

Defend Digital Me Briefing

Children's Wellbeing and Schools Bill, February 2026

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

Defend Digital Me, February 5, 2026

Executive Summary

This briefing is only about aspects of the Bill¹ connected to personal information collection and distribution. This includes the powers to expand existing local authority databases of children in Elective Home Education (EHE) in England and Wales and requirements to include siblings and parents, and personal details of anyone connected to the provision of their education, no matter how little or infrequent.

New Secretary of State powers to demand a copy of those named data be sent to national level at the Westminster Department for Education (DfE) are on a *named* basis for the first time rather than as statistics (as is already done from 100% of Local Authorities already). This is a raft of **deeply significant** legal changes that has had little scrutiny.

The Bill creates numerous new powers for vast new non-consensual bulk data flows (see diagrams that follow). Different parts of the registration duties create powers for data flows from parents about their children, and about Education Providers to Local Authorities ("LAs"), from Education Providers to Local Authorities about parents and children, between Local Authorities and across an open-ended range of other persons in the landscape, and upwards, from LAs to the DfE about children, families and education providers at named level, expanding the statistics already collected about each child.

Myths about the lack of LA registers abound. Justifications given for the need to expand data powers are often false. For example, MPs and peers may have been misled by the claim made by MP Will Forster in the Children's Wellbeing and Schools Bill Petition debate on Monday 1 December 2025:

*"I am sure he is aware of the case of my murdered constituent, Sara Sharif from Woking, who was abused, tortured and murdered. The safeguarding report that came out last month highlighted the failings in the home schooling system **and the fact that a register is needed**."*²

This is the opposite of what the *Child Safeguarding Practice Review: Sara Sharif*, actually said:

*"The measures in the forthcoming **Children's Wellbeing and Schools Bill (2025)** contribute to improving the interface between the rights of parents to educate at home and safeguarding children. **However, the key change of a national register of children educated at home would not have protected Sara.**"*³ (para 5.31 p.32)

Local registers already exist in every LA. The new Bill powers mean the national government, through Secretary of State powers, can demand a copy of the personal data of everyone in those registers in

¹ The Children's Wellbeing and Schools Bill page <https://bills.parliament.uk/bills/3909/publications>
<https://bills.parliament.uk/publications/62773/documents/7086>

² Children's Wellbeing and Schools Bill Petition debate on Monday 1 December 2025, Column 250WH
<https://hansard.parliament.uk/Commons/2025-12-01/debates/D42A2D07-ADCB-489E-929B-6223A574DD44/Children%E2%80%99SWellbeingAndSchoolsBill>

³ Child Safeguarding Practice Review: Sara Sharif (published November 2025) para 5.31 (p.32)
<https://surreyscp.org.uk/wp-content/uploads/2025/11/SS-CSPR-SSCP-Report-for-publication-13.11.25.pdf>

England and Wales (home educated children, their families, and anyone else in connection with their education). The new local powers expand the information already collected about them without limitation, in each child's record at every LA, and about which statistics are *already* sent to the DfE.

As regards the Single Unique Identifier (SUI) further false assurances and misleading claims have been made in government justifications on why the ID is necessary and proportionate or its use. The **Memorandum from the DfE to the Delegated Powers and Regulatory Reform Committee**⁴ (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 251A⁵ 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."

The Bill grants national and local governments in England and Wales powers to record and retain the personal details of anyone providing education, including religious education even Sunday School volunteers. Individuals would not only be registered but legally compelled to report ("snitch on") home-educating families who do not self-report, with fines for non-compliance. There are no limits on the type, detail, or frequency of data a local authority can demand. It would allow the creation of a national database listing children, parents, volunteers, and staff, including their religion and home address, with no statutory limits on oversight, purpose, sharing, or retention. This could become the largest record of religious practice the UK has ever held, with powers to pass data to central government. Such unconstrained powers set a dangerous precedent for state interference in religious life under any future government. These powers must be limited to what already exists: the transfer of anonymised statistical data, not named, individual-level records of every child and education provider.

