March 2018

Information Assurance and Risk

Data Protection Impact Assessment– template for report

**Data Protection Impact Assessment (DPIA) –**

**Health & Wellbeing Census**

This template was developed by the SG Data Protection and Information Assets team.

This template was last updated in August 2021.

1. Introduction

The purpose of this document is to report and assess against any potential Privacy Impacts resulting from collecting data on the health and wellbeing of children and young people as part of the national Health and Wellbeing Census. The data is to be collected and owned by Scottish local authorities (and grant-aided schools) but shared with the Scottish Government (who will then become the data controller for this shared data).

1. Document metadata
   1. Name of Project: Health and Well Being Census. From the 2021/22 school year, data to be collected by 32 local authorities (and grant-aided schools) for research and statistical analysis and shared with and held by Scottish Government for National reporting within the National Improvement Framework and Improvement Plan.
   2. Author of report: Jill Morton and Gary Sutton, Education Analytical Services Division, Scottish Government
   3. Date of report: August 2021
   4. Name of Information Asset Owner (IAO) of relevant business unit: Mick Wilson
   5. Date for review of DPIA:

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| **Review date** | **Details of update** | **Completion date** | **Approval Date** |
| 24 November 2020 | Change to refer to volunteer approach for 2020/21. Dates updated. | 20/11/2020 | 24/11/2020 |
| 24 August 2021 | Updates to dates, reference to volunteer approach, reference to GDPR legislation (to reflect changes following UK leaving the European Union) | 24/08/2021 | 26/08/2021 |

1. Description of the project
   1. Description of the work:

This activity will make improvement to the data collection landscape around the health and wellbeing of children and young people in Scotland. Relevant data collections have been set up by individual local authorities, grant-aided schools, and health boards, but the disparity of sources and approaches to collecting the data means that there has been little potential for using the data systematically to enable national level evaluation of policy initiatives.

The [National Improvement Framework](https://www.gov.scot/policies/schools/national-improvement-framework/) (NIF) requires evidence to ensure its aims are being delivered, whilst there is also an increasing need for high quality improvement data at a local level. The HWB Census aims to rationalise the collection of health and wellbeing data by providing a set of questions all local authorities and grant-aided schools will be invited to ask in their respective areas. This should result in comparative data being collected and will be used to drive improvement at a local level and to help monitor the progress of national policies.

Under the [Children and Young People (Scotland) Act 2014](https://www.legislation.gov.uk/asp/2014/8/contents/enacted), local authorities and their relevant health board must, in respect of each three year period, prepare a children’s services plan for the area of the local authority. The aims of the children’s services plan are that children’s services in the area concerned are provided in the way which:

• best safeguards, supports and promotes the wellbeing of children in the area concerned,

• ensures that any action to meet needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent needs arising,

• is most integrated from the point of view of recipients, and

• constitutes the best use of available resources.

From 2021/22, all P5 to S6 children and young people in publicly funded primary, secondary and grant-aided schools in Scotland are invited to take part in the census. Questions will focus on the child’s self-reporting of their health and wellbeing across a range of topics and themes. There are different questionnaires for different pupil stages. Delivery of the census and exact arrangements around it will be the responsibility of individual local authorities and grant-aided schools, but it is envisaged that children and young people local authority and grant-aided schools will take part in the Census (if their parent/carer gives permission) during class contact time, and will access and complete the census questionnaire using the SmartSurvey online data collection platform. Children and young people will be able to respond either on their personal computers, laptops, or tablets. An option for paper completion may be provided by local authorities and grant-aided schools, where necessary. Any arrangements in addition to these will vary depending on local circumstances. Once the data has been collected, LAs and grant-aided schools would share this information with the Scottish Government’s Education Analytical Services Division, which is part of the Scottish Government’s Learning Directorate, as, under the [National Health Service (Scotland) Act 1978](https://www.legislation.gov.uk/ukpga/1978/29/section/1A) Scottish Ministers have a duty “to promote the improvement of the physical and mental health of the people of Scotland” and therefore need data to monitor and evaluate this duty. Furthermore, under the [Standards in Scotland’s Schools etc. Act 2000](https://www.legislation.gov.uk/asp/2000/6/contents), Scottish Ministers have “to ensure that schools managed by education authorities, grant-aided schools, and hostels provided and maintained by education authorities for pupils, are health-promoting”.

