

11/01/2017 One page summary: School census expansion 2016-17

The Memorandum of Understanding first made public on 15 Dec, and related information via FOI¹ reveal the intention to give pupil nationality data to the Home Office. The agreement to this effect was changed on Oct 7, 2016 (after the autumn collection of new data) after scrutiny, and pressure from over 20 organisations.

This conflicts with what Ministers have said about the intentions for the collection of country-of-birth, nationality and new language data. Ministers were asked about other Departments' and Home Office use in the Commons² before the SI was laid, and the Lords upon scrutiny. Both the existing HO arrangements already transferring data, and plans for the transfer of nationality data, were left out of their explanations.

We still have deep concerns that this new census nationality data may be used for Home Office purposes, even if the nationality data itself is not exchanged. Country-of-birth, language and nationality data may be accessed within the Department for Education for a higher match rate of data to the Home Office.

Letters leaked to the BBC, reveal plans agreed in summer 2015 between the Department for Education and the Home Office in response to Home Office pressure to introduce stringent immigration control measures in schools, including passport checks.

Collecting new nationality, country-of-birth, and language data was part of the 'compromise' reached.

The agreement and its timing confirms what many feared when the review of 'education tourism' was announced in August 2015: that the change to collect country-of-birth and nationality data signed off in November 2015 was not about collecting personal data in the best interests of pupils or for education purposes, but a Home Office requested measure, for Removals Casework Team immigration enforcement.

Whether deprioritising would have led to the withholding of a child's right to education as described, or deportation, is questionable given the monthly policy introduced at the same time, to start using the National Pupil Database for regular provision of home address and school address to the Home Office.

The expanded language collection was called out already in July by practitioners, in a Schools Week article, who saw through its flimsy design, added on in February 2016, seemingly as an afterthought.

In mid-October the Italian government objected to the recording of two specific language sub-set fields and questioned why these but no others were being recorded on Italian children after parental complaints. Given the stereotypical prejudices associated with Sicilians and Neapolitans and the Home Office access to data, this use of dialect is clearly politically sensitive, and resulted in an international diplomatic complaint. Newspaper Corriere della Sera reported that the first complaint came from Bradford. La Stampa reported: *"The embassy, therefore, asked the Foreign Office for "the immediate removal" of this unnecessary pseudo-ethnic characterization, which has nothing to do with the importance of genuine regional or Italian dialects."* The FCO, UK Statistics Authority and DfE statements are not specific on a response on the existing data.

Divisive ethnicity data collection caused discrimination and flawed ascription including councils such as Brighton and Hove, and Kent, telling schools to ascribe data and overrule parents and pupils consent who chose not to provide it. The school census systems' design has fields set up to enable this (ie Capita SIMS).

The purpose behind collecting country-of-birth and nationality data in the school census has been blown out of the water. The ethnicity data collection is flawed in policy and practice. The language codes have been the subject of a Foreign Office apology and the Department has made an offer to delete data already collected.

We are yet to see confirmed that the Home Office will not be able to use the new country-of-birth and nationality data to target migrants through increased data matching at DfE. The #BoycottSchoolCensus campaign from Against Borders for Children calls for parents to use their right to object and ensure these optional data are not collected. Both data integrity, and parents and pupil privacy will be applied in a postcode lottery depending on how much information is made available locally. We are yet to hear how failure in fair collection will be resolved and fixed before January 19th, the next on-roll collection day.

The National Union of Teachers and NALDIC, the national subject association for English as an additional language, have both asked the Department for Education to reconsider its position urgently.

How long can the census expansion retain its integrity? At what cost to families, trust and statistics?

¹ <http://schoolsweek.co.uk/dfe-had-agreement-to-share-pupil-nationality-data-with-home-office/>

² <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-15/42942/>

Professional criticism of policy and new plans

Sir Michael Wilshaw: *"I'm amazed by it and shocked by it. Schools shouldn't be used for border control - that's the job of the border agencies. Schools have got enough to do raise standards than to worry about who they are taking in and whether they've got a passport."* 1/12/2016

The National Union of Teachers has called for [this use of pupil data by the HO to end](#), emphasising that "schools are not part of policing immigration". 27/10/2016

The UK Statistics Authority: [urges the Department for Education](#) to set out plans for ongoing review saying that maintaining public trust is essential, requiring an ongoing commitment to communications and transparency including "clear communication of purpose"

Professionals similarly appalled: [including comment from NALDIC](#), The national subject association for EAL (English as an Additional Language) - promoting teaching and learning of bilingual pupils in the UK. They "would like to urge the Department for Education to reconsider its position urgently" "...nationality should not be conflated with EAL proficiency. They are separate issues."

Laura McInerney, Schools Week editor, and Guardian writer, in The Guardian Schools – [What society lets families fear deportation for sending children to school?](#) 18/10/2016

EAL professionals feel its implementation is rushed and poorly thought out "it was wrong to just "grab the [scales] from Wales, without consultation". [\[Schools Week\]](#)

Responses in politics

31/10/2016 Lords motion of regret agreed in [Hansard](#)³ and [our comment](#)

The House of Lords: [motion-of-regret](#) was laid by Lord Storey in the Statutory Instrument praying period "this proposal has all the hallmarks of racism" [Lord Storey]

"Parents are upset, not just about how this information might be used but because these questions are asked at all. They are fundamentally intrusive in the same way that the listing of foreign workers would be." [The Earl of Clancarty]

"Unfortunately, all the evidence points to this being an immigration tactic rather than having anything to do with trying to improve the education of young people or supporting our schools". [Lord Paddick]

The House of Commons: [EDM laid](#) by Jeremy Corbyn after the Statutory Instrument praying period 8/11.

