20 million children’s identifiable personal data given away in England from the National Pupil Database

DEFENDDIGITALME

Defenddigitalme’s campaign asks the UK Department for Education to change their policies to:
- protect 20 million children’s identifiable confidential data in the National Pupil Database
- stop handing out identifiable personal data to commercial third parties and press without consent
- start telling pupils, their guardians and schools what the government does with children’s personal data
- be transparent about policy and practice

@defenddigitalme  #defenddigitalme  http://defenddigitalme.com/

Your personal data: £0
Your privacy: Priceless
Stop the exploitation

@EDUCATIONGOVUK  #defenddigitalme  #pupildata
EEMA 2017 Privacy vs Identity

GDPR in the context of children and education

5 July, 2017
“Perhaps the most striking thing about the right to privacy is that nobody seems to have any clear idea of what it is.”

[Judith Jarvis Thomson | Keiron O’Hara reference in Seven Veils of Privacy]
Discuss: Myths vs Evidence

- Myth busting: “Kids don’t care about privacy, they give away all their data on social media.”
- Young people use privacy settings wherever possible and still speak of disempowerment.
- GDPR supports their rights in relation to data and digital rights as set out elsewhere:

- i. See digital literacy work by Sonia Livingstone LSE and EU Kids Online project.
- ii. RAENG report Privacy and Prejudice young use of electronic health records (2010.)
- iv. UCAS survey with responses from over 37,000 Higher Education applicants. Over 90% said wanted to stay in control over who their personal data was shared with and what it was used for, and wanted to be asked for their consent before their personal data was provided outside of the admissions service. (2015)
- vii. Horizon Digital Economy Research Institute, The Internet On Our Own Terms (2017)
The Global EdTech context

$8 billion: the value of the market for children’s educational technology (EdTech)

image source: UNICEF discussion paper series
Children’s Rights and Business in a Digital World
UK Digital Strategy

“Education technology is one of the fastest growing sectors in the UK, accounting for 4% of all digital companies, and UK businesses have become world leaders in developing innovative new technologies for schools.”

[March, 2017]
“Children merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data.”
impact assessment
clear privacy notices
subject access request
‘information society services’
right to data portability and erasure
no solely automated profiling with significant effects

The GDPR has no definition of the age at which children are deemed to be competent, or at what age childhood ends.
“The GDPR refers to sensitive personal data as “special categories of personal data” (see Article 9). These categories are broadly the same as those in the DPA, but there are some minor changes.

For example, the special categories specifically include genetic data, and biometric data where processed to uniquely identify an individual.

Personal data relating to criminal convictions and offences are not included, but similar extra safeguards apply to its processing (see Article 10).”

[ICO, 2017]
Questions for GDPR on Consent vs Legitimate Interests?

Article 8

1. Where point (a) of Article 6(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. Member States may provide by law for a lower age for those purposes provided that such lower age is not below 13 years.

2. The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.
Data in State Education in England: Case Studies
Types of data collected

- Pupil personal data
- Parent /guardian personal data
- Attainment
- Absence, Behavioural, Census, Classroom apps, Exclusion, Identifiers, SEN care and health
- Fixed and flexible characteristics over time
Purposes of data in State Education

- Direct schooling and support
- Administration and Accountability
- School census (England: National Pupil Database ca. 23 million identifiable records)
- Public interest research
- Other ‘research’ purposes
- Other national and local purposes
Longitudinal admin data: ‘destinations data’
Profiling & Predictive scoring

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| Knowledge and understanding of the world | 8 |
| Physical development | 8 |
| Creative development | 8 |

| EYFS Total Score | 107 |
Mime Consulting

We use our proprietary data warehouse, DataHub, to process a huge range of education data.

“We use data from the NPD to track your students wherever they go within England.”

This report tracks the outcomes of your primary school year 6 cohort from Key Stage 2 through to Key Stages 4 and 5.

We use data from the National Pupil Database (NPD) to track your students wherever they go within England. We compare the cohort against national averages as well as other students in the schools the pupils went to. The report provide insights into the relative influence of the primary school on the pupils future outcomes.
“…have offered cast-iron assurances that no children will be identified through our use of this data.” (Not could not, but would not).
Tutor Hunt

“Private Tutors & Personal Tutors For Home Tuition”

The schools pages here give the parents a comprehensive guide to local schools. One feature which we are looking to add is to show a schools catchment area. We aim to implement something similar to the below heat map for each school.

