

Personal data expansion from autumn 2016: Department for Education data changes for all pupils

The collection of children's personal data and its use at national level will change in autumn 2016, affecting all schools, related to ethnicity, nationality, country of birth, English as an additional language, as well as home address.

These data are extracted through schools information management systems (SIMS) either directly or via the local authority to the National Pupil Database.¹ National Guidance was released in May 2016 after a delay ². The Early Years guidance has also changed.³

The national code sets of all the items of data that are collected on individual children⁴ will change:

- country of birth (Pupil country of birth 100565) added
- ethnicity and nationality, expanded to all children regardless of age (Nationality 100564)
- multi-level detail expanded on English as an additional language, coded in five tiers

The country of birth and nationality fields are for inclusion in the 2016/17 school census, CTF 16 and the 2017 alternative provision and early years censuses.⁵

Further changes include:

- pupil home address may add a unique property identifier using BS7666 address format, in addition to the 5-line home address, and in addition to postcode which is already mandatory.
- age of pupil from which data may be collected has been lowered to under 2, and previous restrictions on collecting ethnicity on under 5s have been scrapped

Having a clear overview of the range of establishments for which data are mandatory versus optional is not an easy task. Registered independent schools do not participate in the school census. Registered independent schools and general hospital schools provide data via the school level annual school census collection, while alternative provision and early years settings (private, voluntary and independent) complete the early years census and alternative provision census.

Census dates for 2016-17 are: October 6, January 19, 2017, and May 18, 2017.

Ethnicity

From autumn 2016 the age restriction that previously limited the collection of ethnicity to those aged 5 or over has been removed. The code sets can be found in detail on pages 129-35 of the 2016-17 school census guide.⁶

¹ <http://defenddigitalme.com/faqs/>

² The Guide was released on 4 May a month later than initially anticipated due to a delay in obtaining clearance. https://www.whatdotheyknow.com/request/school_census_guidance_for_21062

³ http://defenddigitalme.com/wp-content/uploads/2016/07/Early_Years_Census_guide_2016_version_1_2.pdf

⁴ <https://www.gov.uk/government/publications/common-basic-data-set-cbds-database>

⁵ Originally published in the Department for Education transparency data October 2014 http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_856_new_data_items_country_of_birth_and_nationality.pdf

⁶ http://defenddigitalme.com/wp-content/uploads/2016/07/2016_to_2017_School_Census_Guide_V1_0.pdf

Country of Birth

In preparation for the Spring 2017 census collection, pupils both on and off roll, all schools may be asked to provide nationality and pupil country of birth data, and schools may verify this, suggests the census guide, based on the checking of passport or ID card.

While the existing codeset (D00254) 'nation states and countries', already conforms to the National Statistics Country Classification (ISO 3166-1) to be used by school, these codes will be added:

REF – Refused

NYO – Not yet obtained

STA – Stateless

The guide states this enables collection in schools where parental choice needs to be recognised, where information may not have been received by census day and to record stateless children.

The stated need in the Change Notice RFC 856⁷ is to benefit the system not pupils:

'Whilst the Department collects limited information on children who have moved into the English education system from abroad, the collected information is insufficient to ascertain the impact that such entrants have on the education system. The introduction of these data items will assist in the identification of such pupils and may facilitate the targeting of support to such pupils.'

Contrastingly if not collected the change request suggests: *"Data will not be collected on children new to the English educational system (from abroad) and support may not be correctly targeted."*

This data item is NOT required for funding. This raises questions and concerns if collection is necessary and to whom these data may be given and for what purposes.

The country codes available to be used are on pages 145-148 of the census guide 2016-17.⁸

Nationality

Pupil nationality is collected for all pupils and relates to the nationality of the pupil as stated by the parent / guardian and / or child (in the case of a child without a parent / guardian). Pupil nationality would be expected to appear on – or be derived from – the passport or European economic area (EEA) identity card. "However, there is no requirement for the school to see a copy of the passport or identity card."⁹

For pupils with 'Multiple Nationality' (also known as 'Dual Nationality') more than one nationality may be recorded.

Current understanding we are told is that schools information management system providers, such as Capita SIMS, will upload proficiency scale over the Summer so that all schools can begin to populate in the Autumn Term ready to be submitted for January 2017.

⁷ http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_856_new_data_items_country_of_birth_and_nationality.pdf

⁸ http://defenddigitalme.com/wp-content/uploads/2016/07/2016_to_2017_School_Census_Guide_V1_0.pdf

⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522546/2016_to_2017_School_Census_Guide_V1_0.pdf p.65 section 5.3:5

Language codes

“Since 2008, where the student’s first language is not English, schools have been asked to record pupils’ actual language (from a list of 322 language categories) that is their first language.

