Data Protection Impact Assessment

1. Identifying the need for a DPIA

Explain broadly what the project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA: refer to the DPIA guidance and screening questions here.

Project title	**Children's Commissioner for England – evidence on the educational progression and welfare of children in England.**
Project aims	The Children's Commissioner for England has a statutory responsibility to promote and protect the rights of children in England. Part of the Commissioner's role is to represent the rights and interests of children across government and scrutinise and review government policy or legislation to understand the potential effects on children. The Children's Commissioner is granted a power in law to collect evidence from persons exercising functions of a public nature where that information can be used to inform the Commissioner in their role. The Children's Commissioner's Office (CCO) collects several datasets from the Department for Education (DfE) for a range of analysis investigating the lived experience and outcomes of children. The data is used to explore how interventions, policy and provision can be better placed to improve outcomes for all children. Analysis often focuses on the most vulnerable children in society as these are most in need of additional support and better service provision. The Children's Commissioner uses the analysis conducted by the CCO to inform legislators, elected representatives, civil servants and other arms-length bodies responsible for decision making of the specific issues that children are experiencing and where policy needs to change.
What type(s) of data processing will be undertaken	The datasets are provided to the CCO under a Memorandum of Understanding (MOU) between DfE and CCO. The data provided are: • The National Pupil Database (NPD) • The Children In Need Census (CIN) • The Looked After Children Census (CLA)

	• The Young Persons Matched Administrative Dataset (YPMAD) • The Individualised Learner Record Aims tables (ILR Aims) • The Individualised Learner Record (ILR) Details on these datasets are provided in later sections. The datasets are used for a suite of analysis across different research topics. The primary methods employed by the CCO are: • Descriptive statistics to show simple counts and frequencies, for example the number of children Looked After by Local Authorities. • Statistical analysis to explore relationships between characteristics and outcomes. For example, identifying factors in a child's life are associated with positive or negative outcomes in education. • Statistical analysis to explore trends over time and children's journeys through education. • Simple matching between datasets using pseudonymised unique ID's to bring the different DfE records together. For example, bringing together educational attainment data with the LAC records to explore outcomes for children in care. • Quality assurance of data from other providers. For example, the CCO collects data from Local Authorities and uses DfE records to sense check the records provided.
Why this project needs an impact assessment	Under General Data Protection Regulations (GDPR 2018) a DPIA must be completed if the processing of data involved processing special category data on a large scale. The Information Commissioners Office (ICO) recommends that a DPIA is carried out where the processing of data concerns vulnerable data subjects, including children[1]. The data collected by CCO is child-centric, contains special category data including ethnicity and information on health/disability and covers all children enrolled in publicly funded education or looked after by Local Authorities so a DPIA is required.

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[1] ICO Guide to data protection: Data protection impact assessments (https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/)

2. Describing the data processing in more detail

Describe the nature of the processing *How will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or another way of describing data flows. What types of processing identified as likely high risk are involved?*	Data is supplied to CCO using EGRESS, a secure online encryption system provided by DfE for the transfer of files securely. Data is stored by CCO within a secure environment provided by DfE. Access to the file store is restricted to approved members of the Evidence team who have undergone a DBS check within the past two years and have received relevant responsible for information and data handling training. The CCO does not share identifiable or personal micro-data with any other entity. The CCO publishes aggregate tables and analysis which have undergone disclosure control checks prior to publication to ensure that individuals cannot be re-identified from aggregate tables. The CCO does not use any external processors for the processing and analysis of personal micro-data. Aggregate tables which have undergone disclosure control checking may be shared with external organisations who are under contract with the CCO. Only data which is deemed to be non-identifiable will be shared. The data is pseudonymised before provision to CCO. This means that all personal identifiers (first name, last name, address, postcode, date of birth) are removed from the data and unique individuals are given a 'Unique Pupil Number (UPN)'. The CCO does not access any lookup information which would allow a UPN to be related to that individuals personally identifiable information, such as name and address. However, under GDPR information which has had identifiers removed or replaced in order to pseudonymise the data is still personal data[2]. <u>Criteria flagged as 'likely to result in high risk':</u> The CCO receives complete sets of records from DfE, which contain information on all children enrolled in publicly funded education and children 'Looked After' by Local Authorities in England it is the scale of the data which categorises processing as likely 'high risk'. As set out in Article 35(3)(b) of the GDPR any "processing on a large scale of special categories of data referred to in Article 9(1)" requires a DPIA as it may result in high risk.

