

Proposed amendments to Individual Pupil Information Prescribed Persons Regulations

Consultation Response Form

The closing date for this consultation is: 18 December
2012

Your comments must reach us by that date.



Department
for Education

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Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name

[REDACTED]

Organisation (if applicable)

Buckinghamshire County Council, Children & Young People Services

Address:

[REDACTED]

If you have a query relating to the policy content of the consultation you can contact the Department by telephone: 0370 000 2288 or via the Department's 'Contact Us' page.

If you have a query relating to the consultation process you can contact the Public Communications Unit on:

Telephone: 0370 0002288

e-mail: consultation.unit@education.gsi.gov.uk

Please mark an 'X' in the box that best describes you as a respondent.

<input type="checkbox"/> Teacher/Head teacher	<input type="checkbox"/> Parent/Carer	<input type="checkbox"/> Pupil/Student
<input type="checkbox"/> Teacher Union	<input type="checkbox"/> Voluntary Sector/Not-for-profit Organisation	X Local Authority
<input type="checkbox"/> Commercial Organisation	<input type="checkbox"/> Researcher/HEI	<input type="checkbox"/> Government Organisation
<input type="checkbox"/> Other		

Please Specify:

1 Do you agree with the proposal to widen the purposes for which data from the National Pupil Database can be shared? Please explain the reasons for your answer.

X Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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Comments:

Yes as the DfE hold the National Pupil Data Base, they would be undertaking the disclosure. Safeguards need to be in place in particular the re-identification processes, including adopting the Data Anonymisation Code of Practice guidance provided by the Information Commissioners Office

2 How could you or your organisation potentially use the data?

Comments:

Buckinghamshire County Council would have supplied the collated data to DfE, therefore would already hold the data.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

The benefits would be to the Third Parties, as Buckinghamshire County Council would hold their own data.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

Currently Buckinghamshire County Council provide identifiable data to DfE. It would be the responsibility of DfE to ensure the aggregation of this data before sharing with Third Parties.

The level of disclosure needs careful consideration, at what levels will the data be made available, will it be at school level or anonymised pupil level.

Concerns were also raised in relation to postcodes, as for some addresses this could be identifiable.

As a net supplier of information, the effect of data collection/cleansing will need to have been considered as would the frequency of collection

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

None of the questions considers the resource impact on organisations tasked to collect the data.

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Please acknowledge this reply *

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* Yes

 No

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Reason for confidentiality:

Name

[REDACTED]

Organisation (if applicable) Transport and Health Study Group

Address:

[REDACTED]

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Comments:

The data on travel to and from school could be used both for research and to influence and evaluate policies on travel and health.

2 How could you or your organisation potentially use the data?

Comments:

Members of the Transport and Health Study Group would be particularly interested in studying how children travel to school, and how this varies by age, sex, geographical area, deprivation, and language, and in response to specific initiatives.

Results could also be linked at a school or local authority level to results of the National Child Monitoring Programme, to assess the potential impacts on obesity of changes in active travel to primary school, and to educational attainment and 'value added' by schools..

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

There are a large number of studies that could be undertaken using these data. Given the limited funds available, it makes economic sense to utilise existing data as fully as possible, within the limits of what is feasible and secure.

These could also contribute to evaluating 'natural experiments' around transport policies, such as introduction of 20mph zones; interventions to encourage cycling and/or walking to school; local authority leisure policies; spatial planning; as well as examining links with educational attainment.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

We are aware that some organisations and individuals have concerns about confidentiality. Provided there are suitable safeguard in place, such as limiting access to disclosive data to named individuals from approved organisations, to be analysed in secure locations, such as a data enclave or with access to non-approved individuals prevented, and in general providing pseudonymised data (such as is done before e.g. the Health Survey for England data are archived annually at the UK Data Service), this should not be a problem.

Access should be limited to bona fide researchers from academic, public sector and third sector organisations but not commercial organisations.

An example of potentially disclosive data being provided securely is the arrangements that have been made for interaction with the 2011 Census data from the Longitudinal Study, for approved researchers.

