such Authorised Users or members of staff are made aware of its confidential nature and are subject to undertakings of confidentiality no less onerous than those contained in this Agreement; or

8.1.2.2 where such disclosure is necessarily required under a legal obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to Clause 7 (Freedom of Information).

8.2. Clause 8.1 shall not apply to the extent that the Party making the disclosure can prove that such information:

8.2.1 was in their possession and not subject to an obligation of confidentiality prior to its disclosure by the information owner;

8.2.2 was independently developed without access to the other Party's Confidential Information;

8.2.3 was received from a Learning Provider, Third Party or Permitted Organisation without breach of any obligation of confidentiality; and/or

8.2.4 became public otherwise than through a breach of any obligation of confidentiality.

8.3. Upon the occurrence of any actual, suspected or threatened misappropriation or misuse of the Confidential Information either Party shall promptly consult with the other to agree what steps shall be taken to prevent or terminate such misappropriation or misuse, and take all steps as may be reasonably requested, including the institution of disciplinary or legal proceedings.

8.4. The ESFA shall use all reasonable endeavours to ensure that any government department, employee or third party to whom the Confidential Information is disclosed pursuant to Clause 8.3 is made aware of His obligations of confidentiality.

8.5. The provisions of this Clause 8 shall remain in force notwithstanding termination of this Agreement.

## **9. Incident Resolution**

- 9.1. The Parties shall put in place procedures to work together constructively in the event of any problem arising with the functionality or use of the Organisation Portal, a security incident or an incident which adversely affects the quality or accuracy of the Achievement Data and such procedures shall be governed by the Customer Scrutiny Group and contained within the Service Charter or, in the case of security, as described in the Security Policy.
- 9.2. The ESFA shall take appropriate remedial action as a result of an incident to restore the Organisation Portal in accordance with the service levels described in the Service Charter.

## **10. Governance**

- 10.1. The Parties acknowledge that the purpose of the Advisory Groups, whose terms of reference are set out in Schedule 2, is to advise the Head of Learning Records Service and the ESFA on:
- questions of governance including information governance related to the LRS on behalf of Awarding Organisations; and
  - performance and compliance issues under this Agreement and manage changes to procedures and documents including the Tier 2 Documents.
- 10.2. Where requested by a Regulator, the Parties will work together in good faith to provide transparent information about the operation of the PLR to the Regulator.
- 10.3. The Advisory Groups, together with other interested stakeholders, shall establish a process for managing changes to the Tier 2 Documents, which will be based on the principles in the Governance Arrangements as set out in Schedule 2.

## **11. Suspension and Termination**

- 11.1. This Agreement shall commence on the Commencement Date and shall continue in full force and effect unless and until terminated by either Party according to the terms of this Agreement.
- 11.2. You may terminate this Agreement by giving 60 days written notice of termination to the LRS at the address in Appendix 1.
- 11.3. Subject to clause 11.4, either party may terminate this agreement for Default of the other Party or, in the case of the ESFA if instructed to do so by HM Government, by giving six months' written notice to the other.

11.4. In the event that either Party serve a notice of termination ("**Default Termination Notice**") on the other Party for default in accordance with clause 11.3, that Party shall have three (3) months from the date of service of the Default Termination Notice ("**Remedy Period**") to remedy the Default the subject of such notice. In the event that:

11.4.1. the Party remedies the applicable Default as determined by the other Party acting reasonably within the Remedy Period, the Default Termination Notice will be deemed to have been withdrawn by the Party and this Agreement will continue in accordance with the provisions of clause 11.1. For the avoidance of doubt, remedy of a Default in accordance with this clause 11.4.1 will not in any way affect or prejudice a Party's right to serve additional notices pursuant to clause 11.3; or

11.4.2. the Party fails to remedy the applicable Default within the said three (3) month period, this Agreement shall terminate on the date that is six (6) months from the date of service of the Default Termination Notice and the provisions of clause 11.7 shall apply.

