

Briefing from Defend Digital Me

Children’s Wellbeing and Schools Bill, Report Stage 2025

Defend Digital Me is a call to action to protect children’s rights to privacy. We are teachers and parents who campaign for safe, fair and transparent data processing in education, in England, and beyond. Established in 2015. Company number 11831192 | ICO registration number ZA499530

This briefing is with regard to only the aspects in the Bill¹ Clause 26 connected to information collection and distribution in a proposed database and registers of children and parents, and a proposed database of educational providers, and using an identifying number (Clause 4).

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v.14/3/2025

¹ The Children’s Wellbeing and Schools Bill page <https://bills.parliament.uk/bills/3909/publications>

Executive Summary

These two Clauses alone create a raft of deeply significant policy changes. Will Clause 4 mean the expansion of an existing ID number that will be repurposed and used by a wider number of systems and organisations, or will it be a new national ID? Both the NHS number and the National Insurance number were mentioned by Opposition MPs on January 23rd, and the Minister spoke of a pilot planned for April 2025 but gave no confirmation of what, and nothing is specified in the Bill.

Without any information about what the “consistent identifier” is that is to “be specified in regulations,” Parliament is being asked to sign a blank cheque without scrutiny.

It is impossible to know what is being legislated for and why, with what risk impact assessment and what costs, and what possibilities for immense power this creates for any future government without safeguards in place. It cannot be acceptable to pass the bill mandating the use of something as yet to be decided, without democratic scrutiny and accountable decision-making in the open.

The Bill also creates in Clause 26 (until March 11, 2025 formerly Clause 25) many new powers for non-consensual data flows (see Fig.1) including the national flow of all children’s identifying details in elective home education and not-in-school register to the Secretary of State at individual child level without clear reasons or purpose, or limitations on distribution and scope creep.

The Final Stage Impact Assessment was only published on the Bill page on January 30th. The other DfE Impact Assessments of the Children’s Wellbeing and Schools Bill 2025, were published only on January 30th on DfE webpages, not the Bill page and after Second Reading of the Bill, and after most of Committee Stage scrutiny had been completed. The majority of written evidence had already been sent to the Committee, none of which could have responded to anything in the (unpublished) impact assessments. As of February 7th (with only one date of Committee stage remaining), the majority of the impact assessments are still not published on the Bill page, and only available on Department for Education webpage.²

Why are all the Impact Assessments published by the DfE today not on the Bill page at all, including key comments on the Not-in-School changes, and Equalities, and how should Parliamentarians even be made aware of them, if they are not published on the Bill page?

The Not-in-School Register changes to gather data on education providers will require an enormous data gathering exercise by Local Authorities staff on an as yet undefined and unlimited number of educational setting providers and need full-time data management retention, weeding, correction, storage and imply both staff and technical and interoperability costs for both the new data collection, and the interoperability of the consistent identifier.

Most importantly, see the Equalities Impact Assessment of the new data processing Paras 145, 151, 154 and 184, 186, 187³.

“we recognise that the CNIS proposals may have a disproportionate impact on those of Jewish ethnicity and the Gypsy, Roma, Traveller (GRT) community.”

Furthermore, the Impact Assessment⁴ of Children-Not-In-School also contains a very fundamental

² DfE Impact Assessments page:

<https://www.gov.uk/government/publications/childrens-wellbeing-and-schools-bill-impact-assessments>

³ Equalities Impact Assessment

https://assets.publishing.service.gov.uk/media/679a2610a77d250007d31448/Children_s_Wellbeing_and_Schools_Bill_-_Equalities_IA.pdf

⁴ See the Impact Assessment (bottom of page 33)

https://assets.publishing.service.gov.uk/media/679b5b9f6bb4c44f0805e7a4/DfE-CWSB-RP-05_-_Children_Not_In_School_Registers_-_Regulatory_Impact_Assessment.pdf

error around Elective Home Education and leaves a very large gap in not costing the impact for Local Authorities:

One: the assessment on Children Not in School wrongly claims that the DfE do not have current data on EHE children and that it is incomplete because LAs only provide this voluntarily. It wrongly claims:

"Whilst we are able to cite data provided to the Department from local authorities on children in elective home education (92,000 on census day October 2023) and CME (33,000 on that same date), that data is somewhat limited, firstly because LAs only have to provide it on a voluntary basis and not all authorities have provided returns (either in part or in full)" (And why refer to 2023 data when 2024 has been published already?)

This is not true. LA data returns to the DfE on EHE have been compulsory since 2024 and since summer 2024 100% of Local Authorities made a data return according to DfE's own publication:⁵

"The collection from local authorities started in autumn 2022 and became mandatory in autumn 2024. The proportion of local authorities providing data reached 100% for the first time in summer 2024."

Second: there is zero cost assessed for the new data collection impact from education providers on Local Authorities. And zero cost impact assessed for the consistent identifier, which could very likely have substantial interoperability and infrastructure costs and will 100% certain have associated admin and maintenance ongoing, all of which is left blank. Despite likely far-reaching long term cost impacts across Local Authorities and other bodies, in infrastructure, interoperability, staffing and maintenance.

Wider matters of trust

The DfE has failed substantive matters of [data protection in its own audit by the ICO](#).⁶ The Department gives away identifiable individual-level pupil data not only for commercial reuse, and has given away pupil level data without small numbers suppression to journalists, and to think tanks, charities and broadly defined researchers, but also to other government departments, as of July 2015 regularly to the Home Office, since last year to the DWP and links identifiable data to earnings and welfare benefits, all without the public's knowledge. Obliging parents to register children in elective home education, or otherwise not-in-school, requires trust and this is jeopardised by the mandates data distribution of pupil level data from Local Authorities to the Department in Clause 26 436F(1,2).

Defend Digital Me submitted evidence to the Welsh consultation in 2024, which proposed to extract every child's health records for matching with education records at the LA and then discard those matched, to identify those who are not. The consultation document itself stated the likely result, that some parents would not present their children to the NHS any more at all, which could risk causing harm, not prevent it.⁷ This fails the fundamental data protection tests of necessity and proportionate.

We have scrutinised the subject of [Children-Not-In-School since 2018](#). There is very poor understanding of what data already exists (LAs already send the DfE data on EHE and must collect it on every child who leaves education, recording one of 15 reasons why. It is untrue, as some reporting and evidence given to the Committee has suggested, that LAs do not know where a child goes when a child leaves school).

⁵ Compare with the facts the DfE also publish with current data on EHE
<https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education>

⁶ The ICO audit of the DfE (2020)
<https://defenddigitalme.org/wp-content/uploads/2021/10/department-for-education-audit-executive-summary-marked-up-by-DDM-Jan-2021.pdf>

⁷ Defend Digital Me submission to the Welsh government proposals in 2024
<https://defenddigitalme.org/wp-content/uploads/2024/04/Numbered-copy-of-Welsh-government-consultation-response-children-missing-education-databases-DDM.pdf>

1. Questions and clarifications needed on Clause 4

Clause 4: Consistent identifiers (Single unique identifier, SUI)

1.1 Will the Government confirm if the consistent identifier is a new national ID number or an existing ID number – will the Minister name it so that MPs know what they are voting on? A consistent identifier used outside the purposes and digital and human infrastructures for which it was designed, not only risks context collapse but jeopardises the confidentiality of any high stakes national ID. The [December 2024 DfE Policy Summary Notes](#) (pp 18-19)⁸ suggested a regional pilot of the NHS number as the consistent identifier is underway, but the Minister gave no further details despite questions on January 23rd

1.2 As DfE commissioned research on a single identifier in 2016 found, **although the NHS number is already used in Child Protection Information Sharing (CP-IS) systems** introduced to connect local authorities' children social care IT systems with those used by the NHS in unscheduled care settings, this should not mean its reuse as a "universal" identifier:

"The Department for Health has given an undertaking to the Information Commissioner that the NHS number will be used for health and social care only, in response to the ICO's concerns about the NHS number being used for other purposes."⁹

1.3 Will the Minister confirm a risk assessment or Gateway Review has been carried out why wider distribution to an unlimited number of parties of a child's SUI is necessary and proportionate?

1.4 Duty to share "information of a child" (16LA): Does the government intend this as a persistent new national ID? Definition is required of the conditional descriptive status of the data: Clarify whether retention of this data (for example in 16LA (3)) only applies at the time when the data subject (the person) is a child, or persists into adulthood e.g. Will this duty apply to the status of "child" for their data at the point of collection, or their data at the time of use (by when the person might be an adult as the data ages)? If data retention into adulthood is not the aim of the Bill, then this should be written into the law. If it is to be the NHS number, then it clearly is a number for life.

1.5 Can the government confirm or correct who the designated persons are and how many they are expected to be under various references under (10) page 8, line 11, the Secretary of State will set out who designated persons are by Regulations and (11) listed in section 11(1) and 16E? Under 11(1) reference to the Care Standards Act 2000, Section 2, Independent hospitals includes facilities such as dentists, women's reproductive health clinics and tattoo parlours for example. Additionally, the Children's Act and the Care Standards Act reference a wide range of local authorities, health authorities, independent hospitals etc., and educational institutions, particularly in Wales, as outlined in Schedules 2A and 2B. These include county councils, county borough councils, community councils, health authorities, local health boards, NHS trusts, further and higher education corporations, and governing bodies of schools. However, it is just easy to follow in the Bill.

⁸ DfE (December 2024) CWBS Bill Policy Summary
https://assets.publishing.service.gov.uk/media/6769425bbe7b2c675de309bb/Children_s_Wellbeing_and_Schools_Bill_Policy_Summary_Notes.pdf

⁹ Valle, I.L., Graham, B. and Payne, L. (2016) A consistent identifier in education and children's services. The Department for Education research report. GOV UK. p.26
https://assets.publishing.service.gov.uk/media/5a8157e5ed915d74e6231bd2/Consistent_identifier_report_July_2016.pdf

1.6 Clause 4: Will the Minister put the power to specify a description of consistent identifier for children by regulations be put into an affirmative procedure (not the negative as currently drafted) to ensure accountability and limit scope creep?