The [Local Government (Scotland) Act](https://www.legislation.gov.uk/ukpga/1973/65/section/87) 1973 also states that “the appropriate Minister with respect to any matter may require [a local authority] to provide the Minister with any information with respect to that matter which is in the possession of, or available to, that [local authority] in consequence of the exercise of any power conferred by or under any enactment”.

The benefit to the public of this data being shared with Scottish Ministers is to help in the formulation and monitoring of national and local policies, which in turn will ultimately drive forward improvements in the outcomes of Scotland’s Children and Young People.

* 1. Personal data to be processed.

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| **Variable** | **Data Source** | **Questionnaire Included** |
| Child’s Scottish Candidate Number | Local authority | Primary and Secondary |
| Child’s school identifier | Local authority | Primary and Secondary |
| Child’s attitude to school | Local authority | Primary and Secondary |
| Child’s perception of achievement | Local authority | Primary and Secondary |
| Child’s pressure of school work | Local authority | Primary and Secondary |
| Child’s physical activity/exercise | Local authority | Primary and Secondary |
| Child’s eating behaviours | Local authority | Primary and Secondary |
| Child’s general health | Local authority | Primary and Secondary |
| Child’s general wellbeing (life satisfaction) | Local authority | Primary and Secondary |
| Child’s mental health | Local authority | Primary and Secondary |
| Child’s physical or mental health condition | Local authority | Primary and Secondary |
| Child’s sleep pattern | Local authority | Primary and Secondary |
| Child’s feeling of discrimination | Local authority | Primary and Secondary |
| Child’s relationship with peers | Local authority | Primary and Secondary |
| Child’s self-perception (body image) | Local authority | Primary and Secondary |
| Child’s social media and online experience | Local authority | Primary and Secondary |
| Child’s relationships with family / environment | Local authority | Primary and Secondary |
| Child’s relationships with parents/carers | Local authority | Primary and Secondary |
| Child’s resilience | Local authority | Primary and Secondary |
| Child’s involvement in decision making | Local authority | Primary and Secondary |
| Child’s use of alcohol | Local authority | Secondary Only |
| Child’s use of tobacco | Local authority | Secondary Only |
| Child’s use of drugs | Local authority | Secondary Only |
| Child’s involvement in positive activities | Local authority | Primary and Secondary |
| Child’s caring responsibilities | Local authority | Primary and Secondary |
| Child’s experience of bullying | Local authority | Primary and Secondary |
| Child’s aspirations and career planning | Local authority | Primary and Secondary |
| Child’s relationships and sexual health | Local authority | Secondary Only |
| Child’s sedentary behaviour | Local authority | Primary and Secondary |
| Child’s places to play | Local authority | Primary and Secondary |

* 1. Describe how this data will be processed:

The data collected and processed by the Scottish Government will contain certain information on children and young people in Scottish schools which makes the data personally identifiable. However, the Scottish Government will not be able to directly identify individual children and young people as it does not have access to a child’s name or address.

The survey will be delivered via an online platform during class contact time, which children and young people will access using personal computers or tablets by clicking on a link (or scanning a QR Code) provided to them by the school educating them. The Scottish Government will be collecting a unique identifier for each child, as this is needed for analysis purposes. Again, the Scottish Government does not receive any names or addresses of children.