11.5. In the event of termination of this Agreement for whatever reason:

11.5.1 You shall:

11.5.1.1 cease Access to the Organisation Portal;

11.5.1.2 stop using the Organisation Portal even if Your User accounts are still active; and

11.5.1.3 co-operate with the ESFA to agree an exit strategy.

11.5.2 Once a request to cease processing Achievement Data or for deletion of Achievement Data is submitted by You the ESFA will follow the process outlined in the Data Management Policy at section 9.1.3; and

11.5.3 The ESFA shall provide reasonable assistance to You in assessing the impact of any changes to Your working arrangements and enter into consultation with You (and any other affected stakeholders, in the event the ESFA terminates this Agreement) to produce an exit strategy, which will contain as a minimum the following activities: creation of an exit timetable; planned exit meetings; communications; risk assessment; access to the Organisation Portal prior to exit and shall include arrangements (where requested in writing) for the removal of any Achievement Data You submitted to the Organisation Portal.

- 11.6. For the avoidance of doubt, Access by Your Authorised Users to the Organisation Portal shall terminate immediately upon termination of this Agreement.
- 11.7. In the event that the Agreement is terminated in accordance by You for ESFA Default in accordance with clause 11.3, the ESFA agrees to stop all processing of Achievement Data that has been received from You and will simultaneously write to all Permitted Organisations that hold Your Achievement Data requesting that they cease processing Your Achievement Data.
- 11.8. Following termination of this Agreement or the suspension of use of the Organisation Portal, the ESFA shall inform all Permitted Organisations and Learning Providers that the relevant Awarding Organisation is no longer participating in the PLR. The ESFA shall not be responsible for communicating alternative arrangements to affected parties.

## 12. Dispute Resolution

- 12.1. The parties will work together to resolve all disputes as soon as possible and without escalation.
- 12.2. If the Parties cannot reach agreement within 14 working days then the matter shall be escalated according to the escalation table.

Level	Education and Skills Funding Agency	Awarding Organisation
1	Head of Data Science ??	Operations Manager (or equivalent) and optionally, FAB/JCQ representatives
2	ESFA	ESFA

- 12.3. If the dispute has not been settled in accordance with the dispute resolution process within 30 days of reaching stage 2, either Party may, at their own cost, issue a notice of arbitration, referring the matter to arbitration following the provisions of the Arbitration Act 1996 (or any statutory modification or re-enactment thereof) shall apply to such arbitration.
- 12.4. The arbitration will be conducted by a sole arbitrator, jointly agreed by the Parties. In the event of the Parties being unable to agree the identity of the arbitrator within

14 days of the service of the notice of arbitration, either Party may request the Chairman of the Chartered Institute of Arbitrators to make the appointment.

### **13. Representatives and Notice**

13.1. Each Party shall nominate, and keep the other Party informed of any changes, within ten (10) days of such changes, a suitably senior representative who will be the primary contact for all matters relating to this Agreement. Each Party shall communicate the identity of the representative to the other Party and to the Learning Records Service Desk within two (2) days of the Commencement Date.

### **14. Miscellaneous**

14.1. Neither Party to this Agreement shall be deemed to be in Default or liable to the other Party in any manner whatsoever for any delays in performance or from failure to perform or comply with the terms of this Agreement due to an event which is beyond the reasonable control of that Party.

14.2. No waiver by a Party of any Default of this Agreement shall operate as a waiver of any subsequent or continuing Default.

14.3. If any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remaining provisions shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

14.4. A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

14.5. Either Party shall be entitled to assign this Agreement to another party having obtained prior written consent from the other which shall not be unreasonably withheld. In the event You assign this Agreement to another party, the ESFA reserves the right to retain or destroy the Achievement Data in order to comply with His legal obligations as Data Controller.

14.6. Save for any representation made fraudulently, this Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and no Party has relied on any undertaking, statement, warranty, undertaking or representation made by any other party or any other person except for as expressly set out in this Agreement.