Condemnation from opposition Secretaries of State for the Home Office and Senior Leaders:

Diane Abbott, Shadow Home Secretary – [Let teachers teach, not act as border guards](#) 28/12
Politics Home – [The Government has an irrational and damaging determination to campaign against migrants](#)

Tim Farron 6/10 [on the changes "Let teachers teach"](#)
24/10 [Lib Dems reaction to story on ascribing ethnicity by Brighton and Hove city council](#)
17/11 [on the news the country-of-birth collection is scrapped for pre-schoolers](#)

Caroline Lucas has consistently asked Parliamentary questions since its May 2016 introduction

Mike Kane Shadow Minister for Schools - party press release on news "extremely concerning" 13/10/2016

³ [https://hansard.parliament.uk/lords/2016-10-31/debates/6D06F8D5-7709-43DF-87ED-33CBBC7324FF/Education\(PupilInformation\)\(England\)\(MiscellaneousAmendments\)Regulations2016](https://hansard.parliament.uk/lords/2016-10-31/debates/6D06F8D5-7709-43DF-87ED-33CBBC7324FF/Education(PupilInformation)(England)(MiscellaneousAmendments)Regulations2016)

12/10/2016 House of Lords Questions on the school census⁴

“Parents are appalled by the introduction of these questions on nationality and place of birth, which have nothing to do with a good education.” [The Earl of Clancarty]

“Even an appearance of an us-and-them way of segregating different kinds of children within our schools is really unhelpful at this time” [Baroness McIntosh of Hudnall]

“I can understand that such information may possibly be of use educationally, but can the Minister explain why and for what purpose that same information is given to the Home Office?” [Lord Singh of Wimbledon]

Response from the public

[The Against Borders for Children's campaign](#) has received hundreds of faulty and unfair collection forms, saying wrongly that the data are required for funding, giving no opt out (which was available) and often asking children without parental consent for the data, sometimes in front of peers. We have received further complaints from parents and pupils directly as well — the most recent from an Irish mum who is upset her son was the only one asked in the class to "take this letter home to Mum, we need to see your passport" in front of his friends.

While the Department has not responded to criticism and concerns raised since May 2016, and suggested in September that there had been no complaints using Mumsnet as its measure, that has since changed. The comments do not hold back.

Links to detailed Key Events, Questions, and Responses

1/12/2016 Leaked letters to BBC reveal proposals how schools could reduce immigration

But the plans were rejected by then education secretary Nicky Morgan – who wrote to prime minister David Cameron stating her “profound concern”. **Instead a compromise was agreed to place a legal duty on schools to collect the nationality and place of birth data of pupils.**

The Education Department had concerns that, “Introducing these checks could lead to some children not being registered for school because of real or perceived fear of deportation,” and about destabilising the admissions process.

“Leaving aside the fact that these young people will not receive a decent education, this is a safeguarding risk - we have real concerns that children out of school may be at greater risk of radicalisation or other harms.

“The overall effect of a deprioritisation measure would be to concentrate children of illegal migrants in the least popular schools in any area, jeopardising our increasingly important focus on tackling both segregation and extremism, and with consequent impacts on the children of British nationals who attend the schools.”

29/11/2016 Lord Nash confirms data may be retracted The Department will remove any information collected on country of birth and nationality during the autumn census that parents wish to have retracted, Written answer in the House of Lords on November 24 HL3296: “Where a parent has exercised this right, the Department will remove any information collected on country of birth and nationality during the autumn census.” **We ask now: how will parents and pupils be told, and does this offer expire?**

28/11/2016 UK Statistics Authority writes to The Department for Education asking them to set out plans for ongoing review saying that maintaining public trust is essential, requiring an ongoing commitment to communications and transparency including “clear communication of purpose”.

16/11/2016 Early Years country-of-birth, nationality and language scrapped. The DfE has dropped plans to collect country-of-birth and nationality data from children aged 2-5 in the Early Years (EY), and Alternative Provision, on Jan 19. Ethnicity is still expanded to all under 5s, including childminders and private providers of state funded hours. We believe there was/is no SI in place to amend the Early Years legislation.

⁴ <https://hansard.parliament.uk/lords/2016-10-12/debates/BE938C0A-75F0-453B-8EB3-D4DC2C4556AF/SchoolCensusPupils%E2%80%99Nationality>

06/01/2017 Written question HL 4240 Information given to the public on Home Office Use

to ask Her Majesty's Government what information was given to those completing the national school census regarding the sharing of details with the Home Office for immigration purposes.

The response from Lord Nash is that "*The Department for Education (DfE) provide a privacy notice template for schools to use to explain to parents what personal data they collect, why it is collected, who it is shared with and what it is used for.*" **In that privacy notice template, there is no mention of this use.**

Further to this, on January 10th, 2017, a week before the Spring census collection, the Department has "written to all Headteachers to highlight the updated guidance." There is no mention of the Home Office use.

14/12/2016 Written question 57640 How many applications to extract information from the National Pupil Database were made by the Home Office in each of the last five years?

Note: each request can be for hundreds of individuals. Those numbers were obtained via FOI from the HO.

07/12/2016 Written question 56640 What data from the National Pupil Database the DfE shares with (a) the Home Office for immigration purposes, (b) media bodies and (c) other parties.

"There is no routine sharing of NPD data with **media bodies**. Anyone requesting data from the NPD must comply with strict confidentiality and security rules."

