

## FAQs on National Pupil Data Privacy

### Q1. Is the new national collection of country-of-birth and nationality for every child?

- A. Yes, the changes affect every child age 2-19 in state funded education in England. It means collecting more data on 8+ million children this year, and a further new 700,00 every year who start education in Early Years settings or start school. Country of birth is being collected for the first time, mandated at local school and national level. Many schools already collect nationality at local level. The change is Nationality is now to be sent to the National Pupil Database.
- NEW: Country of birth (Pupil country of birth 100565) added and collected at national level
  - NEW: Nationality now at national level for every child, regardless of age (Nationality 100564).

### Q2. What's the detail on plans for collecting ethnicity, and fluency in English (EAL)?

- A. These aren't new but the changes data on ethnicity and language fluency are in the expansion of the collection of these items and its use at national level. The collection of ethnicity starts at a younger age, English as an additional language is being graded for the first time into new five levels assessed by schools, not provided by parents:
- EXPANSION: ethnicity, expanded to all children, and previous restrictions on collecting ethnicity on under 5s have been scrapped
  - EXPANSION: multi-level detail expanded on English as an additional language, coded in five tiers and new national extraction of measures of fluency
  - EXPANSION: the age of pupil from which data may be collected has been lowered to rising 2s

### Q3. Does data include name and address of pupils?

- A. Yes. Name and address have been collected from the School and Early Years Censuses and stored in the National Pupil Database together with the detailed lifetime pupil record since the database began in 2000. The only 2016 change to this, is that schools have been asked to expand Home address data collection. All home addresses will get an extra unique property identifier added to the existing address and postcode data which are already collected:
- EXPANSION: Pupil home address may add a unique property identifier using BS7666 address format, in addition to the 5-line home address, and to postcode which is already mandatory.

### Q4. When will data be collected?

- A. Schools have already started collecting the new data items to add to existing records. There is some confusion between local communications and national documents whether the new items will be extracted into the NPD in autumn 2016 or spring 2017. Census dates for 2016-17 are: October 6, January 19, 2017, and May 18, 2017.

### Q5. Can schools and parents opt out of the collection of new census items?

- A. For country-of-birth and nationality provided by pupils or parents, schools can use Not Yet Obtained, Not known, or Refused. On ethnicity the guidance says: *"Where the ethnicity has not yet been collected this is recorded as 'NOBT' (information not yet obtained). If a pupil or parent has refused to provide ethnicity, 'REFU' (refused) is recorded and returned."* (p61) *On English as and Additional Language data, assessed by schools, first language is required for all, proficiency only for those for whom English is not a first language or assumed to be a first language. (pp61-64 5.3.2) ref: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/554478/School-census-2016-to-2017-guide-version-1.3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/554478/School-census-2016-to-2017-guide-version-1.3.pdf)*

### Q6. Can schools and parents opt out of all uses at national level and local level?

- A. No. Some items are stated as required because schools' funding is dependent on pupil numbers and other details. Which items are required and which are optional is listed for administrators in the User Guide (pp32-35) and against each item, however we are asking for a

simpler overview from the DfE. Local settings may also ask for data which are not collected at national level. The difference is not made clear to pupils or parents what is required for national use, local use, and what is optional. Ref: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/554478/School-census-2016-to-2017-guide-version-1.3.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/554478/School-census-2016-to-2017-guide-version-1.3.pdf)

**Q7. Are these data being stored in a national database and is it a detailed database?**

A. Yes. The school census and Early Years census data are extracted from schools and local authorities through a range of schools information management systems, and sent to the National Pupil Database (NPD). The total of individual pupils in the NPD at 28/12/2015 was nearly 20 million, at 19,807,973. No data have been destroyed since it began. It is population wide, growing, and is forever. (This number is not published, and only available through FOI.)

**Q8. What other data are in the National Pupil Database?**

A. The database contains a school pupil's full personal and educational record from age 2-19, collected since 2000 in England, from personal confidential data given by parents to schools, including sensitive data like ethnicity and date of birth, SEN and indicators of children in care, plus the pupil data created in school from testing and tracking; attainment, absence, exclusions. It is "one of the richest education datasets in the world" says the NPD User Guide. See the link pages 19-22. The data once collected in the NPD are never destroyed. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/472700/NPD\\_user\\_guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/472700/NPD_user_guide.pdf)