**The signature of Your duly authorised representative below indicates that You agree and accept the terms and conditions of this Agreement.**

The agreement must be signed by an appropriate level of authorisation. The following is a selection of job titles which are deemed to represent a person with appropriate authority – this is not exhaustive.

• Chief Executive	• CEO	• Managing Director
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**To be completed by You:**

Awarding Organisation name	
Signature	
Name (please print)	
Position within organisation	
Date	

**The signature of the Business Owner of Learning Records Service within the Education and Skills Funding Agency or duly authorised representative below indicates that the ESFA agrees and accepts the terms and conditions of this Agreement.**

Signature	
Name (please print)	
Position within organisation	
Date	

## **Schedule 1 - Permitted Purposes**

### **1. The ESFA**

1.1 The ESFA shall use the Achievement Data submitted to the PLR for the following purposes:

1.1.1 to enable Learners to access and view their Achievement Data in the PLR;

1.1.2 to enable Learners (on an individual basis) to share their PLR with Awarding Organisations, Learning Providers and other Third Parties deemed suitable by the Learner to fulfil the purposes as requested by the Learner;

1.1.3 1.1.4 1.1.5 to enable the ESFA to fulfil his statutory remit under the Apprenticeships, Skills, Children and Learning Act 2009, as amended For the avoidance of doubt, this may include measuring and auditing eligibility to public funding, matching apprentices, ensuring independent quality assessment of education and training; measuring success; ensuring clear accountability in meeting legislation and regulation for the provision of education and training; production of official statistics and research to inform government policy. Part 4 and Schedule 4 of the Apprenticeships, Skills, Children and Learning Act 2009 sets out the functions and main duties of the ESFA of Education and Skills Funding; and

1.1.6 to enable other government departments in England (, including but not limited to Department of Work and Pensions) and equivalent government departments in Wales and Northern Ireland and their respective agencies to fulfil their statutory functions in relation to education, skills and work where they are Permitted Organisations.

1.2 The ESFA shall only share Achievement Data with Third Parties and Learning Providers, Permitted Organisations and for the Permitted Purposes as set out in Schedule 1.

### **2 Learning Providers**

2.1 Learning Providers shall process the Achievement Data submitted to the PLR in accordance with the terms of the Learning Provider Agreement for the following purposes:

- to Access achievement (prior current/new and destination) for enabling enrolment/entry/progression in education and training;
- to manage eligibility and entitlements, and claims to public funding;
- to support credit accumulation and transfer, to measure learner success;
- to provide information, advice and guidance for career progression, employment opportunities or the next step in learning and availability of public funding;
- to meet legal and regulatory requirements in the provision of education and training.

### **3. Permitted Organisations and Future Permitted Organisations**

- 3.1 A Party shall provide a change control notice to the other Party to inform the other Party of its request to include a Future Permitted Organisation (examples of Future Permitted Organisations in Table Below) as a Permitted Organisation in accordance with the Change Control Procedure in Schedule 3.

**PART A. Permitted Organisations: Achievement Data Sharing Summary Table**

Permitted Organisations	Permitted Purposes	Basis for Use of Achievement Data	Scope of Access to Achievement Data	Restrictions
The Federation for Industry Skills & Standards	To provide evidence of an Individual Learner's achievement to support awarding of an Apprenticeship	The Alliance is the delegated Certifying Authority for Apprenticeships in England as set out in the Apprenticeships, Skills, Children and Learning Act (ASCL) 2009, section 6	General and Vocational Achievement Data including Regulated Qualifications Framework (RQF) for individual learners taking Apprenticeship	Learning Providers accessing the LRS will provide Unique Learner Number's of individual learners claiming an Apprenticeship, to enable confirmation of the award of an Apprenticeship. Sector Skills Councils or other Sector Skills Bodies are not permitted access to Achievement Data.
The Welsh Government Department for Education and Skills (Education and Public Services Group)	The Welsh Minister will analyse achievement data to monitor performance for the purpose of meeting statutory obligations with regards to the funding of qualifications.	<p><b>The Learning and Skills Act 2000 (LSA 2000), Welsh Ministers:</b></p> <p>Under section 31 must secure the provision of proper facilities for the education (other than higher education) and training of persons over compulsory school age who have not attained the age of 19:</p> <p>Section 37 assess the quality of the provision they fund, and to take judgements about quality into account in deciding which providers they continue to fund.</p> <p>Section 107 of the Apprenticeships, Skills Children and Learning Act 2009, as amended ("ASCLA") provides the legal</p>	Access is required to PLR data for all learners with Welsh postcodes in order to monitor performance for Welsh Learners.	Learners with Welsh Postcodes in order to monitor performance for Welsh Learners. The data will be shared with the Welsh Government on condition that it is used by the Welsh Government for funding and monitoring purposes only. The data may not be onward shared with other organisations, or used for other purposes.