The direction of emphasis towards children *who are known* to be in receipt of a suitable education and homeschooling families *who are already in* Local Authority registers and about whom 'EHE' statistics are already sent to the DfE, is a massive mistake. A limitless amount of new data items that will change frequently and demand parental updates be submitted to Local Authorities, will consume staff time and administrative effort for no tangible benefit to any child. It will inevitably distract Local Authority time and resources away from the 39,000 children (2024) who are known to Local Authorities as 'CME', not in any form of suitable education, and those not known to services at all. There is an assumed conflation of a child being 'not known' to authorities with being 'at risk'. Evidence does not support this, and the worst abuse cases in recent media attention, were of children known to authorities and on registers in some cases, on at-risk registers even pre-birth, and/or not yet in school and therefore not eligible in such 'not in school' registers. Including as explicitly stated in the *Child Safeguarding Practice Review: Sara Sharif, the key change of a national register of children educated at home would not have protected Sara.*"

⁴ https://publications.parliament.uk/pa/bills/cbill/59-01/0151/delegated_powers_memo.pdf

⁵ <https://www.legislation.gov.uk/ukpga/2012/7/section/251A>

Seven Myths connected to the Registration of Children in Elective Home Education

Myth 1: Local Authorities do not track or have databases of children in EHE or EOTAS or “missing [suitable] education”.

Fact 1: Every Local Authority in England already does this and keeps registers of every child under all three categories. Councils already have a duty under section 436A of the Education Act 1996 to identify children who are of compulsory school age but are not registered pupils at a school, and who are not in receipt of suitable education otherwise than at a school (Known as ‘children missing education’ or “CME”). We carried out our own research via FOI in 2021 to identify numbers and every Local Authority that responded, also tracks every child known to be in Elective Home Education (EHE).

Myth 2: Nationally in England, the DfE does not know how many children are in Elective Home Education.

Fact 2: 100% of local authorities reported their EHE data to the DfE in summer 2024.⁶ The statistical collection from local authorities about every EHE child started in autumn 2022 and became mandatory in autumn 2024. At census date in autumn 2024, Local Authorities reported 111,700 children in EHE. Parents of children (with consent or not) known to LAs in EHE are already recorded on these databases today. Placing a new duty on parents to self-report to Local Authorities, but who choose not to do so, will not change these numbers but may have adverse effects on willingness to consent to local data processing, if it is automatically also passed on national level as more than statistics (as done today) but is passed on at named level (as per the powers in the Bill).

Myth 3: Local Authorities and the Department for Education do not know when or why children move out from mainstream education into EHE

Fact 3: The Regulation 9 codes – referred to previously as the Regulation 8 codes in The Education (Pupil Registration) (England) Regulations 2006 – are the fifteen legal grounds on which schools can remove a pupil from their Admissions Register (school roll). Every Local Authority records this on every child’s named record, kept when they transfer.⁷

Myth 4: Local Authorities do not know how many children are subject to a Child Protection Plan. (CPP).

Fact 4: A child only has a CPP if it is assigned at Local Authority level. Children with a CPP must therefore be known to LAs. If they are not known to LAs they do not have a CPP. While it may be the case that Local Authorities do not have the statistical data joined up to share with journalists⁸ or at national level on the number of children *under investigation* for a potential CPP, LAs do know which children are under investigation as they themselves carry out the investigation. They cannot be both under investigation by the Local Authority *and* not known to the Local Authority. The fact that the numbers are not readily added up, does not mean the data does not already exist. There is no barrier in data protection law today that prevents staff passing on such information to another LA for the direct care of a child.

Myth 5: Children in Home Education are more at risk than those in mainstream education.

Fact 5: From **Children in need (CIN) EHE characteristics⁹** collected by Local Authorities in England and already at national level, 1% of EHE children were recorded as a child in need, while 0.5% were recorded as having a child protection plan (CPP) and <0.5% were a looked after child. This compares with 3% CIN, 0.4% with a CPP and 0.7% looked after children amongst the overall child population. Statistical rounding means these figures are not significant or meaningful without more information.