The unique identifier will be used to link additional socio-economic and characteristic information already shared by local authorities with the Scottish Government’s Education Analytical Services Division (such as a child’s ethnic background, geographical area (such as Scottish Index of Multiple Deprivation SIMD), free school meal registration status, etc). This information will only be linked in order to enable the Scottish Government to undertake statistical analysis and research based on these socio-economic and characteristics, for example to monitor and assess the impact of its policies on sub-populations and diverse equality groups.

What is SmartSurvey?

SmartSurvey is a UK-based provider of digital survey solutions. This has been purchased by the Scottish Government’s Education Analytical Services division using the Cabinet Office’s G-Cloud 10 Framework.

In relation to the gathering of data for the Census by each local authority and grant-aided school, the Scottish Government will act as the Data Processor (and SmartSurvey will act as the sub-processor). The Data Controller for the data gathered by each local authority and grant-aided school will be the local authority and grant-aided school themselves.

There is a call-off contract in place between the Scottish Government and SmartSurvey, and a Data Processor Contract is in place between the Scottish Government and Scottish Local Authorities / grant-aided schools.

**Data Flows**

Appendix 1 shows the data flows throughout the project.

**Data Sharing with Scottish Government**

Once each local authority and grant-aided school has conducted its own Census it will then share its data with the Scottish Government. Data Sharing Agreements will be in place between the Scottish Government and Local Authorities / grant-aided schools before any data is shared. Once shared, the Scottish Government will become a Data Controller of the data it then holds for its own statistical analysis and research purpose.

Local authorities will share their data to the Scottish Government’s Education Analytical Services division using Objective Connect. Objective Connect is a UK hosted platform using Microsoft Azure and has a Government Grade security where information is always protected.

Data will be stored within the Scottish Government’s Analytical Data Management System (ADMS) where access is only possible within the SCOTS network (a central government network, compliant to the Public Services Network (GSI) requirements and managed to ISO standard 27001). The purpose of the ADMS is to support secure and UK GDPR-compliant data management with a dedicated team and IT infrastructure.

ADMS has been designed to allow analytical data to be stored securely and have consistent standards of metadata and retention policy applied across the Scottish Government. As part of the wider process to have analysts maintain their data through ADM, the migration of existing data from current locations to the ADM system is being carried out on a division-by-division basis.

Who has access to the data?

In the ADM system, access to datasets is granted to Active Directory Groups. The ADM system is built around themes, topics, and data items (which are equivalent to a dataset), and permissions can be applied at any of these levels. When data is initially uploaded only data admins in the ADM team can grant access. Permission rights are agreed with the data owner before upload, and applied when the upload is complete.

There are six named individuals with administrator access. Four of these are Scottish Government staff and two are employed by the SG’s supplier, Storm ID. All six are required to undertake Data Protection Training each year. All Scottish Government staff are members of the Digital, Data and Technology professions and conduct relevant professional development. The team refers questions beyond our expertise to the SG’s Cyber Security and Defence Branch.

Access to the data sets is securely restricted to a limited small number of Scottish Government staff based in the Education Analytical Services Division and IT / SAS support teams. Permission to access the data is only given on the submission of a Data Access form signed off by the appropriate Data Controller. It can only be accessed within the Scottish Government’s IT network (SCOTS) using network authentication.

Access is controlled at two levels:

1. At the operating system level, using Windows Access Control Lists (ACLs) to grant access to the members of the approved Active Directory security groups.

2. Within SAS metadata, using SAS Access Control Templates (ACTs) to grant access to the members of groups defined in the metadata.

All Scottish Government staff are required to complete annual training on data protection and information security to ensure staff are aware of the responsibilities when handling data.

The Information Asset Owner (IAO) for this data is Mick Wilson, Deputy Director: Education Analytical Services, and Information & Technology Services (iTECS) fulfils the role of System Custodian.

As Systems Custodian, iTECS operates and manages the data storage system to ensure it is protected, held securely and can only be accessed by users who have been approved by the IAO or Systems Owners, in this case, the Scottish Government’s Chief Statistician, Roger Halliday.