		<p>basis for provision of services to Welsh Ministers.</p> <p><b>Education Act 1996 (section 10):</b>  Welsh Ministers to promote the general education of the people of Wales, together with section 71 of Government of Wales Act (GOWA) 2006 which enables them to do anything which is calculated to facilitate, or is conducive or incidental to the exercise of their functions.</p> <p>The collection of data is supported by The School Performance Information (Wales) Regulations 2011: schedule 7 and 8 of Part 3 of the Regulations. These Regulations, made under sections 29(3), 408, 537, 537A(1) and (2) and 569(4) and (5) of the Education Act 1996, apply in relation to schools in Wales. The Regulations relate to the collection of information about the performance of schools.</p>		
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<b>Permitted Organisations</b>	<b>Permitted Purposes</b>	<b>Basis for Use of Achievement Data</b>	<b>Scope of Access to Achievement Data</b>	<b>Restrictions</b>
<p>Department for Education (DfE)</p> <p>Education Funding Agency (EFA)</p>	<p>Funding</p>	<p>The Education Funding Agency (EFA) is an Executive Agency of the Department for Education (DfE) in England.</p> <p>The EFA's principal responsibilities are:</p> <ul style="list-style-type: none"> <li>• to provide funding for the education of pupils in academies;</li> <li>• to distribute the Dedicated Schools Grant for the education of pupils up to age 16 in local authority maintained schools;</li> <li>• to provide funding for all 16-19 education and training;</li> <li>• to provide funding for learners with learning difficulties and/or disabilities aged 16-25;</li> <li>• to support the delivery of capital programmes for schools, academies, Free Schools and sixth form colleges.</li> </ul>	<p>Maths and English GCSE grades and their achievement dates. This data will be extracted from the PLR at specific dates and shared with EFA</p>	<p>The current EFA requirement is limited to 'standard' GCSE Maths and English only, and does not include GCSE Applications in Mathematics, GCSE English Literature. This data will be shared with EFA on condition that it is used by EFA for funding purposes only. The data may be divided up and shared with individual learning providers funded by EFA as part of their funding explanation, but otherwise is not onward shared with other organisations, or used for other purposes.</p>

<b>Permitted Organisations</b>	<b>Permitted Purposes</b>	<b>Basis for Use of Achievement Data</b>	<b>Scope of Access to Achievement Data</b>	<b>Restrictions</b>
Department for Work and Pensions (DWP)	<p>Identification of qualifications to assist the assessment of a claimant's skills levels with the following specific aims that cover three particular roles:</p> <ol style="list-style-type: none"> <li>1. To enable Jobcentre Plus work coaches to have an up-to-date knowledge of courses/training that clients have achieved that will support their return to employment; to help share the most effective claimant commitment; and to prevent duplication of support (and therefore cost) already given; and to help achieve sustained employment.</li> <li>2. To enable Employment and Benefit Advisers (EBAs) (who work in prisons) to have an up-to-date knowledge of courses/training that</li> </ol>	<ol style="list-style-type: none"> <li>1. Section 72 of the Welfare Reform and Pensions Act 1999, together with the Social Security (Claims and Information) Regulations 1999 and the Welfare Reform and Pensions Act (Section 72) (Relevant Authority) Designation Order 2010, create a legislative gateway enabling relevant employment and training information to be shared between DWP and providers in order to assist claimants with employment and training needs. The existence of this legislation means there is no need to obtain a claimant's consent in order to enable relevant personal data to be shared.</li> <li>2. Section 14 of the Offender Management Act 2005 (applies to England and Wales) provides legal authority for DWP (and the Skills Funding Agency) to share data with prisons, probation services and their service providers for the management of offenders. There is no restriction on the sort of data that can be exchanged.</li> <li>3. Section 3 of the Social Security and Administration Act allows the sharing of specified types of information between DWP and their service</li> </ol>	View only access to the Personal Learning Record (PLR) housed within the Learning Records Service (LRS) for DWP work coaches, EBA's and a small team (two or three named members of the DWP Provider Payment Validation Team).	Access will only be granted where there is a clear need within the role description to have view only access to the information as part of a skills assessment or as part of the skills referral process or in the case of DWP Provider Payment Validation Team where confirmation of completion is required.