Note - obtained via Freedom of Information in 2015 - see **case studies summary** examples:

The Times 2013 : "*to pick interesting cases / groups of students*"

The Telegraph 2013 approx 9 million individuals' data, **without clear legal basis to rely on** and no small numbers suppression even for single counts of identifiable individual data: "*The Daily Telegraph requested pupil-level data and so suppression was not applicable.*"

BBC Newsnight 2014 - **obtained Tier 1 data** (identifying and highly sensitive) for pupils because "school level data is not helpful"

Few requests are rejected: **written question 57722** from **1,364+ requests 2012-16**, only 25 rejected. All requests are for many, often millions of children's records, from 20 million + named records in the database.

03/11 Schools Week: Nicky Morgan questioned the Department intended purposes

admitting "there had been "talk" about sharing the [new census country-of-birth and nationality] information while she was still in charge, and indicated that she had blocked it."

28/10/2016: Written PQ 48635 Extent of Home Office access to pupil's home address

Very first government admission at all outside of our FOIs and questions asked since May. HO given **pupils home address and school address** from pupils' school census records The HO had requested the details of nearly 2,500 individuals since only July 2015. 520 records were returned with information, and we don't know for certain how many individuals that involves. HO access expressly for immigration control and enforcement purposes now **on monthly basis (FOI 41221)**.

28/10/2016 Lord Nash wrote that new data will be kept separately due to their sensitivity

- we believe this offers no additional protection from other uses, no matter what database is called
- we believe it undermines basis for collection to link with "attainment and destinations".
- protecting children's well-being and professional, parental and children's trust are paramount for minorities of all kinds who wish their children's confidentiality to be assured in state education
- current HO purposes, including home address access, makes it impossible to trust future scope.

This policy risks that some of the most vulnerable in our communities:

- fear putting children into school
- not only foreign families will be concerned about back door access, i.e..women at risk/travellers
- those who have had past dealings with police

12/10/2016 Lords Questions session Lord Harris of Haringey got confirmation no sanction on school that does not provide the new three nationality school census data in Statutory Instrument 808/2916

“Can the Minister give an absolute assurance that it is not obligatory for a school to fill in this question, and that no sanction will be applied to a school which fails to do so, or to a parent who does not answer?”
Viscount Younger of Leckie (Lords government spokesman): “That is absolutely correct.”

06/10/2016 FOI Ref: 2016-0042333 Purposes of all cases within the Home Office requests “are a) dependant(s) of a parent/guardian who is suspected of an offence under section 24 or 24A of the Immigration Act 1971, or section 35 of the Asylum and Immigration (Treatment of Claimants) Act 2004 has been, or is being committed (or b) the child in question is an unaccompanied minor.)”
This makes it possible that NATT has accessed the data of British children, as well as migrant and/ or undocumented children, in order to return identifying data on adult relations or communities.

27/10/2016 Written question 50649 asked by Mike Kane on Schools’ legal position

To ask the Secretary of State for Education, with reference to her Department's training guide video for autumn 2016, whether schools do not need to obtain pupil or parental consent to share information on pupils' nationality collected through the school census; and whether those schools are protected from legal challenge about breaching a duty of confidence.

Note: The DfE guidance video has been take down which made this assertion. (Reference copy).

26/07/2016 Written question 42942 No change in handling and disclosure of information

Question: what limitations will be placed by her department on disclosure of such information to (a) other government departments and (b) private third parties and whether her Department plans to change its protocols or processes for handling and disclosure of confidential information when country of birth and nationality data is collected.

26/07/2016 Nick Gibb replied: “There are currently no plans for the Department to change the existing protocols and processes for the handling and disclosure of confidential information.”

“These new data items will provide valuable statistical information on the characteristics of these groups of children, and *along with their attainment and destinations...*”

Press coverage <http://defenddigitalme.com/press-coverage/>

Upcoming and ongoing census data collection

These data will be collected termly from all school children, plus further new ethnicity data from the rising 2s will be included in the Early Years Census, next on 19/01/2017.

Call to annul the Statutory Instrument 2016/808: Summary and Timeline

1. This Statutory Instrument enables the collection of country-of-birth and nationality data and expanded language data for every school child in England to be sent to the Department for Education.
2. This Statutory Instrument⁵ was laid on July 27th and came into effect on September 1st, 2016. It has been **rushed through Parliament in the six week summer holidays without scrutiny before it came into effect. There was no public consultation. The business case and minutes of the decision-making have been withheld by the Department, preventing scrutiny of the policy intent or the cost versus benefit to children, schools and local authorities** of complying with the request for data, either before it was to come into effect, or now.⁶ (Requested on July 4, 2016.)
3. **The policy and its implementation in practice have caused confusion and harm.** This includes parents children and young people who have experienced discrimination and embarrassment in front of their peers calling for 'this racist policy to be scrapped.'⁷
4. **We believe the intended purposes of this data collection need intense scrutiny.** Since the Department is refusing to enable this, we are asking for the SI to be annulled, and the collection of the new data to be paused until full, transparent explanations are available on policy intent , uses of data to date are clarified, and its oversight and safeguards are in place to ensure there are no surprises in future.
5. On October 6th, 2016, School Census day, a delayed Freedom-of-Information request revealed that the National Pupil Database census data are already being used by the Home Office through the Department for Education **to target individuals connected to immigration status**⁸.
6. This was an unwelcome surprise. As Schools Week Editor Laura McInerney asked in the Guardian: **what society lets families fear deportation for sending their children to school?**⁹
7. **The DfE is passing out home address and school address on named individuals to the Home Office** from personal confidential data families entrusted to schools during the admissions process, and extracted in school censuses. These requests are for thousands of individuals, monthly, since July 2015.
8. Without **independent oversight and statutory safeguards** many fear that these new data could also be used to search for people; not only helping to determine a child's immigration status, but target and track their wider family members and communities.
9. **These new expanded census data, adding 'country-of-birth and nationality' add a way to actively seek out migrants, their homes and schools.**
10. The country-of-birth and nationality elements need to be withdrawn, and the English-as-an-Additional language element rewritten after considered consultation. Further, we call for independent oversight to be brought in to ensure existing policy of use for immigration enforcement and all other data uses is carried out with the utmost transparency and scrutiny.
11. **Timeline:** In August 2015 the former Secretary of State for Education had announced plans in the media to measure the impact of "education tourism".¹⁰
12. November 2015: The Department for Education Star Chamber Scrutiny Board signed off the census expansion for country-of-birth and nationality data collection to be included in the 2016-17 school and Early Years censuses. These extract named, highly sensitive, personal confidential data, including special needs and detailed ethnicity data, which are then sent to the DfE every term each year, and stored indefinitely in the National Pupil Database, now with lifetime school records of 20 million people.¹¹