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[2] ICO 'What is personal data' (https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/key-definitions/what-is-personal-data/)

	The Data Protection Working Party[3] identifies psyudonymised personal sensitive data concerning vulnerable data subjects as requiring a DPIA as the processing of these data may result in high risk to the individual data subject.
	The ICO recommends that any processing requiring the linking of multiple data sources together also be considered as likely to result in high risk. The CCO will link DfE education records together across the multiple datasets to create comprehensive views of children's journeys through education and social care.
Describe the scope of the processing *What is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?*	Details on the scope of the datasets received by CCO are provided below.
	The National Pupil Database (NPD):
	All NPD records relate to children and young people who interact with DfE systems and services in England.
	School Census – The School Census is a statutory return to DfE that all schools must complete for children on their 'roll'. The records cover the entire state school population of children and provides essential information on school attended as well as basic pupil characteristics such as ethnicity, special educational needs and disability (SEND) and free school meals (FSM). In 2019 there were 4.73 million children in state-funded primary schools, 3.33 million in secondary schools and 0.13 million in special schools.
	Pupil Referral Unit (PRU) Census – from 2014 this was included in the School Census and was no longer a separate collection. The PRU data contains the same data as the School Census for children in PRU's. In 2018 there were 16,702 children in PRU's across England.
	Early Years Census (EYC) – The EYC is a statutory census that takes place every January submitted by Local Authorities to DfE. The census collects information about early years providers who receive direct government funding for 2, 3 or 4-year olds including: all private, voluntary or independent nurseries and providers of early years education, schools that provide day care for full days or in shorter sessions, childminders and childminding networks. In 2019 there were 1,277,100 children in the EYC.
	Alternative Provision Census (AP) – AP settings are education settings for children unable to attend a mainstream school, the number of children in a type of AP in 2019 was 26,128. The AP census collects the same information at the School Census.

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[3] Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is 'likely to result in a high risk' for the purposes of Regulation 2016/679, Data Protection Working Party 2017 (https://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=611236)

Early Years Foundation Stage Profile (EYFSP) – This dataset contains the achievement outcomes at the end of the Early Years Foundation Stage (EYFS). The EYFSP is a teacher assessment of children's development at the end of the EYFS. The dataset contains the scores across 17 early learning goals in seven areas of learning as well as demographic information such as ethnicity and SEND. Only children with a valid result for every early learning foal are included within the assessment and some children may not have a full assessment for each early learning goal. The data only covers children who were in receipt of a government funded early education place at the end of the EYFS.

Key Stage 1, 2, 3, 4 and 5 – The Key Stage data is a record of attainment for all children in state-funded education who completed mandatory Key Stage assessments in a year. Key Stages 1 – 3 are submitted by schools to DfE as part of their statutory return. Key Stage 4 and 5 results (GCSE's and A-Levels) are submitted by the exam providers. The dataset contains attainment for all subjects studied.

Absence – This dataset contains information on pupil absences derived from the termly School Census. The dataset includes information on the number of absences in the academic year and the reasons for absence.

Exclusions – The exclusions data has information on pupil exclusions as collected in the termly School Census. From 2005/06 onwards the exclusions records adopted a different format. The dataset contains information on both fixed-term and permanent exclusions for all children who received either in the academic year. The data also details the length of fixed-term exclusions and the reason for exclusion.

Post-16 Learning Aims (PLAMS) – Derived from the School Census the PLAMS dataset contains information on post-16 learning aims as collected in the School Census. The dataset contains details of assessments taken and results.

Young Person's Matched Administrative Dataset (YPMAD) - The YPMAD records contain information on level of achievement at age 19. This dataset contains records of attainment across subjects and years as well as information regarding gender and receipt of FSM.
National Client Caseload Information – This dataset contains information from the National Client Caseload Information System on employment destinations. The dataset provides information on the type of activity of the young person, including home education, further/higher education, self-employment, NEET, etc.

For more details of the National Pupil Database visit: https://find-npd-data.education.gov.uk/

Children In Need (CIN) Census:

When a child is referred to children's social care, an assessment is carried out to identify if the child needs services, which Local Authorities have an obligation to provide. These services can include, for example, family support, leaving care support, adoption support or disabled children's services. There were 399,500 children in need in 2019. The data contains information about the children including ethnicity, gender, SEND status, and the outcomes of referrals and assessments.

Looked After Children (LAC) Census:
The LAC census is based on information on looked after children collected in the SSDA903 return which is completed annually by local authorities in England. The return is submitted to DfE and is required for two groups of children:
1. Every child who is looked after by the local authority at any time during the year; and
2. Children who have been looked after for at least 13 weeks which began after they reached the age of 14 and ended after they reached the age of 16 who are now aged 17, 18, 19, 20 and 21 (care leavers)

The LAC records include information on ethnicity and SEND status. The number of children looked after in England was 78,150 in March 2019.

Individualised Learner Record (ILR):
The ILR datasets are a key source of data on students who are taking further education courses following completion of GCSE's. The data is collected by DfE from providers of further education. The data records the courses being taken, progression towards learning aims, the funding of the course and information about the student enrolled in the learning. The data covers all students enrolled in a further education course which receives funding from DfE in England in an academic year. The data includes information about the young people including SEND status, age, gender, FSM eligibility and ethnicity.