**Data Sharing for Additional Research**

Individual level data may be shared for research purposes, and the [Digital Economy Act 2017](https://www.legislation.gov.uk/ukpga/2017/30/section/64/enacted) describes how the Scottish Government is legally allowed to share the data it holds with research organisations for this purpose.

If researchers request data for research, the application will be examined by Education Analytical Services, and potentially also the Statistics Public Benefit and Privacy Panel (SPBPP) which will determine if the research question is of public benefit, if the researchers have been adequately trained for handling sensitive data, and that adequate security is in place for handling the data. Researchers will not publish any information that identifies individuals. The Scottish Government will transfer the data securely to the researchers.

The Data Access Panel meet to discuss requests that have been received which are looking to access personal data and there is high risk associated with the request.

Any sharing or linkage of data will be done under the strict control of Scottish Government, and will be consistent with our data policy and the National [Data Linkage Guiding Principles](https://www.gov.scot/publications/joined-up-data-better-decisions-guiding-principles-data-linkage/pages/1/). Decisions on the sharing or linkage of data will be taken in consultation with relevant colleagues and individuals within and outwith Scottish Government as part of a Data Access Panel. At all times the rights of the individual (children or adults) under the UK GDPR and other relevant legislation will be ensured.

We consider the six Guiding Principles before undertaking a data linkage project, and ensure that the sharing of personal data involves the following process

1. Draft a data sharing agreement

2. Ensure all participants agree to the rules of the agreement

3. Have the agreement signed by the relevant Scottish Government information asset owner(s) and a senior staff member of each participating organisation(s)

4. Log the agreement in the information asset register against the relevant information asset and then publish the agreement.

* 1. Explain the legal basis for the sharing with internal or external partners:

The data we collect from Local Authorities and grant-aided schools is used to monitor the operation of the relevant legislation in Scotland. This enables Scottish Ministers, other public bodies, relevant stakeholders and the general public to monitor the health and wellbeing of children and young people in Scotland, and provides evidence to help with the development or refinement of policies, programmes and services designed to improve outcomes for children and young people of Scotland.

Therefore, for the same reason the Scottish Government collects and analyses the data, the datasets may be shared in order to enable other organisations (public bodies, third sector organisations and academics) to undertake research which can provide evidence on the health and wellbeing of children and young people in the broader public interest. Any onward sharing will be on a case by case basis and with a clearly identified legal gateway and data sharing agreement in place.

UK GDPR Article 6(1)(e) provides a lawful basis for processing data where: “processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller”.

UK GDPR Article 9(2)(j) provides a lawful basis for processing special category data where: “processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) (as supplemented by section 19 of the 2018 Act) based on domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject”.

UK GDPR Article 89(1) provides a lawful basis for processing of data for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, and the data shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject.

UK GDPR Article 89(1 A) makes provision, in the 2018 Act, section 19, about when the requirements in paragraph 1 are satisfied. The Data Protection Act 2018, Section 19 makes provision about

* (a)processing of personal data that is necessary for archiving purposes in the public interest,
* (b)processing of personal data that is necessary for scientific or historical research purposes, and
* (c)processing of personal data that is necessary for statistical purposes.

In the view of the Scottish Government, there is a legitimate condition for processing as this data is needed to perform a task carried out in the public interest.

The data to be shared will not be processed to support measures or decisions with respect to particular individuals, it is being shared for the purpose of research and producing aggregate statistics. The data will not be processed in a way that substantial damage or distress is, or is likely to be, caused to any data subject and the results of any research or any resulting statistics are not made available in a form which identifies a data subject.

Scottish Government has responsibilities as a producer of Official Statistics as detailed in the [Statistics and Registration Services Act 2007](https://www.legislation.gov.uk/ukpga/2007/18/contents), where [Section 10](https://www.legislation.gov.uk/ukpga/2007/18/section/10) establishes the [Code of Practice (CoP) for Official Statistics](https://code.statisticsauthority.gov.uk/). This requires us to:

Meet user needs, as defined under principle 1 of the CoP, including: dissemination of official statistics to meet the requirements of informed decision making by government, public services, business, researchers and the public and to maximise public value.