⁵ <http://legislation.data.gov.uk/ukxi/2016/808/made/data.html>

⁶ **FOI Pupil data: decision making on additional census data items** https://www.whatdotheyknow.com/request/pupil_data_decision_making_on_ad?utm_campaign=alaveteli-experiments-87&utm_content=sidebar_similar_requests&utm_medium=link&utm_source=whatdotheyknow

⁷ <https://inews.co.uk/essentials/news/education/parents-call-racist-country-birth-request-policy-schools-scrapped/>

⁸ https://www.whatdotheyknow.com/request/sharing_national_pupil_database?nocache=incoming-878444#incoming-878444

⁹ Guardian Education October 18 2016 <https://www.theguardian.com/education/2016/oct/18/deportation-boycott-school-census-data-nationality-parents>

¹⁰ Review of 'education tourism' <http://www.telegraph.co.uk/news/uknews/immigration/11805477/Nicky-Morgan-orders-immigration-review-to-examine-education-tourism.html>

¹¹ NPD has grown to 20 million people's named records stored forever http://www.theregister.co.uk/2016/02/12/national_pupil_database_now_holds_20_million_records/

13. A freedom-of-information request asking for **the meeting minutes and the business case shared in that meeting has been refused**¹², preventing independent public scrutiny of plans or policy intent before the SI became legislation or since. (Mentioned in the government response to the Scrutiny Committee.)¹³
14. **December 2015: the technical change form includes nothing on language skills.**¹⁴ The aim is: *“to identify children who have moved into the English education system from abroad to to ascertain the impact that such entrants have on the education system.”* *“The introduction of these data items will assist in the identification of such pupils and may facilitate the targeting of support to such pupils.”*
15. **Schools Week, June 2016:** “Nicky Morgan, the education secretary, announced she had ordered officials to investigate whether immigration levels are linked to “education tourism”. Schools Week wrote, “It is understood the [new census] information **will not be used as part of its investigation into the “impact of mass migration” on schools**¹⁵ and said that Louise Casey had already undertaken a similar review.
16. **September 26th 2016: an open letter from over 20 rights’ organisations**¹⁶ under the Against Borders for Children campaign and public pressure the Department told the BBC later that day, that the nationality data would not be given to the Home Office.
17. **October 6th 2016: Freedom of Information request**¹⁷ **confirmed Home Office access purposes.**
18. October 12th 2016: **the Lords government spokesman said**, “I reassure the House that the information is **kept within the Department for Education and is not passed on to the Home Office**”.¹⁸
19. **Indicators for English-as-an-Additional-Language (EAL) are already collected.** The additional 2016-17 fields¹⁹ were ONLY for “country-of-birth “and “nationality” when approved in December 2015. EAL appears to be an additional approval in February 2016²⁰ but it is unclear why. EAL practitioners have said they are poorly thought out.²¹ It is questionable how standard the 5-level assessment tool will be. While the change request says “some children may have multiple nationalities”, forms seen to date cannot collect more than one. Most truly bilingual children will not be recorded as EAL at all. Some practitioners warn it could be “messy and inaccurate”.²² Changes were announced in May ‘after a delay’²³, despite this warning: “Early guidance is imperative for Local Authorities and Schools to plan.”
- 20.
21. Concerns were raised to the Lords Secondary Legislation Scrutiny Committee, as it was rushed through in the recess, following efforts since June to ask for changes to be reconsidered before the SI was laid.²⁴ **Notably in the reply, the Government**²⁵ **does not respond to the issue of Home Office access at all.**

¹² FOI made on July 4, 2016 for the Star Chamber Scrutiny Board Minutes https://www.whatdotheyknow.com/request/pupil_data_decision_making_on_ad#outgoing-574764

¹³ Lords Secondary Legislation Scrutiny Committee publications <http://www.parliament.uk/business/committees/committees-a-z/lords-select/secondary-legislation-scrutiny-committee/publications/> Government response http://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/DfE-Response-SI2016_808.pdf

¹⁴ RFC change specification http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_856_new_data_items_country_of_birth_and_nationality.pdf

¹⁵ <http://schoolsweek.co.uk/schools-must-collect-data-on-immigrant-children-from-autumn/>

¹⁶ Over 20 organisations sign Against Borders for Children letter to Justine Greening <http://www.schoolsabc.net/2016/09/20-orgs-support/>

¹⁷ Freedom of Information request published October 6th https://www.whatdotheyknow.com/request/sharing_national_pupil_database?nocache=incoming-878444#incoming-878444

¹⁸ October 12th Hansard: <https://hansard.parliament.uk/lords/2016-10-12/debates/BE938C0A-75F0-453B-8EB3-D4DC2C4556AF/SchoolCensusPupils%E2%80%99Nationality>

¹⁹ RFC change specification http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_856_new_data_items_country_of_birth_and_nationality.pdf

²⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509299/RFC_875_-_new_data_item_for_proficiency_in_English.pdf