“Current EAL data needs to be interpreted with some caution. It is explicitly not a measure of the pupil’s fluency in English: pupils recorded as EAL may speak no English at all or they may be fully fluent in English.”¹⁰

Language codes have been expanded to include nursery schools so now applies to all schools. The age restriction which previously limited this item to those pupils aged 5 or over has also been removed. This item now applies to all schools and all pupils.¹¹ The expansion will now record 5 levels of proficiency in English as an additional language and be transferred between schools.¹²

The reason for collection is given as: *“English language proficiency statistics would therefore provide for the first time important national statistics on the characteristics of this group, along with their attainment and destinations.”¹³*

A proposal was made for funding connected to EAL support in the 2014 Fair Funding in Schools¹⁴. This has been delayed to 2018¹⁵. That would support direct schooling, and local EAL data are already collected. Expansion of the national data would satisfy research purposes for those specialist in EAL to understand degrees of bi-lingualism and its impact. However whether it is necessary to collect and store in perpetuity for named children at national level, is questionable.

The range of languages to be recorded can be found on pages 136-139 of the census guide.¹⁶

Achieving the standardised collection of meaningful EAL proficiency data should be discussed in consultation, with guidance and training - the new plans for a proficiency grade is highly subjective.

Age range of children from whom data are collected to be expanded

From 2016-17 personal data from children aged under 2 may now be collected in two additional year groups (‘E1’ and ‘E2’) to the codeset: “to provide schools with the functionality to distinguish between the increasing number of two year olds receiving funded early education within schools and 3 and 4 year olds typically recorded in year groups ‘N1’ ‘N2’ and ‘R’.

¹⁰ <https://www.bell-foundation.org.uk/assets/Documents/EALachievementStrand.pdf?1422548358> Strand et al, Oxford University, 2015

¹¹ section 1.4.2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522546/2016_to_2017_School_Census_Guide_V1_0.pdf

¹² http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_875_-_new_data_item_for_proficiency_in_English.pdf

¹³ p4 http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_875_-_new_data_item_for_proficiency_in_English.pdf

¹⁴ <http://defenddigitalme.com/wp-content/uploads/2016/07/EALachievementStrand.pdf>

¹⁵ <http://schoolsweek.co.uk/national-funding-formula-delayed-to-2018/>

¹⁶ http://defenddigitalme.com/wp-content/uploads/2016/07/2016_to_2017_School_Census_Guide_V1_0.pdf p 136-139 language codes

Home Address expansion

Further changes in 2016-17 include unique property number (UPRN) that may be included and will be generated 'automatically' using BS7666 address format¹⁷.

"This is a unique alphanumeric identifier for every address in Great Britain and provides a comprehensive, complete, consistent identifier throughout a property's life cycle - from planning permission to demolition.

"For the 2016-17 school census the UPRN will be added as a voluntary data item to be returned alongside the full address. The collection of UPRN should be relatively "invisible" to data providers with the burden managed by the way addresses are processed within school systems.

"Schools are not expected to collect, or look up the UPRN and instead this would be generated automatically populated within the school system when entering addresses if using the OS AddressBase database as a reference."

"Schools can provide the department with their addresses in whichever format their data is held within their MIS - either BS7666 address format, (SAON, PAON, post town etc.) or address line 1-5. Postcode is mandatory for either format. The unique property reference number, introduced on a voluntary basis from 2016 – 2017, is also required with either format."

Concerns

- **Barriers in enrolment** may develop for vulnerable children, for example from families or lone children (asylum seekers) without either forms of documentation.
- **Discrimination** may develop in-practice if schools start asking for birth certificates and passports for some groups of pupils (overseas or minority ethnic groups) not routinely requested for others to collect nationality and ensure this matches "which country issued the pupil's passport."¹⁸
- **Duties:** will this meet schools' duties under the Equality Act 2010 and public sector equality duty?
- **Due diligence:** Has the Department for Education completed a Privacy Impact Assessment or assessed the impact of policies and practices under the Public Sector Equality Duty?
- **Fundamental rights and entitlements to education** may be undermined through this increased risk of discriminatory behaviour by schools, whether through bureaucratic delay or intent.
- **Teachers and parents are concerned** whether the "best interests of the system" and political policy are being placed above the interests of the child. Questions include: "Are we being asked to act as border police? Apart from the difficulties involved in collating such data, is this legal?"
- **Trust may be undermined** at the very start of the admissions and induction process. Families might not be clear why passports, for example, are being requested and whether information about nationality and national origins would be shared with other agencies.
- **Undocumented families** or those in migration situations will be adversely affected which may not be in the best interests of the child. Some families might already avoid state agencies but trust schools and would want their children to have an education which will be undermined.