Longitudinal Education Outcomes (LEO) Pilot Dataset:
The LEO dataset connects individuals' education data with their employment, benefits and earnings data to create a de-identified person level administrative dataset. The LEO data contains records from five government departments: The DfE, The Education and Skills Department for Wales, The Department for Work and Pensions, HM Revenue and Customs and The Scottish Government. The dataset contains information on students such as:
- Personal characteristics including gender and ethnic group
- If the young person had special education needs during their education
- Household income
- If the young person qualified for free school meals
- Schools attended, courses taken, and qualifications achieved
- Any benefits claimed
- Any careers advice and training offered by the government

	• Employment and income More information on the LEO dataset and how it is shared by DfE is available [here](#). Data is provided to CCO annually following completion of the collections by DfE. Data is retained according to the CCO data retention policy. Data is retained for two years as standard after which time the data is reviewed and a decision is made as to whether the CCO still has a justifiable use for the records. If there is still a use for the data, the retention period will be extended. If the data is no longer required, it is deleted securely following government security guidelines. **Data linkage:** The CCO links DfE records together using pseudonymised unique ID's such as the Unique Pupil Number (UPN). Certain datasets, such as the ILR records and the LAC data have other pseudonymised unique ID's which allow records from those sources to be linked over multiple years. This type of linkage does not involve incorporating other data sources and is done to create comprehensive pictures of children and young people's journeys through the education system. Where required, the CCO may also link other data sources to DfE records using the UPN. The CCO collects data from Local Authorities using the legal powers granted by Section 2F of the Children Act 2004. Details of these projects and the linkage are provided below. A separate DPIA will be carried out by the CCO where the linkage of DfE records to other sources is novel or the data subjects are particularly vulnerable. Those projects are out of scope of this DPIA.
Describe the context of the processing	The CCO has no direct relationship with the data subjects. The DfE publishes the list of organisations it shares data with and the justification for the share [here.](#) The DfE also provides an overview of what data they collect and how the data is shared with other government departments and agencies [here](#). The CCO privacy notice on the use of data for research purposes is published on the CCO website [here](#). The CCO is registered with the Information Commissioners Office (ICO) as a data controller as a public authority under the Freedom of Information Act.

Describe the purposes of the processing *What do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing for you, and more broadly?*	The CCO uses the datasets for ongoing analysis of the lived experience, wellbeing and outcomes of children in England. The CCO is works to shine a light on the experience of vulnerable children and children at risk of poor outcomes. The data is used to inform the Children's Commissioner to enable them to carry out their primary statutory duty as set out in the Children Act 2004 Section2: **Primary function: children's rights, views and interests** (1) The Children's Commissioner's primary function is promoting and protecting the rights of children in England. (2) The primary function includes promoting awareness of the views and interests of children in England. (3) In the discharge of the primary function the Children's Commissioner may, in particular— a) advise persons exercising functions or engaged in activities affecting children on how to act compatibly with the rights of children; b) encourage such persons to take account of the views and interests of children; c) advise the Secretary of State on the rights, views and interests of children; d) consider the potential effect on the rights of children of government policy proposals and government proposals for legislation; e) bring any matter to the attention of either House of Parliament; f) investigate the availability and effectiveness of complaints procedures so far as relating to children; g) investigate the availability and effectiveness of advocacy services for children; h) investigate any other matter relating to the rights or interests of children; i) monitor the implementation in England of the United Nations Convention on the Rights of the Child; j) publish a report on any matter considered or investigated under this section.

(4) In the discharge of the primary function, the Children's Commissioner must have particular regard to the rights of children who are within section 8A (children living away from home or receiving social care) and other groups of children who the Commissioner considers to be at particular risk of having their rights infringed.

The analysis of these data contributes to the annual vulnerability report and database as well as reports and briefing documents which are published throughout the year. The evidence these data provide is used by the Children's Commissioner to petition government and inform policy makers of the needs of children. The work of the CCO gives children a voice within government, providing an independent check on the actions of departments with the power to impact the lives of children.

Specific research programmes which require the DfE records are below.

1. **Vulnerability**

   The CCO launched its Vulnerability Framework in July 2017. This is a comprehensive framework which defines and quantifies a comprehensive list of the different types of childhood vulnerability. Currently this project is at the stage of quantifying the numbers of children in different vulnerable groups and different combinations of vulnerable groups, but over time this work will also report quantitative evidence on the future educational, health and labour market outcomes of children in these groups; and qualitative evidence on the voices of children in these groups. This work will be updated annually to report newer and improved evidence. The latest publication was released in March 2020. This data is being used to support the response to the coronavirus pandemic in local areas. By providing the numbers of children in particular vulnerable groups and enabling local area comparison local areas can target service provision to meet the specific needs of each group, such as access to family counselling, provision of housing, income support etc. The vulnerability profiles draw attention to the range of vulnerabilities which affect children and young people in England and support evidence based policy recommendations for service provision.