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

Fine, though we were unsure which answers should go to which questions: if some of our answers to questions 1-3 belong in a different section, please take the relevant responsel

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Yes

XNo

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Reason for confidentiality:

Name

[REDACTED]

Organisation (if applicable) East Sussex County Council

Address:

[REDACTED]

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Comments:

The data is a very rich resource and the current situation prevents us using it to its full potential.

2 How could you or your organisation potentially use the data?

Comments:

The data could be used alongside other data and information about the people of East Sussex to ensure we are targeting resources effectively. Currently we use the data in a very limited way within Children's Services; with greater access all parts of the LA could use it to inform planning and decision making.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

It would allow for a broader range of comparative analysis of these data which the County Council could use for its own purposes. In house capacity to do the analysis is always limited and having the ability to access analysis carried out by third parties, potentially at a cost, would be very beneficial.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

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Please Specify:

ESRC Centre for Micro-Social Change (MiSoC)

1 Do you agree with the proposal to widen the purposes for which data from the National Pupil Database can be shared? Please explain the reasons for your answer.

Agree

Disagree

Not sure

Comments:

Widening the purposes for which data from the National Pupil Database can be shared would widen the range of data resources available to researchers interested in investigating a wider range of research topics, including many of relevance to our Research Centre.

2 How could you or your organisation potentially use the data?

Comments:

The National Pupil Database is already a valuable research resource for researchers in MISOC. Widening the purposes for which it can be shared would potentially enable us to carry out research in our core areas of interest, including studies of migration/residential mobility; ethnicity and race; health; disability and care.

The data could be used for secondary analysis but also to provide contextual information - aggregated at lower level geographies - for analyses using other micro data sets. This use of the data arises because the NPD is a census, and so has a sample size large enough to allow aggregation at lower geographical levels.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

The additional research topics that can be addressed when widening the purposes for which the NPD can be shared are of great societal importance. It can be expected that there will be benefits to society, the economy and the wider public from the research outcomes, and there may be impacts on government policy-making.

UK research institutions will benefit from the availability of this research resource as it will improve the set of resources available for projects investigating issues of migration/residential mobility; ethnicity and race; health; disability and care, for example.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

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Organisation (if applicable) SSAT

Address:

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Please Specify:

We are a private limited company with no external shareholders continuing the aims and the ethos of the former Specialist Schools and Academies Trust.
We have a membership of over 4000 schools whom we support with a wide range of programmes, resources and events.

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<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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Comments:

The reasons put forward for the proposal are all sound.

Will there, however, be any quality assurance or monitoring of the uses to which the data is subsequently put? For example, if this is to produce progression frameworks, will responsibility for their accuracy to end-users lie solely with the producers? Inaccurate outputs of data could have a seriously detrimental effect on future school and pupil performance.

2 How could you or your organisation potentially use the data?

Comments:

To produce progression frameworks as referred to in question 1 above and to produce other analytical tools which would help schools to measure their overall progress and that of their students against all other schools and/or their own selection of schools.

The data could also be used by colleagues working with schools to inform their levels of challenge and support.

The data would also be of value in undertaking research into pupil outcomes to inform future provision and support to schools.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments

As outlined in the consultation document, it will enable a wide range of potential agencies and providers to undertake research and to produce resources which would be of value to schools, pupils, parents and others, provided that the integrity of the datasets was maintained and that the use to which the data was put was monitored to ensure that it did not breach any reasonable conditions..

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

A few queries:

Does the Department have a view of what might constitute inappropriate subsequent use of the data?

Will data from previous years also be made available under the same terms? (This would be very useful when conducting research into trends over time.)

What business rules and other conditions will be in place to ensure that the identities of individuals within small groups cannot be identified?

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

The process was very clear and straightforward.

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<input type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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Comments:

I disagree with the proposal for a number of reasons – not least that the purposes as redrafted offer few limits to the types and number of people and organisations with which children's (and adults') personal data held in the National Pupil Database could in practice be shared.

I am particularly concerned by the indicative list in section 7.1, which includes "the media" and the catch-all "commercial or non-profit organisations"; a definition that covers any corporate entity, but which clearly does not exclude purely profit-driven enterprises. There appears to be no reason why that list might not also include 'market researchers' or 'direct marketers' – or for that matter 'political parties'.