1.7 What security assessment has been made of the plan for a new unique child identifier and new databases? In June 2022, thousands of British school pupils had their private details leaked online, and it was reported that children were put at risk from grooming gangs as their private details were published “on the dark web”.¹⁰

1.8 The Memorandum from the Department for Education to the Delegated Powers and Regulatory Reform Committee¹¹ (page 7 para 26) makes false claims and assurances about the new powers with regard to the governance of the planned consistent identifier being similar to the governance model of the NHS number, saying its “*approach is consistent with the Health and Social Care Act 2012 (Consistent Identifier) Regulations 2015*”, but this omits two substantive differences. The powers relied on in this Bill explicitly remove safeguards provided in Section 251A¹² of the Health and Social Care Act 2012, which state:

- a) (6)(b) “The relevant person need not comply if the individual objects, or would be likely to object, to the inclusion of the consistent identifier in the information (251A(6))
- b) (7)(b) “It does **not** permit the relevant person to do anything which would be **inconsistent with a common law duty of care or confidence** (251A(7)).”

Whereas on the face of *this* Bill in the mandatory 16LA(7) Duty to share information page 7 line 6, the opposite is made law:

“A disclosure of information under this section **does not breach any obligation of confidence** owed by the person making the disclosure.”

1.9 Safeguards should be applied to any consistent identifier are as applied to the Unique Pupil Number (UPN). Persistent identifiers should lapse routinely where used in a new context when the conditions necessitating their use or conditional state of being data “of a child” or “EHE” are no longer met, as set out in existing DfE UPN guidance.¹³ There is nothing in the law that supports data accuracy. Persistent child identifiers should lapse when the individual is no longer a child or after age 25 for care leavers or those with disabilities (age in line with EHCP / SEND practice). The UPN must be a ‘blind number’ not an automatic adjunct to a pupil’s name. How will these duties be met in widely distributed use of the SUI? A comparison must be published of why the features of the UPN Guidance (2.3 Data protection responsibilities for local authorities and schools) are not applied to children’s other unique identifiers and comparison with the new plans.

2. Questions for clarification about Clause 26: Registration Data collection, access, and distribution

2.1 (a) Can the Minister confirm or clarify the substantive error in the Impact Assessment¹⁴ **about Children Not in School.**¹⁵ The impact assessment published on January 30, 2025 wrongly suggests

¹⁰ Daily Mail (July 2, 2022) Thousands of children at risk from grooming gangs as hackers leak their private details to the dark web <https://www.dailymail.co.uk/news/article-10976707/Hackers-leak-private-data-thousands-children-dark-web.html>

¹¹ https://publications.parliament.uk/pa/bills/cbill/59-01/0151/delegated_powers_memo.pdf

¹² <https://www.legislation.gov.uk/ukpga/2012/7/section/251A>

¹³ UPN Guidance (2019) DfE p.6

https://assets.publishing.service.gov.uk/media/5cfa739a40f0b663fd865a6a/UPN_Guide_1.2.pdf

¹⁴ <https://web.archive.org/web/20250130220059/https://www.gov.uk/government/publications/childrens-wellbeing-and-schools-bil-l-impact-assessments>

¹⁵ https://web.archive.org/web/20250130212501/https://assets.publishing.service.gov.uk/media/679b5b9f6bb4c44f0805e7a4/DfE-CWSB-RP-05_-_Children_Not_In_School_Registers_-_Regulatory_Impact_Assessment.pdf (page 33)

the DfE does not already have data on **electively home educated children (EHE)**, claiming:

“Whilst we are able to cite data provided to the Department from local authorities on children in elective home education (92,000 on census day October 2023) and CME (33,000 on that same date), that data is somewhat limited, firstly because ***LAs only have to provide it on a voluntary basis and not all authorities have provided returns (either in part or in full)***” (our emphasis and note that it uses data only from October 2023, not 2024).

2.1(b) Compare with the facts the DfE have already published with 2024 numbers on EHE:¹⁶

“The collection from local authorities started in autumn 2022 and **became mandatory in autumn 2024. The proportion of local authorities providing data reached 100% for the first time in summer 2024.**” (our emphasis)

2.1 (c) The powers under **Section 436C (2)(k) or 436(C)(3)** are more blank cheques for the Secretary of State or the Local Authority to retain any other information they consider “appropriate” and expand on current practice without transparency, oversight or accountability. This should not be left open-ended and open to misuse. The data collection from children in-school, for example in the termly school census, requires ethnicity to be an optional field for example, but this Bill would make it mandatory for EHE children and could be misused to include more special category data e.g. religion to be mandated to be collected and kept on a named basis at the Department for Education – more intrusive than may be required on children on school rolls where religion may be an optional field. Personal data collection must be ‘necessary and proportionate’ to be lawful, and an open-ended list without purpose limitation or specific intent, and with undefined uses and users is not.

2.2 The School Attendance Pupil Registration Regulations 2024¹⁷ came into force in August 2024 section 9 replaced the Pupil Registration Regulations 2006.¹⁸ Today, when a child is withdrawn by a parent, it is **the school’s legal duty to inform the Local Authority before removal from the active school roll.**¹⁹ **Does the new duty on parents to register a child as EHE duplicate or replace the existing duty?** No risk assessment accompanies the Bill to show a comparison with existing practice.

2.3 Today if a child is withdrawn from a school with a known destination of another school, their record is transferred directly to the receiving school through the Common Transfer System. All maintained schools in England and Wales have a statutory responsibility to use the Common Transfer System (CTS) to transfer specific information electronically, via s2s when a pupil joins or leaves a school.²⁰ If a child is withdrawn from a school and is not transferred on to a new school but is expected to, then the pupil’s data from their school registration record is moved into the national, “Lost Pupils Database”, a secure area of the DfE controlled data transfer system S2S where pupil files will be sent and stored when the pupil’s destination is not known or the pupil has moved out of the maintained sector for example abroad. These are named records. As at 22/05/2023 there were 94,869 Common Transfer Files stored in the area of S2S commonly known as the “Lost Pupils Database”. The oldest of these files was uploaded on 05/12/2017. Of these, there were 87,183 unique individual transfer records (i.e. where multiple entries for the same pupil unique pupil number have been removed).²¹ In addition, Local Authorities record this as a child missing education (CME).

2.4 It is not specified how much of the child level data to be provided to Local Authorities is expected to be passed on to the DfE in bulk or for what purposes beyond the adjudication of

¹⁶ <https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education>

¹⁷ Section 9: Deletion of names from admission register <https://www.legislation.gov.uk/uksi/2024/208/made>

¹⁸ Education (Pupil Registration) (England) Regulations 2006 <https://www.legislation.gov.uk/uksi/2006/1751/regulation/8/made>

¹⁹ Before deleting a pupil’s name from the roll under regulation (9(1), sub-para (h) (iii)(aa)(bb) and (i)(iii)(aa)(bb) (see Annex A)

²⁰ CTF system guidance Wales: for Schools (2023)

<https://www.gov.wales/sites/default/files/publications/2023-03/common-transfer-system-cts-and-s2s-user-notes-for-schools.pdf>

²¹ FOI Request by Jen Persson via WhatDoTheyKnow (May 2023) Pupil data: the Lost Pupil Database

https://www.whatdotheyknow.com/request/pupil_data_the_lost_pupil_databa

SAO as is done today on an operational, case by case basis, and this must be clarified. New section 436F(1) requires local authorities to provide prescribed information from their registers to the Secretary of State (in practice the Department for Education), as directed by ²²the Secretary of State. The delegated powers memo states “Similarly to the regulations prescribing certain details to be included in registers (at the new section 436C(2), the Department considers that the first time of use is likely to be the point at which there is the most public interest in the information to be provided to the Department, particularly from parents of children eligible for registration and by local authorities who will be directly impacted by the power. How often and for how long would data remain accurate?”

2.5 The Department for Education distributes identifying, sensitive personal confidential data about children in school today. Around 300 external data applications are approved each year for distribution or access to identifying data to applicants outside the DfE. A 2017 Parliamentary Question²³ confirmed over 1700 unique releases were approved in the five-year time period, and that “these include both the Department’s and external requests.” The register recorded only 15 rejections. According to later research by Defend Digital Me, identifying pupil data had been shared externally in around 2,500 releases until the last count in December 2024.

2.6 Reuse for the police is vague in the Bill and must be clarified at both local and national levels. Any data at local level may end up at national level or beyond without safeguards in place, as ever more data is linked for connected purposes without consent or knowledge of the data subjects. The National Law Enforcement Data Service (NLEDS) “super-database”²⁴ has been created from the merger of the Police National Computer (PNC) and the Police National Database (PND), as well as linkage with people’s personal data held by the DVLA, and immigration databases and biometric systems, all to be joined up through a common interface. Discussion has included running live facial recognition technology against the images it holds. What safeguards are in place once data is collected about children, families, the education providers by the Secretary of State about how it may be distributed and re-used by law enforcement and for what connected purposes?

2.7 Non-consensual reporting of non-registered children not in school and in elective home education (Clause 26, new sections 436B-436G of the Education Act 1996).

The Final Stage Impact Assessment goes on to suggest that education providers will also be used to in effect “snitch” on parents who have not voluntarily registered. There is no impact assessment of the possible unintended consequences and harm this will do to trusted relationships between educational provider and parents – there is no assessment for example of how likely this is to drive the most concerned parents away from reputable and trustworthy educational settings, into those less so:

“The provider must comply with this request by providing the local authority with all eligible child(ren)’s name, address, and date of birth; the total amount of time that the child spends receiving that education and the amount of time the child spends receiving that education without any parent of the child being actively involved in the tuition or supervision of the child for inclusion on the authority’s CNIS register.” “A provider that fails to provide information requested, or provides false information, could be issued with a civil financial penalty. This will help ensure the local authority has a complete picture of all children not in school in its area.” (p.6) “This is a reactive duty – providers will only have to provide this information when a local authority makes a request for it.” (FIA, p.3)

2.8 There is a complex multi-way relationship between the rights of the child (different at stages of development with and without and capacity), the rights of the parent, and obligations placed on the provider by this change of law. The new duty is on the parents to register the child,

²² DfE identifying pupil data external distribution register <https://www.gov.uk/government/publications/dfe-external-data-shares>

²³ <https://questions-statements.parliament.uk/written-questions/detail/2017-01-10/59403>

²⁴ Privacy International NLEDS

<https://privacyinternational.org/campaigns/uk-law-enforcement-data-service-leds-new-police-mega-database>

but the child has no say in the matter. The provider is asked to breach the rights of the child (and the parent's) to privacy and override the parents' choice to not register. Arguably it would be for the provider to report the parent has not registered the child but **not** create a duty to provide the child's details, which is the duty on the parent in routine circumstances 436D, not the duty on the provider, and therefore a penalty fine on the provider under 436E(8) and Section 31A(1). Note that this is a generic duty on the provider to notify the LA where the parent has not registered the child under 436D, and **not** a narrow duty on the provider to report a child at risk or concerns. Any suspicion of a child-at-risk would already be reported by the provider today, not using this new duty.