2. **Stability Index**

   The Stability Index is an annual initiative to measure and report on the stability experienced by children looked after. Its purpose is to shine a light on the issue of stability, monitor trends, and support improvements to stability in partnership with local authorities. The Index measures three aspects of children's experiences in care: placement moves, school moves and changes in social worker. These have been highlighted by children in care as three of the most important types of experience in relation to stability. This project analyses overall trends in stability, local and regional variations in rates of instability, and the factors which predict instability. Data from the Children Looked After (CLA) and School Census help inform this project. In future this work must

analyse the impact of stability and other features of the placement and care experience on the health, wellbeing and educational outcomes of looked after children. This analysis can only be done using the CLA collection data items not provided as part of the NPD version of the CLA Census. For this project, the CCO also use the Children's Social Work Workforce (CSWW) Census data in order to examine the relationship between the characteristics of social workers and the level of social worker instability that children experience.

The CCO collect child level data from every Local Authority in England to complete the picture of social worker stability. Local authorities return data on the primary social workers that were allocated over a three-year period to every child who was looked after by the Local Authority on the 31st March. The child-level returns from local authorities are then linked using the child UPN to the CLA Census records from DfE.

There are several benefits of the Stability Index to local authorities:

- Access to Stability Index data for the local area. The CCO publishes a dataset of local authority level results that can be used to benchmark against National, Regional and key local comparators.
- The Stability Index can be used as a tool to reflect on and improve future stability. Local authorities who have participated in the return have reported that they are now using the Stability Index as a diagnostic tool. Using the Stability Index data, local authorities have been able to identify specific cases or cohorts of children who experienced abnormally high levels of instability, and then carry out case audits in order to find out what happened in these cases – to ensure that future practice can be improved and future instability can be prevented.
- The Stability Index can be used as a method of self-evaluation. The metrics that the CCO provides for local authorities will enable them to track what kind of progress they are making, and for which groups. This supports local authorities to improve levels of stability among their looked after population.

More broadly, the Stability Index provides national evidence of the experience of children in the care of local authorities and is used by the Children's Commissioner to advocate for these children within DfE and across wider government.

3. **Vulnerable Babies**

This project the experiences and outcomes of children of mothers who were identified in pregnancy as open to statutory social care. It is known that referrals and assessments to social care are often left too late which can in future lead to higher rates of statutory intervention including taking the baby into care. Cases can sometimes be closed too soon, leading to a particular 'revolving door' issue for infants and late entry into care, also resulting in unnecessary harm.

To explore these issues further, the CCO require the Children in Need (CIN) Census linked to the Children Looked After (CLA) Census. The CCO will use these datasets to explore the range of trajectories and outcomes for babies known to Children's Services, and how that is affected by the use of pre-birth referrals.

The CCO are particularly interested in the role of pre-birth assessment as a form of earlier intervention, however this question can only be explored using information on date of assessment which is only available in the non-standard CIN Census information.

4. **Outcomes and progression of children subject to social services intervention**

The CCO has a strong interest in gathering and producing evidence on the outcomes of key vulnerable groups, as part of its broader programme of work on Vulnerability. This project focuses on assessing the educational outcomes and progression of children who are Children in Need, subject to Child Protection Plan or Looked After. This analysis requires the CIN Census and CLA Census, both linked to the NPD. The CCO wish to understand not just the average outcomes and progression for these groups, but also wish to examine longitudinally how outcomes and progression vary according to when children receive these designations and how long they have these designations for. The CCO also wish to understand their trajectories and destinations post-16. The ILR records will enable research into this group and progression through further education and achievement of qualifications. The ILR records provide much of the missing picture for young people progressing through education post-16, crucially it identifies young people not pursuing A-Levels and achieving qualifications through alternative routes.

The LEO Pilot records will be used to develop this work to understanding post-18 labour market and economic outcomes. The outcomes of care leavers and children who leave school or college without any formal qualifications will be a focus of initial analysis. Currently, no other data source offers the ability to understand the outcomes of these groups at the scale which LEO offers.

5. **Outcomes of SEND/excluded children**

The CCO has a strong interest in gathering and producing evidence on the outcomes of key vulnerable groups, as part of its broader programme of work on Vulnerability. This project would focus on assessing the educational outcomes and progression of children who have been classified as having SEND or who have permanent or fixed term exclusions. The CCO wish to understand not just the average outcomes and progression for these groups, but also wish to examine longitudinally how outcomes and progression vary according to when children receive these designations and how long they have these designations for. The CCO also wish to understand their trajectories and destinations post-16. All education records will be used to explore post-16 further education outcomes for young people. The ILR records will be used to explore the progression of young people into employment

outside of traditional A-Level/College education. The CCO will explore the trajectories of SEND/excluded children through alternative education pathways and their outcomes compared to non-SEND/excluded children.

The CCO need to understand the associated labour market and economic outcomes for these groups, linking our NPD records to LEO will enable us to carry out this research and develop our understanding of the outcomes for these groups post-18.

6. **Alternative Provision (AP)**

The CCO has a strong interest in what is known about the types of children who attend AP, their prior attainment and circumstances and their subsequent destinations and outcomes. They are interested in understanding how the profile of pupils enrolled at AP varies according to when they enrol and how long they are enrolled for. It is known that many if not most pupils enrolled in AP have not been excluded beforehand so therefore seek to find other factors that can predict entry to AP. The CCO are also interested in the subsequent outcomes and destinations, and how they vary according to time spent in AP and when pupils enrolled in AP. All education records will be used to explore post-16 further education outcomes for young people who have spent time in AP. The ILR records will be used to explore the progression of young people into employment outside of traditional A-Level/College education. The CCO will explore the trajectories of children who have spent time in AP through alternative education pathways and their outcomes compared to children who have not experienced AP.