²¹ EAL rushed and poor in implementation <http://www.teachertoolkit.me/2016/10/01/eal-census/>

²² <http://schoolsweek.co.uk/schools-must-collect-data-on-immigrant-children-from-autumn/>

²³ https://www.whatdotheyknow.com/request/school_census_guidance_for_21062?utm_campaign=alaveteli-experiments-87&utm_content=sidebar_similar_requests&utm_medium=link&utm_source=whatdotheyknow

²⁴ <http://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Defenddigitalme-submission-SI2016-808.pdf>

²⁵ http://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/DfE-Response-SI2016_808.pdf

How have individual pupils' data been used to date

22. All the data in the National Pupil Database are collected on a named pupil basis, and released at pupil level to a range of third parties.²⁶ **They are not 'solely for the DfE to use,' or anonymous statistics. See page 19-21** of the National Pupil Database user guide.²⁷ **All data in the NPD are released in raw identifiable formats at an individual pupil level**, with no suppression for small numbers on release.
23. The data are most often released on an individual, occasionally named²⁸, identifiable basis. The DfE shares this database of 20 million people at pupil level, with other government departments today.
24. **Of the 709 requests²⁹ and releases of identifiable data** from the DfE request process in 2012-2016, only 23 have been for aggregated data. The rest are all of identifying, individual pupil level.
25. Safeguards like assessment for privacy impact, ethical review, routine audit procedures are lacking. The Telegraph, for example in 2015, had not confirmed whether it had destroyed millions of children's identifiable data³⁰ it received and past its destruction due date. Extra sensitive data (special needs/disability data, reasons for exclusion like violence /theft) are released to journalists as well
26. It is said that the benefit of giving the data to third-parties is for public interest and 'promoting the education of well-being of children'. Data consultancies and pupil-tutor matching services are not what many think of as 'research' among appropriate recipients for their children's confidential sensitive data.
27. **Commercial publications** that use sensitive identifiable pupil level data include comparison websites for example. Releases are for long periods of use. Identifiable and sensitive pull level data was released for this web comparison tool and publication and Schools Guide for six years.³¹ Is that "research" purposes?
28. **The Times newspaper were granted Tier 2, identifiable and sensitive individual pupils' data**, for the purposes of "Stories on the newspaper/digital, ranking of schools, interactive tool on the website." and the Times, "To pick interesting cases / groups of students".³² Variables requested included postcode, date-of-birth, absence, exclusions, children in need indicator, Special Educational Needs (see final page samples), Type of disability, language, ethnicity and exam candidate number.
29. While users give assurances that, no pupil or family will be identified when they publish they data, and they will not "share or publish individual level data" the disclosure by the DfE to users for example to Schools Guide³³, is sensitive identifying data about individual pupils who have not consented to this use.
30. **The Home Office using pupil data to access individual home address and school address, including for immigration enforcement, had not been disclosed or discussed by the DfE** before this response from the DfE FOI team published October 6th 2016³⁴ Ref: 2016-0042333 "Police and the Home Office access is to search for specific individuals in the National Pupil Database and to return the latest address and/or school information held where a match is found in the NPD."
31. The Home Office requests are to support the Absconder Tracing Team's (NATT) key objectives and commitment to upholding a duty of care for missing children and abuse of immigration control.
32. Related to dependant(s) of a parent/guardian suspected of an offence under section 24 or 24A of the Immigration Act 1971³⁵ or section 35 of the Asylum and Immigration (Treatment of Claimants) Act 2004³⁶
33. **Each Home Office request includes lists of people**, to enable to the Department to search for them in the NPD. **The total volume of pupil records used July 2015-Sept 2016 in 25 requests, was a total of 2,462 individuals and 520 records returned to the Home Office.**"[update Oct 28th 2016]
34. There is also use by academic public interest researchers. Other research models provide more secure infrastructure to enable use without copying and sending it across the country. **See our research paper.**

²⁶ Third party register of other releases <https://www.gov.uk/government/publications/national-pupil-database-requests-received>

²⁷ http://defenddigitalme.com/wp-content/uploads/2016/08/NPD_user_guide.pdf

²⁸ <http://defenddigitalme.com/2016/02/scope-creep-in-national-pupil-database-now-means-names-released/>

²⁹ 709 releases of identifiable pupil data - March 2012-March 2016 <http://defenddigitalme.com/2016/10/new-releases-of-school-census-data-from-the-national-pupil-database/>

³⁰ Telegraph newspaper application request for sensitive identifiable pupil data <https://www.whatdotheyknow.com/request/293030/response/723407/attach/3/Daily%20Telegraph.pdf>

³¹ Lucas Publications: Tier 2 sensitive, identifiable pupil data 20 <https://www.whatdotheyknow.com/request/293030/response/723407/attach/7/Lucas%20Publications.pdf>

³² The Times, News UK 2013 NPD data request <https://www.whatdotheyknow.com/request/293030/response/723407/attach/5/The%20Times.pdf>

³³ <https://www.whatdotheyknow.com/request/293030/response/723407/attach/11/School%20Guide%20UK.pdf>

³⁴ FOI request that revealed Home Office purposes https://www.whatdotheyknow.com/request/sharing_national_pupil_database?nocache=incoming-878444#incoming-878444

³⁵ 1971 Immigration Act - Legislation on immigration enforcement actions used to enable NPD use by the Home Office <http://www.legislation.gov.uk/ukpga/1971/77/section/24>

³⁶ Asylum and Immigration Act 2004 Legislation on immigration enforcement actions used to enable NPD use by the Home Office http://www.legislation.gov.uk/ukpga/2004/19/pdfs/ukpga_20040019_en.pdf