⁶ Elective Home Education 2024-25 (Last update 9 May 2025)

<https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education/2024-25-autumn-term>

⁷ Reasons for leaving mainstream education are kept and required (Regulation 9 codes) LAs and the DfE track these already <https://www.egfl.org.uk/services-children/children-missing-education-cme/when-can-i-remove-pupil-roll/regulation-9-codes>

⁸ Schools Week (2025) <https://schoolsweek.co.uk/safeguarding-risk-data-missing-from-councils-home-education-records/>

⁹ <https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education/2024-25-autumn-term>

Myth 6: Children withdrawn from mainstream education “disappear” from state registers

Fact 6: Today, when 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. When a child is deregistered to receive an education otherwise than at school, one of 15 reasons are coded nationally to label that reason for removal from the school roll in the child’s record at the LA. 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.¹⁰ **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 separate national, “Lost Pupils Database”,** a secure area of the DfE digital system S2S where pupil files are stored when the pupil’s destination is not known or the pupil has moved out of the maintained sector, and for example has gone abroad. These are also named records. According to DfE information supplied to Defend Digital Me in May 2023¹¹, 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). If a child returns to mainstream education, the digital record can be “collected” again by the receiving school. In addition, all their details remain in the National Pupil Database indefinitely.

Myth 7: The number of children missing education ‘CME’ is at an all-time high due to the increase in EHE and school absence.

Fact 7: Children Missing Education are not children in elective home education. And EHE numbers do not contribute to CME figures. School absence does not contribute to CME data. CME does not include pupils who are receiving suitable elective home education (EHE). CME does not include children who are registered pupils of a school but are persistently absent. As at census date in autumn 2024, **local authorities reported 39,200 CME in a statistical collection that first became mandatory in 2024 and 100% of LAs collect the data and provided their statistics.**¹²

Local Authorities who do not know a child’s destination but know a child is not recorded as EOTAS or EHE are already under a legal obligation today, to record the child as a “child missing education” (CME).¹³ This is wrongly considered and conflated with numbers of children who are simply not in state education. Placing a new duty on parents to self-report children not receiving any education at all to Local Authorities, but who choose not to do so, will not change these numbers but may have severe adverse effects on families’ willingness to consent to local data processing. The new powers to automatically pass on the named data to the national government department (DfE) instead of as statistics (as already done today) have not been scrutinised or justified in debate so far.

¹⁰ 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>

¹¹ 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

¹² DfE release of CME statistics (latest release as of December 29, 2025)

<https://web.archive.org/web/20251229172128/https://explore-education-statistics.service.gov.uk/find-statistics/children-missing-education/2024-25-autumn-term>

¹³ Explainer of the differences between the different LA child in education classifications in LA records

<https://jenpersson.com/school-absence-bums-in-seats-thinking-is-the-wrong-problem-and-ai-the-wrong-solution/>

The key changes compared with today are

- **Section 436D(1)** Provision of information for the content and maintenance of registers is an explicit duty on the parent to provide to the Local Authority with personal data about the child.
- **Section 436C** Requires the parent to provide to the Local Authority with named details of any person providing education, amount of time in receipt of education from the parent and from a person or organisation other than their parent (p49 line 22), their address, website, email, and parents' names, child's name, DOB, and home address, their protected characteristics, EHC plan, child protection matters, the reasons for home education, open ended (k) "any other information" about the child's characteristics, circumstances, needs or interactions with a LA or educational institutions that the Secretary of State considers should be included.
- **Section 436E** enables local authorities to require information *about* a child and parents *from education providers* who they believe provide out-of-school education to eligible children whose parents have not registered with a Local Authority and to provide specific information (child's name, date of birth, home address, and time spent in education without parents).
- **Section 436E(8) and (9)** enables a local authority to *impose a monetary penalty* (of an amount to be set out in regulations) on a person (education provider of child in EHE) that has failed to provide the correct required information about an unregistered child and/or parent.
- **Section 436F(1)** requires local authorities to provide prescribed information about children (*and at individual level not only the statistics as is already collected nationally today*) from their registers to the Secretary of State (in practice the Department for Education).
- **Section 436F(5)** requires local authorities in England to share with another local authority in England the information about an eligible child or another child set out in section 436C(1) or (2) for inclusion in the registers. **This happens in practice today and nothing prevents it.**
- **Sections 436F (6), (7) and (8)** enable a local authority in England to share information from their Children Not in School registers with local authorities in Wales, Scotland or Northern Ireland if those authorities request the information and if the English local authority consider it appropriate to provide the information for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates or any other person under the age of 18. **This happens in practice today and nothing prevents it in law.**