As part of the CCO's work on Vulnerability, the CCO is also interested in the intersection between AP and youth crime or gangs. It would like to use linked NPD and CIN data to better understand how many children in AP have been subject of Children's Social Care concerns about gang involvement or child sexual exploitation.

7. **Regional analysis of differences in educational progression and outcomes**

The CCO is interested in understanding longitudinally how pupils in different regions make progress in terms of their educational outcomes. This requires use the NPD Key Stage Results, School Census and ILR files linked longitudinally in order to track an individual cohort from age 5 to age 18 and understand the importance of regional difference in progression after controlling for pupil characteristics.

This data will be linked to the LEO cohorts to understand the associated labour market and economic outcomes for children growing up in different regions. This data will be used to further develop our research series 'Growing Up North'.

8. **Estimating the prevalence of the 'toxic trio' as identified at CiN assessment**

The CCO is interested in understanding more about the outcomes and experiences of children who are living with, or deemed to be living with, one or more of the 'toxic trio' potential harms: domestic violence and abuse, parental substance misuse, or parental mental health problems. This is a key group within the Children's Commissioner's Vulnerability Framework (see project 1). As well as being able to quantify the numbers of children in these categories we will also analyse their educational outcomes and trajectories. This requires linking the CiN collection dataset to the NPD attainment datasets and ILR records to provide a complete education history for young people.

The CCO will link the LEO data to the toxic trio estimates to understand the outcomes and trajectories of children who grow up in these environments. This will provide novel analysis unique to the CCO to inform recommendations for joined up policy and interventions to support these children.

The Toxic Trio estimates at local authority level are included in the 2020 local area vulnerability profiles.

9. **Understanding the outcomes and trajectories of children referred but not accepted as CiN**

The CCO has a strong interest in understanding more about what is known about the numbers of children, types of children, and future outcomes of children who have a CIN referral but do not commence a CiN episode. This is a key group within the Children's Commissioner's Vulnerability Framework (see project 1). For this project the CCO need to isolate the group of children who have a CiN referral but do not then appear as an episode in the CiN Census. For this group of children, the CCO will then link DfE education records to understand subsequent outcomes in the children's services and care system, along with education outcomes and trajectories.

Education outcomes and trajectories will be identified using a combination of the ILR records, YPMAD and NPD attainment records. Linking to the LEO data enables the CCO to carry the analysis beyond previous estimates to understanding economic and employment outcomes.

10. **Housing and homelessness**

The CCO is interested quantifying the number of children who are homeless, at risk of becoming homeless, or living in accommodation that is unstable or unsuitable. These are key vulnerable groups within the CCO Vulnerability Framework (see project 1), which are explored in further detail in this project. While this project requires a examining a range of data from a range of organisations (including ONS and MHCLG), it also relies on CLA Census data from DfE.

One of the groups that this project will consider is children looked after aged 16-17 who are living in semi-independent

accommodation, independent accommodation and 'other' accommodation. These types of accommodation could present risks to safety and wellbeing due to the lack of regulation and inspection. The CCO use the CLA collection data to analyse and report on the numbers living in these accommodation types, and also the relationship between these accommodation types and whether that accommodation is considered suitable or unsuitable.

11. Exclusions and off-rolling

This project will use linked NPD, ILR and CIN Census data to understand the needs and vulnerabilities present among the cohort of children that experiences exclusion from school. The analysis will explore how many excluded children have SEND, how many are present in the CIN Census, and what kind of factors are identified at assessment for those present in the CIN Census.

Linking to the LEO data will enable the CCO to carry the analysis beyond previous estimates to understanding economic and employment outcomes for children who have been excluded or experience multiple exclusions from school.

12. Gangs

This project will use linked NPD, ILR and CIN Census data to understand the needs and vulnerabilities present among the cohort of children that have "Gangs" identified as a factor at assessment in the CIN Census. The analysis would then explore what the educational experiences and outcomes are for these children, identifying how many are in what types of school, how many are excluded or in alternative provision, and how many are not in education at all.

13. Home educated children

This project will use the NPD linked to child-level data that the CCO collects from local authorities on children withdrawn from school to be home-educated. The analysis would then use the NPD/ILR to identify the educational histories and outcomes of those children, as well as looking at how many children had SEND or other vulnerabilities. Policy colleagues at DfE have indicated significant interest in this work.

14. Early years attainment amongst vulnerable children

The Commissioner has a significant interest in the effectiveness of the current early year's provision. This project would seek to examine differences between vulnerable groups in their Early Years Foundation Stage Profile results and would then look at how any differences found between groups can also be seen in later outcomes during their school career such as exclusions, rates of

identified SEN, attainment at later Key Stage assessments.