While I trust that the Department's Data and Statistics Division and Data Management Advisory Panel do their best to protect the personal data of the millions of people for which they are custodians, broadening the purposes in the way proposed would make this extraordinarily important job much harder; maybe even impossible.

Setting aside for a moment the stated aims or intended consequences of these changes, it is always worth examining the unintended but predictable consequences.

Were the Regulations altered to stipulate that data in the National Pupil Database *could* be shared, some may insist on the letter of the law that they *must* be shared. In such circumstances, and especially if the motivations were financial gain rather than research, the protections in place could prove to be altogether too weak. A contract or set of Terms and Conditions with threat of audit may have been sufficient to manage the release of data to the academy. To pretend that these and the sanctions offered by the Data Protection Act are sufficient to disincentivise bad behaviour in a commercial context or with the media is to fly in the face of evidence.

The second reason I disagree with the proposal is because of what it fails to say. The consultation document provides a few anecdotal suggestions in section 5.1 but no evidence or detail of how any of the "potential uses" would deliver benefit or to whom. Of course, providing superficially accurate 'estimates' would be meaningless, but providing some sort of outline cost/benefit and risk analyses would at least allow people to gauge the Department's argument and thinking. As it stands the 'argument' is little more than a set of assertions and the proposal appears to boil down to, "We'll suck it and see".

I was struck by the complete absence from the entire document of the description 'personal data'. This is a significant and damning omission. The data in the National Pupil Database is variously referred to as "rich data", "government data", "pupil data" and just once as "sensitive data". At individual level, the data in NPD are indisputably personal data. Though interspersed with administrative and other data, this is information about my children, their circumstances and characteristics and my home. That this is not consistently referred to as personal data gives me cause for concern.

Which leads me to my third point; informed consent. I am fully aware that much of the data in the National Pupil Database is harvested via statutory gateway, which in law provides an exemption for processing data without consent. But what the Department chooses to present as "minor amendments" to the Regulations in fact represent a hugely significant change in what may be done with the personal data – some highly sensitive – which have been collected in this way.

To claim: "The Department makes it clear to children and their parents what information is held about pupils and how it is processed, through a statement on its website. Schools also inform parents and pupils of how the data is used through privacy notices" is, quite frankly, a joke.

(I would be very interested to see the annual traffic logs / unique visits for the web page(s) on which the Department's "statement" resides. As far as I can tell, the page 'National pupil database: How is the data used?' is merely a re-ordering of the four bullet-points that appear in section 3.1 of the consultation document. Three of the six pages explaining NPD are concerned with accessing the data.)

I am probably quite unusual in having read the "privacy notices" sent from both my children's primary and secondary schools, generally amongst a swathe of other papers and forms at the beginning of a school year or induction. These notices may have provided some information, but they certainly did not *properly* inform me about the National Pupil Database and what is done with the data on it. And I doubt anyone who wasn't specifically looking for it would notice any change to the boilerplate from one year to the next.

According to the Second Data Protection Principle: "Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes."

The proposed changes are not just a minor 'loosening' of the limits to sharing. The amendment quite clearly changes the specified purpose for which at least some of personal data is collected – e.g. via the School Census – at the same time vastly increasing the type and number of bodies and organisations which may access the data and the ways in which they may process them.

That the reach, scope and scale of the National Pupil Database have been extended time and again over the years is bad enough. To try to pass off these currently proposed changes as "minor" is as cavalier as it is deceptive.

In summary:

- 1) The proposed change offers few practical limits to the type or number of organisations which may apply for access; the protections in place are insufficient for the marketplace the Secretary of State appears to wish to create.
- 2) The Department provides no evidence, cost/benefit or risk analysis; its argument is mere assertion and it appears to have adopted a "suck it and see" approach.
- 3) The amendment as it stands is a major change to the specified purpose for which (some) personal data is being gathered; to use the "lawful" exception yet again is a perversion of principle.

So what do I suggest? Stop! Go back to the beginning. Think again.