2.9(a) Assessment of the duty on parents 436D(2) p51 (lines 20-30) about passing on education provider details to the Local Authority without consent. There appears to be a poor grasp of the frequency or variety of educational patterns of Elective Home Education and no consideration given to whether the *provider* will want to be on a register known to Local Authorities, with the assumption that only *parents* might prefer to choose not to be.

“As the only required information is basic and should be known to the parents already, we do not envisage that this should take a great amount of time to communicate to their LA. In most cases, simple online correspondence or a phone call will be used, with paper-based alternatives being used if needed.” (FIA, p.20)

The duty in Clause 26 Registration 436C(1)(e) *Content and Maintenance of Registers*, obliges the parent where the child receives education from another person to give detailed information to the Local Authority about the provider (as of yet undetermined scope on the face of the Bill) including names and addresses of any individuals, description, postal address, website or email address for remote education, and the total amount of time provided. In the case of for example parent collective teaching, this may be the personal details of a number of parents without clarity about which is the detail to be provided. This is another non-consensual data distribution which may jeopardise the trusted relationship of willingness of some providers to offer education services to children.

2.9(b) Are children in Wales to be used as Guinea Pigs in a test-pilot for national policy?

Government amendments to extend the clauses covering the areas above to Wales, were only added on March 10, 2025, seven days before Report Stage. If the amendments are adopted, the data extraction and transfer provisions within the Children's Wellbeing and Schools Bill, will now be applied to Wales in the same way as in England. Education and social care policy and decisions are devolved in Wales, but there has been no scrutiny of these legislative changes that affect Wales, either in the Senedd or nationally by MPs in the Bill Committee or at Second Reading. To enable the “pilot” the Children Act 2004 (Commencement No. 10) (Wales) Order 2025 was made March 7, 2025 and came into effect three days later on March 10, 2025²⁵ and The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025²⁶ will come into force for a 5-week period from 8 April 2025 and cease to have effect on 20 May 2025. It is unclear what preparations have been made if any in practice to inform parents and guardians and children about the data extraction, or any linkage if the plans outlined in the 2024 consultation are followed. (See: *Supplementary Briefing for the Children's Wellbeing and Schools Bill Report Stage: Wales children's data extraction: legislative changes (14/3/2025)*).

²⁵ The Children Act 2004 (Commencement No. 10) (Wales) Order 2025

<https://www.legislation.gov.uk/wsi/2025/304/contents/made>

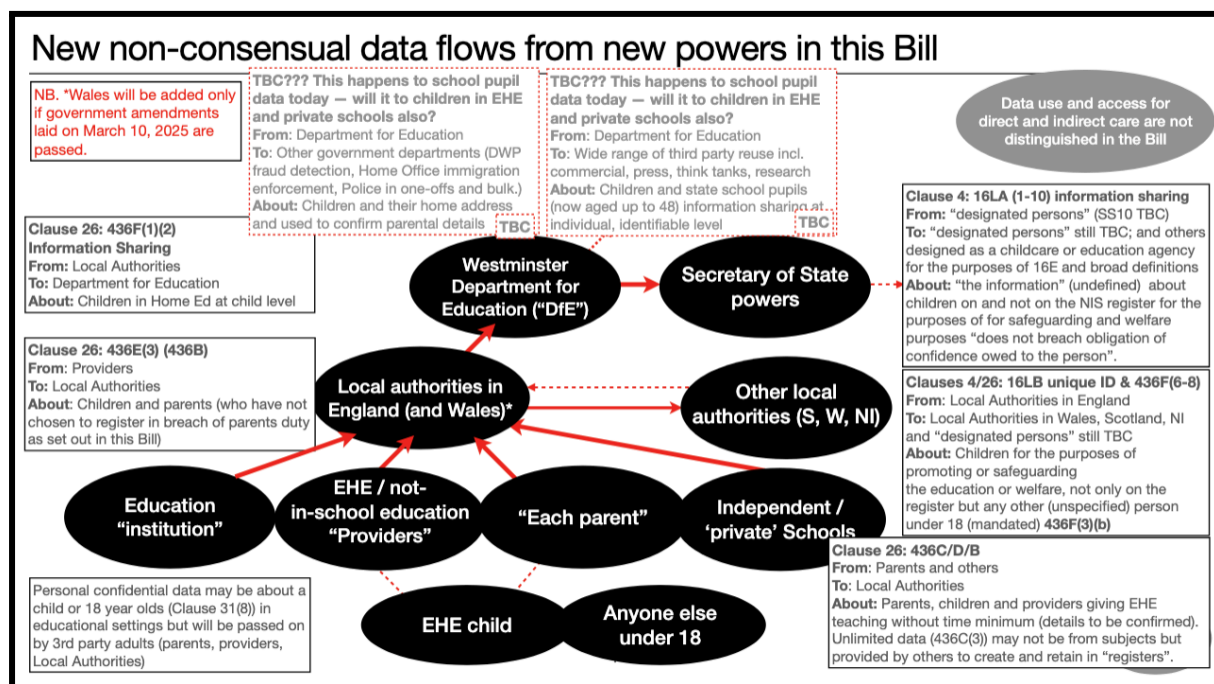
Archived: <https://web.archive.org/web/20250314110021/https://www.legislation.gov.uk/wsi/2025/304/contents/made>

²⁶ The Education (Information about Children in Independent Schools) (Pilot) (Wales) Regulations 2025

<https://www.legislation.gov.uk/wsi/2025/308/regulation/1/made>

Archived: <https://web.archive.org/web/20250314102727/https://www.legislation.gov.uk/wsi/2025/308/regulation/1/made>

Figure 1.



March 14, 2025 subject to change as the Bill progresses. Updates at: <https://defenddigitalme.org/policy/policy/>
 Download at: <https://defenddigitalme.org/wp-content/uploads/2025/03/chart-CWBSBill-data-flows-14032025.pdf>

3. Background: children’s data processing powers

3.1 (a) There is a **substantive error in the Impact Assessment²⁷ about Children Not in School.²⁸** The impact assessment published on January 30, 2025 wrongly suggests the DfE does not already have data on electively home educated children, wrongly claiming,

“Whilst we are able to cite data provided to the Department from local authorities on children in elective home education (92,000 on census day October 2023) and CME (33,000 on that same date), that data is somewhat limited, firstly because **LAs only have to provide it on a voluntary basis and not all authorities have provided returns (either in part or in full)** (our emphasis and note that it uses data only from October 2023, not 2024)

3.1(b) Compare with the facts the DfE have already published with 2024 numbers on EHE:²⁹

"The collection from local authorities started in autumn 2022 and **became mandatory in autumn 2024. The proportion of local authorities providing data reached 100% for the first time in summer 2024.**" (our emphasis)

²⁷<https://web.archive.org/web/20250130220059/https://www.gov.uk/government/publications/childrens-wellbeing-and-schools-bill-impact-assessments>

²⁸https://web.archive.org/web/20250130212501/https://assets.publishing.service.gov.uk/media/679b5b9f6bb4c44f0805e7a4/DfE-CWSB-RP-05_-_Children_Not_In_School_Registers_-_Regulatory_Impact_Assessment.pdf (page 33)

²⁹ <https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education>

3.2 Who already holds this data? The Local Authority and the DfE. **Why duplicate existing infrastructure to register a child who is deregistered from a school roll to go into Elective Home Education?**

Every Local Authority already has a database used to record one of 15 reasons for leaving in any child's record who is withdrawn from state education. The School Attendance Pupil Registration Regulations 2024³⁰ came into force in August 2024 section 9 replaced the Pupil Registration Regulations 2006.³¹ Today when a child is withdrawn by a parent, it is **the school's legal duty to inform the Local Authority. Does the new duty on parents to register a child as EHE duplicate or replace the existing duty?** The Bill does no risk assessment compared with existing practice.

3.3 In relation to removals from the school roll where the pupil has been absent for 20 continuous days or failed to return to school within 10 days of a period of approved absence, **schools today must make reasonable enquiries to establish the whereabouts of the child jointly with the local authority.**³²

3.4 Where a pupil has ceased to attend and is believed to have left the area without confirming a forwarding destination or failed to return to school within 10 days of a period of approved leave of absence, schools should undertake their own reasonable enquiries as soon as possible and submit a Child Missing Education (CME) update to the Local Authority. In line with the duty under section 10 of the Children Act 2004, the expectation is that the school and the local authority will already have in place procedures designed to carry out reasonable enquiries to meet existing statutory duties. The type of process may include the appropriate person checking with relatives, neighbours, landlords – private or social housing providers – and other local stakeholders who are involved. Schools should also record that they have completed these enquiries.

3.5 Lack of safeguards on the face of the Bill for privacy, and the data protection principles of necessity and proportionality, risk creating an adversarial relationship between local authorities and families, despite the mention in the Explanatory Notes of expected interference with Article 8.

3.6 The Bill's Human Rights Impact Assessment, finds that, "the Department notes in particular that, where personal data is concerned, the requirement to comply with relevant *data protection law will act as a significant safeguard.*" There is **no evidence for the DfE having regard for Data Protection as a safeguard** at all. The Department failed to demonstrate its own accountability for GDPR in a highly critical ICO audit in 2020, from which there are multiple substantive findings and unlawful practice still outstanding. The DfE repeatedly expands intrusive data collections via secondary legislation (Defend Digital Me, State of Data 2020)³³ and avoids its fair processing duties, offers parents no routes to exercise their data protection rights, and no remedy. We can provide case study evidence to the Committee of parents who have been harassed by Local Authority staff in the pursuit of excessive data, where SAO was pursued despite intervention from MPs, with the confirmation from the LA there was no safeguarding risk to the child, and data protection law dismissed and offered no remedy.

