

Privacy Impact Assessment (PIA) [Draft 26 June 2018]

1. Introduction

The purpose of this document is to report on and assess any potential Privacy Impacts as a result of the implementation of the Education (Scotland) Bill.

2. Document metadata

2.1 Name of Project: **Draft Education (Scotland) Bill**

2.2 Author of report: **Chris Graham**

2.3 Date of report: **26 June 2018**

2.4 Name of Information Asset Owner (IAO) of relevant business unit:
Clare Hicks

2.5 Date for review of Privacy Impact Assessment (PIA)

Review date	Details of update	Completion date	Approval Date

3. Description of the project

3.1 Description of the work:

It is the aspiration of the Scottish Government for Scotland to be the best place in the world in which to grow up. The Scottish Government's defining mission is to improve the education and life chances of children and young people by closing the unacceptable gap in attainment between the least and most disadvantaged children, and to raise attainment for all. There is broad support for this aim across the Scottish education system with a wide range of partners committed to working together to achieve this.

The objective of the Education (Scotland) Bill is to play a transformative role in achieving excellence and equity, by further strengthening the Scottish education system to:

- Empower headteachers to be leaders of learning and teaching in their schools and work collaboratively with the education authority and their staff, pupils, parents and other partners so that the decisions that most affect a pupil's experience are taken by those closest to them;
- Enhance the educational improvement support and advice that is available to educational practitioners;

- Encourage an increase in parental involvement in education and parental engagement in children’s learning; and
- Ensure that effective pupil participation is supported in all public schools.

Specifically the Bill aims to support the following four key policy objectives:

- Empowering headteachers by establishing a Headteachers’ Charter which requires education authorities to empower headteachers to make key decisions at school level, working collaboratively with their school community;
- Collaborating for improvement by placing a duty on all education authorities to work together and with Education Scotland within Regional Improvement Collaboratives (RICs), in the production of regional improvement plans and in exercising a range of educational support and improvement functions, to be set out in statutory guidance, in accordance with the principles and scope agreed between Scottish Government and COSLA;
- Strengthening parental involvement and engagement by making the existing legal duties in relation to parental involvement clearer, encouraging stronger collaboration between schools, school leaders and parents. These provisions will strengthen, modernise and extend the Scottish Schools (Parental Involvement) Act 2006 as recommended in the National Parent Forum of Scotland’s review to reflect the importance of parental engagement in children’s learning; and
- Promoting pupil participation by requiring education authorities to promote and support pupil participation in specific aspects of education and school life in every public school.

Of the provisions included in the Education (Scotland) Bill, only the establishment of RICs are likely to have an impact on personal data.

3.2 Personal data to be processed.

Regional Improvement Collaboratives will require specified groups of education authorities to collaborate with one another and with Education Scotland to ensure a collective focus on the provision of educational improvement support to practitioners and establishments. Key aspects of the design of the RICs were developed by a Joint Steering Group co-chaired by both Scottish Ministers and SOLACE, which delivered its report and recommendations, supported by both Scottish Ministers and COSLA Leaders, in September 2017.

Sharing best practice and resources may result in education authorities entering into agreements to share data with other education authorities and with Education Scotland. While current data sharing expectations do not include individual pupil level data, data protection issues and protocols are being worked through with RIC data leads, supported by Analytical Services colleagues.

3.3 Describe how this data will be processed:

How will it be gathered?

Regional Improvement Collaboratives will share existing education authority held data but are unlikely to require new data to be gathered.

Who will have access?

Education Authorities within each RIC will agree their own data sharing agreements, including ensuring appropriate and controlled access to region-wide data. These will be based on existing education authority data protocols and agreements and are subject the same data protection requirements.

How will it be transmitted?

It is expected that existing information systems will be used by RICs with additional functionality added to enable region-wide data access for approved users. It is not expected that this will change existing data handling or processing processes. It is expected that access, use, security and other data protection requirements of region-wide data will be agreed by education authorities in their data sharing agreements.

How will it be stored and disposed of when no longer needed?

RICs will share existing education authority held data and will not store additional data.

Who will own and manage the data?

The data accessed by RICs is existing data which is owned and managed by individual education authorities. Data will be shared between education authorities once relevant data sharing agreements have been put in place.