Make statistics available to all users, as in principle 8 of the CoP, including: make statistics available in as much detail as is reliable and practicable, subject to legal and confidentiality constraints and ensure that official statistics are disseminated in forms that enable and encourage analysis and reuse.

By sharing our data with researchers (both internally and externally), we are meeting the requirements of informed decision making by government and researchers, maximising the public value of the statistics, and encouraging analysis and re-use.

All onward sharing will be on a case by case basis and with a clearly identified legal gateway and data sharing agreement in place. We will only share the data with researchers if their research question is of public value, and they can demonstrate that they will handle the data securely.

1. Stakeholder analysis and consultation
   1. List all the groups involved in the project, and state their interest.

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| **Group** | **Interest** |
| Scottish Local Authorities | Responsible for delivering the census. They are the primary data controllers of the census data and will be using it internally to drive improvement of the health and wellbeing of children and young people. |
| Schools | For self-evaluation and improvement purposes as well as being involved in the process of gathering the data (but will not have access to any personally identifiable information gathered in the Census) |
| Education Scotland | Will be users of the census results compiled by the Scottish Government to monitor progress against national and local strategies |
| NHS Health Scotland | For statistical and research purposes, and to receive their expert research and statistical input into the construction and design of the questionnaires. |
| Academic Researchers | For statistical and research purposes, and to receive their expert research and statistical input into the construction and design of the questionnaires. |
| School pupils and their parents | Will be users of the census results compiled by the Scottish Government, and indirectly influenced by policies devised as a result of HWB collection. |

* 1. Method used to consult with these groups when making the DPIA.

We regularly meet with all the above groups to discuss data requirements, and issues surrounding the gathering, quality and reliability of such data. Although parent groups and pupils were not directly involved in designing the content of the current Census, parent groups and the Youth Parliament are aware of the Census and their views have been listened to and responded to. Going forward, we will include representation from of these stakeholders in the content group. We also consult with stakeholders and users of Scottish Government statistics to inform them of what we publish and to seek their views on whether this meets their needs.

* 1. Method used to communicate the outcomes of the DPIA .

Publication of the final Data Privacy Impact Assessment on the Scottish Government website.

1. Questions to identify privacy issues
   1. Involvement of multiple organisations

Local Authorities will be the owners and controllers of the census data and will be responsible for implementing this work. Each Local Authority will have all the necessary processes and procedures in place for the handling of personal data. After all data has been gathered by each LA, data will be shared with Scottish Government who then takes on the role of data controller.

* 1. Anonymity and pseudonymity

Children and Young People will be asked to provide a unique identifying number (i.e. their Scottish Candidate Number) for purely statistical and research purposes, in order for the Scottish Government to undertake longitudinal analysis, to link data sets together to obtain key pupil characteristics as well as to conduct further statistical analysis and research. Although this renders the data personal identifiable information, the Scottish Government does not collect and hold the names and addresses of individual pupils. This is held separately on local authority and school management information systems.

The Scottish Government will not publish information that allows individual pupils to be identified. All published statistical outputs are subject to strict data disclosure control.

All necessary steps will be taken to ensure that there is no potential for individual identification when sharing school level reports with LAs as well as publishing LA level reports. This will be mitigated by applying appropriate suppression methods within the analytical tool to be provided to LAs by SG as well as SG analytical staff applying these at time of analysis. The analytical tool will be an Excel spreadsheet that the SG will provide to each local authority.  LAs can insert their own ‘raw’ pupil data into it and the spreadsheet will have been set up to produce graphs showing the aggregated results for the local authority and their schools.  These graphs will be also automatically data disclosed to protect the identity of individuals.