	<p>prisoners have achieved (before and during prison sentence) to:</p> <ol style="list-style-type: none"> <li>3. Help share the time spent in person towards employment;</li> <li>4. Ensure the most effective support is given on release from custody;</li> <li>5. Help enable courses/training or specific employment route ways started before prison to continue during sentence.</li> <li>6. Prevent duplication of support/courses already given; and</li> <li>7. Enable courses started in custody to be completed after release.</li> <li>8. To enable DWP Provider Payment Validation Team staff, to quickly identify and confirm where an individual has successfully achieved the English Language Requirement (Scotland</li> </ol>	<p>providers for the management of offenders. There is no restriction on the sort of data that can be exchanged.</p> <ol style="list-style-type: none"> <li>4. Section 13 of the Social Security and Administration Act allows the sharing of specified types of information between DWP and their service providers. Information can be shared it is relates to (inter alia) employment or training.</li> <li>5. Section 1 of the Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) Regulations 2013 (for JSA claimants) and under section 16 of the Welfare Reform Act 2012 (for Universal Credit claimants) provides authority for the English Language Requirements in Scotland and Wales which will be delivered under the 'Skills Conditionality' definition. The English Language Requirements is a new provision contracted by DWP.</li> </ol>		
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	and Wales) qualification, and therefore validate that contracted services have been delivered so entitlement to payment can be confirmed.			
UCAS (Universities and Colleges Admissions Service)	<p>To verify an applicant's claim to UK qualifications.</p> <p>Access achievement for progression/entry of individual Learners into higher education and for onward sharing with education institutions to support individual applications</p>	<p>UCAS operates a dedicated Verification Team (established in 1996 and partially funded by BIS), tasked with the prevention and detection of fraud in applications and more recently similarity in personal statements. We have a responsibility to our applicants, members and stakeholders to screen applications for false, missing and/or misleading information and personal statements for patterns of similarity and to report our findings. Our aim is to avoid anyone gaining from an unfair advantage and securing a place by deception.</p>	<p>Access to Verify and Personal Learning Record (PLR) to allow the UCAS Verification Team to verify an individual's ULN and results showing on the PLR against their UCAS application.</p>	<p>Access would be limited to ad hoc searches and only shared with higher education providers named in their UCAS application.</p>

**PART B: Future Permitted Organisations: Achievement Data Sharing Summary Table**

<b>Future Permitted Organisations</b>	<b>Permitted Purposes</b>
Student Loans Company	Access achievement for funding further and higher education
Government Departments, Devolved Administrations & NDPBs/Agencies - HEfCE-HESA; - DELNI/DENI, Scottish Government; - Ofsted	Access to Achievement Data for measuring and auditing eligibility to public funding, matching apprentices, ensuring independent quality assessment of education and training; measuring success; ensuring clear accountability in meeting legislation and regulation for the provision of education and training; production of official statistics and research to inform government policy.