3.7 It is not specified **how much of the child level data to be provided to Local Authorities is expected to be passed on to the DfE in bulk or for what purposes beyond the adjudication of SAO as is done today on an operational, case by case basis, and this must be clarified. New section 436F(1) requires local authorities to provide prescribed information from their registers to the Secretary of State (in practice the Department for Education), as directed by the Secretary of State.** The delegated powers memo states:

³⁰ Section 9: Deletion of names from admission register <https://www.legislation.gov.uk/uksi/2024/208/made>

³¹ Education (Pupil Registration) (England) Regulations 2006 <https://www.legislation.gov.uk/uksi/2006/1751/regulation/8/made>

³² Before deleting a pupil's name from the roll under regulation (9(1), sub-para (h) (iii)(aa)(bb) and (i)(iii)(aa)(bb) (see Annex A)

³³ Defend Digital Me (2020 State of Data 2020: Mapping a child's digital footprint across England's state education landscape.

Policy recommendations for building a rights respecting digital environment. (p76)

<https://defenddigitalme.org/wp-content/uploads/2020/11/The-state-of-data-2020-v2.2-1.pdf>

“Similarly to the regulations prescribing certain details to be included in registers (at the new section 436C(2), **the Department considers that the first time of use is likely to be the point at which there is the most public interest in the information to be provided to the Department, particularly from parents of children eligible for registration and by local authorities who will be directly impacted by the power.** However, the Department would expect less interest thereafter, where any subsequent changes would likely be technical in nature, or otherwise in response to learning from implementation of the system and engagement with stakeholders.³⁴ [our emphasis]

3.8. Reuse for the police is vague in the Bill. Any data at local level may end up at national level or beyond without safeguards in place, as ever more data is linked for connected purposes without consent or knowledge of the data subjects. The National Law Enforcement Data Service (NLEDS) is running late, but [“the “mega-database”](#) is grown from the combination of the Police National Computer (PNC) and the Police National Database (PND), as well as the DVLA, and immigration databases and biometric systems. All to be joined up through a common interface and discussion has included running live facial recognition technology against the images it holds. What safeguards are in place once data is collected about children, families, the education providers about how it may be used by law enforcement and for what connected purposes?

3.9 The Department for Education distributions identifying, sensitive personal confidential data about children in school today. Around 300 external data applications are approved each year to applicants outside the DfE. A 2017 Parliamentary Question³⁵ confirmed [over 1700](#) unique releases were approved in the five-year time period, and that “these include both the Department’s and external requests.” The register recorded only 15 rejections. According to later research by Defend Digital Me, identifying pupil data had been shared externally in around 2,500 releases until the last count in December 2024.

In Scotland, parents are furious that data from the most sensitive and intrusive personal questions including some about detailed sexual behaviours and abuse, in a survey of pupils across Scotland are now being offered to researchers. **In 2021-22 the Health and Wellbeing Census³⁶ took place in schools across Scottish local authorities, retaining the children’s unique school identifier number.** Sixteen of 32 withdrew from the process, 12 due to concerns. In December 2021 the Scottish government overruled the Scottish Children’s Commissioner’s request to pause the survey.³⁷ Data protection law offered no protection at all, and there is no route for recourse or remedy.

4. Lack of comparison with the status quo in law or practice

4.1 Lack of evidence of the need for a new register or assessment to compare what is already done vs what additional registers and data processing will do.

4.2 At Second Reading³⁸ the Secretary of State said that the Bill contains “a **new compulsory register** of children not in school in every area of England, because if children are not in school, we

³⁴ https://publications.parliament.uk/pa/bills/cbill/59-01/0151/delegated_powers_memo.pdf

³⁵ <https://questions-statements.parliament.uk/written-questions/detail/2017-01-10/59403>

³⁶ 2021-22 Health and Wellbeing census in school children in Scotland <https://www.bbc.co.uk/news/articles/c5yvr65dpgzo>

³⁷ Children’s commissioner wants sex survey paused (BBC) 2021 <https://www.bbc.co.uk/news/uk-scotland-59601836>

³⁸ The Children’s Wellbeing and Schools Bill January 8, 2025

<https://hansard.parliament.uk/Commons/2025-01-08/debates/656F7D15-EA9D-46EA-8D8A-795738402CE9/details>

need to know where they are”. Yet in all the Impact Assessment there is no mention of all the existing mechanisms used to do this already, and no comparison has been made in any explanatory notes to compare what new plans will offer with the existing databases and registers.

4.3 In addition to all the data collection of children in EHE, the Department for Education already collects the individual, identifiable level data about every Child-in-Need (every child in child protection) from birth. All 153 local authorities provided a national return for the 2024 collection. The CiN census is a statutory social care data return made by every Local Authority to the DfE. It captures information about all children who have been referred to children's social care regardless of whether further action is taken.

4.4 As of September 2022, there were 2,538,656 distinct Children in Need (CiN) records (any child referred to children's social care services within the year) / LAC child records (going back to 2006)³⁹, regardless of at-risk status, able to be matched to some home address information via other (non CiN / LAC) sources included in the National Pupil Database controlled at national level by the DfE. This includes children looked after (“CLA”), those supported in their families or independently (“CSF/I”), and children who are the subject of a child protection plan. The detailed personal data sent to the Department for Education includes all vulnerable children, including: unborn children; babies; older children; young carers; disabled children; and those who are in secure settings. **The highly sensitive child-level personal records include details of adoption, disability, sexual abuse, categories of abuse, neglect, and “family dysfunction”** (see Codesets page 63-69).⁴⁰ In our view, **national records of children in need of child protection are inadequately shielded at national level**. As of 8 September 2022, there were only 70 individuals flagged for shielding and that includes both current and former pupils. There were 23 shielded pupil records collected by the Department via the 2022 January censuses (in that year alone, covering early years, schools and alternative provision).

4.5 **Lack of definitions:** Although the Children Act 2004, Section 11 makes reference to safeguarding partners, and its 39 mentions in this Bill, there is no clear definition of safeguarding on the face of the Bill and with it any constraint on the new powers. **“Safeguarding” and “promotion of welfare” are not inter-changeable with the definition of “child protection”**. When the new powers are to intrude into family homes, to demand unlimited access even to correspondence, with interference into private and family life without a warrant under Article 8 as mentioned in the Explanatory Notes⁴¹, the edges of new powers must be precise to be fair, safe and transparent.

4.6 A problem, common to all centralised database approaches, is that **updated information from different sources may disagree**. For example, the education and health databases might inform you that a child has changed address, but they may disagree about where he/she is living now. It is very difficult to resolve these issues automatically, and this type of problem will usually require the attention and time of an administrator. ...someone needs to make decisions about what is changed eg if the databases have a new address but someone else disagrees and says its actually a grandparent's address, there has to be some verification process of which is correct. (Project Manager, DfE data sharing report)⁴².

5.7 Lack of safeguards on the face of the Bill for privacy, and the data protection principles of necessity and proportionality, risk creating an adversarial relationship between local authorities and families, despite the mention in the Explanatory Notes of expected interference with Article 8.

³⁹ FOI request Lost Pupils Database https://www.whatdotheyknow.com/request/pupil_data_the_lost_pupil_databa

⁴⁰ Children in Need national annual child-level census https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1025195/Children_in_need_census_2022_to_2023_guide.pdf

⁴¹ CWBS Bill Explanatory Notes December 2024 <https://publications.parliament.uk/pa/bills/cbill/59-01/0151/en/240151en.pdf>

⁴² Cleaver, P.H. et al. (2004) 'Developing Information Sharing and Assessment Systems'. <https://dera.ioe.ac.uk/id/eprint/5219/1/RR597.pdf> [accessed January 7. 2025]

4.8 The Bill has not yet adopted the recommendation of more than one parliamentary Committee⁴³ in recent years that the Government must place a duty on every local authority to ensure that home-educated children and young people have fair access to centres where they can sit accredited public examinations, with the Government meeting the entry costs for those exams. This should be upheld if the aim is to best support parents and children not-in-school.

4.9 There is also a case to be made for supporting legal costs of challenges of the School Attendance Order (SAO) costs to be borne by the State where the case is pursued by a Local Authority without any evidence of a reasonable belief of lack of provision of a suitable education. The right of the child to an education is what is to be fulfilled. The child (without income) should arguably be supported by legal aid. If a child is at risk, the Local Authority has powers to intervene in the child's vital interests and without or going beyond the SAO. But where there is no evidence of lack of suitable education and no evidence or reasonable suspicion of a safeguarding risk, the Local Authority can act today to simply pursue parents in a case beyond all reasonable measure. The impact assessments all document that SAO are very rarely enforced against with fines. They are even less often lifted by the Secretary of State (the current ombudsman and only route for complaint) which given it would go against their education staff in a Local Authority is perhaps unsurprising to parents who find themselves locked in a battle of never-ending data and paperwork demands, which they refuse on principle, and are in effect "punished" for. The Final Assessment (Section 2, para 24) suggests that the only costs of this SAO are borne by the parents. However, (1) the child can bear both the indirect costs of the financial and the psychological burden of the stress when a family is put in that position through no fault of their own. And (2) this bafflingly overlooks the legal and staff costs of an SAO to Local Authorities no matter how few may be issued⁴⁴.

"It should be stressed that the only financial burden resulting from these measures on parents will be on those who are issued with a SAO, breach it and are convicted for that breach. Consequently, these costs are avoidable entirely through compliance. Together, these proposals will help ensure that less [sic] children are going under the radar and more receive a safe, suitable education."

The framing presented is that families issued with an SAO are automatically in the wrong, which in our experience of supporting data-related questions of families issued with an SAO in a tug-of-war with Local Authorities, has to date, never been the case. Fewer children might be subjected to inappropriate SAO if the costs of their issuance, and rare follow up were properly assessed.

5. Background on existing DfE databases and practices

5.1 There are existing IDs and children not-in-school databases. How is this number expected to be used differently, if it is to be one of these existing numbers as follows?

- NHS number: a lifetime identifier allocated at birth, or when registered with health providers or to unborn children-at-risk
- Local authority child ID: children receiving a child in need service
- Unique Pupil Number (UPN): assigned by educational settings to each child attending a maintained school or academy. Used to access and link 25 national identifying datasets about

⁴³ House of Commons Education Committee Report Strengthening Home Education 2021-22 (Para 124)
<https://committees.parliament.uk/publications/6974/documents/72808/default/>

⁴⁴ ADCS Elective Home Education survey (2019) p.7
https://www.adcs.org.uk/wp-content/uploads/2024/05/ADCS_Elective_Home_Education_Survey_Analysis_2019_FINAL.pdf

learners together in the National Pupil Database controlled by the DfE of ca.28 million people under age 19.