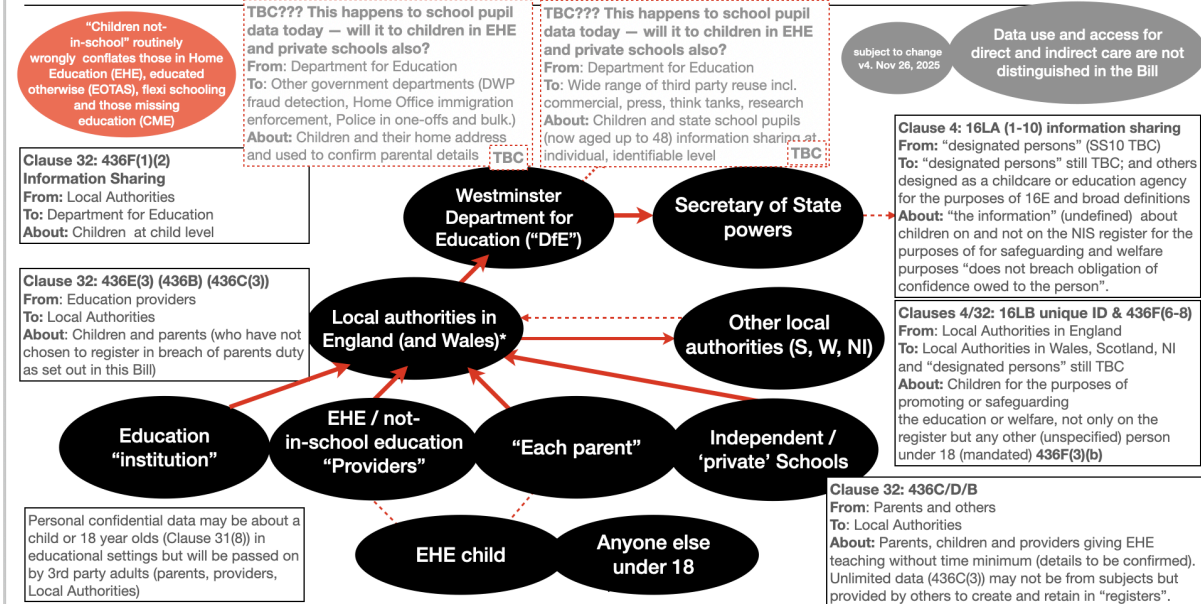
Lack of consultation and insufficient regard for children's or wider data subjects' views leaves the powers created in this bill open to abuse not only for this government but any future government.

There is a scandalous lack of democratic scrutiny of these proposals for significant national policy change with powers left to secondary legislation and a gap where meaningful safeguards are needed about the identifiable level of children's data to be sent in bulk to the Department for Education for unspecified purposes, or any safeguard how it may be distributed and re-used by any third parties including for commercial reuse, or by law enforcement, or other government departments as is today for pupils who are in-school without their knowledge or ability to exercise their rights or remedy.

