

# 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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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

Organisation (if applicable)

Address:

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.qsi.gov.uk](mailto:consultation.unit@education.qsi.gov.uk)

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

<input type="checkbox"/> Teacher/Head teacher	<input checked="" 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 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
--------------------------------	--	-----------------------------------

Comments: There doesn't appear to be any limits on who will be able to access this data if the proposal goes through. I can see that there are examples of why the proposal might be beneficial but it all sounds far too vague. The definition of who and why needs to be much tighter.

I am also concerned that there is a lack of individual consent here. As a parent, I expect to be able to say what information about my child is shared, and with whom. I was surprised to read that I should have been provided with privacy notices – I don't recall my child's school ever telling me of such a document. Whilst I understand that some data collection about my child is necessary, I would expect to give my explicit consent for it to be shared.

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

Comments: I cannot see any use for this data. I would like to know who had accessed data about my child though.

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

Comments: You tell me!

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

Comments:

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: I am shocked and appalled that I wasn't notified about this consultation through my child's school – I read about it on twitter of all things. A letter should have gone to every single parent explaining the proposals and now to respond to this consultation.

The formatting of the document is not very good, either. I cannot fathom how to get an X into one of your check boxes.

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?

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](mailto: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](mailto: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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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) London Diocesan Board for Schools

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](mailto: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 type="checkbox"/> Researcher/HEI	<input type="checkbox"/> Government Organisation
<input checked="" type="checkbox"/> Other		

Please Specify:

London Diocesan Board for Schools

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
---	-----------------------------------	-----------------------------------

Comments:

Agree. In order:

- To maximise transparency.
- To encourage more organisations to produce new secondary analyses of the data and stimulate the creation of innovative tools and services useful to parents and professionals.
- To allow those working directly with schools in a professional relationship to be able to provide targeted support.

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

### Comments:

- The London Diocesan Board for Schools has a very successful record of school improvement. Access to this data will enable us to make an even greater contribution towards raising standards in our schools across London.
- To develop a speedier and deeper knowledge of our 131 primary schools and our 18 secondary schools within the London Diocese.
- To ensure we hold comparable data on our schools by gaining the data from one standardised source.
- To more effectively hold our schools to account against reliable data.
- To more effectively support school improvement through the use of the data to analyse need and target support.
- To make better informed comparisons between the performance of our schools overall and in specifics.
- To identify statistical neighbours within our family of schools and to encourage competition and collaboration.
- To avoid the proliferation of different data sets all with accompanying training needs.
- To be more effectively accountable to governing bodies, parents and their communities for the provision of education and standards in our schools.
- To be more effectively accountable to our Board and to the DfE for the achievement of children and young people in our schools.
- With the reduction in services provided by many L.A.'s we believe it is essential that we have access to this data to ensure that we can challenge and support our schools in a timely way.
- It will enable us to help raise awareness and train school Governors in order that they can fulfil their duties of challenge and raising standards.

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

Comments:

- To make optimum use of a rich data set to enhance the wellbeing and educational achievements of children and young people through its broader use, through sharing the data, in the academic and voluntary and charitable sectors.
- To enable researchers, educators, professional bodies, the voluntary sector, consultants, and other commercial or non-profit organisations to go further in producing research, publications, advice or applications useful to families, education, business and the wider public and help stimulate the market for services underpinned by the data.
- A wider distribution audience will facilitate school accountability and help to drive up standards.

See also 2 above

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

Comments:

- We feel that access to this data is an essential component of school effectiveness and raising standards. We have for a long time been advocating the need for access to this data and therefore welcome this consultation.

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 consultation process was very clear and straightforward.

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?

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](mailto: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](mailto:NPD.Consultation@education.gsi.gov.uk)

We all remember the characteristics of the people we went to school with. In primary school, George was excellent at Music; Michelle aced Science in high school; Julian did that odd combination of college courses and had a problem with authority. This fundamental knowledge is inherent in spending time with others, and over the course of one or many school years, the implicit knowledge about others will become significant.

This has been ignored by the Department in its considerations around access. Any amendment to the regulation, justified in evidence, should be limited to:  
... persons conducting research into the well-being or educational achievements of children in England and who require individual pupil information for that purpose.

**Question 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.**

We do not agree with the proposal to widen the purposes for which data can be shared, due to fundamental flaws in both the justifications provided and the factual basis for those justifications. The case has not been made, and the necessary disclosure control work remains undone.

92% of requests to use the data between April and November<sup>1</sup> 2012 were fully or partially approved for use of data. There does not seem to be the claimed inability of organisations to successfully make requests.

Principally, we oppose the potential wide use of "informational services" and "the media", for the purposes of information speculation, however, our objections are to those for whom there is not a strong oversight framework.

There is an issue with a company being able to request data for a legitimate reason, but also use it for nefarious unstated profitable purposes without a trace being possible. Data minimization is a mitigating factor here; but that is not an option where a service wishes to provide material to the entire country, and so needs access to detail on every student.

<sup>1</sup> [http://www.whatdotheyknow.com/request/requests\\_for\\_access\\_to\\_national](http://www.whatdotheyknow.com/request/requests_for_access_to_national)

#### **Other Public Data**

The Department has acknowledged<sup>2</sup> that schools routinely publish the names and grades of GCSE students in the newspaper<sup>3</sup>. It can therefore not be claimed that a student will be unaware of a classmate's grades in that case. Additionally, it is expected that a student in a class will be aware of characteristics of different classmates – "good at a particular sport", "submitted for the highest grade of an exam", etc. Additional information is not necessarily revealed by the publication of grades in newspapers, but it is revealed to more people.