How will the data be checked for accuracy and kept up to date?

RIC data will be owned by individual education authorities and managed by them working with lead data officials appointed to each Collaborative.

3.4 Explain the legal basis for the sharing with internal or external partners:

As above, any data protection issues and/or need to update data sharing protocols are being worked through with Analytical Services and regional data leads.

Region-wide data within each RIC will be shared between education authorities for business purpose.

4. Stakeholder analysis and consultation

4.1 List all the groups involved in the project, and state their interest.

Group	Interest
Headteachers, Deputes and Teachers	Subject of possible data sharing by RICs
Teacher unions and professional associations	Subjects of possible data sharing by RICs
Local Government	Participants in RICs and data owners/managers
RIC Data Leads	Data owners/managers
Education Scotland	Data owners/managers and participants in RICs

4.2 Method used to consult with these groups when making the PIA.

Interested stakeholders were consulted through direct discussions with individuals and their relevant representative bodies in addition to a formal public consultation. No specific concerns were raised in relation to privacy or data protection in the consultation responses and analysis.

4.3 Method used to communicate the outcomes of the PIA .

The PIA will be published on the Scottish Government website.

To be confirmed following further discussion with data leads and groups above.

5. Questions to identify privacy issues

5.1 Involvement of multiple organisations

The Bill will result in increased opportunities for information sharing between education authorities and between schools and with Education Scotland.

Education Authorities – may look to share/access education performance, workforce and other school data with/from other education authorities and with/from Education Scotland. It is not anticipated that any data beyond school-level will be shared and issues arising from special category data should not apply. However, authorities will need to ensure that any data protection/privacy issues arising from the sharing of data are addressed.

With regards to data shared within a RIC, members are designing their own data sharing agreements to ensure appropriate and targeted access to relevant information only.

5.2 Anonymity and pseudonymity

With respect to data which is shared between education authorities for the purposes of RIC activity, disclosure controls will be applied to ensure that the sharing of information neither contains nor discloses individual or personal data. No data required for the purpose of RIC activity will therefore be shared or combined in a way that will lead to the identification of individuals.

5.3 Technology

With RICs, the project may lead to information being shared it is expected that this will be achieved through an extension of existing systems and agreements and it is not anticipated that new or additional information systems will be required.

5.4 Identification methods

RIC data searches and sharing are based on established local authority data sets.

5.5 Sensitive/Special Category personal data

We do not anticipate sensitive or special category personal data to be included in RIC data analyses.

5.6 Changes to data handling procedures

There will be no new or changed data collection policies or practices that may be unclear or intrusive.

There will be no changes to data quality assurance or processes and standards that may be unclear or unsatisfactory.

There will be no new or changed data security access or disclosure arrangements that may be unclear or extensive.

There will be no new or changed data retention arrangements that may be unclear or extensive.

There will be no changes to the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before.

5.7 Statutory exemptions/protection

We are not aware of any exemptions from the Data Protection Act which would apply to this project.

5.8 Justification

The project's justification does not include reference to contributions to public security measures.

A formal public consultation (*Empowering Schools: A consultation on the provisions of the Education (Scotland) Bill*) was carried out between 7 November 2017 and 30 January 2018.

5.9 Other risks

None identified in addition to the issues covered in the questions above.

6. The Data Protection Act (DPA) and General Data Protection Regulation (GDPR) Principles

Principle	Compliant Yes/No	–	Description of how you have complied
6.1 DPA Principle 1 and GDPR Principle 1 – fair and lawful, and meeting the conditions for processing	Yes		The creation of RICs does not require the collection of any new personal information as existing education authority collected data will be used. It is not anticipated that any new staff data is required as staff working in support of RIC activity are existing education authority or Education Scotland employees.
Principle	Compliant Yes/No	–	Description of how you have complied
6.2 DPA Principle 2 and GDPR Principle 2 – purpose limitation	Yes		Data processed as a result of the establishment of RICs will be used for the same purposes for which it was gathered. Any proposed change in usage may require a review of the Data Protection Impact Assessment.
Principle	Compliant Yes/No	–	Description of how you have complied
6.3 DPA Principle 3 and GDPR Principle 3 – adequacy, relevance and data minimisation	Yes		RICs will use existing data for all the purposes for which it is collected.