* 1. Technology

The personal data gathered is information collated by local authorities for their own legislative functions, using a secure, dedicated questionnaire web platform called SmartSurvey. The Scottish Government’s own IT System (SCOTS) has been accredited with cyber essentials plus and is part of the IT System that will ensure this data is kept secure once shared with Scottish Government.

* 1. Identification methods

An existing identifier, the Scottish Candidate Number, is used in statistical data collections in order to enable any necessary statistical analysis and research to be undertaken as part of a public task.

* 1. Sensitive/Special Category personal data

Yes, the data we collect contains sensitive/special category personal data, such as sexual health. See earlier for a more detailed list of what is collected by the Scottish Government.

* 1. Changes to data handling procedures

The data handling procedures are outlined above. No changes need to be introduced.

* 1. Statutory exemptions/protection

Article 21 of the UK GDPR gives individuals the right to object to the processing of their personal data. However, where the processing personal data is for scientific or historical research, or statistical purposes, your right to object is more restricted.

Article 21 (6) states:

“Where personal data are processed for scientific or historical research purposes or statistical purposes pursuant to Article 89(1), the data subject, on grounds relating to his or her personal situation, shall have the right to object to processing of personal data concerning him or her, unless the processing is necessary for the performance of a task carried out for reasons of public interest.”

As the data we process is lawfully gathered and necessary for the performance of a task carried out for reasons of public interest, children and young people do not have a right to object to the processing of their personal data because it is necessary for the performance of a task carried out in the public interest.

Also, as we require this data for the performance of a task carried out in the public interest (and for no other purpose, such as direct marketing), Article 17(3) of the UK GDPR states that we are also not required to erase any personal data as we need to retain this data for this purpose.

The Data Protection Act received Royal Assent on 23 May 2018. Part 6 of this Act “Derogations etc. based on Article 89 for Research, Statistics and Archiving” states that certain UK GDPR provisions do not apply to personal data processed for—

(a) scientific or historical research purposes, or

(b) statistical purposes,

to the extent that the application of those provisions would prevent or seriously impair the achievement of the purposes in question. However, these exemptions are only available where:

(a) the personal data is processed in accordance with Article 89(1) of the UK GDPR (as supplemented by section 19), and

(b) as regards the disapplication of Article 15(1) to (3), the results of the research or any resulting statistics are not made available in a form which identifies a data subject.

Part 6 of this Act “Derogations etc. based on Article 89 for Research, Statistics and Archiving” also states that certain UK GDPR provisions do not apply to personal data processed for—

(a) archiving purposes in the public interest

to the extent that the application of those provisions would prevent or seriously impair the achievement of those purposes. However, these exemptions are only available where:

(a) the personal data is processed in accordance with Article 89(1) of the UK GDPR (as supplemented by section 19).

As the data we process is lawfully gathered and processed for Research, Statistics and Archiving in the public interest, in accordance with Article 89(1) of the UK GDPR, and that any results of the research or resulting statistics are not made available in a form which identifies individual children, young people or adults, they do not have a right to request access to the data we hold.

Regarding the retention of data, Article 5 of the UK GDPR “Principles relating to processing of personal data” states:

“personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject”.

The data are processed in line with this legislation. The information collected will be used to inform planning and provision of education, and the linkage of such data to educational outcomes or health data. For example, researchers or charities may be interested in applying for access to education data to meet their own research needs.

* 1. Justification

The questionnaires have been specially designed so that the information provided by children and young people is only used for statistical and research purposes only by local authorities and the Scottish Government. This means that what children and young people say in the Census will remain confidential and will only be seen by a very small number of staff at their school's local authority and the Scottish Government in order for them to carry out analysis of the information.

However, if during such analysis, if a child or young person is identified as possibly being at risk of harm, the welfare of the child takes priority over the confidentiality given to them for taking part in the Census.  As such, local authorities may need to breach this confidence and report their concerns to child protection colleagues (or others) who may subsequently need to take further appropriate action in line with standard procedures. Local Authorities should document such instances and ensure they can fully justify their reasoning. The Census has been designed to minimise the likelihood of this situation arising by removing the more sensitive questions, modifying existing questions to make them less specific, or to ask such questions in a separate questionnaire for which the child or young person is not identifiable.

