This Bill is currently going thought the Scottish Parliament. This submission is in relation to the Parliament Bill at stage 1, and in particular the Data Architecture comments in the Policy Memorandum.

The Annex below gives a flavour of the Legislation

[Link to Legislation]

In my view, the Policy as written for Data Architecture displays almost all of the over-centralising characteristics of previously failed UK and Scottish Government IT structures. The desire to centralize, control, monitor and check is of great appeal to public servants with targets to meet. This is what happened at Stafford Hospital, and at the ERI in NHS Lothian. It does not empower patients, learners or citizens if they are over-controlled by a group of Organisations trying to track and monitor them.

There is a real risk that Young Learners will be alienated even more from the System. The Policy Memorandum for Data set out by the Scottish Government. Organisations will fail to deliver an environment that supports young learners.

Controlling, monitoring and checking are the hallmarks of failing and repressive Systems. In other areas, the Scottish Government is championing Self Management and Personalisation e.g. Health. The proposed Policy does not sit well with an independence-seeking country wishing to set itself apart for positive aspects of Education.

Data should be volunteered by the young learners because they want to do it, and they should not be tracked and monitored as if they were suspected young offenders. This will mean both Colleges and Learners start off on the wrong foot. It will cause mis-trust.

Centralisation of IT normally leads to failure of the operating environment e.g. NHS for IT Program in England. Centralisation has consistently not delivered citizens, Communities or Minister's desired outcomes. The Data Architecture and Policy Memorandum offers no role to the individual learner, or their parents, carers and teachers. This is totally at odds with Curriculum for Excellence, where school age children are asked to be e.g. Responsible Citizens. This change of Values by the Education system between schools and post 16 Education seems at odds with thinking in policy elsewhere.
The participation of Skills Development Scotland in the Draft Policy is to lead a monitoring, tracking and checking function. This is not consistent with Curriculum for Excellence, Opportunities for All, Education Scotland, Community Learning & Development and other projects. These seek to encourage positives such as aspiration, ambition, responsibility and a self-empowering role for the Learner. In this Data Architecture and Policy, the Learner is treated as someone to be checked on and monitored by the Public Sector.

The Bill goes against the ambition, aspiration, co-design, co-production and other person-centred characteristics of policies such as Self Directed Support or Community Empowerment. It confers no real responsibilities on young citizens or their support network. There is no chance for learners, families and carers to be involved in building their own personal education record. The System alienates the young learner in its treatment of them.

Just as in Health, policy makers around the world are now looking at how individuals can create, and curate, their own digital records of achievement. The individual can then share that achievement with others as they wish.

Such overly Organisation-centric structures as suggested by the Policy Memorandum, completely dis-empower the role of the learner, and I note there are plenty of sticks, with no carrots in sight. This is surprising given personalisation, self management, prevention and self directed support in other polices e.g. Health and Social Care.

In order for the citizen to be empowered, personal data must be shared by the individual, under their choice and control. The individual is then the point of integration, and has a chance to play a role. In exchange for trust, young learners will aim higher, collaborate to a greater extent and acquire confidence.

The behaviours of the Centralised Education System as written in this Policy will not serve the young learner well. The young learner knows their Identity better than any Centralised System – the young learner will be happier to share updates, changes of address and other elements if it is done by them, not tracked by the System.

Also,

_Governments that serve those who struggle routinely undervalue the degree to which the capacity, ability and determination of these people contribute to their ability to overcome their struggles. People are deeply resourceful and adaptable. To get progressively better at solving the problems we face, as individuals or communities, we have to have some control in solving our problems. We must have a say in what path we’ll take to emerge better off on the other side of a struggle. To be clear, I’m not advocating that we take this approach to its extremes – like inappropriately pushing victims of disasters or crimes to “take control” in uncontrollable situations. What I am saying is that Government need to build their strategies and operations very differently – optimized to leverage the capacity and resourcefulness of the people we serve._ From article [here](#)
Essentially, the Data Architecture and Policy reads as if it is admitting that the existing system and systems have failed learners for a generation, so it tries to build higher walls and thicker bars to track people. The assertion is that more state, central control will help young learners; I'm not sure there is any evidence this works. In Prisons, Criminal Justice and other areas, the moves are towards prevention and early intervention.

The Policy also appears to contravene data protection law on more than one occasion, by asserting that personal data can be shared. The Education Committee should ask the Information Commissioner to review the legality of the Data Policy.

eCare in Scotland tried to build this same, failed architecture. They did this for 12 years and wasted approximately £ 100 million before it was finally cancelled. The Customer First program has spent > £ 40 million for its outcomes. The Skills Development Scotland Hub centralises and tries to control Organisations, and has spent £ xx million (figure unknown). The Education Data Policy designs share almost all of the same faults of eCare – centralization; restrictions of control and choice so people are alienated; do not place trust in people; no role for the individual learner to take responsibility.

On the other side of the coin, the Scottish Government’s ‘Identity Management and Privacy Principles’ document Version 1.0, published in December 2010, was a most welcome development, and in Section 4 it did caution about the risks to privacy from creating centralised databases of personal information. See: [www.scotland.gov.uk/Publications/2010/12/PrivacyPrinciples](http://www.scotland.gov.uk/Publications/2010/12/PrivacyPrinciples)

The Scottish Government published also in late 2010 the document ‘Biometric identification systems in schools: guidance for education authorities, learning establishments and schools’. This was a well informed publication, emphasizing among other things the need for caution and the key importance of parental and pupil consent. So again it is a world away from the latest proposals. See: [http://www.scotland.gov.uk/Publications/2010/11/11112141/0](http://www.scotland.gov.uk/Publications/2010/11/11112141/0)

Para 49 is symptomatic - the only apparent determinant (according to the author) of a Learner’s success is the State Apparatus of Delivery. No recognition of the individual, the learner, their teacher, family, friends, Community, Carers or other support mechanisms.