15. Vulnerable teenagers

A focus of the Commissioner's work during 2019/20 is vulnerabilities and risks faced by teenagers. This is a programme of work that will examine differences between vulnerable teenagers and their peers/younger children in a variety of aspects of their lives. This includes their experiences in care and in their contact with children's services, their special educational needs, educational outcomes (including post-16 using the NPD and ILR) and experiences of mainstream schooling. It would also examine how these differences are changing (if at all) over time. Linking to the LEO data will enable us to carry the analysis beyond previous estimates to understanding economic and employment outcomes.

16. Measuring and reporting school-level inclusivity

The CCO is producing an alternative school-level 'league table' containing a basket of measures that can be used to assess how well schools are doing in terms of promoting inclusivity, with a particular focus on outcomes (academic and non-academic) among the most disadvantaged and vulnerable groups of pupils. The purposes of this work would be to: challenge the notion that attainment is the only measure of a good school; identify schools performing highly on these metrics in order to learn good practice; identify schools that perform badly on these measures so that they can be examined further. The analysis would involve using the underlying NPD data to create school-level averages of a basket of metrics that are good proxies for school inclusivity. This includes, but is not limited to, rates of exclusions and absences; rates of school moves (particularly in Year 11), and measures of attainment and academic progress. We would calculate these measures specifically among disadvantaged groups (e.g. FSM, SEND, CIN) or report the school-level gaps in these metrics between disadvantaged and non-disadvantaged. This involves linking together school census, absence, exclusions and CIN census tables via anonymised pupil matching reference (where possible) or UPN to calculate school level measures of these inclusivity indicators. The benefits of this would be to provide a set of more rounded measure of school quality considering more than simply attainment or qualitative judgements.

17. Responding to Coronavirus

The 2020 Coronavirus pandemic requires a national effort to mobilise data sources to provide up to date information to government to inform decision making and highlight risks to vulnerable groups. Children have been identified as being particularly vulnerable to the restrictions imposed during the pandemic and researchers have argued that ascertaining and mitigating the effects of school closures for youth seeking care is urgent and essential, given that school is often the first place children and adolescents seek help. As is considering vulnerabilities, such as special educational needs and developmental disorders, and finding therapeutic levers

(Holmes *et al* 2020). The CCO will use the DfE data to inform the Commissioner and the government of the number of children who are vulnerable and may not be known to social services. This includes, for example, identifying children who have been referred to, but not started, a CIN plan and the sources of referral. The CCO will use DfE data to respond to emerging risks and issues which may be raised to us through our Help at Hand service or through stakeholders contacting the CCO directly. Evidence from these data will inform the Commissioner and her work across government to support departments to implement child-centric policy during the pandemic.

The outputs from research carried out by the CCO include policy papers, evidence reports, briefing notes for parliament and select committees and blog posts. Analysis from these data will also be used to support public statements made by the Commissioner. Evidence is published on the Children's Commissioner's website: https://www.childrenscommissioner.gov.uk/ These outputs are shared with stakeholders across all sectors to inform policy development to ensure that policy meets the needs of all children, particularly the most vulnerable.

3. Consulting stakeholders

Whether and how to consult with relevant stakeholders	*Describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?*
	Children in Care Councils: The CCO frequently engages with Children in Care Councils across England. Children are consulted on upcoming projects and can tell us what they think we should be focusing on. Feedback from these sessions is used to inform the direction of projects and ensures that we are investigating relevant issues. Business Plan Consultation: The CCO consults with a wide range of children through qualitative interviews and focus groups to identify the issues that kids are experiencing. This information is used to inform the development of the business plan for each year. The consultation for the 2020/21 business plan is published here.

4. Lawful basis for, and proportionality, of the processing

Lawful basis for processing	*What is your lawful basis for processing?* • *Article 6 lawful basis for processing personal data* • *(if applicable) Article 9 condition for processing special category data* This data collection is necessary to deliver a project on the Children's Commissioner's 2020/21 Business Plan, hence it is necessary for the Commissioner to deliver her statutory functions. This data is collected under CCO's statutory powers – section 2F of the Children's Act 2004 which states: **(1)** Any person exercising functions of a public nature must supply the Children's Commissioner with such information in that person's possession relating to those functions as the Commissioner may reasonably request for the purposes of the primary function or the function under section 2D. **(2)** The information must be information which that person would, apart from subsection (1), lawfully be able to disclose to the Commissioner The Children's Act 2004 Section 2 sets out the statutory role of the Children's Commissioner for England: <u>Primary function: children's rights, views and interests</u> (1) The Children's Commissioner's primary function is promoting and protecting the rights of children in England. **(2) The primary function includes promoting awareness of the views and interests of children in England.** (3) In the discharge of the primary function the Children's Commissioner may, in particular— a) advise persons exercising functions or engaged in activities affecting children on how to act compatibly with the rights of children; b) encourage such persons to take account of the views and interests of children; c) advise the Secretary of State on the rights, views and interests of children;

d) consider the potential effect on the rights of children of government policy proposals and government proposals for legislation;

e) bring any matter to the attention of either House of Parliament;

f) investigate the availability and effectiveness of complaints procedures so far as relating to children;

g) investigate the availability and effectiveness of advocacy services for children;

h) investigate any other matter relating to the rights or interests of children;

i) monitor the implementation in England of the United Nations Convention on the Rights of the Child;

j) publish a report on any matter considered or investigated under this section.