**Q9. Has the Home Office had access to the national pupil database on individual children?**

A. Yes, we only know this from a Freedom-of-Information request. Since April 2012, the Home Office has submitted 20 requests for information to the National Pupil Database. Of these 18 were granted and 2 were refused as the NPD did not contain the information requested. Ref: [https://www.whatdotheyknow.com/request/pupil\\_data\\_sharing\\_with\\_the\\_poli#incoming-846569](https://www.whatdotheyknow.com/request/pupil_data_sharing_with_the_poli#incoming-846569)  
**defenddigitalme has been refused a Freedom-of-Information request to identify the purposes for which the data were released. We continue to pursue this.**

**Q10. Have the Police accessed the national pupil database for data on individual children?**

A. Yes. Since April 2012, the Police have submitted 31 requests for information to the National Pupil Database. All were granted, however only 21 resulted in information being supplied.

**Q11. Was the Home Office and Police access about individual children?**

A. All requests granted were for individual data on individual pupils. None of the requests granted were for aggregated data. Ref: [https://www.whatdotheyknow.com/request/sharing\\_national\\_pupil\\_database#incoming-866266](https://www.whatdotheyknow.com/request/sharing_national_pupil_database#incoming-866266)

**Q12. Who decided this new collection should proceed? Was there a public consultation?**

A. Nick Gibb, Minister for School standards has said: "*All Departmental proposals for new, or revised, data collections are reviewed by the Star Chamber Scrutiny Board (SCSB). The SCSB is an external panel of representatives from schools and local authorities who approved the collection of country of birth data via the school census in November 2015. The Department have not consulted directly with parents regarding the changes to the school census.*"

defenddigitalme has been refused a Freedom-of-Information request for the decision meeting minutes. We have written to this board and Education Select Committee with concerns. Ref: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-14/42842/>

**Q13. What will the data be used for according to the Department for Education?**

A. Nick Gibb, Minister for School standards has said: "*The collection of data on the country of birth and nationality of pupils will be used to improve our understanding of the scale and impact of pupil migration on the education sector and provide the Department with a better evidence base for future policy decision making.*" Ref: <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-14/42842/>

**Q14. Will the data be shared with other Departments?**

A. Nick Gibb, Minister for School standards has said there are currently no plans to share the data with other government departments unless we are legally required to do so. But the concern is that since the Home Office and Cabinet Office have already had access to the database and there are no plans to change the processes or protocols on data handling, there is no reason that releases to these departments will not continue.

**Q15. Are these data not just statistics anyway? Is this data identifiable?**

A. The Department releases identifiable data on individual children. These releases are not of statistical data. The Department may ALSO be using data for statistical purposes but that's not what the concern is about. Every one of the 650+ releases of pupil data from The National Pupil Database given access through the DfE approvals panel since 2012 is of identifiable data. Anonymous releases are separate & not tracked in the third-party register. See the User Guide pp19-20 for the list of identifiable data items released. Ref: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/472700/NPD\\_user\\_guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/472700/NPD_user_guide.pdf)

**Q16. Do they also give away data classed as 'Sensitive data'?**

A. Yes. Sensitive and potentially stigmatising data such as gender, SEN (special education needs and disability) absence, reasons for exclusion, indicators for traveller or forces families, Free School Meal and ethnicity, as well as the full personal details such as date of birth and contact details are given out. Some data are not possible to deidentify or make less sensitive.

**Q17. Which organisations have had pupils' identifiable data from this Database?**

A. In addition to academic researchers in the public interest, those given children's highly sensitive and identifiable data include charities, think tanks, journalists on Fleet Street papers and TV journalists, data consultancies and 'one-man-bands.' There is a list of third parties who get given identifiable data which is published on rolling basis. It currently includes the releases since 2012 up to and including March 2016. There is a [list of organisations](#) that the DfE gives individuals' data, including commercial companies, charities and journalists, given children's identifiable personal data from the National Pupil Database between 2012 and March 2016.

**Q18. Have journalists really had access to children's identifiable data?**

A. Yes. Journalists including at the FT, Times, Telegraph and BBC Newsnight.

**Example 1: TV journalist, identifiable, highly sensitive personal data - population-wide data** A [BBC television journalist](#) in August 2014 was given Tier 1 identifying and highly sensitive data of millions of children. They describe in their application how they will take small number rules into account publishing the data, because they are identifying and "School-level data is not helpful." A full copy of the request, obtained through FOI, is publicly available via [What Do They Know](#).