However, the NPD is a dataset containing 400+ variables linked from nursery school. As a result, given the existence of "information services" as suggested by the consultation, it is simple to foresee a service which inadvertently, but fundamentally, allows such matching.

The ICO Anonymisation Code of Practice would require such operations to register as Data Controllers, and acquire informed consent from every child within the database, which is likely to be so impractical as to be unworthy of legitimate consideration as a potential use case by the Department. We also question whether the Department would also be in breach of the statutory code of practice on data sharing, although are aware that other submissions are addressing that point.

## **Compulsion**

The NPD is a compulsory dataset. There is no facility to opt-out, by student or by family, as data is primarily administrative; it is necessary to provide such data in order to receive the education to which every child is entitled<sup>4</sup> - the NPD is collected for legitimate statistical purposes on schools and attainment.

However, such uses must be tightly prescribed given the sensitive nature of the dataset. Students and parents are not given the choice of an opt-out for the arbitrary other purposes, and so, granting access to wide range of organisations for a wide range of reasons would need to be justified as proportionate. The consultation has not made a sufficient attempt to do so, and the data available to PI suggests it is unnecessary.

## **The problems of 100% data**

Publication is proposed of records for all students within the NPD. This is both reckless and dangerous. A student is aware with whom they went to school, and so while they may find additive information from the time that they were classmates, they will almost certainly find additional information that predates those years within the NPD. As all pupils are included in the dataset, there is no uncertainty around identification where only one student with the target characteristics is present in the data. Where a student attempted to identify themselves via the API at the Rewired State event<sup>5</sup>, it was a combination of characteristics which made that possible, using a single unique characteristic as a hook. The "restrictions" within the API made the task marginally less efficient, but fundamentally did not prevent it in any meaningful way. The same would also be true of any online service. The history of statistical disclosure control shows attempting to limit disclosure in this way to be folly.

## **Remoteness test**

As a result of 100% of records being included, Cranston's remoteness test<sup>6</sup> is both invoked, and the Department automatically fails in it's responsibilities to protect. Knowledge of a child's particular characteristics is not likely to be limited to a child's classmates, but also to those living nearby with whom they have regular, but not close, contact. Data available to services, as proposed, would potentially allow those who live nearby, and who know characteristics of one child, to be able to find other of siblings via family characteristics (where a family moved from for example).

## **Article 8, ECHR**

While collection of 400 pieces of information on a child may be "in accordance with the law and necessary", it is plain that (limited) publication of such may directly breach a child's right to privacy, both as an individual, and also potentially breach that of their family, to those who know a single identifying detail.

No comprehensive privacy assessment of these variables has been referenced, nor, it would appear, published, nor done. This is a fundamental flaw. While the Department rightly states that "sensitive" variables about the student or family such as Free School Meals (FSM) will not be released, there has been no work on what variables, or which combinations of variables, may be covariate with FSM, and hence be a strong indicator of FSM. It is precisely those analyses which are most likely to be of use for information services, or predicted within information services.

2 letter from DfE: Case Reference 2012/0060442

3 ICO Data Protection Good Practice Note: Publication of examination results by schools

[http://www.ico.gov.uk/~media/documents/library/data\\_protection/practical\\_application/disclosure\\_of\\_examination\\_results\\_to\\_the\\_media\\_final\\_web\\_version.ashx](http://www.ico.gov.uk/~media/documents/library/data_protection/practical_application/disclosure_of_examination_results_to_the_media_final_web_version.ashx)

4 Right to Education, article 26, Universal Declaration of Human Rights

5 <https://www.privacyinternational.org/blog/the-national-pupil-database-is-not-open-data>

6 Department of Health v IC [2011] EWHC 1430 (Admin) <http://www.baillii.org/ew/cases/EWHC/Admin/2011/1430.html>



Any interference, to be legal, has to be necessary in light of a public good. Proving necessity requires the conduct and publication of a rigorous statistical disclosure control analysis. As such an analysis has not been done, and it will take time to produce, publish and subject to peer-review. Any regulation to increase publication scheme must wait until such a process has been concluded.

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

#### **Introducing transparency of Requests**

Privacy International would be extremely interested in ongoing transparency of requests to access the NPD. It is considered standard practice by the Office of National Statistics, as an issue of public confidence and good data ownership, that valuable, restricted public datasets should have the highest level of transparency around requests for their use.

Privacy International made a Freedom of Information request<sup>7</sup> for all requests for access to the NPD since 12th May 2010. According to the Department, providing such information "would exceed the cost threshold applicable", suggesting that the Department not only does not have a credible system for managing requests, but that it also does not have a credible comprehensive summary arrangement for projects.

This failure of project oversight should be rectified, and also seen to be rectified, before widening use is considered. All requests for use should be routinely published on the Department's website in a timely manner.

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

The desired potential benefits can be achieved with a minimal level of risk via aggregate data, whereas the widened purposes and users would be a significant and unjustified risk. A satisfactory case for widening access to record level data has not been made.

Privacy International understands the Department's argument for data sharing to be widened, however, the potential risks of such access vastly outweigh the incremental benefit over the current arrangements and alternates.

The data released shows that 26% of requests between April and November 2012 were from commercial organisations, and 92% of requests were fully or partially accepted. It is therefore false to claim that such organisation may not currently make use of the data, the argument is only around what the data may be used for.

The Department has begun making available greater amounts of aggregate data, which could be used to satisfy some of the desired outcomes. We support the suggestions of the Open Data Institute here.