- Unique Learner Number (ULN): used to access and link the personal learning record of young people 14 and up. After this, ULNs are retained throughout a person's life including use in the Learner Records' Service as adults in adult education and evening classes.
- National Insurance (NI) number allocated to young people when they reach 16, or available to people 16 and over who are eligible to work or study in UK.
- Child Benefit (CB) number - allocated to (only those) parents/carers who apply for Child Benefit and are responsible for a child under 16, or up to 19 if they are in approved education or training.

On data collection and distribution

5.2 The Bill Human Rights Memorandum finds that,

"The Department notes in particular that, where personal data is concerned, the requirement to comply with relevant data protection law will act as a significant safeguard."⁴⁵

In Defend Digital Me's view this is untrue. The 2020 ICO Audit⁴⁶ of the Department for Education itself, found failure to meet basic principles of data protection law or ability to demonstrate that it was compliant with the first principle of the GDPR, that data shall be processed lawfully, fairly and in a transparent manner. The ICO made over 139 recommendations, all of which are not yet resolved.

5.3 The Department for Education said in [answer](#) to a question from the House of Lords ([UIN HL2566](#)) to ask when the full ICO audit findings would be published, five years after it was carried out, that "***The department will publish an updated audit closure report in Quarter 1 of 2025/26 on completion of the remedial actions.***" [our emphasis]

5.4 And DfE also confirmed, "*it is not possible for a parent/guardian or an individual child to opt out,*" and when it comes to the reuse of sensitive and identifying child level data, no one offers any **Right to Object (for processing based on public task) nor any opt-out (nor opt-in) of processing based on Legitimate Interests.** [Families do not get told how pupils and parents may object to any data being collected in the school census, or by what process they may do so.](#) [UIN HL2698]

5.5 While data processing must in theory be compliant with the UK Data Protection Act 2018, in practice the Department for Education does not yet meet these standards in pupil data processing:

- "The DfE cannot demonstrate accountability to the GDPR"
- "The DfE are not providing sufficient privacy information to data subjects as required by Articles 12, 13 and 14 of the GDPR."
- "The DfE are not fulfilling the first principle of the GDPR, outlined in Article 5(1)(a), that data shall be processed lawfully, fairly and in a transparent manner."
- "The lack of awareness amongst staff presents a high risk that data will not be processed in a compliant manner and could result in multiple data breaches or further breaches of legislation."
- "The Commercial department do not have appropriate controls in place to protect personal data being processed on behalf of the DfE by data processors."
- "there is limited oversight and consistency around how data is shared externally".

⁴⁵ https://publications.parliament.uk/pa/bills/cbill/59-01/0151/echr_memo.pdf

⁴⁶ The ICO audit of the DfE (2020)

<https://defenddigitalme.org/wp-content/uploads/2021/10/department-for-education-audit-executive-summary-marked-up-by-DDM-Jan-2021.pdf>

5.6 Can the DfE explain how today's data distribution powers from Local Authorities to the Secretary of State have been used for those children to date in state schools, including all onward data distribution How would this differ from those powers proposed to be expanded for more children, parents and providers under this Bill?

5.7 At national level: Children's personal, confidential school records are handed out to companies to turn into products and knowledge they sell back to schools. Our children's personal data from their school records have been commoditized without consent, and children and parents are not offered a right to object. The Department for Education relies on the organisation not publishing the pupil-level data, but hands out pupil data without small numbers suppression to commercial companies. What will be in place to restrict onward sharing from the DfE to the Home Office in the same way as is done now for state school children?

5.8 In 2023 the DfE began to routinely approve Department of Work and Pensions requests to use the NPD as a national ID validation check for their purposes of investigating welfare fraud. The DWP ask the DfE to find and match people with DWP data using children's pupil records⁴⁷ and may subsequently impose penalties or refer for prosecution. The details about this were not public until exposed through Freedom of Information requests reported by Schools Week in May 2024.⁴⁸ Personal data was requested by DWP for at least 7 children to establish if DfE holds a record of those children being registered at school.

5.9 The DfE hands over pupil data from national records to the Home Office for immigration enforcement purposes⁴⁹, to the police and to other government departments.⁵⁰ According to the December 2024, DfE update, between July 2015, until September 2024, the Home Office has asked the DfE to match the personal details of 7,109 people and the DfE did so and handed over the details for 1,8001. The National Pupil Database continues to be used monthly for immigration enforcement⁵¹, re-use that we contend is unlawful because the purposes are incompatible with those that permit its collection in the first place, in the Education Act 1996.⁵² What will be in place to restrict onward sharing from the DfE to the Home Office in the same way as is done now for state school children? Where does the Department draw the line on re-use of personal data collected about children and families for the purposes of meeting their right to education, as punitive or commercial re-uses for non-education related purposes grow year-on-year?

6. Tech-solutionism in place of needed change in child protection

6.1 In 2016, researchers commissioned by the DfE wrote in the Research Report RR597 "A consistent identifier in education and children's services" (Section 3: Using IT Systems to Share Information)⁵³ found:

"An IT system will make no difference to children; it is what practitioners do." (Project Manager)

⁴⁷ FOI via WDTK https://www.whatdotheyknow.com/request/pupil_data_dwp_pupil_matching_re

⁴⁸ <https://schoolsweek.co.uk/revealed-secret-deal-to-let-benefit-fraud-squad-snoop-on-pupil-data/>

⁴⁹ Data sharing agreement between the Home Office and the DfE for monthly pupil data matching and handovers https://www.whatdotheyknow.com/request/pupil_data_off_register_back_off/response/941438/attach/4/20151218%20DfE%20HO%20Final%20V0%201%20REDACTED.PDF.pdf

⁵⁰ Defend Digital Me timeline of DfE and data including actions after the audit <https://defenddigitalme.org/national-pupil-data-the-ico-audit-and-our-work-for-change-a-timeline/>

⁵¹ <https://www.theguardian.com/politics/2019/jan/13/schools-census-used-for-immigration-enforcement-minister-says>

⁵² <https://defenddigitalme.org/2023/03/21/call-for-action-from-the-uk-information-commissioner-to-uphold-childrens-rights-in-the-hostile-environment/>

⁵³ Valle, I.L., Graham, B. and Payne, L. (2016) A consistent identifier in education and children's services. The Department for Education research report. GOV UK. p.16

https://assets.publishing.service.gov.uk/media/5a8157e5ed915d74e6231bd2/Consistent_identifier_report_July_2016.pdf [accessed January 7. 2025]

“Technology will not change outcomes for children.” (Project Manager)

“Automatic messaging and electronic alerts/warning flags should not be seen as a substitute for safe working practice.”

“Consent from children, young people and parents must be obtained before information is shared. This is a complex area and people need to be clear about exactly what they are giving consent for and when they have a choice to opt out. A clear statement on consent should be issued before any new systems are implemented.”

“Some practitioners do not have regular access to computers and/or the internet.”

6.2 Michael Gove said of ContactPoint in 2009⁵⁴:

*“We will spend less on **vast centralised IT databases which always go expensively wrong**, such as the misguided effort to log every child in the country through the **Contactpoint** system.*

*“**I say every child but of course the children of celebrities and MPs will be able to be excluded in case of security breaches. Well if the system isn’t secure enough for me it isn’t secure enough for you, so it must go.**”*

6.3 About ContactPoint, **Children’s Minister Tim Loughton** said a year later,⁵⁵

“We need a better child protection system in this country, but at the end of the day it’s not a computer system that will save vulnerable children. It’s the performance of the professionals at the sharp end, who need to be properly trained and resourced.”

6.4 The Victoria Climbié Foundation UK statement⁵⁶ following the verdict into the murder of 10-year-old Sara Sharif at the hands of her father and stepmother said that:

“The inevitable calls for action sadly highlight the lack of implementation of child protection reforms and development...Sara Sharif was not a hidden child – she was known to the authorities. As in the tragic case of Victoria Climbié, she simply fell through the gaps and was failed by services involved in her life. Concerns had been raised and seemingly not acted upon within a multi agency framework.”

6.5 Child Protection Information Sharing (CPIS) is already a statutory requirement. It covers 100% of Local Authorities in England, and is the national register of social care status. It also provides information when a child is out of area.⁵⁷

6.6 The NSPCC reported in April 2024⁵⁸ in their briefing *Child Deaths due to Abuse or Neglect*, that in the last five years there was an average of 52 child deaths by assault or undetermined intent a year in the UK.

- Child homicides are most commonly caused by the child’s parent or step-parent.

⁵⁴ <https://web.archive.org/web/20180424000604/https://conservative-speeches.sayit.mysociety.org/speech/601248>

⁵⁵ Tim Loughton on ContactPoint (2010) <https://www.bbc.co.uk/news/education-10887082>

⁵⁶ The Victoria Climbié Foundation UK statement on the the murder of Sara Sharif <https://vcf-uk.org/vcf-statement-in-response-to-trial-verdicts-for-sara-sharif/>

⁵⁷ NHS <https://digital.nhs.uk/services/child-protection-information-sharing-service> See the section: The Child Protection - Information Sharing (CP-IS)

⁵⁸ NSPCC (April 2024) Child deaths due to abuse or neglect: statistics briefing <https://learning.nspcc.org.uk/research-resources/statistics-briefings/child-deaths-abuse-neglect>

- Children under the age of one are the most likely age group to be killed by another person, followed by 16- to 24-year-olds.

6.7 Children in these age groups would not be on the new, “children not-in-school register”. The most common age group for victims of homicides recorded in the year ending March 2023 was those aged 25 to 34 years (103 victims).

6.8 We respectfully ask policymakers not to misuse inaccurate references to dead children as inferences of evidence of a need for a register of children in Elective Education or otherwise.

- In Parliamentary debate, dead children are frequently cited as the underlying reason why a children-not-in-school register is required.
- It is absurd to suggest that a register of children ‘not-in-school’ (not registered on a state school roll) will save children from death by mould exposure⁵⁹, to murder⁶⁰.
- Any child aged under 5 will not be included in this data. Bill p48 line 19, “Condition B is that the child is of compulsory school age”.