I urge you not to go down this route at all. But if you must, for something that would clearly affect every child in state education, many who have gone through it and their families now and for generations to come, the only reasonable way forward is to conduct a full and proper consultation (I say more on this below) and to allow Parliament the opportunity to debate a far more coherent, robust and properly-evidenced proposal, in primary legislation.

2 How could you or your organisation potentially use the data?

Comments:

I or my children might like to see a copy of the information that is held about them, but I assume we already have the right to do this through a Subject Access Request.

I would very much like to have a complete list of every body or agency that has accessed my children's data. I do not know why the Department does not publish this information on its website – it is one of the most obvious things about NPD data sharing that children and parents are likely to want to know.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

I see significant risks and no attempt to model them, let alone cost/benefit. I do not propose to feed the Department's fantasies.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

No. I hope I have made myself clear.

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

My other comments relate to the consultation process itself.

As you say below, Cabinet Office's current Consultation Principles state: "Departments will need to give more thought to how they engage with and consult with those who are affected."

A six-week online consultation in the busy run-up to Christmas is neither an appropriate nor sufficient way in which to engage with and consult those who would be affected by these proposals. As much as the Department appears to wish to downplay it, the proposed amendment represents a major change in what is intended to be done with the personal information – some highly sensitive – of millions of children, some now adults and their families. It appears any thought given to this consultation process was on the basis of how quickly it could be hustled through.

Based on people I have spoken with, I strongly suspect that many if not most children and parents are still quite unaware of the National Pupil Database. But, again only anecdotally, I believe many parents and children would very concerned at the notion that their personal information – gathered without their consent, simply by virtue of them attending school – might be shared with, say, commercial companies and the media.

At the very least, details of this consultation should have been sent to every school with instructions to notify parents that a significant change to arrangements regarding their children's personal data was being proposed. (Neither head at either of my children's schools had heard anything about this.) And, for any change that would affect so many, a period of at least half a term should be the minimum allowed for people to respond. Preferably not just before a holiday!

As is often the case, the questions and language in this consultation are skewed towards the positive with no mention of risks or potential disbenefits. I hardly expect this to change, but will

continue to comment in the hope of improvement.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

XNo

All DfE public consultations are required to meet the Cabinet Office Principles on Consultation

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and consult with those who are affected
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Responses should be completed on-line or emailed to the relevant consultation email box. However, if you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Coordinator, tel: 0370 000 2288 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 18 December 2012

Send by post to: Public Communications Unit, LG36, Mowden Hall, Staindrop Road, Darlington, DL9 3BG

Send by e-mail to: NPD.Consultation@education.gsi.gov.uk

Proposed amendments to Individual Pupil Information Prescribed Persons Regulations

Consultation Response Form

The closing date for this consultation is: 18 December
2012

Your comments must reach us by that date.



Department
for Education

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

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The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name

[REDACTED]

Organisation (if applicable)

Centre for Longitudinal Study Information and User Support (CeLSIUS)

Address:

[REDACTED]

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If you have a query relating to the consultation process you can contact the Public Communications Unit on:

Telephone: 0370 0002288

e-mail: consultation.unit@education.gsi.gov.uk

Please mark an 'X' in the box that best describes you as a respondent.

<input type="checkbox"/> Teacher/Head teacher	<input type="checkbox"/> Parent/Carer	<input type="checkbox"/> Pupil/Student
<input type="checkbox"/> Teacher Union	<input type="checkbox"/> Voluntary Sector/Not-for-profit Organisation	<input type="checkbox"/> Local Authority
<input type="checkbox"/> Commercial Organisation	<input checked="" type="checkbox"/> Researcher/HEI	<input type="checkbox"/> Government Organisation
<input type="checkbox"/> Other		

Please Specify:
Representative of a service funded by the Economic and Social Research Council which promotes and facilitates research use of the Office for national Statistics Longitudinal Study

1 Do you agree with the proposal to widen the purposes for which data from the National Pupil Database can be shared? Please explain the reasons for your answer.

<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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Comments
There would be very considerable benefits for researchers and for policy makers if data from the NPD (anonymised) could be linked to records of sample members of the ONS Longitudinal Study; such a linkage has already been undertaken in Scotland: (linkage to our sister study. The Scottish Longitudinal Study).