Conclusion

35. According to the 2015 report ³⁷ from Professor Steve Strand at the Oxford Migration Observatory, the leading academic on the National Pupil Database: “The NPD is limited in a number of ways, it does not have a variable such as **nationality or country of birth that can be used to identify migrants.**”
36. **What is said, is that it will be used to target resources. The truth is that the National Pupil Database is already being used to target children and communities, and in secret.**
37. **What is said, is that the information is not given to the Home Office. The truth is that information from the National Pupil Database is already being given to the Home Office.**
38. **What is said, is that new data items will provide valuable statistical information³⁸ on the characteristics of these groups of children. The truth is that these data used are not only used as statistics, but given out at individual pupil level from millions³⁹ of individual children.**
39. **Since all the raw identifiable and sensitive data in the National Pupil database are already given to a wide list of third party uses⁴⁰ including the press, and commercial business, there is no basis for the claim made that the data are solely for the DfE to use in research, statistics and analysis.**
40. **The Government Lords spokesman said on October 12th⁴¹, I can reassure the noble Lord the information is not given to the Home Office. The government seems unwilling to mention current Home Office use of identifiable, confidential data.** There is no new way we are yet aware of, that the DfE will separate some data for one purpose from another or restrict some data from being sent to the Home Office or to journalists, and maintain the purposes for which it was said the data were necessary.
41. **Other organisations are concerned that press access to the new data could also be problematic, given the rise over recent years in xenophobic sentiment in the British media, as noted by the United Nations⁴², and some fear that newspapers granted access to the data may use it to single out and stigmatise communities or schools.⁴³ The NUT called for transparency of all data use with consent.**
42. **The rush to implement this in schools has caused distress and discrimination.** Parents, even celebrities who provided the new data, but did not know their children’s data would be sent to the national database have written to campaigners and commented on social media, they **don’t know what to do.**⁴⁴
43. **It is now a question of trust.**
44. **Will the government only use the new census data for the purposes it states?**
45. **Will it continue to use National Pupil Data to find adults through their children’s school records?**
52. **What oversight and transparency have there been to date for these purposes?**
53. **Crucially, if not on a statutory footing, what value will any assurance that the government may now give, that scope creep of the use of these named children records will not change in future?**
54. **Will 2013 plans return?**⁴⁵ Schools carrying out checks on migrant status as part of school admissions or limits on access to education for everyone?⁴⁶ Cabinet Office letters show this was planned in 2015 again.
55. **The country-of-birth and nationality collection need withdrawn, English-as-an-Additional language rewritten after considered consultation, with safeguards and oversight for all use.**

³⁷ Prof. Steve Strand on adding nationality and country-of-birth to the NPD <http://www.migrationobservatory.ox.ac.uk/resources/briefings/educational-outcomes-among-children-english-additional-language-eal/>

³⁸ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-14/42842/>

³⁹ Sensitive identifiable data are released from the NPD by the DfE several years worth at a time, sending out millions of children’s data https://www.whatdotheyknow.com/request/pupil_data_sensitive_data_releas

⁴⁰ defenddigitalme blogpost detailing the 709 releases of identifiable pupil level data <http://wp.me/p6LXMz-cL>

⁴¹ <https://hansard.parliament.uk/lords/2016-10-12/debates/BE938C0A-75F0-453B-8EB3-D4DC2C4556AF/SchoolCensusPupils%E2%80%99Nationality>

⁴² <http://www.un.org/apps/news/story.asp?NewsID=50675#>

⁴³ <https://www.schoolsabc.net/2016/09/letter-justine-greening/>

⁴⁴ Lily Allen Singer and parent “ I got my notice on Tuesday and it said all entries had to be in by Friday. I think it’s probably too late” <https://twitter.com/lilyallen/status/784857733606629376>

⁴⁵ **Ministers planning immigration crackdown on ‘education tourists’** <https://www.theguardian.com/politics/2013/mar/27/ministers-immigration-crackdown-education-tourists>

⁴⁶ Article 26. Everyone has the right to education <http://www.un.org/en/universal-declaration-human-rights/>

Nationality data

It was said on Oct 12th, the Government, *"will use information on pupils' nationality and country of birth to understand how we can give all pupils a better education that caters to their individual needs."*

The data in the system may bear little resemblance to what parents provide. The Department advises schools that "they do not need to ask for consent"⁴⁷ and drop down forms in some school systems (SIMS) have fields to ascribe the source of language, nationality and ethnicity.

A large range of ethnicity groups and subgroups are captured [pp 130-136] which are often used together with the existing language data already collected as a proxy for heritage data. However academies are not required to maintain consistency by using common school transfer files, so "all pupils" data are not treated equally. **These fields can also be selected and ascribed at the discretion of the school administrator.**

What is required vs already known for a study of the impact of children on the education system is unclear. Nationality is not a required field. It is therefore doubtful what quality the data will be. Given the extensive concerns and lack of purposes given in the guidance, and damage done during its collection, many parents and pupils have refused to supply the data. **We know of schools that have decided to leave the default for all. We also know of schools that have asked the children to complete the paperwork in class, and return it without parents having seen the entry. It is unlikely a reliable or consistent quality measure.**

This change enables the identification of migrants

The new, 'country-of-birth and nationality' adds a way that could be used to actively seek out migrants, their homes and schools in NPD. According to a 2015 report from Professor Steve Strand at the Oxford Migration Observatory, the leading academic on the National Pupil Database, and in the context of discussing language and data in the NPD⁴⁸:

"The NPD is limited in a number of ways, however. Importantly, it does not have a variable such as nationality or country of birth that can be used to identify migrants."