6.9 As in previous years, children aged under 1 year had the highest rate of homicide (28 per million population, 17 offences). This rate fluctuates from year to year because of the low number of victims in this age group. This was followed by those aged 16 to 24 years (16 per million population). There were 51 homicides where the victim was a teenager (aged 13 to 19 years). In around 8 in 10 (82%) of these, the method of killing was with a knife or sharp instrument (). This compared with 41% for all homicide victims. Levels of homicide fell for most age groups compared with the previous year, apart from those aged 55 to 64 years, and 75 years and older, where there were small increases (a rise of 2 and 3 homicides, respectively). The largest percentage decreases in the year ending March 2023 were in the younger age groups, with a fall of 19% in both the under-16 years (from 59 to 48) and the 16 to 24 year (from 122 to 99) age groups.

*Office for National Statistics (ONS), released 8 February 2024, ONS website
Homicide in England and Wales: year ending March 2023*

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/homicideinenlandandwales/yearendingmarch2023>

⁵⁹ <https://www.bbc.co.uk/news/uk-england-manchester-67424950>

⁶⁰ <https://www.bbc.co.uk/news/uk-england-london-55059793>

7. Children’s Voice and Empowerment

Participation of young people themselves has not been encouraged in the Bill development. The needs of young people has predominantly focussed so far, on Internet safety, but participation and privacy need taken into account as well, and the views of young people, as outlined in outputs from workshops in projects such as 5Rights and academic collaborations, *The Internet on our Own Terms: How children and young people deliberated about their digital rights*.⁶¹

When it comes to a child’s personal data being passed from a school to third parties or to the Department for Education (DfE), parents want to be asked for consent or to exercise an opt-out at very least that should be the de facto standard. This does not override the right to privacy and duty of confidentiality where there is a suspicion or evidence of a risk to a child’s welfare.

7.1 DfE and DSIT’s own public engagement research (2024)⁶² found parents want to stay in control:

“Trust in tech companies was extremely limited and there was little to no support for them to be granted control over AI and pupil work and data use.”

“Expectations for how permission would be provided varied, but most parents described an “opt-in” model and expected to be given the chance to understand and agree to all potential uses of their child’s data and work. “

7.2 Survation⁶³ asked 1,004 parents of state-educated children aged 5-18 on behalf of Defend Digital me, between 17th – 20th February 2018 about their understanding of which technologies are used, and how data are used. Most strongly parents consider children’s special educational needs data merits extra consideration, before a school passes that sensitive information on to the Department for Education (DfE) for secondary re-uses.

- 81% of parents agreed that parental consent should be required before a child’s special educational needs data is shared.
- 60% of parents agreed parental consent should be required before schools pass data to the DfE National Pupil Database.
- 65% agreed the Department for Education should have parental consent in order to pass children’s personal data to commercial data analytics companies.
- Over three quarters (79%) if offered the opportunity to view their child’s named record in the National Pupil Database would choose to see it. The Department cannot meet requests adequately.

7.3 While parents give the Department for Education a high level of trust to use data well (68%), almost the same number of parents (69%) said they had not been informed the DfE may give out data from the National Pupil Database to third parties.

⁶¹Coleman, S., Pothong, K., Vallejos, E. P., & Koene, A. (2016) *Internet on our own terms*. 5Rights. University of Nottingham. <https://web.archive.org/web/20210224123301/http://casma.wp.horizon.ac.uk/wp-content/uploads/2016/08/Internet-On-Our-Own-Terms.pdf>

⁶² The Responsible Technology Adoption Unit (RTA) within the Department for Science, Innovation and Technology (DSIT) commissioned research in partnership with the Department for Education (DfE) (August 2024) <https://www.gov.uk/government/publications/research-on-parent-and-pupil-attitudes-towards-the-use-of-ai-in-education/research-on-public-attitudes-towards-the-use-of-ai-in-education>

⁶³ Survey commissioned by Defend Digital Me in a review of children’s data privacy for The State of Data 2018. <https://defenddigitalme.com/2018/03/only-half-of-parents-think-they-have-enough-control-of-their-childs-digital-footprint-in-school/>

7.4 Researchers and a range of third parties will always call for more data for secondary reuses, but it's not necessarily what children and young people want.

“Depends on what the information is, because some people might tell you things that they don't feel comfortable with telling their parents, you shouldn't be able to pass that on, but there are certain things that they might be in danger of harming themselves or their peers, then you're expected to tell someone.” — Female, 19 years old, Homeless centre, London

Hilton, Zoe & Mills, Chris. (2006). 'I think it's about trust': the views of young people on information sharing. (page 16)

7.5 However, the kinds of 'levels of risk' at which the respondents felt that information sharing was legitimate and important varied according to different members of the sample. A number of respondents were unwilling to relinquish the principle of confidentiality and consent unless the risks were very high.

“No, I think they shouldn't tell anyone unless we give them permission, unless it's something that's life-threatening to us, that's when they should.”

---Male, 16 years old, Young offenders group, North West
(ibid.)

7.6 If the State forces personal data collection on people who do not want it, people will find workarounds to not comply, including withdrawal from public services. A wide range of publications are available from over a decade of public engagement and all find similar views. There is public trust in public interest research, but people want to have a say and control with whom any personal data is shared for any purposes beyond direct care and the point of collection.

7.7 (a) The Council of Europe 2016-21 Strategy on the Rights of the Child,⁶⁴ has an entire section on the digital world. It makes clear that, *“Children have the right to be heard and participate in decisions affecting them”* and recognises that capacity matters, *“in accordance with their age and maturity”*. In particular attention should be *“paid to empowering children in vulnerable situations, such as children with disabilities.”* It recognises in para 5.3. that *“provision for children in the digital environment ICT and digital media have added a new dimension to children's right to education”* exposing children to new risks in, *“privacy and data protection issues”*⁶⁵ and that *“parents and teachers struggle to keep up with technological developments.”*

7.7 (b) UNICEF's recent working paper on children *Privacy, Protection of Personal Information and Reputation* says, *“it becomes evident that [children's privacy differs both in scope and application from adults' privacy.](#)”* The UNCRC Article 12 demands that policymakers involve children and young people in the development of data policies affecting them. The Children's Act 2004 places a duty on the Children's Commissioner to have particular regard to children who are within section 8A (children living away from home or receiving social care) and other groups of children who the Commissioner considers do not have adequate means by which they can make their views known. This Bill makes no such provision or consideration in drafting.

7.7 (c) Published in 2020, our engagement and youth voice work with a youth group aged 14-25, reflected what the *Office for the Regulation of National Statistics* then went to publish in [their 2022 report, Visibility, Vulnerability and Voice](#) (as a framework to explore whether the current statistics are helping society to understand the experiences of children and young people in all aspects of their lives).

⁶⁴ Council of Europe Strategy for the Rights of the Child 2016-21 Para 37, p15/36 <https://rm.coe.int/168066cff8>

⁶⁵Ibid. p10/26 (6) Para 21. And 28 EU Kids Online (2014), EU Kids Online: findings, methods, recommendations

Young people worry about:

- Misrepresentation
- about the data being used in place of conversations about them to take decisions that affect their lives, and
- about the power imbalance it creates without practical routes for complaint or redress.

7.8 In a report for the Department for Education *A consistent identifier in education and children's services* (2016)⁶⁶ the Department for Education research report found:

- Lack of trust in confidentiality can deter a child from using services (Hilton and Mills, 2006; Munro and Parton, 2007)
- Want to be reassured that the information they share is confidential (Freake et al, 2007);
- Want the right to access their files in order to ensure the information held on them is accurate and up to date (Hilton and Mills, 2006; ChildLine Scotland, 2011)
- Are concerned about being labelled and problems escalating as a result of information sharing (Hilton and Mills, 2006)
- Information should only be shared if it would benefit them and if doing so would prevent serious harm to them or others (Hilton and Mills, 2006; Munro and Parton, 2007)
- Want to be involved in assessments of needs and risks where possible, and want to be part of the decision-making process (Hilton and Mills, 2006)
- Teachers and social workers should only be told the personal information they need to do their job with a child or young person (Hilton and Mills, 2006)
- Parents are concerned about confidentiality and feeling in control of how, what, why, when and with whom information is being shared (Gross, 2013b; Children and Young People's Health Outcomes Forum, 2015).

⁶⁶ **DfE Commissioned report: (2016) A consistent identifier in education and children's services**

Valle, I.L., Graham, B. and Payne, L. (2016) A consistent identifier in education and children's services. The Department for Education research report. GOV UK. p.9
https://assets.publishing.service.gov.uk/media/5a8157e5ed915d74e6231bd2/Consistent_identifier__report_July_2016.pdf

8. Annex : 15 reasons used to record a child removed from roll

Current law when a child is withdrawn from state education: One of fifteen reasons is recorded today on every child's school and Local Authority record, and sent to the DFE.

Reason 1: School Attendance Order pupils

Legislation: 8(1)(a) - where the pupil is registered at the school in accordance with the requirements of a school attendance order, that another school is substituted by the local authority for that named in the order or the order is revoked by the local authority on the ground that arrangements have been made for the child to receive efficient full-time education suitable to his age, ability and aptitude otherwise than at school.

Reason 2: Immediate transfer to another school

Legislation: 8(1)(b) - except where it has been agreed by the proprietor that the pupil should be registered at more than one school, in a case not falling within sub-paragraph (a) or regulation 9, that he has been registered as a pupil at another school.