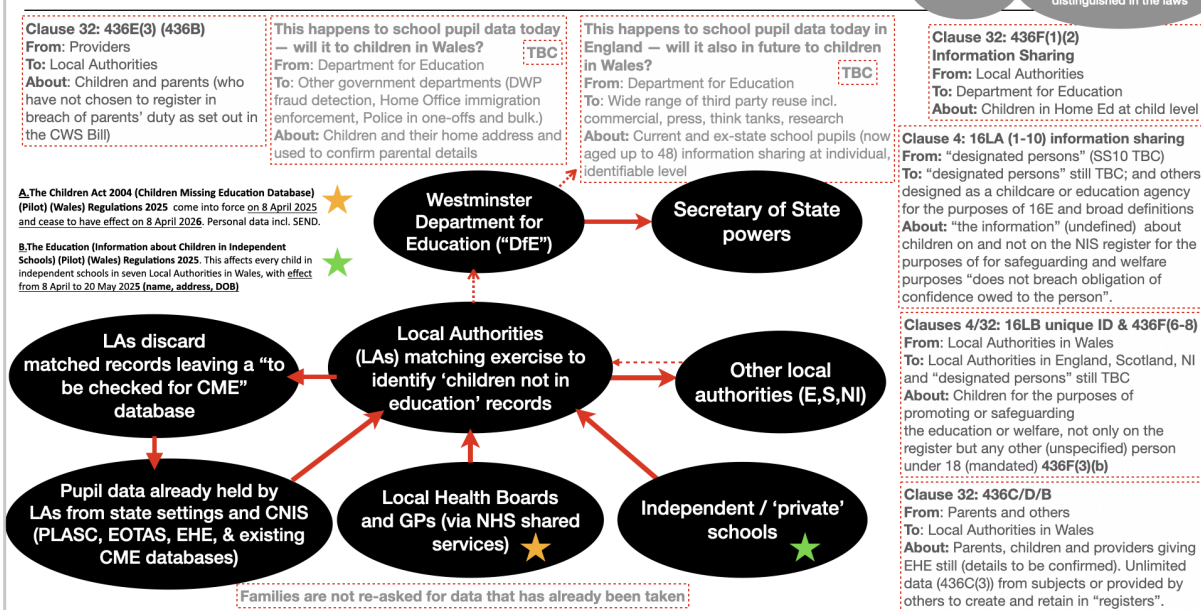
¹⁴ Bill numbering as of February 5, 2026 <https://bills.parliament.uk/publications/64773/documents/7791>

Diagrams of the new powers in the Bill that mandate non-consensual data processing

New non-consensual data flows from new powers in this Bill



Additional non-consensual data flows in Wales



Source: <https://defenddigitalme.org/wp-content/uploads/2025/11/CWBSBill-data-flows-26112025.pdf>

Clause 5 Information sharing and consistent identifiers (pp7-10)¹⁵

The Bill seeks to create a power for the Secretary of State to specify a consistent ID for children to be used by designated persons (as yet undefined) who must use the single unique identifier (SUI) when processing information about a child for safeguarding and promotion of welfare purposes.

After section 16L of the Children Act 2004 (safeguarding partners for local authority areas) insert – consistent identifiers for children 16LB to facilitate the exercise by any designated person of a function that relates to safeguarding or promoting the welfare of children. (10) page 8 line 11, the Secretary of State will set out who designated persons are by Regulations.

The ID powers remain undefined and open ended. Since the Bill passed through the House of Commons and most of the Lords scrutiny stages, the government announced an intention to introduce a national ID system. Scrutiny of the Bill clauses wrt the ID number now need reopened for discussion. Without any information about what the “consistent identifier“ will look like, that is to be, “specified in regulations.” Parliament is being asked to sign a blank cheque. It is impossible to know what is being legislated for and why, with what risk impact assessment and what costs. While there is a definition in the Bill of “independent educational institution” limited to size of pupils and number of hours children spend there, this is not applicable to what is asked of parents to provide information about their elective home educated child. 436C is left open to include any and every supplier of any amount of education at all under 436D, which could often change, creating a significant obligation on data collection for both families and Local Authorities.

Myth 1: There is no joined up ID linking education and children’s social care data at Local Authorities.