2 How could you or your organisation potentially use the data?

Comments: The ONS LS includes individual level (anonymised) data from population censuses, vital registration and some other sources, such as cancer registration. It has been extensively used to investigate issues of major policy relevance, such as social mobility, health inequalities, teenage childbearing, and circumstances and transitions in old age.

Research on variation in children's educational experiences and outcomes would benefit from much better knowledge of **parental histories and attainments**. For example, for a child in the NPD who could be identified in the LS at the 2001 Census, a detailed list of educational and professional attainments and type of occupation for everyone else in the household would be available. The same, with less detail on professional attainments, would be true if the child could be identified in the LS at the 2011 Census. This would provide evidence on how far schools were succeeding in enabling gifted children to succeed despite a lack of precedent in their home environment.

Another possible predictor of the child's outcomes could be **household composition** (presence of parents, stepparents, grandparents, siblings etc. in the home) which could be studied in detail at each census, with age, sex, economic activity, ethnic identity etc. of each household member. **Dwelling type and density of occupation** could also be studied at any census and would be expected to affect the child's educational outcome. From the point of view of LS research, data on the LS member's schooling and attainments would help to explain **outcomes later in life**. Such data would enable a better assessment of the drivers of social mobility (or its absence); they would also be of great interest in comparing home environment and career at school as alternative sources of risk factors for teenage childbearing, unemployment and premature mortality.

For an LS researcher, the benefits of the incorporation of NPD data would be much enhanced if **descriptive data about the educational establishment** could be added at the same time, for example proportion of pupils attaining 4 GCSEs or mean SATs results.

3 What do you see as the benefits of widening the purposes for which data can be shared?

It would allow much policy relevant research on family and locality influences on children's school attainment. It would also enable some quality checking of returns of numbers of children in the national Census which would be valuable for resource allocation.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

Access to individual level data in the ONS LS is in a secure Virtual Microdata Laboratory and is restricted to approved researchers. There is thus an existing facility to safeguard confidentiality and data security of linked NPD data.

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply

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Yes

xNo

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Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name

██████████

Organisation (if applicable) Sheffield City Council

Address:

████████████████████

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e-mail: consultation.unit@education.qsi.gov.uk

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<input type="checkbox"/> Teacher/Head teacher	<input type="checkbox"/> Parent/Carer	<input type="checkbox"/> Pupil/Student
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Please Specify:

1 Do you agree with the proposal to widen the purposes for which data from the National Pupil Database can be shared? Please explain the reasons for your answer.

<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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Comments:

The NPD is a valuable resource which has the potential to inform a wide variety of research agendas as set out in the consultation document. Widening the usage of this data set would be beneficial to users in many different organisations including public sector organisations and higher education institutions.

A clearer and quicker application process would be beneficial.

2 How could you or your organisation potentially use the data?

Comments:

In Sheffield the data has been used (and will be used) to inform school improvement programmes as it allows clear benchmarking of school performance. The data also allows us to create custom performance measures in order to focus on local priorities in relation to vulnerable groups of pupils.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

It gives organisations greater flexibility in generating performance data that can be used to improve standards and address local concerns. Data published externally is helpful but is not always presented in the right format for local audiences.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

From our own experience of using the NPD in Sheffield a few points would be helpful to take into consideration:

1. The current application process is time consuming and creates considerable burden to respond to all the information required. This is likely to put people of applying for access to the data. If this could be made simpler or if organisations having gone through the process could be recognised as 'approved' users of the NPD to avoid going through the same process with every new request this would be an improvement.

2. It would be useful to have metadata and syntax files to allows users to recreate measures that are externally published (for example through Statistical First Releases or Performance Tables) this would allow consistent data to be produced for other groups of pupils that are not reported already.

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

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Please acknowledge this reply

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xYes No

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Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name

[REDACTED]

Organisation (if applicable) Open Data Institute

Address:

[REDACTED]

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<input type="checkbox"/> Commercial Organisation	<input type="checkbox"/> Researcher/HEI	<input type="checkbox"/> Government Organisation
<input type="checkbox"/> Other		

Please Specify:

1 Do you agree with the proposal to widen the purposes for which data from the National Pupil Database can be shared? Please explain the reasons for your answer.