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

The Department's argument that "*as under current arrangements, selected data would only be released subject to a robust approval process...*" is fundamentally flawed. The current regulations limit use to research, whether academic or otherwise.

<sup>7</sup> [http://www.whatdotheyknow.com/request/requests\\_for\\_access\\_to\\_national](http://www.whatdotheyknow.com/request/requests_for_access_to_national)

As such, one of the protections within the current arrangements are in the setting and ethos of the data users, for example, a collegiate research group. Standard ethics practice requires that such research should have oversight in the form of an independent research ethics committee at the home organisation and within the funding organisation<sup>8</sup> or similar. It is plainly impossible for some of the potential use cases to have such oversight, and as such, the approval process and data management processes must differ to take account of such states. Charities, similarly to academia, have a board of trustees and legal restrictions on what a charity may use resources for; whereas, a commercial company is answerable only to shareholders who gain the profits from activities.

In the small amount of time allotted for this consultation, there was limited time to examine the details of the commercial users of NPD.

**Question 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.).**

For a consultation of this importance to every school child in the country, the short period for responses is fundamentally inappropriate.

Recommendations for future progress, outside of the above

1. We strongly suggest that the increase in potential users is rejected, and any change simply clarifies existing uses.
2. The publication of additional cross-tabulations of statistics, suitably disclosure controlled, would solve a significant percentages of legitimate use cases, and poses little privacy risk when done correctly.
3. Researchers within charities should be considered equivalent to academic researchers, subject to equivalent oversight<sup>9</sup>.
4. Where such cross-tabulations are not sufficiently detailed, the existing practical process of a 3rd party researcher producing the relevant analysis at a suitable level (above "individual pupil") should continue to suffice. Such a third party researcher must be covered by suitable ethical oversight.
5. The Department should commit to immediate publication of details of requests for data within 3 working days of approval/rejection of any part of a project proposal.
6. Future proposals to widen access should include a range of external privacy and data experts prior to publication. This should include the Open Data Institute and the UK Anonymisation Network<sup>10</sup>.
7. A full statistical disclosure control audit should be performed and made available to the group in (6).

8 e.g. ESRC [http://www.esrc.ac.uk/\\_images/Framework-for-Research-Ethics\\_tcm8-4586.pdf](http://www.esrc.ac.uk/_images/Framework-for-Research-Ethics_tcm8-4586.pdf)

9 equivalent to that required by the ESRC for ESRC funded projects

10 ICO, Anonymisation: managing data protection risk code of practice, p32.

***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.***

### **Response**

We do not agree with this proposal. We understand that one of the motives behind this question is that there is a proposal to sell or give away children's data, acquired in the process of their compulsory attendance at school, to the private sector. There are a number of intrinsic dangers in requiring citizens to give personal data to the state, and then allowing it to be used commercially. We list them below.

- 1. Selling data acquired by compulsion encourages a national position, encouraged by Government, that children are little more than a potential resource to be used by others, rather than citizens in their own right, with rights to privacy.**

*Example: A drug company pays to access the School Census data, and finds that a greater number of children than average are diagnosed with ADHD-type conditions in one particular region. The drug company then contacts local schools and clinics to invite pupils to become involved with drug testing initiatives, targets local GPs to encourage drug take up, and carries out a PR initiative citing successful case studies in this region of drug based interventions using their products.*

- 2. The security of this data cannot be assured once it is out of the UK public sector, and there is likely to be little recourse for children if their data is used inappropriately, or stored inaccurately overseas.**

*Example: A US educational outsourcing company holds some of the data it has purchased about UK school pupils on a US computer system. It is legally required to inform the authorities about potential visitors to the US who might pose immigration problems. Consequently it is forced to hand over some of the data, but the UK families who originally gave their data to their children's schools are completely unaware of this, and unable to correct any errors occurring during the data exchange. This is not spotted until a family is stopped at a US airport, as a result of an error in the authorities confusing two identities. The family has no recourse.*

- 3. In terms of using the data, it is unlikely that the same ethical controls will exist for commercial companies as for public sector researchers, which represents a further risk to the personal data of children.**

*Example: A data processing company decides to buy some of the data with the aim of creating a visually attractive alternative database for parents, to allow them to choose schools for their children. It interprets the data poorly, failing to take into account the school's local conditions, which results in some schools and groups of pupils being unfairly classified as failing by this database. The resultant fall in admissions affects funding in some schools*

*working with vulnerable children, which in turn affects children's access to some aspects of education.*

- 4. Mosaic identification (identification of individuals by piecing together information from different databases or other courses) is entirely possible using this sort of information, given uncommon cases. This presents ethical issues for the distribution of such data.**

As the Office of National Statistics makes clear:

*"Generally, rare combinations of attributes lead to the identification of individuals, for example, a sixteen-year-old widow, a female miner or a single manufacturer in an area. Disclosure control methods are usually applied if ethical, practical or legal considerations require the data to be protected, and the possibility of identification exists.*

*Statistical disclosure control techniques are currently being used in a wide number of areas of National Statistics, for example the Census, the Neighbourhood Statistics Service and for several social surveys. Different types of data pose different types of problems and inevitably require different solutions".<sup>1</sup>*

In 2010 the Information Commissioner held that the Youth Justice Board was in breach of the Data Protection Act in collecting purportedly anonymised data that included sector postcode, ethnicity, date of birth and gender (similar to some of the data held in the National Pupil Database). He concluded that this data was sufficient to identify individuals in areas where there were few residents from minority ethnic groups. As a consequence, the Youth Justice board had to remove this data from their Management Information System.<sup>2</sup>

Therefore while data of this type might, of itself, not contain directly identifiable data (for example, names), this does not, in any way, guarantee anonymity for the individuals within the dataset.

