

Proposed amendments to Individual Pupil Information Prescribed Persons Regulations

Open Rights Group response.

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Introduction

Open Right Group has been an active and vocal supporter of moves to open government data. We see benefits to democratic accountability and potentially economic innovation to the principle that information generated through public funds should by default be available to the public. We congratulate the Government for its commitment to that vision to date.

Open Rights Group is also an active and vocal campaigner on the right to privacy, frequently calling for higher standards of data protection, less state intrusion and greater rights to allow people more control over the use of personal information. Fundamentally we support the principle that people should be able to decide when and how information about them is shared and how it is used. Where the government takes decisions about access to personal data out of people's hands, it must be proportionate and necessary and be decided through a democratic process.

Questions about opening data held in the National Pupil Database (NPD) may superficially seem to lie at the intersection of these two issues.

However, in this response we begin from the principle that the sort of private information held in the NPD cannot be open data, and lies completely outside of this agenda.

The information in the NPD adds up to a rich and intimate portrait of the children and young people in it, created at a sensitive time of development and growth. Access to that data should be tightly controlled and use of it must be clearly in the public interest.

Summary of key points

- We do not support the proposed changes as set out in the consultation document.
- Private information like the data held in the NPD is not open data. Recognising the distinction, the open data community do not demand access to such data.
- The problem that wider sharing is a solution to is not fully defined or evidenced, and the proposed solution is too broad and not supported by adequate evidence.
- The proposals are not detailed enough, with more work required to map categories of information held in the NPD and how appropriate it is to share different categories of this data with more organisations. The consultation could have been an opportunity to map risks and opportunities associated with wider sharing of the data set, however, it contains little detail on either point.
- Far more detail is required on what, if any, process would be put in place for assessing applications for commercial uses of data, including what categories of information from the NPD might be involved, the factors that will feature in assessing applications, and the degree to which compliance with conditions of use will be audited and enforced, and where the resources to do this will come from.
- We recommend greater transparency around applications for use of the information.

1. Do you agree with the proposal to widen the purposes for which data from the National Pupil Database can be shared? Please explain the reasons for your answer.

We disagree.

Open data and personal data

Personal information is not open data. We support, for example, the submission from the Open Data Institute which further set out the case against these proposals from the perspective of open data experts.

“Maximising the value of the data set” is a language associated with open data, but is not an appropriate aim in the context of detailed personal information on children and young people that is collected without effective informed and explicit consent for wider use.

The 'open data' community is not demanding access to this data as part of the open data agenda, in the way that demands are made for postcode related data, for example.

We would support more publication by the Department of aggregate data as open data.

The problem is not properly defined; the response not evidenced well

There is also a lack of evidence of the problem, relating for example to how many requests are currently turned down, and why?

We suggest further work identifying exactly what data may be useful in different circumstances, with far more detail on who is failing to access what data, in what situations. This should include mapping the sort of sensitive information contained in the database that should never be subject to broader use. This process should identify how further publication of aggregate data would address issues of data not being shareable, with fewer privacy risks than disclosure of individual level data.

This sort of work mapping the specifics detail of the usefulness of data should happen ahead of proposals to broaden access, and should be conducted openly with the results shared publicly to inform the debate. We would be happy to assist in any such work.

Identifying individuals and anonymisation

We are concerned that it will be easy to identify individuals from the data set, and that insufficient attention has been given to the issues around anonymisation.

It is likely to be relatively easy to take publicly available information and cross match it with data in the NPD. Such publicly available information, from documents such as CVs, could act as a fingerprint enabling the identification of individuals.

Any processes for anonymisation should be published and be subject to peer review. We recommend the department works closely with the UK Anonymisation Network, for example.

Consent and wider uses of data

Currently the information for the NPD is gathered involuntarily for the purposes of administering the education system.

Broadening the purposes for which that data can subsequently be used is a significant change. It would require informed and explicit consent from the 'data subjects' – the children involved and their parents.

We strongly disagree that it is acceptable, as is proposed in the consultation, to extend the model used to gather data for administrative purposes to broader commercial exploitation, or research beyond that which serves the educational and social wellbeing of children and young people.

Consultation with young people and children affected is required

More effort should be made to consult children about the proposals. We are not aware of work to understand what the children affected themselves think.

For example, are they comfortable that information about their performance at school, their behaviour and other details from their childhood will not only exist in a semi-permanent information echo on the NPD, but could now be made available to a much broader group of people?

We are not aware of efforts to consult young people on the proposed changes.

Work to address this should include looking at how the process of requesting and sharing works in practice, to give young people an ability to have a say over decisions that materially and seriously affect them.

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

Not applicable.

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

Wider research use of the data may help to further the educational achievements where it facilitates better, closer analysis of attainment and well-being. We endorse the suggestions, for example from Privacy International, for wording along the lines of:

“...persons conducting research into the well-being or educational achievements of children in England and who require individual data for that purpose.”

We believe such an amendment would likely cover the following issues highlighted in the consultation document:

“For example, we have had to reject requests to use extracts of the data for research looking at the lifestyle/health of children; sexual exploitation of children; the impact of school travel on the environment; and mortality rates for children with SEN.”

And this proposed wording would avoid the wider more problematic uses that are more tenuously linked, or not linked at all, with educational achievements and well-being - such as marketing, for example.

The consultation document also suggests:

“For example, it could help improve the quality and accuracy of demographic models used by the public and commercial sectors to inform planning and investment decisions, such as where to locate infrastructure or services, which could have benefits for children and families.”

We can see the benefit of using data to improve planning and investment decisions related to schools, or where they are directly linked to the educational achievements of children and young people and the well being of them and their families. However, there is no case for permitting uses for investment and planning decisions related to other services, such as fast food outlets or shopping developments.

We are concerned about the wording of the last sentence of the above paragraph, which suggests the data may be used in ways that “...could have benefits for children and families”. The educational and well-being benefit to children and families should be the principle guide for permission being granted to access the data – not just a possible consequence of it.

We do not believe the case for extension beyond the above proposed wording has been made.

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

Transparency of requests and uses

Greater transparency is required around who requests NPD information, and the grounds on which applications are judged. That should include success rate figures, and details of the outcomes of any audits into compliance with the terms of data use. This would improve accountability and help inform the debate about how appropriate current access is.

5. Please let us have your views on responding to this consultation (e.g. the number and type of questions, whether it was easy to find, understand, complete etc.)

We believe there is too little detail and analysis in the consultation document on exactly what data will be involved, the potential further uses of it that could be enabled, who will likely be involved in making requests, and what the risks and opportunities might be. We suggest the time period for this consultation is too short for such informed comment to come to light.