Any data that will be shared with the Scottish Government will only ever be used for statistical and research purposes, and the information provided by children and young people would remain totally confidential by analysts within the Scottish Government.

5.9 Other risks

When the census data is being gathered, local authorities will be the data controller, Scottish Government will be the Data Processor and SmartSurvey Ltd will be the sub-processor. A Data Processor Contract will be in place for each local authority to permit them to be able to use the SmartSurvey platform to collect the census data. Local authorities are of course permitted to make use of an alternative questionnaire solution should they wish to.

Once local authorities shares its own Census data with Scottish Government, they will become the data controller for this shared data. Dedicated HWB Data Sharing Agreements will be signed by both parties before LAs share data with Scottish Government.

1. General Data Protection Regulation (UK GDPR) Principles

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| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.1 Principle 1 – fair and lawful, and meeting the conditions for processing | Yes | Article 6(1)(e) gives us a lawful basis for processing where:  “processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller”  The conditions are listed in Article 9(2) of the UK GDPR:  (j)  processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) (as supplemented by section 19 of the 2018 Act) based on domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.  These are fulfilled for this data collection as the data will be used to enable us to improve the outcomes for children and young people and reduce inequalities by monitoring their health and wellbeing outcomes and analysing these by children’s characteristics. We intend to use this information to help identify specific groups (at an aggregated level) for targeted support and improve the outcomes for children and young people. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.2 Principle 2 – purpose limitation | Yes | Data will be used by schools, local authorities, and other public bodies and the Scottish Government for the purposes outlined above. Privacy notices will be issued by Scottish Government, local authorities and other public bodies acting as data controllers making it clear what the data will be used for and what rights exist regarding the data that is collected on children and young people. The data will only be used for statistical and research purposes. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.3 Principle 3 – adequacy, relevance and data minimisation | Yes | Sample-based approaches for example would not yield sufficiently accurate data at school or even local authority level.  The data to be collected in this survey have been carefully considered and kept to the minimum necessary to help improve the health and wellbeing outcomes for children and young people and reduce inequalities. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.4 Principle 4 – accurate, kept up to date, deletion | Yes | Most data will be collected on a frequency that meets user needs and the data will be quality assured to ensure the accuracy of the data  Clear guidance is provided to data providers to assist with consistent gathering and processing of data across the country. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.5 Principle 5 – kept for no longer than necessary, anonymization | Yes | Article 5 of the UK GDPR “Principles relating to processing of personal data” states:  “personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by UK GPDR in order to safeguard the rights and freedoms of the data subject”.  The data are processed in line with this legislation. The Scottish Government will regularly review the need for the data to determine if the information is still required and, if it is not required, it will be destroyed securely in line with the Scottish Government information handling protocols. |

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| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.6 UK GDPR Articles 12-22 – data subject rights | Yes | A privacy notice will be published for our data collections. Parents and children and young people themselves have the right to contact data controllers such as the school, local authority, other public bodies or the Scottish Government to find out who processes their data, for how long it may be retained and the reasons for it being retained. The data collected will not be used for marketing purposes. Any inaccurate data identified at the time that the data is received by the Scottish Government (or if notified subsequently by the data provider) will be corrected in agreement with the data controller. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.7 Principle 6 – security | Yes | Data will be held on secure systems managed and held by local authorities and other public bodies, on secure servers with access only granted to staff deemed to have the training and legitimate need to access such data. Data will be securely transferred from data providers to the Scottish Government. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.8 UK GDPR Article 24 - Personal data shall not be transferred to a country or territory outside the United Kingdom. | Yes | The data collected in this project will be held within Scotland and not subject to being shared outside the United Kingdom. |

1. Risks identified and appropriate solutions or mitigation actions proposed

Is the risk eliminated, reduced or accepted?