*Example 1: A high achieving pupil achieving level 5s for Mathematics and English in year 4 is identifiable within a small rural sample in a comparatively low achieving area. This leads to targeted marketing from commercial companies for paid-for enrichment activities, putting pressure on the parents to provide additional resources.*

*Example 2: A job applicant confirms to an employer that he has 4 GCSEs and the grades awarded. One of the GCSEs is in an unusual modern foreign language. The certificate date identifies the year of exam, the subjects, and the school. By using data derived from the National Pupil Database and*

---

<sup>1</sup> Source: <http://www.ons.gov.uk/ons/guide-method/method-quality/general-methodology/statistical-disclosure-control/index.html> [Accessed 14th December 2012]

<sup>2</sup> Source: [http://www.theregister.co.uk/2010/09/06/arch\\_ico\\_yjb/](http://www.theregister.co.uk/2010/09/06/arch_ico_yjb/) [Accessed 17<sup>th</sup> December 2012]

*School Census, it is discovered that a pupil from the same school with a GCSE qualification in this language had a certificate of Special Educational Needs for Oppositional Conduct Disorder (OCD). Fearing health and safety issues, the company decides not to employ the applicant on this basis.*

## **Conclusions**

National Pupil Database information is taken without the consent or knowledge of parents and children. It is derived straight from the school's Management Information System. It is questionable that parents and children have no control over its supply to the Department for Education in the first place. We consider that this situation would be compounded, were the proposal to share the data implemented. This would represent a significant breach of trust, if the data were subsequently handed out to other organisations.

This is also part of a much wider debate. Such moves in data bank research are likely further to erode privacy rights, and records about children may be seen as an easier way in to this general undermining, bypassing discussion and consent that might be required for adults' data. Fortunately in this instance the Department for Education is consulting widely, and we are anxious that this continues to be the case.

We are also concerned that commercial pressures on all kinds of researchers and practitioners are eroding privacy with almost no public debate. Policies seem to be driven by technology, in the sense that if it is technologically possible, then we must do it. Given the above largely negative implications of sharing data in the manner proposed, we the undersigned wish to register an objection to any changes.

██████████, Institute of Education, University of London  
██████████, Truth2Power  
██████████, University of Plymouth

# 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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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) Central Bedfordshire Council

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](mailto: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 checked="" type="checkbox"/> 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.

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

Comments:

It will allow LAs to produce more comprehensive and accurate data sets. LAs at present use Census data for pupil characteristics which have to be matched against attainment data.

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

**Comments:**

Be able to produce data broken down by pupil characteristics. Also enable LAs to obtain pupil characteristics information for pupils outside the authority as well as from non maintained and independent schools.  
Extremely useful for NEET.

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

**Comments:**

Transparency.  
Improve confidence in accuracy as there will be a closer match between LA figures and DfE published figures.

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

Comments:  
When would this information be available?  
Would LAs have to request it each time it was needed?  
Would the data be anonymised for some organisations?  
Different organisations may interpret the data differently.

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 consultation documents and form was easy to find and complete.

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?

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](mailto: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](mailto: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



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 checked="" type="checkbox"/> Voluntary Sector/Not-for-profit Organisation	<input type="checkbox"/> 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.

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

Comments:

Children England agrees with the proposal to widen the purposes for which data from the National Pupil Database can be shared. We believe that this policy should improve the ability of the voluntary and community sector to undertake a wide variety of social research, inform the public, hold the government to account and design, target and deliver support services for the benefit of children and young people.

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

### Comments:

Children England is an infrastructure body with members ranging from large national charities to small community groups. Of the three categories of use for this data (research; information, advice and guidance; services) Children England could foreseeably engage in the first two whilst our membership as a whole participates in all three.

Widening the purposes for which this data can be used opens up some exciting research possibilities. Whilst such research undoubtedly has intrinsic value, it would be particularly beneficial in the current climate. With public services experiencing major upheaval due to health, school and localism reforms at the same time as significant spending cuts, benefit reforms, weak economic growth and high levels of unemployment it is essential that the impact on children, young people and families, particularly the most vulnerable, is tracked. Children England and our members could use this data to undertake research on the effect of these factors on issues such as child poverty, sexual exploitation and health outcomes, helping to increase public awareness and hold the Government to account.

Similarly, both Children England and our members could make anonymised data accessible to the public in user friendly, visually appealing ways for the purposes of campaigning. Enabling those who are unfamiliar with data to engage with it and manipulate it is a key way of developing public understanding and support for particular policy suggestions. An example of how this approach has been applied to data that is already accessible is the Children Society's poverty line calculator that enables users to work out the poverty line for a given family type in any year from 2000 to present. These proposals could help facilitate public engagement with a much wider range of issues related to children and young people.

Finally, Children England's members provide a range of additional services to schools including, but not limited to, childcare, educational psychology, behaviour and attendance support, music and sports services, counselling, CAMHS, speech and language services, and wider family support. Access to this information would allow voluntary and community sector organisations to better analyse need, design, target and deliver these support services.



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

**Comments:**

As noted above, we believe that widening the purposes for which data can be shared should improve the ability of the voluntary and community sector to undertake a wide variety of social research, inform the public, hold the government to account and design, target and deliver support services for the benefit of children and young people.

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

**Comments:**

Although we are broadly supportive of the proposals, specific safeguards will need to be put in place to ensure that they do not distort the market.