#### **4. Awarding Organisation**

- 4.1 You shall only process the Achievement Data You obtain from the PLR subject to the Learner's permission, either directly or through a Learning Provider as appropriate, as requested for the following purposes:
- 4.1.1 to support the process of determining a potential award of a qualification to Learners;
  - 4.1.3 to verify prior attainment;
  - 4.1.5 identifying possible errors in the Achievement Data; and
  - 4.1.6 to provide information, advice and guidance to Learners.

#### **5. Restrictions**

- 5.1 Awarding Organisations, Learning Providers and Permitted Organisations should not attempt to check a record for a Learner that has not made application or advice query to your organisation and received a privacy notice, unless that Learner has given you express permission to act as a Third Party on his behalf.
- 5.2 Awarding Organisations, Learning Providers and Permitted Organisations are not permitted to use the Achievement Data for any purposes other than those permitted by this Agreement including for marketing or other commercial gain.
- 5.3 Future Permitted Organisations will only be able to aggregate data for purposes explicitly specified and agreed under the change control arrangements of this Agreement.

## Schedule 2

### Governance Arrangements: Terms of Reference

The Advisory Groups are the groups responsible for ensuring that the PLR meets its legal and operational requirements in relation to scrutiny, security and data management. Each Advisory Group's Terms of Reference are summarised below:

Name of Group/ Committee	The Customer Scrutiny Group
<p><b>Purpose</b></p>	<ul style="list-style-type: none"> <li>• The Customer Scrutiny Group shall oversee all aspects of the delivery of the PLR. It shall act as the first point of escalation for all other Advisory Groups and it will directly govern the service within the Service Charter and govern Tier 2 Documents by escalation from other Advisory Groups. It will advise the Head of Data Science as necessary regarding all concerns with the operation of the PLR including any changes.</li> <li>• The Customer Scrutiny Group is not an operational management board and operational decisions will not be referred to it.</li> <li>• Specifically the Customer Scrutiny Group will have responsibility for representing the views of the education sector on the following issues: <ul style="list-style-type: none"> <li>▪ Priority;</li> <li>▪ Scope of service;</li> <li>▪ Delivery and Impact;</li> <li>▪ Medium and Long Term Strategy; and</li> <li>▪ Performance of the service.</li> </ul> </li> <li>• The Customer Scrutiny Group will also be responsible, on behalf of the education sector utilising the PLR, for reviewing delivery of the PLR against the Service Charter directly and the remaining Tier 2 Documents as escalated to it by other Advisory Groups.</li> </ul>

<p><b>Membership</b></p>	<ul style="list-style-type: none"> <li>• The Customer Scrutiny Group will be constituted from the Head of Data Science, representatives from Department for Education, the devolved administrations, Ofqual and Qualification in Wales representing the Regulators.</li> <li>• A representative number of Awarding Organisations and Learning Providers, the exact number to be determined, but to consist of all Awarding Organisations currently present on the Customer Scrutiny Group as at the Commencement Date.</li> <li>• In addition, representative bodies such as the Association of Colleges and the Federation of Awarding Bodies, and the Joint Council for Qualifications and UCAS and HESA and other bodies will be invited to either participate or nominate a representative to perform the role of 'Ambassador Users within the Customer Scrutiny Group'. The role of Ambassador Users will be to offer a route for organisations not directly represented to raise issues or concerns. For this purpose Ambassador Users will confirm the extent of their remit to speak on behalf of their members.</li> <li>• The chair of the Customer Scrutiny Group will be selected by the membership and secretariat support will be provided by the Learning Records Service team.</li> </ul>
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Name of Group/ Committee	The Data Advisory Group
<b>Purpose</b>	<ul style="list-style-type: none"> <li>• The Data Advisory Group will govern the data management policies and provide advice and guidance on all issues related to the Learning Records Service data management policies and hold responsibility for approving the content of and updates to the data management policies.</li> <li>• This Data Advisory Group will advise the Customer Scrutiny Group and the Head of the Learning Records Service of the impact of changes to the data management policies including reviewing any privacy impact assessments.</li> <li>• The Data Advisory Group can consider issues not covered by the data management policies.</li> <li>• The Data Advisory Group will also be responsible, on behalf of the education sector, for reviewing the operation of the LRS, including the ULN and PLR against the relevant Data Management Policies.</li> </ul>
<b>Membership</b>	<p>All representatives will be expected to be familiar with their organisation's data concerns and act as Ambassador Users. The membership shall include:</p> <ul style="list-style-type: none"> <li>• The <b>Learning Records Service</b> Head of Data Application Management (acting as Chair).</li> <li>• A representative from Ofqual and Qualification in Wales on behalf of the Regulators.</li> <li>• Representatives from the Education and Skills Funding Agency, Education Funding Agency, Department for Education and Devolved administrations may attend to observe and offer advice where they are not acting as a Permitted Organisation.</li> </ul>