The Government has been unwilling to discuss existing use of the data

Deportation and immigration enforcement are among the purposes for which pupils' home address and school addresses, have been given out to the Home Office (HO). These data on named individuals have been taken from the existing school census data at the Department for Education (DfE), and used for enforcement, in addition to purposes for legitimate safeguarding support, and for use by police. These uses are only known in the public domain as a result of a Freedom-of-Information request published on Oct 6th.

MP Greg Mulholland asked Justine Greening on October 10th, whether the policy risked turning teachers into border guards. Until October 27th the spokespeople from the Department, The School Standards Minister, The Education Secretary, and Lords spokesman have all stuck to the same line since May 2016:

"These data items will not be passed to the Home Office. They are solely for internal DfE use for analysis, statistics and research."

- a in written answer on June 24 to our earlier questions from the Department
- b Two Parliamentary written questions in July (Nick Gibb)⁴⁹ ([42842](#)) and ([42942](#))
- c Department BBC press comment on September 26th ⁵⁰

⁴⁷ <https://www.youtube.com/watch?v=3zTJpLLfx3k>

⁴⁸ Prof. Steve Strand on adding nationality and country-of-birth to the NPD <http://www.migrationobservatory.ox.ac.uk/resources/briefings/educational-outcomes-among-children-english-additional-language-eal/>

⁴⁹ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-07-15/42942/>

⁵⁰ <http://www.bbc.co.uk/news/education-37474705>

d House of Commons on Monday October 10th, Edu Questions (Justine Greening)⁵¹
e and in the Lords in the afternoon of October 12th Viscount Younger of Leckie said ⁵²
“I can reassure the noble Lord the information is not given to the Home Office.” and that “that the information is kept within the Department for Education.”

Each of these opportunities has afforded Education officials at all levels to speak clearly and honestly about all Home Office use of identifiable data under questions of use by ‘other government departments.’

What purposes were signed off for this change?

“Whilst the department collects limited information on children who have moved into the English education system from abroad, the collected information is insufficient to ascertain the impact that such entrants have on the education system. The introduction of these data items **will assist in the identification of such pupils** and **may** facilitate the targeting of support to such pupils.” (RFC form) ⁵³

The original Dec 2015 change specification is exclusively to add files to collect “Country-of-Birth” and “Nationality”. No technical change at this time is publicly documented that will add anything to do with language skills. EAL assessment was added only in February 2016.

An FOI request for the meeting minutes from that SCSB November 2015 Star Chamber where the changes were approved, has been refused preventing independent public scrutiny of plans or policy intent.

The business case for the census and early years census expansion costs and the benefit and risk for local and national changes are unknown, since they have also been declined. We await the DfE’s response.

Policy implementation

The guidance was published by the Department on May 4 2016 a month later than initially anticipated due to a delay in obtaining clearance.⁵⁴ It is not clear why this was published before the SI was laid on July 27.

Autumn census was 6th October 2016. Given the summer holidays this meant a very short time for Local Authorities and schools to receive the new communication understand it and implement the collection. It left no time for scrutiny or public consultation before becoming statute on September 1 2016.

The lack of openness in discussion at each opportunity on Home Office access, the lack of willingness to open decision-making and business case open for scrutiny, and lack of meaningful safeguards to know that these new sensitive data would not be used for the purposes many see as a breach of confidence have created a deficit of trust. Its implementation has also caused harm.

The Against Borders for Children campaign collated parents and pupils’ reactions and samples of forms shared. The majority of paper forms did not explain that the submission was optional or that parents could indicate ‘Refused’ or ‘Not Yet Obtained’. Text messages didn’t go into any explanations at all. The majority of schools informed parents it was data ‘required’ and for funding. Schools worry they will be sanctioned and wrongly assumed it was required.

Parents who had concerns but did not know it was optional, took to social media asking each other what to do. Even celebrities⁵⁵ felt helpless.

- **Brighton and Hove City Council wrote to schools in their area that in the event of parents or pupils refusing ethnicity, they could ascribe it.**

⁵¹ <https://hansard.parliament.uk/Commons/2016-10-10/debates/4B7349AD-337E-4FAC-BA3E-C8C9877ADA5A/TopicalQuestions#contribution-DBFF2B4F-0BAD-4B57-BC9A-A4F7711E3397>

⁵² <https://hansard.parliament.uk/lords/2016-10-12/debates/BE938C0A-75F0-453B-8EB3-D4DC2C4556AF/SchoolCensusPupils%E2%80%99Nationality>

⁵³ RFC change specification http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_856_new_data_items_country_of_birth_and_nationality.pdf

⁵⁴ This FOI request suggests that the new census items were known but delayed in Spring 2016 School Census guidance for 2106/2017 https://www.whatdotheyknow.com/request/school_census_guidance_for_21062?utm_campaign=alaveteli-experiments-87&utm_content=sidebar_similar_requests&utm_medium=link&utm_source=whatdotheyknow

⁵⁵ Lily Allen Singer and parent “ I got my notice on Tuesday and it said all entries had to be in by Friday. I think it’s probably too late” <https://twitter.com/lilyallen/status/784857733606629376>

- **Schools Week investigated the school census of its own accord, and found classroom discrimination where only children who were not white-British were being asked to bring in passports to school.**⁵⁶
- **Parents at a school in London have asked on October 17th, what they can do if the school wishes to withdraw its entire country-of-birth and nationality school census data submission, as they didn't feel parents had made informed decisions to provide their personal data**
- **Children and young people have felt discrimination and embarrassment in front of their peers calling for this 'racist policy to be scrapped'**⁵⁷

Schools Week reported: "confusion could increase fears among ethnic minority families about how the data might be used, although education leaders say they have received assurances it will not be passed to the Home Office." The National Union of Teachers (NUT) called for transparency of all data use with consent.