Firstly, it is essential that the original data remains a public asset, held and managed by government. Otherwise there is a risk that access to the data could be restricted. We are keen to avoid a repeat of previous situations, such as with Connexions, whereby public data, collected and stored by private sector contractors, has effectively been privatised by those companies claiming proprietary rights over the data and refusing to share it.

Secondly, there must be equal access to the data. Although we agree that the approval process for organisations wanting access to the data should be robust, it should also be proportionate and easily navigable by smaller organisations. A bureaucratically burdensome process risks giving a significant commercial advantage to larger organisations that are already favoured by public sector commissioning processes.

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

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?

XYes

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](mailto: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](mailto: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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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) National Foundation for Educational Research

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.qsi.gov.uk](mailto:consultation.unit@education.qsi.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:

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
---	-----------------------------------	-----------------------------------

Comments:

We do agree with the proposal to widen the purposes of use. There is much research that we wish to undertake, and have been asked to undertake, which is not directly concerned with attainment, but is to do with improving life chances. Much of the research that could be completed on NEETs is more to do with future opportunities and access to services, than on attainment, and background information on their education history would allow for more meaningful research and the differential impact of interventions on this group of young people. The development of well being measures would also benefit from access to this data.

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

Comments:

See above.

We would continue to access the NPD to support our ability to undertake educational research and the differential impact of interventions and programmes. It is of great use when obtaining cohorts of pupils for test development purposes. NPD is primarily used as a way of reducing the burden on schools and therefore acts as a positive influence on sample sizes.

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

Comments:

A more varied programme of research.



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

Comments:

If it doesn't already exist could there be a document that highlights the type of research that is being undertaken using the NPD.

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:

Very straight forward.

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?

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](mailto: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](mailto:NPD.Consultation@education.gsi.gov.uk)

## The Information Commissioner's response to the consultation on proposed amendments to Individual Pupil Information Prescribed Persons Regulations

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 (DPA), the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations (EIR) and the Privacy and Electronic Communications Regulations. He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.

The Information Commissioner's Office (ICO) welcomes the opportunity to comment on the proposals to amend the Individual Pupil Information Prescribed Persons Regulations, which are of particular interest. As described in section 3.1 of the consultation, the National Pupil Database (NPD) contains detailed, individual-level personal data about pupils in England, some of which is sensitive personal data as defined by s2 of the DPA, so any plans to widen access to that data should be carefully considered.

### Questions 1 and 4

Current regulations allow individual level pupil data to be disclosed to a range of prescribed persons including those "conducting research into the educational achievements of pupils and who require individual pupil information for that purpose".<sup>3</sup> Section 7.1 of the consultation proposes to widen access to pupil data to allow it to be shared with "persons

- conducting research,
- or providing information, advice and guidance,
- or data based products and services

for the purpose of promoting the education or well-being of children in England and who require individual pupil information for that purpose."

This could represent a significant increase in disclosures of pupil data, as the proposals include both a widening of the types of prescribed persons to whom data may be released, and a widening of the purposes for which data may be released to them. Not all of the data disclosed will be personal data – depending on the extracts requested by prescribed persons individual pupils may not be identifiable. It would however be

---

<sup>3</sup> The Education (Individual Pupil Information) (Prescribed Persons) (England) Regulations 2009, Regulation 3 paragraph (6)(d)

possible for users to request extracts of the data containing personal or sensitive personal data of identifiable pupils.

Indeed, the widening of the purposes for which data may be released to include promoting the "well-being" of children may increase the likelihood of sensitive personal data being requested from the NPD, bearing in mind that "well-being" relates to matters mentioned in section 507B of the Education Act 1996. This means it could include, amongst other areas, their physical and mental health and emotional well-being; protection from harm and neglect and their social and economic well-being. Conducting research, or providing information, advice, products and services in these areas may well result in persons requesting more sensitive personal data about children. It may also result in researchers and others wishing to link children's data from other sources, such as health data.

It should be noted that the DPA does not prohibit the disclosure of personal data, but any disclosure has to be fair, lawful and in compliance with the other data protection principles. The first principle in particular requires that as well as being processed fairly and lawfully, personal data should not be processed unless at least one of the conditions in Schedule 2 of the DPA is met, and in the case of sensitive personal data, at least one of the conditions in Schedule 3 of the DPA must also be met. Whilst it may be possible to identify a Schedule 2 condition (for example in some circumstances condition 6, processing necessary for the purposes of legitimate interests, may be appropriate); it may be more difficult to identify a Schedule 3 condition in the event that sensitive personal data is requested. The Department must be satisfied that an appropriate condition for processing can be found for any disclosures of personal data, noting that most conditions require that the processing of personal data be necessary for the purposes specified. If personal data is not strictly necessary for the purposes of the request then it should not be disclosed, and this should be an integral part of the approvals process.

If an appropriate schedule condition can be identified, the Department must also ensure that any disclosures are fair to the pupils whose data is disclosed. This means that any disclosure must not have any unjustified adverse effects on pupils; and that the Department must be transparent about how the data will be used, by giving appropriate privacy notices to pupils and their parents through schools to ensure that they are sufficiently aware that pupil data may be used in this way. Pupil data should be handled only in ways that they and their parents reasonably expect.

If an appropriate condition for processing cannot be identified, or the fairness requirement cannot otherwise be fulfilled, the Department should anonymise pupil data before disclosing it. Our Anonymisation: managing

data protection risk code of practice<sup>4</sup> contains clear, practical advice; and the newly-formed Anonymisation Network may be able to provide access to more detailed expertise and advice. The network will launch a website in early 2013.