To implement this we would need pupils post code data for all schools.
As seen on Twitter, May 2017
reportedly outside the Department for Education,
Great Smith Street, London
#BoycottSchoolCensus pupil nationality data collection and Border Force use 2016
Building Public Trust

Safe  Fair  Transparent  Trustworthy
What about identity?

CCTV

biometrics

VR-AR-AI-RFID

behaviour tracking

more personalised learning

classroom / BYOD Internet monitoring

interoperability with info management systems
What about Freedom to Develop, Parental prejudices, Data Bias, Rights to Protect Reputation

“Children’s education should develop each child’s personality, talents and abilities to the fullest.”

[UN Convention of the Rights of the Child]
"It's easier to ask forgiveness than it is to get permission."

[Grace M. Hopper, Chips Ahoy, 1986]
“the price of innovation does not need to be the erosion of fundamental privacy rights.”

[Elizabeth Denham, The Information Commissioner 3 July 2017, findings on Google DeepMind and Royal Free]
Recital 39

- clear
- lawful and fair
- info on identity of the controller
- access, security, and confidentiality
- fair and transparent purposes of processing
- adequate, relevant and limited to what is necessary
- risks, rules and safeguards and how to exercise rights
- processing time limited to a strict minimum, with review
- data accuracy matters, and should be rectified or deleted
GDPR Article 4 (11) definition of consent

“freely given, specific, informed and unambiguous through affirmative action.”
But can holders of parental responsibility give ‘consent’ or simply approval?

What happens when children reach maturity and at what age?

Can children give informed consent at all?

What happens in the classroom if public authorities cannot rely on consent and are edTech tools enforceable or only the necessary and proportionate data for the purpose?

Conflicts with fundamental rights and freedoms? [Article 6(1)(f)]
Age verification: GDPR

How will Article 8 work in practice in the UK?

At what age?

What are “reasonable efforts”?

How will orgs achieve verification AND data minimisation?

Will there be overlap in age verification oversight of policy and practice between the Digital Economy Act and the GDPR?
Age verification: Digital Economy Act

“DCMS’s factsheet suggests that, in the context of payment service providers, the age-verification regulator will “work with [those providers] to enable them to withdraw their services from infringing sites”.

Preparing for the General Data Protection Regulation (GDPR) 12 steps to take now

1. **Awareness**
   You should make sure that decision makers and key people in your organisation are aware that the law is changing to the GDPR. They need to appreciate the impact this is likely to have.

2. **Information you hold**
   You should document what personal data you hold, where it came from and who you share it with. You may need to organise an information audit.

3. **Communicating privacy information**
   You should review your current privacy notices and put a plan in place for making any necessary changes in time for GDPR implementation.

4. **Individuals’ rights**
   You should check your procedures to ensure they cover all the rights individuals have, including how you would delete personal data or provide data electronically and in a commonly used format.

5. **Subject access requests**
   You should update your procedures and plan how you will handle requests within the new timescales and provide any additional information.

6. **Lawful basis for processing personal data**
   You should identify the lawful basis for your processing activity in the GDPR, document it and update your privacy notice to explain it.

7. **Consent**
   You should review how you seek, record and manage consent and whether you need to make any changes. Refresh existing consents now if they don’t meet the GDPR standard.

8. **Children**
   You should start thinking now about whether you need to put systems in place to verify individuals’ ages and to obtain parental or guardian consent for any data processing activity.

9. **Data breaches**
   You should make sure you have the right procedures in place to detect, report and investigate a personal data breach.

10. **Data Protection by Design and Data Protection Impact Assessments**
    You should familiarise yourself now with the ICO’s code of practice on Privacy Impact Assessments as well as the latest guidance from the Article 29 Working Party, and work out how and when to implement them in your organisation.

11. **Data Protection Officers**
    You should designate someone to take responsibility for data protection compliance and assess where this role will sit within your organisation’s structure and governance arrangements. You should consider whether you are required to formally designate a Data Protection Officer.

12. **International**
    If your organisation operates in more than one EU member state (ie you carry out cross-border processing), you should determine your lead data protection supervisory authority. Article 29 Working Party guidelines will help you do this.