Campaigners continue to receive emails and social media messages of parents with children, or directly from teens who feel harassed, discriminated against, embarrassed in front of peer groups. It is changing pupils' and family relationships with school staff ⁵⁸ and influencing young people's perceptions forever.

January 11, 2017 a week before the spring census collection

Guidance on the school census was updated and sent to schools with one week notice before the Spring census on roll date. By now, most schools have already collected the required data since the announcement in May 2016. Will all parents and pupils be offered the opportunity to retract these data and schools effect it, in 7 working days? [School Census Guidance v1.5, released January 10, 2017]

10 January 2017



Department
for Education

Important information on the school census

FAO: the headteacher

Dear Headteacher,

I am writing to update you about the spring 2017 school census and to highlight some updates to our [guidance on data collection for the census](#).

The school census is used for the purpose of improving and promoting the education and well-being of children in England. It helps us to make sure we are allocating funds where they are needed and that no groups of children are missing out on the education they deserve.

This year we asked schools for additional information on the nationality, country of birth and English language proficiency of pupils. You may be aware that the collection of this data has resulted in some concerns from parents and questioning as to the process and purpose behind it.

This new data will help us understand a range of factors, allowing us to better plan to meet needs within the school system. For example, what extra support we may need to provide to schools with high numbers of children who don't speak or understand English sufficiently to access the curriculum, whether particular groups of pupils are making good progress with their education, or where there is evidence of good practice with children of different nationalities that could be shared. Understanding trends in migration and the associated needs in the school system helps us ensure that all children, wherever they are from, have the best possible education.

The Department recognises that schools are data controllers in their own right and therefore we do not normally advise schools on their collecting and processing of personal data, or regulate their compliance with the Data Protection Act. We do, however, wish to equip schools to explain to parents what personal data they collect, why it is collected, who it is shared with and what it is used for.

With this in mind, we have updated our guidance regarding the collection of data, and highlighted what we hope are helpful points below:

- Parents may wish to decline to provide the following information about their child: nationality, country of birth, ethnicity, first language and whether they are the child of someone in the Armed Services. In cases such as this, the school can record such data as 'refused'.
- For these data items, schools should only record information that is provided by a parent / guardian or pupil (where a pupil is deemed mature enough to have capacity to consent to sharing their personal data with others).
- In line with the Equalities Act 2010, schools should avoid selectively asking subsets of parents or pupils who share a particular characteristic to complete this information in a different manner to other parents or pupils. Further information on schools' responsibilities under the Equalities Act is available [here](#).
- Parents are not required to share any documentary evidence of a pupil's country of birth or nationality, and schools should not request to see any child's passport or birth certificate, for the purposes of the census.
- Parents can decide to retract nationality and country of birth information previously provided. Further information on this can be found in our [updated guidance](#).
- To help schools we have developed a privacy notice template, which is available on [GOV.UK](#). This template gives access to further information about the Department's use of their children's data and helps to address some of the concerns raised by parents. If you don't already use this template, we would be grateful if you would consider it using it in the future.

Should you have any questions about the content of this letter, or the school census in general, please do not hesitate to get in touch with the Department via a [data collections service request form](#).

Thank you for your assistance.

Caroline Kempner
Head of Education Data Division, Department for Education

⁵⁶ Schools Week investigation finds classroom discrimination in data collection <http://schoolsweek.co.uk/pupils-who-were-not-white-british-told-to-send-in-birthplace-data/>

⁵⁷ Parents call for "racist policy to be scrapped" <https://inews.co.uk/essentials/news/education/parents-call-racist-country-birth-request-policy-schools-scrapped/>

⁵⁸ Parents and pupils call for collection to be scrapped, calling it racist <https://inews.co.uk/essentials/news/education/parents-call-racist-country-birth-request-policy-schools-scrapped/>

Supplementary: Example of common errors in sample collection form

- Required, mandatory, no opt out offered.
- Assurance that data will be held confidentially and no mention of handing out to third parties.
- The Information will not be used for any other purpose.
- [Redacted for personal and school identifying information]

18 July 2016

Our Ref: [Redacted]

TO: **ALL PARENTS AND CARERS**

Dear Parents and Carers

The Department for Education (DfE) has stated that each school must provide information on every student's nationality and country of birth.

As this is a mandatory requirement, we would be grateful if you would please complete the attached form, for each child attending [Redacted] and return to the School Office by Friday, 22 July 2016.

We would like to reassure you that the information provided will be held confidentially at all times and it will be passed on to any other school to which your child transfers to avoid repeating the exercise.

The information provided will be used to compile statistics on the school careers and experiences of children from different backgrounds, to help ensure that all children have the opportunity to fulfil their potential. These statistics will not be published in a way that allows individual children to be identified publicly and the information will not be used for any other purpose. From time to time this information will be passed to the Local Authority and the DfE to contribute to local and national statistics.

It is imperative that this form is completed and returned to the school. Please complete the attachment and send back to school or send an email with all the stated information to [Redacted]

Should you need any help completing the form, please do not hesitate to contact the School Office.

Thank you in advance for your support.

Yours sincerely

0 words

Example of screen to capture data without consent “ascribing” sensitive personal data at the school’s discretion; and SEN codes released

Pupil SEN type [ALL schools]

Code	Description
SPLD	Specific learning difficulty
MLD	Moderate learning difficulty
SLD	Severe learning difficulty
PMLD	Profound & multiple learning difficulty
SEMH	Social, emotional and mental health
SLCN	Speech, language and communication needs
HI	Hearing impairment
VI	Visual impairment
MSI	Multi-sensory impairment
PD	Physical disability
ASD	Autistic spectrum disorder
OTH	Other difficulty / disorder
NSA	SEN support but no specialist assessment of type of need