Principle	Compliant Yes/No	-	Description of how you have complied
6.4 DPA Principle 4 and GDPR Principle 4 – accurate, kept up to date, deletion	Yes		Data gathered for the purpose of monitoring of education improvement will be subject to existing internal quality control processes to ensure its accuracy.
Principle	Compliant Yes/No	-	Description of how you have complied
6.5 DPA Principle 5 and GDPR Principle 5 – kept for no longer than necessary, anonymization	Yes		Data accessed by local authority representatives of RICs will be subject to existing local authority data control processes.
Principle	Compliant Yes/No	-	Description of how you have complied
6.6 DPA Principle 6 and GDPR Articles 12-22 – data subject rights	Yes		The sharing or processing of personal data as a result of the project will be done in accordance with the rights of data subjects as set out in existing data protection arrangements.
Principle	Compliant Yes/No	-	Description of how you have complied
6.7 DPA Principle 7 and GDPR Principle 6 - security	Yes		The bodies which hold the relevant personal data are already required to have appropriate technical and organizational measures in place to prevent unauthorized or unlawful processing of personal data or its unauthorized access, accidental loss, destruction or damage.
Principle	Compliant Yes/No	-	Description of how you have complied
6.8 DPA Principle 8 and GDPR Article 24 - Personal data shall not be transferred to a country or territory outside the European Economic Area.	Yes		Personal data will not be transferred to a country or territory outside the European Economic Area.

7. Risks identified and appropriate solutions or mitigation actions proposed

Is the risk eliminated, reduced or accepted?

Risk	Ref	Solution or mitigation	Result
Lack of appropriate governance leading to personal data being inadvertently shared between authorities within an RIC	1.1	<ul style="list-style-type: none"> Detailed discussions planned with regional data leads to discuss and agree data sharing requirements, arrangements and protocols. Robust governance and processes on data access to ensure that only those with permissions are allowed access to data. 	Reduce
If not held securely personal data is vulnerable to attacks leading to loss of data compromising individuals privacy.	1.2	<ul style="list-style-type: none"> Data will not be managed or stored by RICs but by education authorities. Data will be managed using existing data storage solutions which adhere to current data security standards. 	Reduce
Different education authority/public sector organisations involved in data sharing activity operating under different policies.	1.3	<ul style="list-style-type: none"> All public sector organisations operate in line with General Data Protection Regulation aligning policies and regulations. Data sharing policies aligned to ensure education authorities and RICs meet legislative responsibilities. 	Reduce
Non-compliance with legislation and regulations, and procedures and policies resulting in inappropriate data processing compromising privacy.	1.4	<ul style="list-style-type: none"> All public sector organisations operate in line with General Data Protection Regulation aligning policies and regulations. Data sharing agreements will stipulate the requirements between education authority/public sector bodies involved. 	Reduce

8. Incorporating Privacy Risks into planning

Explain how the risks and solutions or mitigation actions will be incorporated into the project/business plan, and how they will be monitored. There must be a named official responsible for addressing and monitoring each risk.

Risk	Ref	How risk will be incorporated into planning	Owner
Lack of appropriate governance leading to personal data being inadvertently shared between authorities within an RIC	1.1	Data sharing requirements and protocols to be discussed and agreed prior to implementation, including reference to legal advice if/where required.	RIC data leads
If not held securely personal data is vulnerable to attacks leading to loss of data compromising individuals privacy.	1.2	Existing data storage solutions are already in place for the secure management of data.	RIC data leads GTCS Information Asset Owner or relevant data lead
Different education authority/public sector organisations involved in data sharing activity operating under different policies and regulations.	1.3	Data sharing agreements to be put in place between education authorities within each RIC.	RIC data leads
Non-compliance with legislation and regulations, and procedures and policies resulting in inappropriate data processing compromising privacy.	1.4	Data sharing and handling agreements to be put in place between education authorities within each RIC. GTCS to continue with existing data protection training and procedures to ensure data is handled correctly.	RIC data leads GTCS Information Asset Owner or relevant data lead

9. Authorisation and publication

I confirm that the impact of implementing the Education (Scotland) Bill has been sufficiently assessed against the needs of the privacy duty:

Name and job title of a IAO or equivalent Clare Hicks, Deputy Director	Date each version authorised 26.06.2018
---	--