We note that those requesting access to extracts of data from the NPD will have to go through an approval process and sign up to strict terms and conditions on data security, handling and use<sup>5</sup>. The terms and conditions under which data will be released to prescribed persons are particularly important in protecting the privacy of the pupils whose data is released. We are pleased to see that the terms and conditions require those requesting access to demonstrate their compliance with the DPA. It is very important that, as stated in the terms and conditions, that they are prohibited from any further disclosure of the data. In addition the terms and conditions should require that no attempts to re-identify anonymised data are made, especially in the light of comments made above about the likelihood of researchers linking children's data from other sources as part of their work.

18.12.2012

---

<sup>4</sup> [http://www.ico.gov.uk/for\\_organisations/data\\_protection/topic\\_guides/anonymisation.aspx](http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/anonymisation.aspx)

<sup>5</sup> <http://www.education.gov.uk/researchandstatistics/national-pupil-database/b00212283/national-pupil-database/how-to-request-data>

# 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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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) Office for National Statistics

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](mailto: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 type="checkbox"/> Researcher/HEI	<input checked="" type="checkbox"/> Government Organisation
<input type="checkbox"/> Other		

Office for National Statistics

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
---	-----------------------------------	-----------------------------------

Comments:

The proposal is consistent with Government policy as set out in the recent 'Open Data White Paper Unleashing the Potential' to make better use of information collected and held by Government. At the same time it is consistent with wider Government initiatives including those associated with transparency, the need to improve accountability and reform public services.

ONS supports the principle of maximising the value of administrative data for improving the quality of statistics, particularly those that will be used in the planning of spending or in the development of services. Higher quality statistics can lead to more efficient spending and better planning decisions.

In 2012, ONS was commissioned by DFE to link teenage conception data to the educational attainment data. These linked data are being used by DFE researchers to understand factors associated with teenage pregnancy. We appreciate therefore the richness of the characteristics of the data. This information would enhance our understanding of the population and could be widely used in a number of applications.



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

### Comments:

ONS has already secured access to data from the School Census and would be interested in having access to data from the NPD which brings together details on pupil characteristics and attainment. We have demonstrated compliance with DFE's data security and handling requirements and our ability to safeguard the confidentiality of any data

ONS could use these data in a number of ways:

- To improve the quality of population estimates. For example: the characteristics data of the pupils and potentially their parents, could enrich our understanding of population and migration, and potentially lead to improved methods of estimating the population. The timeliness in which changes (e.g. changes of address, population structure, ethnic mix) are reflected within this database may also support ONS in producing population estimates in a more timely manner than at present. Any improvements to ONS population estimates would in turn allow service providers to better distribute and plan their services. Improvements in the timeliness in which demographic changes are reflected in population estimates could be especially useful in areas that experience significant amounts of population churn.
- To support the work of the Beyond 2011 Programme to assess options for meeting future user needs for population and small area socio-demographic statistics in England. In particular, the availability of information on attainment will contribute to research being undertaken to safeguard the ongoing availability of accurate and up-to-date statistics on this topic including the development/improvement of methods of small area estimation. By bringing together information from the National Pupil Database with data such as gender, ethnicity and first language (already available to ONS from the School Census for England) the Beyond 2011 Programme would be better able to:-
  - meet specific requirements for information on variations in educational attainment,
  - understand the impact/implications/interactions for deprivation and social mobility; and
  - comply with specific obligations under the Equality Act 2010.
- To link to life events datasets currently held by ONS, to support specific academic research projects where the appropriate approvals were in place, extending for example the work that DFE asked ONS to do linking conceptions with educational attainment, potentially improving access to a wider range of datasets.
- To improve the quality of survey data. For example, in 2013, ONS will be running the Child Dental Health Survey (CDHS) on behalf of the Departments of Health. The survey is intended to provide policy makers, the NHS and the wider dental epidemiological community with data to inform policy making, service commissioning

and research about children's oral health. NPD data could be used for:

- Pupil sampling - the CDH sample design necessitates random selection of a sub-sample of pupils of the correct age from selected schools. Using the NPD to do this greatly reduces the burden on schools, improves sample size and statistical precision, and reduces cost.
- Weighting survey data - All voluntary surveys are subject to a level of non-response (in this case schools, parents or pupils not wanting to take part) and, where non-response is related to what the survey is measuring, this can result in biased statistical estimates. For CDHS, non-response is likely to be higher in more deprived schools, and that survey measures such as tooth decay are likely to be related to deprivation. With good quality data on the target population from the NPD, it is possible to adjust for non response bias in the achieved sample through a weighting adjustment, thus improving the estimates from the survey.

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

Comments:

The key benefits include:-

- economic - making better use of an existing information asset. The re-use of data collected and held on the National Pupil Database is compatible with wider Government plans (as summarised in the Open Data White Paper) as well as with specific ONS objectives to make more use of existing administrative data and thus to reduce other data collection costs. In view of current resource constraints this is especially relevant;
- public good - extending access for research purposes can help improve outcomes, productivity and accountability, support work to deal with deprivation and educational disadvantage. This in turn can contribute to ongoing work to drive up standards, increase choice and encourage economic growth;
- transparency - is consistent with the Government's commitment to making more data available for research purposes;
- joined up Government - should encourage cross-Government working improving efficiency and effectiveness;
- statistics and research - facilitate the development of new and improved statistics, support cross-cutting research, help the Government understand and monitor the impact of differences in social and health circumstances/conditions and change over time; potentially provide access to a wider range of linked datasets for academic research purposes

- data sharing - extend and simplify existing data sharing arrangements.