Contrast this with Education Scotland’s recent bulletin in December 2012, which appears to come from a different part of the Education System operation that thinks more openly and inclusively.

**From strategic guidance to better outcomes**

**CLD Strategic Guidance - Key Messages**

The guidance provides a clear statement that the purpose of CLD is to empower people, individually and collectively, to make positive changes in their lives and in their communities through learning and sets out the focus for CLD within the national Performance Framework as -

- Improved life chances for people of all ages, through learning, personal development and active citizenship; and
- Stronger, more resilient supportive, influential and inclusive communities;

The strategic guidance forms part of the Scottish Government’s programme of public service reform. In particular the guidance is closely linked with key aspects of the current review of Community Planning arrangements in Scotland, and the development of the Community Empowerment and Regeneration Bill.

All three make clear that it is imperative that public services build on the assets and potential of individuals, families and communities, and the strategic guidance emphasises that CLD should be delivered as a consistent, central element of public services.

In Summary, the Data Policy captured in the Memorandum paragraphs below is a repeat of previous costly errors; is not empowering Young Learners; will not be likely to work; may be in breach of Data Protection Act; and offers no role to individuals as Learners that encourages behaviours that will help them succeed in life.

Extract of Policy Memorandum (my bold highlights)

Data sharing (Section 15) “This approach, when fully implemented, will ensure local authorities and their partners systematically identify young people who have disengaged from learning or who are most likely to do so; tailor learning and wider provision to meet individual needs; and, provide focused and ongoing support, including careers advice, to ensure they make progress.” Putting Learners at the Centre: Delivering our Ambitions for Post-16 Education Scottish Government, September 2011

Opportunities for All is the Scottish Government’s commitment to an offer of a place in learning or training for every 16 to 19 year old who is not currently in employment, education or training. It builds on, and adds impetus to, existing activity driven through 16+ Learning Choices and wider youth employment activity.

It is important that all young people who disengage, or who may be at risk of disengaging, from learning or training can be identified so that appropriate support can be provided back into learning, training or employment. This is required to plan and deliver services across the post-16 learning system, including those which support delivery of Opportunities for All. It requires a robust identification, tracking and monitoring system to allow the Scottish Government and its partners to plan and support the transitions that young people make through the post-16 learning
environment. Data collection and sharing across the 16 to 24 age group will also support comprehensive evaluation of the impact of provision and support across the post-16 learning system.

How this data sharing will work in practice can be separated into two facets. Firstly the data practice and secondly how this practice will support policy delivery (it is intended to set this out in greater detail within secondary legislation).

For data sharing to take place records must first be created for all young people. This is normally for each child when they are first enrolled for mainstream education. These records form the base data set which tells us how many young people there are in mainstream education in Scotland (The Pupil Census). Data which is relevant to the young person’s learning is added to their records as they progress through mainstream education. This data will include type of school, school leaving date and may include whether a young person has an additional support need. When the young person reaches the senior phase of Curriculum for Excellence an agreed selection of fields within their record is shared with Skills Development Scotland (SDS). This enables a post-16 record to be created that can track a young person's learning and training with a number of different providers on leaving school. SDS maintain this record, updating it appropriately with data received through face to face meetings with the young person and data shared with SDS by partners.

When a provider of learning or training enrolls a young person they will share a record with SDS of that young person's enrolment along with other agreed fields. When SDS receives this record it is able to update the record that it holds to reflect the young person's current learning or training status. This allows SDS front line careers staff to know that they need not contact this young person to ask if they require help to find learning or training. Likewise when a young person leaves a training or learning provider, the provider notifies SDS to that effect.

The founding record for a young person in Scotland comes from their enrolment in government funded mainstream education and not their health record. This means that someone who comes into Scotland after compulsory schooling age of 16 and does not apply for a mainstream school place before the age of 18 will not have a record created in this manner. If the young person engages with SDS they will have a record created. If the young person enrolls directly with a provider of learning or training their data will be shared with SDS and an existing record would be updated.

SDS will maintain a young person’s record whilst they are receiving data and/or are in direct contact with the young person. After this time, the young person’s record will be archived and retained in line with agreed standard data practice timescales. This approach has been taken as SDS provides all age services and an individual may wish to contact SDS again later in life. This process will enable SDS to provide more tailored support based upon knowledge of the individuals prior participation in learning and training.
Elements of this data-sharing approach are already in place, with SDS acting as a data hub, and many bodies having concluded data sharing agreements with SDS covering young people’s transitions through the learning system. However, if we are to ensure that every young person receives the support to which they are entitled when they need it most, all relevant partners need to share data. Our expectation is therefore that all of those responsible for providing learning and training to 16 to 24 year olds must participate in data sharing with SDS. The proposed legislative measures are framed to this end.

Through the data hub, those involved in planning and delivering learning and training to 16 to 24 year olds, including those required to share data, can monitor their performance and ensure that the best services are provided for young people.