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| **Risk** | **Ref** | **Solution or mitigation** | **Result** |
| There is a risk of data disclosure when data is shared with others for statistical/research purposes. | 1 | Any request to share data will be considered either by the relevant EAS Statistician and the Divisional Data Access Officer (simple requests) or by a Data Access Panel (complex requests). Access is only agreed where is it clear that EAS Division has the legal right to share data, where the use of the information is considered consistent with the original purposes for collecting the data, where no individuals will be publicly identified as a result of the analysis and where appropriate safeguards and checks are in place to ensure the security of the data throughout its exchange and use. | The process to approve requests for data sharing and checks in place to ensure data security on transfer will **reduce** the risk. |
| Risk that there may be a data breach when data is transferred from data providers to the Scottish Government resulting in the release of personal data | 2 | Mitigating against the risk of a breach by using a secure system for the transfer of data from partners to the Scottish Government, and from Scottish Government to partners. Staff will be provided with relevant data protection training to properly handle data and reduce the risk of a data breach. Only one person from each LA and one person from SG would be granted permissions to use the secure file transfer software. | Use of the secure system will **reduce** the risk of data breach on transfer |
| Risk that data providers may not update their privacy notices and other materials to accurately reflect what data is being shared with the Scottish Government. | 3 | The Scottish Government will communicate clearly with data providers and to promote a clear shared understanding of what is required of data controllers to ensure that they are fully UK GDPR compliant.  Scottish Government will develop their own documentation to ensure they are fully compliant with UK GDPR. These documents will be shared with LAs once finalised. | Communicating changes with local authorities and settings to **reduce** the risk of individuals not being aware of how their information will be processed. |

1. 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.

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| **Risk** | **Ref** | **How risk will be incorporated into planning** | **Owner** |
| There is a risk of data disclosure when data is shared with others for statistical/research purposes | 1 | Mitigating actions at section 6 are incorporated into routine business and project plans. | Jill Morton |
| Risk that there may be a data breach when data is transferred from data providers to the Scottish Government resulting in the release of personal data | 2 | Transferring data securely is an established part of routine business and security will be considered at all stages of data processing. Secure data processing is integral to the core business of the Analytical Data Management Team and Education Analytical Services and also on Local Authority Management Information Systems where they are involved in the data processing. | Jill Morton |
| Risk that data providers may not update their privacy notice and other materials to accurately reflect what data is being shared with the Scottish Government. | 3 | Communicating with data providers on what is required of them will happen on a regular basis. However each data provider is responsible for making individuals aware of what happens to the data they provide to meet data protection legislation. | Jill Morton |

1. Data Protection Officer (DPO)

The DPO may give additional advice, please indicate how this has been actioned.

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| **Advice from DPO** | **Action** |
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1. Authorisation and publication

The DPIA report should be signed by your Information Asset Owner (IAO). The IAO will be the Deputy Director or Head of Division.

Before signing the DPIA report, an IAO should ensure that she/he is satisfied that the impact assessment is robust, has addressed all the relevant issues and that appropriate actions have been taken.

By signing the DPIA report, the IAO is confirming that the impact of applying the policy has been sufficiently assessed against the individuals’ right to privacy.

The results of the impact assessment must be published in the eRDM with the phrase “DPIA report” and the name of the project or initiative in the title.

Details of any relevant information asset must be added to the Information Asset Register, with a note that a DPIA has been conducted.

**I confirm that the impact of information the Scottish Government’s Education Analytical Services Division obtains and hold about children and young people educated in, and the workforce of, Scotland’s schools has been sufficiently assessed against the needs of the privacy duty:**

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| --- | --- |
| Name and job title of a IAO or equivalent  Mick Wilson  Mick Wilson | **Date each version authorised**  24th November 2020  26th August 2021 |

Appendix 1 – Health and Wellbeing Census Data Flow Chart