Fact 1: 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. The aim of CO-IS is to provide better care and earlier intervention for children subject to a Child Protection Plan or who are looked after. (See p7¹⁶, from 2016). As it covers 100% of local authorities in the whole of England, it’s the only national register of social care status, and the only system to provide information when a child is out of the area. It is already available to over 1,200 unscheduled health care sites (this refers to NHS care that couldn’t have been expected or planned before someone contacted a healthcare provider, such as ambulance and emergency services). CP-IS is only for use in England, and only for the purpose of [direct care](#).¹⁷ CP-IS deals with children and young people who are known to social care because they are either looked after or have a child protection plan. This already happens. There is no need for new legislation on a SUI here.

This includes:

- an Interim Care Order under Section 28 of the Children Act 1989
- a Full Care order under Section 31 of the Children Act 1989
- a Voluntary Care Order under Section 20 of the Children Act 1989, where they can be accommodated with the consent of those with parental responsibility
- a child protection plan under Section 47 of the Children Act 1989, including unborn child protection plans

Some local authorities have chosen to include children and young people where an E1 placement order has been made under the Adoption and Children Act, to ensure they remain on CP-IS until their adoption is complete.

¹⁵ Bill numbering as of February 5, 2026 <https://bills.parliament.uk/publications/64773/documents/7791>

¹⁶ 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.7

https://assets.publishing.service.gov.uk/media/5a8157e5ed915d74e6231bd2/Consistent_identifier_report_July_2016.pdf

¹⁷ Child Protection Information Sharing (CP-IS) service (NHS number for direct care between children’s services and NHS) <https://digital.nhs.uk/services/child-protection-information-sharing-service>

1. Questions and clarifications needed on Clause 5

Clause 5: 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 on the face of the Bill? 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 such as the NHS number, used for life, not only in childhood. The [December 2024 DfE Policy Summary Notes](#) suggested a regional pilot of the NHS number as the consistent identifier is underway, but gave no further details (p19).¹⁸ Parliamentarians are voting blind on this subject with insufficient scrutiny.

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.”¹⁹

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. Why when it already works in (CP-IS) for child welfare purposes as described in the Bill, are we legislating open-ended without limitations on scope creep with an undefined ID?

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?

1.6 Clause 5: 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

¹⁸ 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

¹⁹ 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
[accessed January 7. 2025]

online, and it was reported that children were put at risk from grooming gangs as their private details were published “on the dark web”.²⁰ Local Authority databases often appear unfit for such expansion.

1.8 The Memorandum from the DfE to the Delegated Powers and Regulatory Reform Committee²¹ (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 251A²² of the Health and Social Care Act 2012, which state:

- c) (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))
- d) (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 just as they are applied to the Unique Pupil Number (UPN). Persistent identifiers should lapse routinely when 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.²³ 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 40: Registration Data collection, access, and distribution

2.1 (a) Can the Minister confirm or clarify the **substantive error in the Impact Assessment**²⁴ **about Children Not in School**.²⁵ The impact assessment published on January 30, 2025 wrongly suggests 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**

²⁰ 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>

²¹ https://publications.parliament.uk/pa/bills/cbill/59-01/0151/delegated_powers_memo.pdf

²² <https://www.legislation.gov.uk/ukpga/2012/7/section/251A>

²³ UPN Guidance (2019) DfE p.6

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

²⁴ <https://web.archive.org/web/20250130220059/https://www.gov.uk/government/publications/childrens-wellbeing-and-schools-bil-l-impact-assessments>

²⁵ 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)

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:²⁶

"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 at all 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 2024²⁷ came into force in August 2024 section 9 replaced the Pupil Registration Regulations 2006.²⁸ 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.**²⁹ **Does the new duty on parents to register a child as EHE duplicate or replace the existing duty?** No risk assessment has accompanied the Bill to show a comparison with existing practice.

2.3 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 ³⁰the 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?"

2.4 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 Question³¹ 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.

2.5 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

²⁶ <https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education>

²⁷ Section 9: Deletion of names from admission register <https://www.legislation.gov.uk/uksi/2024/208/made>

²⁸ Education (Pupil Registration) (England) Regulations 2006 <https://www.legislation.gov.uk/uksi/2006/1751/regulation/8/made>

²⁹ 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)

³⁰ DfE identifying pupil data external distribution register <https://www.gov.uk/government/publications/dfe-external-data-shares>

³¹ <https://questions-statements.parliament.uk/written-questions/detail/2017-01-10/59403>

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”³² 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?