	<ul style="list-style-type: none"><li>• Representative number of <b>Awarding Organisations</b> (a maximum of 6, including JCQ and/or FAB members if possible) and a</li><li>• Representative number of <b>Learning Providers</b> (a maximum of 6, including AoC and/or AELP members if possible).</li><li>• In addition, other representatives from Permitted Organisations (current or future) will be invited to participate</li></ul> <p>*The role of Ambassador Users will be to offer a route for organisations not directly represented to be represented where they raise issues of concerns. For this purpose Ambassador Users are assumed to speak on behalf of their members.</p>
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<p><b>Voting Rights</b></p>	<p>Voting Rights on matters relating to approval of content or updates to the data management policies shall be determined as follows:</p> <ul style="list-style-type: none"> <li>• Where the proposed changes to the data management policies affect the Awarding Organisation Data Management Policy only, Awarding Organisations and the Learning Records Service will be formally consulted by the Chair and asked to vote on decisions. Other attendees will play an advisory role in such decisions. The majority vote of the Awarding Organisations represents one vote and the Learning Records Service represents one vote. In the event of an equal vote which cannot be resolved the Chair will escalate to the Customer Scrutiny Group.</li> <li>• Where the proposed changes to the data management policies affect the Learning Provider data management policy only, Learning Providers and Learning Records Service will be formally consulted by the Chair and asked to vote on decisions. Others will play an advisory role in such decisions. The majority vote of the Learning Providers represents one vote and the Learning Records Service represents one vote. In the event of an equal vote which cannot be resolved the Chair will escalate to the Customer Scrutiny Group.</li> <li>• Where the proposed changes to the data management policies affect any combination of Awarding Organisations, Learning Providers and other members, all will be asked to vote on decisions. The majority vote of each of the Learning Providers, Awarding Organisations and Other Representatives represent one vote each and the Learning Records Service represents one vote. In the event of objection to the final outcome of the vote any member can ask the Chair to escalate a final decision to the Customer Scrutiny Group.</li> </ul>
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Name of Group/ Committee	The Security Forum
<p><b>Purpose</b></p>	<ul style="list-style-type: none"> <li>• The Security Forum will provide feedback from interested parties on the management of security issues and will provide advice to the senior information risk owner of the ESFA and Head of Data Science.</li> <li>• The Security Forum will provide advice on security procedures, incident response and security threats.</li> <li>• The Security Forum will be responsible for approving the content of and updates to the Security Policy.</li> <li>• The Security Forum will advise the senior information risk owner and the Head of Data Science of the impact of changes to the Service Charter including reviewing the risk management accreditation documents. It shall also be responsible for informing the Customer Scrutiny Group of the impact of such changes.</li> <li>• The Security Forum will also be responsible, on behalf of the education sector, for reviewing the operation of the PLR against the Security Policy.</li> </ul>
<p><b>Membership</b></p>	<p>The membership shall include:</p> <ul style="list-style-type: none"> <li>• The Learning Records Service service manager.</li> <li>• The Learning Records Service data manager.</li> <li>• A representative from Ofqual and Qualification in Wales on behalf of the Regulators.</li> <li>• A representative number of Awarding Organisations and Learning Providers, the exact number to be determined.</li> </ul>