This statutory function to collect data and the primary function of the Children's Commissioner as set out in the legislation (relevant sections highlighted in bold above) relates directly to Articles 6 of the GDPR act (especially the statement in bold):

Article 6:

1. Processing shall be lawful only if and to the extent that at least one of the following applies:
   (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
   (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
   (c) processing is necessary for compliance with a legal obligation to which the controller is subject;
   (d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
   (e) **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;**
   (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

The data will not be shared internationally. The CCO will reserve the right as data controller to share the data with other agencies where there is an appropriate legal gateway to do so and sharing the data is proportionate and necessary. If the data is shared beyond the CCO this will be reflected in our privacy notice.

Access to the data within CCO will be limited to staff who have received the appropriate civil service training for handling sensitive data. All staff within the CCO have passed the appropriate level of security clearance for handling this kind of data. Processing will be carried out under supervision from the Head of Data Science and the Director of Evidence.

This data collection involves the collection of information on health, disability and ethnicity which is considered to be special category data under GDPR (see ICO guidance on special category data here). In order to process special category data the CCO must demonstrate that it has met at least one of the specific conditions set out in Article 9 of the GDPR.

Article 9 2(g):

"g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State 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;"

In relying on the substantial public interest condition in Article 9(2)(g) the CCO must also demonstrate that it meets one of the 23 specific substantial public interest conditions set out in Part 2 of Schedule 1 of the Data Protection Act (DPA) 2018.

The substantial public interest condition which is relevant to this data collection is Schedule 1, Part 2(6), 'statutory and government purposes'.

Schedule 1 Part 2,6(1) sets out that:

6 (1) This condition is met if the processing—

a) **is necessary for a purpose listed in sub-paragraph (2),** and

b) is necessary for reasons of substantial public interest.

(2) Those purposes are—

	a) **the exercise of a function conferred on a person by an enactment or rule of law;**	
	b) the exercise of a function of the Crown, a Minister of the Crown or a government department.	
	See above the highlighted sections from Section 2(2),(3) of the Children Act 2004 which establish the legal basis for processing the special category data collected in this request. This body of research investigates important issues affecting many children who would not, without the Children's Commissioner, be able to have their rights, interests and views represented to government and policy makers. The special category data which will be collected will not be linked to an identifiable child and will not be shared beyond the Office of the Children's Commissioner except in aggregate, disclosure controlled, statistical tables as part of the Commissioners report on the issue.	
The Principles GDPR Article.5 or The Bill Section.32 • Lawful • Specific • Limited • Accurate • Time-Bound • Secure	*Lawful*	*See above*
	Specific: • What is the business use/purpose for processing the data?	The CCO has set out a number of specific projects which the data will be used for. As stated in the aims, the overall purpose of processing is to provide the Children's Commissioner for England with the evidence required to represent the rights and needs of children across government. This research enables the Children's Commissioner to fulfil her statutory functions.
	Adequate: • What assessment has been made on the	The Department for Education administrative data records are the only complete source of education data available. The DfE collects these data as part of their functions to deliver education and social care to children in England. There are survey sources which collect education and outcomes data for small

	adequacy of the data being processed in relation to the purpose?	cohorts of children however the sample sizes are too small to disaggregate factors to local area level or by characteristics of interest. Local authorities hold the children in need and looked after children data as they collect this information and then transfer to DfE. Collecting the data from DfE negates the need to conduct 152 separate data collections with individual local authorities for the same data.
	Limited: • What assessment has been made on the relevance of the data being processed to the purpose? • Will the data be used for any other purpose?	The CCO do not collect variables from the various DfE data sources which are not required for research. Prior to acquiring the data an assessment was made of what information was required to meet the stated research needs. This ensures that the CCO only has access to limited information. Additional uses of the data may be identified. For the purposes of efficiency, where it is possible the CCO will make use of data already held, rather than initiate new data collections. The DfE Data Sharing and Approvals Panel (DSAP) review new research applications prior to research commencing and the new uses are added to the Memorandum of Understanding (MOU) held between DfE and CCO.
	Accurate: • How will the accuracy of the data be checked? • How will inaccurate data be corrected? · How will it be kept up to date? • What processes will be in place to manage requests for rectification?	The CCO undertakes quality and assurance checks of all analysis and data prior to and during research. The CCO communicates with DfE frequently so that any issues identified by either organisation can be rectified. The MOU between the CCO and DfE sets out a schedule for updating the records when the latest collections are completed.
	Time-Bound: • How long will the data be kept? • Is the data covered by an existing retention and deletion schedule? If not will one be agreed with the Departmental Records Officer?	Data is retained by the CCO for two years as standard. After two years, data assets are reviewed and a decision is made whether to delete or extend retention of the data. Data may be retained if it is proportionate to do so. Once data is no longer required or it is no longer proportionate to hold the data it will be securely destroyed in line with the CCO Data Protection Policy. The retention approach applies to all data collected by CCO for research purposes and is set out in our privacy notice. The data held by the CCO is de-identified personal data and cannot be used to identify a specific individual. The Unique Pupil Reference number used for matching purposes is a Local Authority