2.6 Non-consensual reporting of non-registered children not in school and in elective home education (Clause 40, 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)

2.7 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, 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.

2.8 Assessment of the duty on parents 436D(2) 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.

“we do not envisage that this should take a great amount of time to communicate with 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)

³² Privacy International NLEDS
<https://privacyinternational.org/campaigns/uk-law-enforcement-data-service-leds-new-police-mega-database>

The duty in Clause 40 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.

3. Lessons learned from past DfE Information Sharing Systems

3.1 In 2016, researchers commissioned by the DfE wrote in the Research Report “*A consistent identifier in education and children’s services*” (Section 3: Using IT Systems to Share Information)³³ found:

“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.”

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

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

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

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

3.2 Michael Gove said of ContactPoint in 2009³⁴:

“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.”

3.3 About ContactPoint, **Children’s Minister Tim Loughton** said a year later,³⁵

“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.”

³³ 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]

³⁴ <https://web.archive.org/web/20180424000604/https://conservative-speeches.sayit.mysociety.org/speech/601248>

³⁵ Tim Loughton on ContactPoint (2010) <https://www.bbc.co.uk/news/education-10887082>

4. Suggested amendments for the CWBS Bill

4.1 How will any child or adult know who knows what about them if the data is widely distributed in a chain of onward processing? Every Local Authority in England must maintain a record of the use and access of the data contained in the register under section 436B. We should add an explicit Duty on Local Authorities to maintain a public (redacted) transparency register and ROPA (record of processing) of use and access of the databases they build of providers and children and families akin to the DfE national data register (police, court orders, DWP access all by aggregated totals, identifying data for third-party re-use tracked by organisation)³⁶ to support the public trust in proportionate use. Fair processing and ROPA must be made explicit obligations, not optional extras.

4.2 The Department should only routinely collect EHE data as aggregated statistics, not individual identifying level data, in bulk. That Secretary of State power must be constrained.

4.3 The Department should be asked to rule out any onward repurposing on the face of the Bill, which may be changed by regulations, subject to the affirmative procedure: Data use and access must prevent punitive reuses for which the data was neither designed nor submitted, for example to fine parents for children not-in-school via direct bank access for welfare deductions. There is no evidence that fines are beneficial or effective for children and families. The opposite was found where it was researched (Zhang, 2008).³⁷ Data must not be used for commercial purposes (unlike national pupil data, today given away over 2,000 times in the last decade) and on the face of the bill.

Page 8, before line 10, in section 16LA Duty to Share Information, insert subsection 16LAA—

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

(a) A relevant person must maintain a 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 register under subsection (a) must contain the following information in respect of each instance of use or access to data shared—

- (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 job title of the individual accessing or using the data;
- (v) the purpose for which the data was accessed or used;
- (vi) a list of the data items in each data release;
- (vii) whether the data accessed or used contained sensitive data;
- (viii) the method of use or access by relevant persons;
- (ix) 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;
- (x) any further relevant persons to whom the data is granted subsequent permission by the recipient under sub-section (b).

³⁶ Department for Education (DfE) approved national data shares with external, third-party organisations. <https://www.gov.uk/government/publications/dfe-external-data-shares>

³⁷ Zhang, M. (2007). School Absenteeism and the Implementation of Truancy-Related Penalty Notices. *Pastoral Care in Education*, 25(4), 25–34. <https://doi.org/10.1111/j.1468-0122.2007.00422.x>

(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 ³⁸.

(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.

Explanatory Note

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 40 is about the register of Children Not in School and requires data distribution to various relevant persons including the Secretary of State under 463F, 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.

Clause 40, page 76, lines 20-33, 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;*

³⁸ <https://rm.coe.int/1680078b37>

- (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.*

Explanatory Note

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.

Defend Digital Me
February 5, 2026