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

Comments:

ONS is concerned that the proposed amendments may not be sufficient to cover our requirements and purposes, particularly in the context of our project looking at alternatives to a traditional Census – B2011. Extending the regulations to cover the production of statistics, statistical research and analysis, would ensure that these data can be used to support this.

For example, regulations for access to data from the School Census in England specified the following statistical purposes:-

- (a) the production of population statistics under section 20 (production of statistics) of the Act;
- (b) the making of arrangements for a census under section 2 of the Census Act; and
- (c) the assessment of the census returns.

ONS could for example, be specified in the new Regulations as a named body for the release of information for specific research and statistical purposes.

One further comment, ONS is concerned that the scope and coverage of the National Pupil Database may change. At present it covers all state schools in England as well as pupils and students in non-maintained special schools, sixth form and Further Education colleges and (where available) independent schools. Changes in education provision (e.g. establishment of academies and free schools) as well as proposals for revising key qualifications (e.g. GCSEs) could affect the future availability of information.

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

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

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](mailto: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](mailto: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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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.

<b>Please tick if you want us to keep your response confidential.</b>		<input type="checkbox"/>
<b>Reason for confidentiality:</b>		
<b>Name</b>	 	
<b>Organisation (if applicable)</b>	 	
<b>Address:</b>	    	

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](mailto: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 checked="" 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 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
--------------------------------	--	-----------------------------------

	<p>Comments: I Disagree, this information should remain confidential opening it up will open up oportunities for missuse. Children's information should remain confidential not commercial</p>
--	--



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

	<b>Comments:</b>
--	------------------

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

	<b>Comments:</b>
--	------------------

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

	Comments:
--	-----------

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

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?

<input type="checkbox"/> Yes	<input type="checkbox"/> 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](mailto: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](mailto: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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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) UCL

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](mailto: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:

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
---	-----------------------------------	-----------------------------------

Comments:

The National Pupil Database has considerable potential to be used by researchers interested in internal migration and journey-to-school trips. These can be related both to children's well-being, and to more general national population observation.

An anonymised version of the NPD could be used to gauge the frequency with which children's residential addresses change, and also the frequency with which children change school; these have important implications for local planning. The NPD can also provide information about the journey to school, and how it might relate to local travel planning decisions.

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

### Comments:

I work as part of a multi-HEI consortium which form the UK Data Service - Census Support Service (UKDS-CSS), an ESRC funded unit which disseminates census and other demographic data sets to the UK academic research community, and provides users with expert advice. Within that, I lead a unit (CIDER – [cider.census.ac.uk](http://cider.census.ac.uk)) which specialises in interaction or flow data; the unit has considerable experience in disseminating and providing expert advice on the use of data from the decennial census and from other administrative sources including the NHS.

The Census Support Service includes research staff at UCL and the Universities of Leeds, Manchester and Edinburgh, and we have consulted a number of additional colleagues at our host institutions.

We would use the NPD data to generate and support a family of annual time-series data sets showing: internal migration (i.e. changes of usual residence) of school children; and children's journeys to school. Journeys to school might be presented on a residence-school location basis (as, for example, school journey data are as part of the Scottish census outputs) or on a distance band basis. We would operate and maintain appropriate user authentication as negotiated with DfE.

The data would support research into relationships between migration and school performance and into the environmental impacts of journeys to school, as well as a more general proxy of migration in the UK.

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

Comments:

The suggested uses of data would serve a number of important purposes. At present there are two main sources of internal migration data for the UK: the census, which is spatially and socially detailed, but only occurs every 10 years, and NHS records, which are compiled on an annual basis, but have less detail. Both sources have known strengths and weaknesses. A migration data set derived from the NPD would greatly strengthen our knowledge of movement patterns within the UK. Additional detail from the NPD such as language spoken would considerably improve our understanding of movements of different groups, with relevance to planning by schools, local authorities and other service agencies.

There are few data sources – especially at a national level – which detail children's journeys to school, both in terms of distances travelled and mode of transport used. This information would aid our understanding of the environmental impacts of school travel, and would also provide important evidentiary context for practitioners aiming to promote well-being of children through physically active journeys to school.

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

Comments:

The NPD data are potentially disclosive and their security is thus a politically sensitive issue. Researchers at the Census Support Service have a good understanding of these issues, and are also familiar with disclosure control policy and techniques. We would be happy to work with DfE in designing outputs and assessing their risk of disclosure.

We also have expertise in providing data in a secure manner to registered users. Within CIDER, we have strong working links with the Office for National Statistics and are developing plans with them for the secure dissemination of detailed data from the 2011 Census, as well as the more general public release data. A number of researchers within the UKDS-CSS are also involved in the Centre for Longitudinal Study Information and User Support (CeLSIUS), which provides access to the ONS Longitudinal Study; other researchers within the UKDS-CSS work at the Cathie Marsh Centre for Census and Survey Research (CCSR) providing access to and support for the Samples of Anonymised Records. Both CCSR and CeLSIUS illustrate the strength and reliability of an 'approved researcher' access model (in the case of CeLSIUS, 'approved researcher + physically controlled access + approved output', which we recognise may be required for wider access to data derived from the NPD.



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 consultation was easy to find and the questions were appropriate.

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?

XYes

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](mailto: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](mailto: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.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

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) Transport for Greater Manchester

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](mailto: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 type="checkbox"/> Researcher/HEI	<input type="checkbox"/> Government Organisation
<input checked="" type="checkbox"/> Other		

Please Specify:

Passenger Transport Executive

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
---	-----------------------------------	-----------------------------------

Comments:

TfGM agree in principle with the proposals to widen the purposes for which data from the National Pupil Database can be shared. This agreement is based on the potential benefits to organisations announced by the Department for Education (DfE) within the consultation document. TfGM recognise that with the associated benefits there will also be issues if data is misused, and therefore would support a future consultation on a DfE data usage policy.