Reason 3: Dual Registered pupils

Legislation: 8(1)(c) - where a pupil is registered at more than one school, and in a case not falling within sub-paragraph (j) or (m) or regulation 9, that he has ceased to attend the school **and the proprietor of any other school at which he is registered has given consent to the deletion.**

Reason 4: Elective Home Education

Legislation: 8(1)(d) - in a case not falling within sub-paragraph (a) of this paragraph, that he has ceased to attend the school **and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school.**

Reason 5: Pupils who move out of the area

Legislation: 8(1)(e) - except in the case of a boarder, that he has ceased to attend the school **and no longer ordinarily resides at a place which is a reasonable distance from the school at which he is registered.**

Reason 6: Pupils who fail to return from planned leave of absence and cannot be traced

Legislation: 8(1)(f) - in the case of a pupil granted leave of absence in accordance with regulation 7(1A), that -

- (i) the pupil has failed to attend the school within the ten school days immediately following the expiry of the period for which such leave was granted;
- (ii) the proprietor does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; **and**
- (iii) the proprietor and the local authority have failed, after jointly making reasonable enquiries, to ascertain where the pupil is.**

Reason 7: Certified unlikely to be fit to return to school before the end of Year 11

Legislation: 8(1)(g) - that he is **certified by the school medical officer** as unlikely to be in a fit state of health to attend school before ceasing to be of compulsory school age, **and neither he nor his parent has indicated to the school the intention to continue to attend the school after ceasing to be of compulsory school age.**

<p>Reason 8: Pupil has been continuously absent for 20 school days and cannot be traced</p> <p>Legislation: 8(1)(h) - that he has been continuously absent from the school for a period of not less than twenty school days and -</p> <p>(i) at no time was his absence during that period authorised by the proprietor in accordance with regulation 6(2);</p> <p>(ii) the proprietor does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and</p> <p>(iii) the proprietor of the school and the local authority have failed, after jointly making reasonable enquiries, to ascertain where the pupil is.</p>
<p>Reason 9: Pupil has been detained in custody for four months or more</p> <p>Legislation: 8(1)(i) - that he is detained in pursuance of a final order made by a court or of an order of recall made by a court or the Secretary of State, that order being for a period of not less than four months, and the proprietor does not have reasonable grounds to believe that the pupil will return to the school at the end of that period.</p>
<p>Reason 10: Pupil's death</p> <p>Legislation: 8(1)(j) - that the pupil has died.</p>
<p>Reason 11: Pupil is above statutory school age (has completed Year 11)</p> <p>Legislation: 8(1)(k) - that the pupil will cease to be of compulsory school age before the school next meets and -</p> <p>(i) the relevant person has indicated that the pupil will cease to attend the school; or</p> <p>(ii) the pupil does not meet the academic entry requirements for admission to the school's sixth form.</p>
<p>Reason 12: Applies to Independent Schools ONLY</p> <p>Legislation: 8(1)(l) - in the case of a pupil at a school other than a maintained school, an Academy, a city technology college or a city college for the technology of the arts, that he has ceased to be a pupil of the school.</p>
<p>Reason 13: Permanent Exclusion</p> <p>Legislation: 8(1)(m) - that he has been permanently excluded from the school.</p>
<p>Reason 14: Nursery pupil not transferring to a higher class at the same school</p> <p>Legislation: 8(1)(n) - where the pupil has been admitted to the school to receive nursery education, that he has not on completing such education transferred to a reception, or higher, class at the school.</p>
<p>Reason 15: Unpaid fees for a boarder at a maintained school or academy</p> <p>Legislation: 8(1)(o) where -</p> <p>(i) the pupil is a boarder at a maintained school or an academy;</p> <p>(ii) charges for board and lodging are payable by the parent of the pupil; and</p> <p>(iii) those charges remain unpaid by the pupil's parent at the end of the school term to which they relate.</p>

Where a pupil is removed from roll under regulation 9(1)(h) and 9(1)(i) the school should also send the common transfer file (CTF) to the school 2 school website at www.education.gov.uk/s2s using XXXXXXXX as the destination. The school should also update their school information management system and record the pupil as 'missing' only if the child has an unknown destination.

9. Suggested amendments for the CWBS Bill

Page 7, line 17, in section 16LA Duty to Share Information, insert subsection —

11. Duty to maintain a transparency register of the use and access of information shared

(a) A relevant person must maintain an audit or register of processing of the use and access of the data mandated under the duty to share information under section 16LA or 25.

(b) The audit or register under subsection (a) must contain the following information about data use or access to data—

- (i) the date on which the data was accessed or used;
- (ii) the name of the individual accessing or using the data;
- (iii) the name of the organisation under which the individual has been granted use or access;
- (iv) the purpose for which the data was accessed or used;
- (v) a list of the data items in each data release;
- (vi) whether the data accessed or used contained sensitive data;
- (vii) the method of use or access by relevant persons;
- (viii) the date after which it is expected that the data must not be preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are shared;
- (ix) any further relevant persons to whom the data is granted onward subsequent permission to access or reuse by the recipient under sub-section (b).

(c) A relevant person must ensure that the register under subsection (a) is maintained in accordance with data protection legislation, including the Data Protection Act 2018, the UK General Data Protection Regulation, and Article 6 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data ⁶⁷.

(d) Regulations may make provision about—

- (i) the form in which the register under subsection (a) is to be kept;
- (ii) the period for which information recorded in the register is to be retained;
- (iii) the circumstances in which information recorded in the register may be disclosed, including any restrictions or safeguards that apply to such disclosures.
- (iv) and the circumstances in which information recorded in the register must be disclosed, to the data subject or their legal guardian.

Member's explanatory statement

The proposed amendment to section 16LA of the Children's Wellbeing and Schools Bill introduces a new subsection mandating that a relevant person maintain a transparency register detailing each instance of data access and usage under the duty to share information. This register will record specific information for every data access or use, including the date, individual and organisation involved, purpose, data items released, sensitivity of the data, expected retention period, and method of access. The amendment ensures that the register complies with all relevant data protection legislation to the UK, which is important since Clause 26 is about the register of Children Not in School and requires data distribution to various relevant persons including the Secretary of State under 463F,

⁶⁷ <https://rm.coe.int/1680078b37>

and 16LA(9) is unclear on whether disclosure would contravene Data Protection law and because (7) revokes any duty of confidence owed by the person making the disclosure and because data release and distribution is high risk of onward disclosure beyond that expected by the data controller over time and for purposes beyond the scope of the original release. Without this record of processing, there is a high risk of loss of oversight and accountability after its disclosure to an unlimited number of relevant persons who may have limited understanding of data protection law and do not understand their new responsibilities they have as data controllers under clause 16LA, where they may otherwise only be data processors. Additionally, it allows for regulations to specify the register's format, retention periods for recorded information, and conditions for disclosure, including provisions for informing data subjects or their legal guardians.

Page 50, line 42, in Clause 26, section 436C Content and maintenance of registers remove subsection (3)

“A register under section 436B may also contain any other information the local authority considers appropriate.”

Member's explanatory statement

In the Schools Bill 2022 peers opposed limitless data collection powers and here too it should be removed as it may encourage a breach of the data protection principles of necessity and proportionality. Unclear wording leads to confusion around what is “appropriate” and heightens dispute between Local Authorities and families about what information is the minimum and maximum requirement and with what frequency of collection as well as who and what may be in scope.

Page 53, line 37, Clause 26, 436F Use of Information in the Register leave out paragraphs (1) and (2) and insert—

- (1) The Secretary of State may collect and process
- (a) statistical data regarding children in receipt of Elective Home Education (EHE) for the purpose of monitoring educational trends and informing policy decisions.
 - (b) Information relating to an individual child only on an individual case by case basis for the purposes of adjudication of a school attendance order, and not in bulk.
- (2) The data collected under subsection (1)(a) shall be limited to prior aggregated statistical information and shall not include any personal data that would enable the identification of individual children or linkage with other data that would do so. The statistical data collected may include, but is not limited to—
- (a) the collective number of children recorded as receiving EHE on the census date;
 - (b) the percentage of children recorded as receiving EHE on the census date;
 - (c) the rate of children receiving EHE on the census date, relative to the overall population.

Member's Explanatory Statement

There is no necessity for the Secretary of State, or any person acting on behalf of the Secretary of State at national level to collect, process, or retain data that identifies, or could reasonably lead to the identification of, any individual child in receipt of Elective Home Education or suitable education

otherwise. The Secretary of State may use a limited exemption for the purposes of adjudication of school attendance orders (SAO) on an individual basis, and must retain data only as necessary in line with data retention in legal proceedings after closure of the case, in which time it may not without consent be distributed or made accessible to any other person outside the core functions in support of the SAO case at the Department for Education. MPs may wish to further enable the Secretary of State to make further provision regarding the manner and frequency of collection of statistical data under this section, and changes to this should be by regulations by the affirmative procedure.

Page 69, line 27 After Clause 28 Guidance on children not in school and school attendance orders 436R Guidance at end, insert—

(1) The Secretary of State must issue guidance including a code of practice to be followed by Local Authorities in England in respect of their functions under Clause 26 prior to the commencement of the clause.

(2) Before issuing a code of practice, the Secretary of State must consult—

- (a) families and organisations with experience of Home Education and/or barriers to school attendance,
- (b) organisations with relevant experience of mental health and well-being,
- (c) organisations with experience of data protection and the Information Commissioner, and
- (d) such other persons as may be considered appropriate.

(3) The Code of Practice must specify how Local Authorities are to take a holistic approach to home education registration and school attendance issues including the mental health of the families' affected and the provision of support to families and children.”

Member's explanatory statement

Families who offer a suitable education and safe environment to children may still want to not be part of a state register. This Bill pushes non-consensual compulsory registration onto them which will create concern and adversarial relationships between families and council staff. The amendment is designed to require the Secretary of State to issue a code of practice on how Local Authorities must take a holistic approach to registration of home education, including the mental health of the children and parents and providers affected and the provision of support.

**Page 69, line 9, After Clause 29, insert the following new Clause—
Home Education Ombudsman**

(1) Prior to the commencement of Clause 26: Registration, the Secretary of State must appoint a person as the Home Education Ombudsman (“the Ombudsman”) to mediate between families and—

- (a) Local authorities, or persons acting on their behalf
- (b) the Department for Education
- (c) providers of education
- (d) independent educational institutions
- (e) magistrates courts
- (f) persons with interests across devolved jurisdictions, and
- (g) other appropriate persons and organisations.

(2) The Ombudsman must—

- (a) possess relevant experience and independence and must not be an employee of the Department for Education, and
- (b) be appointed in consultation with the home education community.

(3) A local authority must consult the Ombudsman if they are concerned that any investigation into the education of homeschooled children would infringe on the rights of children and families, including—

- (a) freedom of expression,
- (b) freedom of religion
- (c) the right to privacy
- (d) Article 2 of Protocol No.1 of the European Convention on Human Rights.

(4) Parents of children who are being educated otherwise than in a school may appeal to the Ombudsman with regard to treatment by their local authority or the Department for Education, including where the parents believe the local authority or the Department have acted ultra vires.