<input type="checkbox"/> Agree	<input checked="" type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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Comments:

The ODI supports the release of open data: data free for unrestricted use. It also supports the collection and careful analysis of data that can contribute to evidence-based policy formation.

The ODI does not support the release of personal data as open data, or the use of personal data for commercial ends in the absence of affected individuals being both

- informed of that use; and
- giving explicit consent

This proposal does not include the publication of open data: although organisations will not have to pay for the data, the Department for Education has stringent restrictions over its access.

The proposal widens the set of purposes for which data about individual pupils can be made available in two ways: the goal of the reuse (to improve children's well-being as

well as promoting their education) and the beneficiaries of the results (to commercial organisations providing information and data-based products as well as researchers).

The ODI supports the former but not the latter, and would support the change to the wording of the regulation if it said:

“persons conducting research into the well-being or educational achievements of children in England and who require individual pupil information for that purpose”

As well as the regulation itself, the Department for Education maintains a separate set of terms and conditions for the use of the National Pupil Database; any requests for the data are assessed by the Data and Statistics Division and the Data Management Advisory Panel against both the regulation and the terms. We understand that the terms organisations sign up to state that recipients of the data must not attempt to identify individuals within the dataset; organisations who have access to the data are subject to the Data Protection Act and breaching the terms would expose those organisations to prosecution, negative publicity and substantial financial penalties. However, commercial organisations take calculated risks, and if the likelihood of detection of breaches of terms is low (or the company able to absorb any penalties), and the benefits high, we believe there is a high risk that they will break those terms of use.

We are concerned that the level of anonymisation used within the data extracts created from the National Pupil Database is not sufficient to prevent personal data from being discovered about individuals held within the database. For example, the year of birth, school attended and subjects taken (and grades achieved) of an individual are often easily locatable through an individual's CV, and act as a fingerprint for an individual within the database, enabling their record to be identified even when “identifiable” information is omitted.

We believe that the Data and Statistics Division and the Data Management Advisory Panel will do their best to safeguard the hundreds of thousands of children and young people whose personal details are stored within this database. However, the fact is that the more widely the data is distributed, the more likely it is that a security breach will occur. The number of people affected by such a breach, and the amount of information that would be made available about them, make the proposed widened availability too much of a risk.

We also do not see any evidence in the consultation for extra steps being taken to inform parents, children and young people about each additional use of the data, nor provision to obtain individual consent about this use. We believe informed consent should be a prerequisite for commercial use of personal data and we do not believe that there is any implied consent to such usage for the data that is currently held within the National Pupil Database. Our response to Question 4 below describes the measures we believe the Department for Education should put into place to obtain this consent if the National Pupil Database is made available for commercial purposes.

In addition, we believe that the media and the public will perceive the widened usage of the National Pupil Database as an example of the government carrying through its Open Data policy objectives. Although the proposal does not make the National Pupil Database available as open data, the distinction between "open data" and "free data you have to apply to access" is rather subtle, particularly when it is justified in the same way (to promote economic growth through the development of the information industry). We are concerned that negative publicity and feeling about commercial usage of this data, particularly if there were a security breach, will have a negative knock-on effect on attitudes towards open data, which would set back our own work and impact other global initiatives that are driving positive change.

The National Pupil Database does contain data that could be useful for third-party applications (see the response to Question 2 below). However, the vast majority of these applications can be created based on aggregate data from which (if appropriately treated to control levels of disclosure) it is harder to identify individuals. For these reasons, we believe that the individual-level data within the National Pupil Database should remain restricted in its availability, and the scope of the purposes for which the data can be shared should remain limited to research, but with the widened goal of pupil well being. We do, however, encourage the Department for Education to release more detailed aggregation data than it currently makes available, as open data.