	• Will you be able to delete the data when you no longer need it? • If you can't delete it, can you anonymise it partly or wholly? • What processes will be in place to ensure the data is securely destroyed/deleted?	assigned ID and the CCO does not hold the information required to relate this ID to personal identifiers such as name, address or date of birth. Aggregate tables produced from the individual level data are IL0 and can be retained indefinitely.
	Secure: • How will the data secured and kept safe? • What technical / operational security features and/or policies protect it?	The data security arrangements for the Children's Commissioner have been formally assessed and assured as appropriate and proportionate using the HMG Information Assurance (IA) process (as described in HMG IA standards No. 1 and No. 2). The assessment process has been led by an independent security specialist registered under the CESG Listed Adviser Scheme (CLAS), and IA Accreditation expertise has been provided to Children's Commissioner by the DfE IA Accreditation Team and Departmental Security Officer. In addition, the privacy impact assessment (PIA) analysis has concluded that the steps taken are appropriate and adequate. Some data owners will be required to provide data submitted through SmartSurvey, an online survey/questionnaire platform used widely by government and other public sector agencies. SmartSurvey meets a wide range of security and data protection criteria including Data Protection Act compliance. Their connection to the website will be secured with SSL/TLS/HTTPS encryption, and the data will be held on secure UK-based servers. All information held by the Children's Commissioner's Office is stored in accordance with our Data Protection Policy and Information Risk Management Policy, both available on request. The organisation also has a dedicated Data Protection Officer who ensures that all data held is registered properly in an Information Asset Register, and processed safely, securely, legally and proportionally. The data is also subject to Pseudonymization, a privacy enhancing technique that is an example of a measure adopted to meeting the principles of privacy by design and privacy by default. In this regard, the CCO are processing the personal data in such a manner that the data can no longer be attributed to a specific data subject without the use of additional information, which is not kept by the CCO.

5. Identified risks and mitigations

Source of risk	Level of risk before mitigation (High, medium, low)	Mitigation(s) (required for medium/high risks)	Risk of harm after mitigation applied (High, medium, low)	Risk acceptable?
Re-identification or direct identification of an individual in the data.	Medium	The CCO is not collecting any personal identifiers such as name, address or date of birth which would allow the identification of a specific individual in the data. The CCO does not hold any information which would allow the child UPN to be related to an identifiable individual. All staff working with data have received appropriate responsible for information training so understand how to work with data to avoid identification or re-identification of data subjects. Staff have undergone relevant security clearance before accessing the data. Only aggregate data which is IL0 is shared beyond the evidence team within CCO.	Low	Yes
Children identifiable in publication	Low	Published analysis will be national or regional so small cell sizes are very unlikely. Counts suppressed where less than 10, further statistical non-disclosure procedures applied to any outputs as appropriate (in line with ONS approved researcher training).	Low	Yes
Risk in transferring data securely – information lost or breached	Medium	The data is transferred using DfE approved methods in encrypted format. Passwords to decrypt datasets are provided via telephone and are not stored.	Low	Yes

6. DPIA sign-off and outcomes

Item	Job title / date	Notes
Measures approved by:	Senior Information Risk Owner, Office of the Children's Commissioner	
Residual risks approved by:	NA	
DPO advice provided:	Jonathan Gladwin, Practitioner in Data Protection (CPDip - UK and European Data Protection Law)	*DPO should advise on compliance, step 6 measures and whether processing can proceed*

Summary of DPO advice:

TIAA provides advice to the CCO including the interpretation and application of the data protection rules and UK data protection law and draws to the CCO attention any failure to comply with the applicable data protection rules.

The DPO agrees with the requirement to conduct a DPIA, details of which are detailed above. As stated, this project requires the collection of pseudonymised data regarding children, including the collection of special category data. As a result, the ICO recommends a DPIA is completed. Additionally, Working Party Guidelines states there is requirement to conduct a DPIA where the processing of data concerns also vulnerable data subjects, which specifically lists children and the processing of special category data. The use of pseudonymisation is a recognised as an appropriate safeguard for the processing of personal data in this regard.

The DPO is satisfied that there is a Lawful basis for processing personal data as stated in the DPIA above and that the proposed processing is compliant with the applicable of data protection rules and the CCO's wider data protection obligations and responsibilities.

DPO advice accepted or overruled by:	Haroon Chowdry, Senior Information Risk Owner, Office of the Children's Commissioner	*Advice accepted*

This DPIA will kept under review by:	Senior Information Risk Owner, Office of the Children's Commissioner	*The DPO should also review ongoing compliance with DPIA*