(5) Where an appeal under subsection (4) has been made, the Ombudsman must attempt to mediate between the parties to find a solution with which all parties agree, on behalf of the child and without charge to the child, or parents on their behalf.

(6) When mediating, the Ombudsman must take account of the rights of children and parents, including the rights under subsection (3)(a) to (d).

Member's explanatory statement

This aims to provide a means to more cost effectively resolve disputes in the courts and for Local Authorities, families, children and caregivers to seek advice and if necessary appeal decisions made in the course of any attempt to register families and providers of education to children who are not in school and in receipt of suitable education otherwise.

10. Schools Bill (2022) Parliamentary Comment Part 1⁶⁸ and 2⁶⁹

Baroness Barran:

“It is also important that the Secretary of State is able to, if needed, collect individual level data. This can be linked to other datasets for research purposes; for example, to understand who benefits from home education. It is also vital in improving our understanding of children going “missing” from data systems. We would be unable to gather a full picture of this from aggregated data.”

Note: If the government is now adding new purposes onto the use of this data, not set out in the Explanatory Notes, it must be explicit about what they are and state them on the face of the Bill with appropriate protections for example from research for commercial purposes, as school pupil data is used for today⁷⁰ without adequate safeguards⁷¹. Since this data has been available for several years, we wonder what attempt has been made to use it to understand *“who benefits from home education”*. The new powers all appear punitive or coercive in nature and none of the positive powers offer anything beyond what is already done today.

Lord Lucas:

“I note the breadth of powers given to local authorities in the Bill, in particular the ability to make any demand of a home educator under a totally open new subsection that allows them to ask whatever they want and, if the parent does not provide it, to dump them into school attendance order proceedings without any appeal. That is a system in which it would be tremendously easy to be a bad local authority. Local authorities will have total power over home educators, with no one controlling how those powers are used.”

“I say that being able to tip parents into punitive action after just one fault does not seem the right way: there should be a pattern of behaviour that then requires the whips and scorpions to be got out.”

...the Government should “justify why stronger penalties are needed.”

...“Amendment 101B asks that we specifically identify those who are electively home educating so that we can know exactly which children come under that category.”

“Paragraph (d) allows the Secretary of State to invent anything. This really gets at undermining the relationship between the Government and home educators; just at a flick of the pen, some whole new suite of information can be required of them, greatly altering the relationship between them and the system, and introducing that level of uncertainty.”

Baroness Brinton

“Parents are being fined now despite their children being ill. Clauses 48 and 49 will make this much worse, especially if Ministers, local authorities and head teachers are able to decide what is and is not medical, contradicting the advice of professional doctors.”

“We keep saying, on different parts of the Bill, that it is not ready to be enacted, is not going to work and is not fit for purpose. It seems completely inappropriate for the House to approve this part of the Bill without any notion of what personal information may be included or what will be published, or who will have access to that information. These are Henry VIII powers gone mad.”

⁶⁸ Schools Bill, Committee Stage Volume 823: Wednesday 22 June 2022

<https://hansard.parliament.uk/lords/2022-06-22/debates/69622FA6-4853-4188-9D4A-D49BDF9BE8DC/Debate>

⁶⁹ Part two Day 4 of Committee Stage

<https://hansard.parliament.uk/lords/2022-06-20/debates/76534AA3-AEB0-498B-9BAC-9B25CE0EB3B3/Debate>

⁷⁰ <https://www.gov.uk/government/publications/dfe-external-data-shares>

⁷¹ The ICO audit of the DfE (2020)

<https://defenddigitalme.org/wp-content/uploads/2021/10/department-for-education-audit-executive-summary-marked-up-by-DD-M-Jan-2021.pdf>

“it will be held for long after children have left the school system. If data is held, it should be deleted once the child reaches 18, unless that is because the Government want to track their future lives. If that is the case, Parliament needs to know.”

“The Bill says in Clause 48, in new Section 436C(2): “A register under section 436B may also contain any other information the local authority consider appropriate.” New Section 436C(3) states: “Regulations may, in relation to a register under section 436B, make provision about ... (c) access to and publication of the register”.”

Baroness Garden of Frognall

“In Amendment 110, there is concern about the register being published, with too much information being put into the public domain. We want “publication” to be deleted, because this is not necessary.”

Lord Knight of Weymouth

...”having some means of appeal is really important. That might be through the ombudsman that the noble Lord, Lord Wei, is proposing in Amendment 171X or by some other means.”

...”I share the concerns of the noble Baroness, Lady Brinton, about the scale of change regarding the penalties being proposed for parents who fail to abide by this. There is a further amendment on school attendance orders and there having to be some kind of judgment about what is suitable education from someone who at least knows something about education; that is also an important safeguard that we could put in to protect parents.”

“this move to criminalise parents through the use of the single justice procedure—given the specific way in which that works—is causing some significant concern”.

“when I read new Section 436C(1)(d)—“any other information” as required—the alarm bells then ring about taking on excessive powers, and I understand why parents worry.”

“This data collection should then be the basis of some kind of annual check by the local authority; it should be able to see the child to fulfil its child safety duties, but in a reasonable and proportionate way that respects the right of parents to home educate their children. I had a very interesting conversation with Professor Eileen Munro of the London School of Economics, who is opposed to any of these measures. She made a really important point that, if we had properly funded child social care workers who could go around and do the human business of working with the children in their area, things would be a lot easier, and it would take a lot of the heat out of this debate. At the moment, the worry is that this is all going to be done by algorithms, registration and data collection—an inhuman approach.”

“My Amendment 97BA in this group questions the need to double register pupils. New Section 436B(5)(b) at the top of page 41 concerns children already registered as pupils at a relevant school, and then opens up powers for them to also be required to be registered with the local authority. I would just like to know why that is, because schools, although they might not do it very well sometimes, should have responsibility for the safeguarding and education of all pupils who are registered with them, even if they have—to use a pejorative term—parked them in alternative provision. If they are registered with the school, it should know where they are, and it should have a responsibility towards their well-being. I do not really understand why those children then need also to be subsequently registered with a local authority. That then raises the question of how parents with children they know are registered in a school will know when they are suddenly mandated to register them with a local authority. What is the trigger?”

“I hope that, as part of [the Minister’s] reflections on how regulation is being used generally in the Bill, she can include whether regulation is being used too liberally and whether the Secretary of State is taking on too many powers, which in the end they would pass on to local authorities, some of whom—a minority—might use them in a draconian fashion.”

Baroness Chapman

"I think that this is really sloppy, particularly when you are talking about something that could lead to imprisonment. I have done a lot of justice Bills, and I do not think I have ever seen anything quite like this where, in new Section 436C(1)(d), parents are asked to provide "any other information that may be prescribed", then, in new subsection (2), the local authority register "may also contain any other information the local authority consider appropriate." That is limitless at that point.

*The Bill goes on, in new Section 436D(2)(c), to say that the onus is on the parent to inform the registering authority—the local authority—of any changes to this information, which could be anything, as yet to be decided, "of which the parent is aware". That is vague. **Who decides whether the parent should be "aware"? How do you know that the parent is "aware"? That needs to be tidied up.***

"Nobody wants to alarm anyone unnecessarily, which is why we are trying to get the Bill right, but it states clearly that a person "must" comply with the duty within a period of not less than 15 days. To me, that reads like something that we are compelling people to do and that if they do not, there will be a consequence. I do not want to drag this out further but it is important that we interpret this as something that is being made into an offence. I can see why people are concerned."

It is no good the Minister standing there and saying. "This will hardly ever be used; it will be an exceptional circumstance", because we are here to consider those circumstances. If that circumstance should be a very rare thing, we need to know the circumstances that would lead to it, rare or not. Being asked to agree to including in the Bill "any other information that may be prescribed" is very troubling to us. So we support the idea of a register and want very much to support the Government in what they are trying to do but we cannot just let this matter go, given the slack way in which the legislation is currently drafted."

The Lord Bishop of St.Albans

Amendment 105 curbs the local authorities' proposed power to contain within the register "any other information that may be prescribed"—Amendment 108 removes the wide-ranging power for local authorities to collect any other data they consider appropriate. Again, this is a highly undefined power that could be used to target individuals with protected characteristics, and it makes the state ever more intrusive."

"Amendments 111 and 112 ensure that parents are properly informed about the data collected: how it will be stored, shared, published, and when it will be deleted."

"Finally, Amendment 127 safeguards any data collected by local authorities when directed by the Secretary of State to provide information on the register. This is done by requiring that all data is either aggregated or anonymised unless there is sufficient reason for the Secretary of State to request information relating to an individual child, the sufficient reasons listed being safeguarding concerns or issues of public safety and criminality."

Baroness Fox of Buckley

"We have to be careful not to simply make safeguarding a matter of the children who are not in school, because many children who are in school and in plain sight are missed by social services and the authorities in terms of their abuse. This seems to be the greater problem."

“Finally, while a register sounds sensible it is right that we raise concerns about data tracking and surveillance. There are those who have indicated that we cannot just allow data collection to happen without asking some questions about why it is needed and how it will be used.”

Baroness Jenny Jones

...“part of the problem is that the Government are trying to fix all three with one piece of legislation, and they are extremely different. We should be trying to find children who will receive no education or a dangerously poor education. However, the net is cast far too wide and it risks trapping many home-educating families within a web of unnecessary bureaucracy and red tape.”

“Some concerns are fairly simple, such as the time limits being too short and the registration requirements being unclear. However, others are much deeper, such as the breadth of discretion granted to local authorities to decide whether a child is receiving an adequate home education or should be subjected to a school attendance order. If the Government’s intention is to extend the grasp of the state into the lives of home-educating families, they should be explicit about it, but so far the Government justify this policy as being about helping children who are not receiving any education. If that really is the policy intent, there must be a better way of legislating for it than this bureaucratic mess.”

“Part of the fallacy on this children not in school register is the idea that local authorities do not already have the information about children who are not in school, but that is not true. For the most invisible children, who have had no contact with any service at all, of course it might apply; otherwise, the truth is that local authorities have a great deal of information about almost every child, whether they attend a school or not. Instead of adding yet more data collection, there should be an overhaul of how local authorities collect and process this data, and perhaps some sort of universality about it. That overhaul should be made in a code of practice, as set out in my Amendment 171S.”

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Children’s Act 2004

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Defend Digital Me, March 14, 2025