2 How could you or your organisation potentially use the data?

Comments:

The Open Data Institute supports start-ups and other data consumers to discover and use open data. There are a number of uses to which aggregations derived from the National Pupil Database could be put. For example:

- property-finder applications could use school-level aggregations of attainment in individual subjects to help parents find a school or nursery that is suitable to their child's individual strengths and weaknesses
- property-finder applications could use an aggregation based on pupil addresses to identify the implicit catchment area of a school, which would help parents identify where to move to get into a particular school
- a service could be created that matched schools based on their intake and enabled them to share best practices to help drive up the quality of teaching within schools

The aggregations these applications require could be generated by the Department for Education. None of these services require access to individual-level data.

3 What do you see as the benefits of widening the purposes for which data can be shared?

Comments:

We can see that there are many potential benefits in widening the purposes for which individual-level data from the National Pupil Database can be shared in a secure way (not as open data), particularly for the organisations who could gain insight by having access to the data, leading to better targeting of products and services and to internal efficiencies. But we see many risks in providing that access, particularly to commercial organisations, as described in our answer to Question 1, and feel these outweigh the benefits.

We also see great benefits, which crucially do not have the same risks, in providing as open data suitably anonymised aggregate information sourced from the National Pupil Database. This could lead to economic growth, as new businesses are built on top of the available data, as well as social and environmental benefit if services are developed that enhance the teaching provided to children and the environmental impact of the schools.

We also see benefits in enabling researchers to have access to the data to research children's well-being (not just their educational achievement). Such research could help inform evidence-based policy by identifying interventions that will benefit children and young people in the future.

4 Do you have any other comments you would like to make about the proposals in this consultation document?

Comments:

If the Department for Education follows through on this proposal to widen the purposes of use of the National Pupil Database, it will need to invest additional resources in the approvals process around requests for access, including

- assessing the security controls in the companies making these requests
- ongoing audits of the technical and procedural measures that are put into place within the Department and those companies
- preventing and dealing with security breaches
- prosecuting organisations that breach the terms of use

We think that these resources would be better spent in building a robust mechanism for publishing useful low-level aggregate data from the National Pupil Database as open data. Publishing open data would enable new companies to easily use the aggregate data to create the kinds of services described in our answer to Question 2, reducing the workload both on those companies and Department for Education staff.

As part of the UK Anonymisation Network, the ODI would be very interested in exploring, with the Department for Education and some of the startups that we are currently incubating, how such aggregate data could be created without exposing personal information.

If the Department for Education decides to continue with the proposal to widen the purposes for which the National Pupil Database is made available, we would encourage the Department for Education to consult with the UK Anonymisation Network and explore methods of limiting the personal information that is made available to companies that make it through the approvals process.

The Department for Education should make available as open data the details of who has access to information from the National Pupil Database, which information they have access to, and for what purposes.

The Department for Education should seek the consent of the children and young people whose details are made available (or their parents), for the new uses to which the data will be put. This consent should be granted for the widened use of the data, particularly with an increase of scope to commercial purposes (previous consent for the purpose of research should not be taken as implied consent). Consent should be sought for all those affected, not just the current cohort of school and nursery children. It is unlikely that companies will be interested in all the data held by the National Pupil Database; to limit exposure, the Department for Education should continue to only make available to companies the information that they need (which may involve subsetting the data to particular records and/or only releasing requested fields for those records)

5 Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.).

Comments:

The ODI is extremely grateful for the opportunity to respond to this consultation, and thanks the Department for Education for alerting us to it. We would encourage future consultations to enable responses through a web form, to facilitate the submission of responses through third-party websites and the capture of those responses. We would also encourage the republication of consultation responses as open data (subject to permission from the responder).

Our response is also available on our website at <http://www.theodi.org/consultation-response/proposed-amendments-individual-pupil-information-prescribed-persons>

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

X Yes

 No

All DfE public consultations are required to meet the Cabinet Office Principles on Consultation

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and consult with those who are affected
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Responses should be completed on-line or emailed to the relevant consultation email box. However, if you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Coordinator, tel: 0370 000 2288 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 18 December 2012

Send by post to: Public Communications Unit, LG36, Mowden Hall, Staindrop Road, Darlington, DL9 3BG

Send by e-mail to: NPD.Consultation@education.gsi.gov.uk