**Example 2: Newspaper journalists, ca 10 million children, sensitive personal data** Ten Telegraph journalists were given the personal data of ca. 10m children in February 2013. The newspaper offered "cast iron assurances that no pupil will be identified through our use of the data." and received 5 years worth of identifying [individual level and sensitive data](#). Ref: <https://www.whatdotheyknow.com/request/293030/response/723407/attach/3/Daily%20Telegraph.pdf>

**Example 3: Journalists at The Times** were given sensitive personal data in 2012, requested "to pick interesting cases/groups of students." and "make inference about students progression." Ref: <https://www.whatdotheyknow.com/request/293030/response/723407/attach/5/The%20Times.pdf>

**Q19. Do parents and pupils get asked for consent or know data is used in these ways?**

A. Our research with over 350 schools, parents and students shows that the privacy notice published on the DfE website since May 2016 which lists the link to the register, fails to reach

pupils and parents adequately, schools and pupils don't understand that identifiable data is being shared with third parties. Even if some current schools do understand this, we believe pupils who left school before 2012 have not been told the law changed, giving away their data.

#### **Q20. Do bona fide public interest researchers use this data too?**

A. The third party release register includes many bona fide academic researchers and Public interest research using administrative data enjoys wide public support. However we believe the data should be made safe, the researchers come to the data, not get copies of data sent out to them. Other administrative data sets and settings, such as the ONS do this already.

#### **Q21. Are names released from the database?**

A. Yes, in some cases. So far we have not seen names passed to journalists but named data have been used to send mailshot survey to 15 year olds linked to their health data, and for a maths test for 11 year olds (year 7). See the [case studies sheet](#) for examples.  
[http://defenddigitalme.com/wp-content/uploads/2016/04/DDM\\_shared\\_examples\\_April2016.pdf](http://defenddigitalme.com/wp-content/uploads/2016/04/DDM_shared_examples_April2016.pdf)

#### **Q22. Is this data collection legal?**

A. The new law was made through a Statutory Instrument to expand the school census and early years census and passed in the six week parliamentary summer holiday without scrutiny before it came into effect on September 1st. For concerns see the linked letter: Ref: <http://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Defenddigitalme-submission-SI2016-808.pdf> Cumulative changes to laws by successive governments up to and including the 2013 changes enabled the release of individual data.

#### **Q23. What about Data Protection Law?**

A. We believe it fails Data Protection processing requirements of Fair Processing. With reference to the ICO report <sup>1</sup> from 2012, schools have a duty of 'fairness' that is, to tell pupils, parents and staff how the data collected from, and generated about them in school, is used. We believe schools fail to do this because none of the 100 we have asked have heard of or understand what the National Pupil Database is or that the DfE gives away pupils' identifiable data from it. Further, to legally pass data on to third parties the DfE must meet the Data Protection Act laws, however for one sample release of data, the [DfE response to an FOI request](#) confirmed the "there is no written evidence available of the condition for processing under Schedule 3 of the Data Protection Act that the Daily Telegraph relied on" The DfE fails to process these data fairly or we believe, in a way to meet schedule 3 of Data Protection requirements.

#### **Q24. What about illegal migrants using schools? Why shouldn't we collect everyone's data?**

A. We do not believe these data are necessary or proportionate to collect from every person in England and to store and use the data with third parties indefinitely without consent. We believe all children are entitled to education and that no child is illegal. Children's rights to education are protected under the Convention on the Rights of the Child and Human Rights law. Schools have a duty to include all children and any exclusion due to immigration status would break the UN Convention on the Rights of the Child. Plans were reported to have been discussed and abandoned in government in 2013. <https://www.theguardian.com/politics/2013/mar/27/ministers-immigration-crackdown-education-tourists>

#### **About the campaign: Defenddigitalme**

Defenddigitalme is a volunteer non-profit campaign group for children's privacy rights formed in response to concerns from parents and privacy advocates about increasingly invasive uses of children's personal data. The campaign asks the Department for Education (DfE) to change their policies and practices to protect 20 million children's identifiable personal data in the National Pupil Database (NPD):

- stop giving identifiable personal data to commercial third parties and press without consent
- start telling school staff, pupils, and guardians what DfE does with Workforce and Pupil personal data
- be transparent about policy and practice

**More information:** <http://defenddigitalme.com/>

<sup>1</sup> [https://ico.org.uk/media/for-organisations/documents/1132/report\\_dp\\_guidance\\_for\\_schools.pdf](https://ico.org.uk/media/for-organisations/documents/1132/report_dp_guidance_for_schools.pdf)