	<ul style="list-style-type: none"><li>• In addition representative bodies such as the Association of Colleges and the Federation of Awarding Bodies, and the Joint Council for Qualifications and UCAS and HESA and other bodies will be invited to either participate or nominate a representative to perform the role of 'Ambassador Users within the Customer Scrutiny Group'. The role of Ambassador Users will be to offer a route for organisations not directly represented to raise issues of concerns. For this purpose Ambassador Users are assumed to speak on behalf of their members.</li></ul>
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## Schedule 3

### Change Control Procedure

1. Either Party may request a change to the Agreement providing the following:
  - 1.1 the reason for the change
  - 1.2 full details of the change
  - 1.3 impact of the change
  - 1.4 proposed timescales for implementation of the change
  
2. You may propose a change by writing to the Learning Records Service, at the address in Appendix 1 with details of the proposed changes. Where a change notice has been issued to request that a Future Permitted Organisation becomes a Permitted Organisation, it will clearly state:
  - Organisation Name
  - Organisations Legal Status
  - Permitted Purposes for Achievement Data Use
  - Basis for Achievement Data Use
  - Scope of Access to Achievement Data
  - Restrictions
  
3. The ESFA shall notify You and the other parties in writing of any proposed changes and shall allow You 20 working days, (“the Consultation Period”), to provide comments on the change, to include, for the avoidance of doubt, an explicit acceptance or rejection of the change.
  
4. Man days of effort annual cap to requests for change.
  - 4.1 The LRS will ensure an annual cap of no more than 21 man days of effort per Awarding Organisation to all operational and systems change resulting from any mandatory change requests, including breaking changes requested to the Interface Specification in operation by all Parties. Mandatory operational change (including breaking change) is defined as a change that the ESFA considers to be mandatory and would have to be implemented by an Awarding Organisations to enable the existing operation and/or systems interface to continue working. .
  - 4.2 The LRS and/or the change requester shall provide reasonable assistance to the Awarding Organisation, if requested, in assessing the impact of the proposed change to determine the man days of effort.

- 4.3 Should the Awarding Organisation reject the change on the grounds of an impact that exceeds the man days of effort cap, the Awarding Organisation shall specify this as the grounds for rejection. In this instance, the LRS will be entitled to request a copy of such an analysis from the Awarding Organisation, so that it may verify the effort and the grounds for rejection. The right to this analysis of the LRS will be subject to the treatment of such information as Confidential Information.
- 4.4 The rights of the Awarding Organisation in rejecting change owing to a breach of the man days of effort cap will not apply to statutory / legislative changes, subject only to the imposition of an “excessive” obligation on the Awarding Organisation. In this instance, the LRS will clearly state the statutory / legislative basis for the change. An “excessive” obligation will trigger the option of a no fault termination provision for the Awarding Organisation. For the avoidance of doubt “excessive” in this context is more than 42 man days of effort.
- 4.5 The Awarding Organisation, in its sole discretion, may waive its right to reject a change on the basis of a change that breaks the cap (such waiver to be specific to the change proposed and not in perpetuity).
- 5 At the end of the Consultation Period if the proposed change is accepted by the majority of Awarding Organisations (calculated by reference to the number of individual Learners as measured by ULN for which the Awarding Organisation has submitted Achievement Data in the previous 12 months) party to the agreement the ESFA will write to you informing you of the date the change will become effective.
- 6 In the case of a proposed change to the Permitted Purposes arising directly from legislative or statutory changes, departmental or ministerial direction You agree not to place the ESFA in Default of His obligations to enact the statutory / legislative change or departmental or ministerial direction within the Agreement.
- 7 If You disagree with any Change to this Agreement which has been accepted by the majority of Awarding Organisations this shall be dealt with in accordance with the Dispute Resolution Process.
- 8 The ESFA, acting reasonably, has the power to refuse to agree any changes proposed by Awarding Organisations.

## **Appendix 1 – Useful Contact Details**

Learning Records Service  
Education and Skills Funding Agency  
Cheylesmore House  
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