¹⁷ <http://defenddigitalme.com/wp-content/uploads/2016/07/BS7666-explained.pdf>

¹⁸ p2 Metadata Requirements: http://defenddigitalme.com/wp-content/uploads/2016/07/RFC_856_new_data_items_country_of_birth_and_nationality.pdf

- **The overall scope and size of pupil data collection is increasingly detailed, invasive and lacks transparency** as parents are still denied access to request a copy of the data stored on their own child in the National Pupil Database. The latest common basic data set (CBDS) for use by suppliers developing management information systems is vast. [version May 18, 2016].¹⁹

Clarification needed on required versus voluntary and optional fields

- **Country of birth:** given the inclusion of a “not known” and “refused” code there is no clarity on expectations or communication of parental choice, the guidance stating only on the new codes: “to facilitate collection in schools where parental choice needs to be recognised, where information may not have been received by census day and to record stateless children.”
- **Ethnicity:** The Early Years collection of ethnicity data from parents is not mandatory and parents are not obliged to provide this data if they do not wish to do so²⁰. For older children there is no position stated in the census guide.
- **Unique property number:** “The unique property reference number, introduced on a voluntary basis from 2016 – 2017, is also required with either format.” The guide wording suggests that the UPN while voluntary will also be required - this is hard to understand. Given that the census guide states this item is created ‘invisibly’ this needs urgent clarification.

Summary

We recognise that country of birth may be helpful for EAL (and EMG) teachers at local school level for their use in teaching and their school’s pupils’ direct schooling and direct educational purposes. However comments made by teaching staff, in the public domain and in private to us, suggest there is a widely held belief individual level data should remain in school and confidential for school use. At national level, for public interest research other methods could be used to gain the knowledge about pupils without an intrusive individual named data collection which is then handed out in identifiable format to a wide range of third parties. The data integrity of the proficiency scale in the currently planned format is questionable.

Country of birth does not indicate when pupils entered the UK school system, nor does it give any indicator of language needs and it will not be used for funding decisions.

Overall there is little justification offered that these additional data collections will be in the best interests of children, if it is to “ascertain the impact that such entrants have on the education system” and if there are definitive plans how these data would facilitate targeting any support. It is therefore neither necessary or proportionate to collect this on individual children at national level. Greater use of existing data, school level, and aggregated statistics should be made.

This appears to represent an attempt to extend the boundaries of policing immigration to the school workforce, and to reintroduce the immigration checks reportedly vetoed in 2013.²¹

¹⁹ http://defenddigitalme.com/cbds_version_16_may_2016/

²⁰ p19 http://defenddigitalme.com/wp-content/uploads/2016/07/Early_Years_Census_guide_2016_version_1_2.pdf

²¹ <http://www.theguardian.com/politics/2013/may/22/immigrant-status-checks-on-schoolchildren-vetoed>

New privacy notice for processing personal data from pupils/staff:

All the named data collected from the termly census and more starting from the Early Years settings for children aged 2 through to age 19, are processed to the National Pupil Database (NPD) and given away to third parties by the Department for Education.

The revised privacy notice template of May 2016, includes a link to the organisations that the DfE gives individuals' data, including commercial companies, charities and journalists, given children's identifiable personal data from the National Pupil Database between 2012 and December 2015.

The **Director General for Regulation at the UK Statistics Authority** wrote to the Department for Education calling for improved transparency and handling in April.

- Our research shows that this privacy notice fails to reach pupils and parents adequately and therefore does not process data *fairly*, therefore failing to meet the Data Protection Act 1998.
- The census guide 2016-17 item 2.6 fails to mention commercial, charities and press uses but states that because there is a statutory gateway for collection: "schools do not need to obtain parental or pupil consent to the provision of information and it ensures schools are protected from any legal challenge that they are breaching a duty of confidence to pupils."
- See our FAQs for more information: <http://defenddigitalme.com/faqs/> and sample case studies.

COUNTRY OF BIRTH ADDITIONAL / NEW COLLECTION FORMS:

The sample privacy and data collection notices we have seen used to collect country of birth, vary from school to school. There is lack of clarity in schools which of these data are optional. Letters we have seen from parents demand data and copies of passports without any statement on opt out or to accommodate parental choice, and state incorrectly they are required for funding - the accurate and actual purposes are not explained. Therefore the notices fail to process data fairly.

About the campaign: Defenddigitalme

Defenddigitalme is a volunteer non-profit campaign group for children's privacy rights formed in response to concerns from parents and privacy advocates about increasingly invasive uses of children's personal data. The campaign asks the Department for Education (DfE) to change their policies and practices to protect 20 million children's identifiable personal data in the National Pupil Database (NPD):

- stop giving out identifiable personal data to commercial third parties and press without consent
- start telling school staff, pupils, and guardians what DfE does with Workforce and Pupil personal data
- be transparent about policy and practice

More information: <http://defenddigitalme.com/>

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