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

### Comments:

Mode of Travel data from the School Census provides the best value foundation for an evidence-based, targeted, approach to achieving greater levels of active and sustainable travel to school. In addition, it is being used as a crucial tool in informing the planning of local services including new school places, housing and local transport initiatives and infrastructure.

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

### Comments:

The sharing of data assists Local Authorities with;

- Gaining an understanding of overall trends in mode of travel to school. This information informs a number of policies and strategies including the Sustainable Modes of Travel Strategies
- To identify the schools with greatest need for our involvement, e.g. schools with the highest percentage of car use
- Assists with evaluating whether initiatives within schools have had an impact on behaviour change and to compare modal shift with similar schools
- Evidence base for funding bids
- Evidence source for colleagues other departments, senior managers and elected members
- Provides a baseline for comparing the impact of initiatives e.g. Walk once a Week.
- Assists with Local Transport Plan submissions
- Assists in the formulation of planning new highway schemes

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

**Comments:**

TfGM recognise that reinstating the mode of travel question within the school census would enable transport executives and local authorities achieve the outcomes in question 3.

**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

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

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](mailto: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](mailto:NPD.Consultation@education.gsi.gov.uk)



## **The Foundation for Information Policy Research**

Written evidence to the Department for Education on  
Proposed amendments to individual pupil information prescribed  
persons regulations

***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.***

We do not agree with this proposal. A consultation response by [REDACTED], [REDACTED] and [REDACTED] points out some examples of what is likely to go wrong; in this response I would like to draw the Department's attention to the underlying legal and scientific principles, and to the relevant literature.

The proposal is likely to contravene human-rights law by making sensitive personal information about schoolchildren available to third parties without even giving them or their parents the possibility of opting out. This will contravene S8 ECHR and relevant decisions of the European Court of Human Rights such as *I v Finland*<sup>1</sup> in respect of the health data embedded in NPD records.

We have little confidence that the data likely to be disclosed can be protected by robust statistical security, and are concerned that the Department is failing to appreciate the technical difficulty. Statistical disclosure control is a hard problem, and in the rush to jump on the "open data" bandwagon, one public-sector body after another has neglected the basic science. For this science, see the Royal Society report on "Science as an Open Enterprise" which reviews the scientific and research policy issues<sup>2</sup>. For example at p 53 the report states

*"It had been assumed in the past that the privacy of data subjects could be protected by processes of anonymisation such as the removal of names and precise addresses of data subjects. However, a substantial body of work in computer science has now demonstrated that the security of personal records in databases cannot be guaranteed through anonymisation procedures where identities are actively sought."*

<sup>1</sup>

See 'Finland Privacy Judgment', 23 July 2008, at <http://www.lightbluetouchpaper.org/>

<sup>2</sup>

Science as an Open Enterprise", Royal Society, 21 June 2012

The relevant science ranges from pioneering work of Dorothy Denning and others over thirty years ago; through the many well-publicised incidents of anonymity failure, including the Netflix incident and Latanya Sweeney's work on re-identifying medical records; to the differential privacy framework for analysing anonymisation developed by Cynthia Dwork and her colleagues.

The policy implications are set out in Paul Ohm's widely-cited paper "Broken Promises of Privacy – Responding to the Surprising Failure of Anonymization"<sup>3</sup>, while the legal implications were analysed by Ian Brown, Lindsay Brown and Douwe Korff in "Using NHS Patient Data for Research Without Consent"<sup>4</sup>. The specific implications for children's databases were set out in "Children's Databases – Safety and Privacy" which I wrote for the Information Commissioner in 2006 along with Ian Brown, Richard Clayton, Terri Dowty, Douwe Korff and Eileen Munro (who did the Munro Review of child protection for you after the 2010 election). I refer you also to FIPR's consultation

responses to the Cabinet Office consultation on 'Making Open Data Real', and the Draft Anonymisation Code of Practice from the ICOs.

As for our standing, the Foundation for Information Policy Research (FIPR) is an independent body that studies the interaction between information technology and society. Its goal is to identify technical developments with significant social impact, commission and undertake research into public policy alternatives, and promote public understanding and dialogue between technologists and policy-makers in the UK and Europe. We wrote the "Database State" report in 2009 for the Joseph Rowntree Reform Trusts. "Database State" became Lib Dem policy, and many of its proposals were also adopted by the Conservatives; you will recall that this led to the cancellation of the Department's ContactPoint system after the 2010 election.

In short, the proposal is ill-considered and hazardous. We urge the Department to think through the consequences at senior level (including at ministerial level). The prospective gains are at best speculative, and the risks don't seem to have been properly analysed.



Foundation for Information Policy Research

December 18 2012

3 Paul Ohm, "Broken Promises of Privacy – Responding to the Surprising Failure of Anonymization", *UCLA Law Review* v 57 p 1701 (2010), SSRN 1450006

4 Ian Brown, Lindsey Brown and Douwe Korff, "Using NHS Patient Data for Research Without Consent", *Law, Innovation and Technology*, Vol. 2, No. 2, pp. 219---258, December 2010. SSRN 1753029

5 Both available from [www.fipr.org](http://www.fipr.org)

6 R Anderson, I Brown, T Dowty, P Inglesant, W Heath, A Sasse, 'Database State', Joseph Rowntree Reform Trust 2009