

Title: The Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010 Lead department or agency: Department for Education Other departments or agencies: None	Impact Assessment (IA)
	IA No: DFE0005
	Date: 2010
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The regulations set out the information that all independent schools must provide and some changes are required. These include requiring proposed schools to state in their application for registration the type of special education need (SEN) they will cater for, if any. This will allow judgements to be made during inspection on whether proper resources are in place. Section 124 of the Education and Skills Act 2008 (the Act) introduces a right of appeal against deletion from the Register of Independent Schools for not providing required information. The regulations introduce arrangements to facilitate these appeals. Other changes remove superfluous information obligations and the need for signatures on forms.

What are the policy objectives and the intended effects?

The objective is to ensure that the information which independent schools are required to provide is relevant and proportionate. Knowing the type of SEN a school will cater for in advance of the pre-operating inspection will ensure proper resources are in place before the admission of pupils. Removing the requirement to provide superfluous information will reduce the administrative burden on schools. Removing the need for signatures on forms will make electronic applications easier.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The preferred option is to make the necessary amendments to the regulations as this is the only way to obtain information about the type of SEN provision a proposed school intends to offer and to remove for all schools any requirement to provide unnecessary information.

The other option is to do nothing. This means it will not be possible to determine that new schools have made suitable SEN provision and schools will not benefit from the removal of surplus information obligations.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed on an ongoing basis
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	No

Ministerial Sign-off for final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister: *Nick Gibb*..... Date: 7.12.10.....

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £0.6m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	None	None	None
High	None	None	None
Best Estimate	None	None	None

Description and scale of key monetised costs by 'main affected groups'

None

Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	None	£0.08	£0.6m

Description and scale of key monetised benefits by 'main affected groups'

The removal of the requirement for around 100 proposed schools and 2400 registered schools to provide specified information about staff and some pupils.

Other key non-monetised benefits by 'main affected groups'

Arrangements to facilitate appeals against deletion from the Register of Independent Schools for failing to provide required information.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

The amount of the monetised benefit assumes a stable number of 100 new schools opening and closing each year and a stable figure of around 2,400 independent schools at any time.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB: £0m	AB savings: £0.8m	Net: £0.8m	Policy cost savings: £0m	Yes

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England				
From what date will the policy be implemented?	01/11/2010				
Which organisation(s) will enforce the policy?	DfE				
What is the annual change in enforcement cost (£m)?	Nil				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits: 100		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro 0	< 20 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	8
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	8
Small firms Small Firms Impact Test guidance	No	8
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	http://www.opsi.gov.uk/si/si2003/20031934.htm
2	http://www.opsi.gov.uk/si/si2004/20043373.htm
3	http://www.dcsf.gov.uk/consultations/index.cfm?action=conResults&consultationId=1664&external=no&menu=3
4	
5	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits	75000	75000	75000	75000	75000	75000	75000	75000	75000	75000
Total annual benefits	75000	75000	75000	75000	75000	75000	75000	75000	75000	75000

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

The problem under consideration

The current regulations have been reviewed and a small number of superfluous information obligations were identified that need removing. In addition, new powers contained in the Education and Skills Act 2008 need implementing. Following a consultation held between 2 December 2009 and 11 March 2010 these regulations implement these changes and revoke the current regulations. This impact assessment updates that published as part of the consultation and covers only those changes made in light of the consultation.

Consultation

A full, public consultation was held from 2 December 2009 to 11 March 2010 and 63 responses were received. In light of these responses the consultation proposal for schools to send to the Department a copy of the annual report of the independent scrutiny of child protection policies and procedures will not be implemented.

The consultation may be viewed at:

<http://www.dcsf.gov.uk/consultations/index.cfm?action=conResults&consultationId=1664&external=no&menu=3>

Rationale for intervention

The right of appeal for schools deleted from the Register of Independent Schools for failing to provide required information is contained in section 124 of the Education and Skills Act 2008. These regulations make arrangements to facilitate such appeals including a statutory requirement for relevant schools to be notified of deletion and provision for such schools to remain open during an appeal period. Requiring schools to provide information that is superfluous is an unnecessary administrative burden.

Policy objective

The objective is to ensure that the information which independent schools are required to provide is necessary and proportionate. The regulations revoke the current Education (Provision of Information by Independent Schools) (England) Regulations 2003 (as amended).

Options considered

The policy options available were:

a. To implement the power contained in section 98(g) of the Education and Skills Act 2008 requiring new schools to declare the type of SEN, if any, that they intend to cater for:

To facilitate appeals by schools against deletion for failing to provide required information including a provision for schools to remain open during an appeal period;

To remove superfluous requirements for employee gender, dates of birth, national insurance numbers and qualifications and the names of pupils with a statement of SEN; and

To remove the requirement for signatures in order to ease the making of electronic applications.

Or

b. To do nothing

Option a. is the preferred option as this provides the greatest benefit to schools and pupils.

Costs and Benefits

Sectors and groups affected

Parents, pupils and schools.

Benefits

Option 1: maintain the status quo

None. Schools would not benefit from the removal of the need to provide surplus information to the Department or from arrangements to facilitate appeals against deletion for not providing required information. Information about the type of SEN provision will not be available to parents and pupils.

Option 2: introduce legislation to take forward the proposals

The administrative burden on schools will be reduced by the removal of surplus information obligations and they will benefit from arrangements that facilitate appeals against deletion for not providing required information. Parents and pupils will benefit from increased information on SEN provision. The Government cannot identify any risks or unintended consequences of implementing these changes.

Costs

Option 1: maintain the status quo

Not removing the surplus information obligations from schools will lead to a continuation of an annual cost of £75,000

Option 2: introduce legislation to take forward the proposals

This option will result in an annual saving of £75,000. The cost of stating the type of SEN the school will provide in an application form is negligible.

Risks and assumptions

The amount of the key monetised benefit assumes a stable number of 100 new schools opening and closing each year and a stable figure of around 2,400 independent schools at any time.

Administrative burden and policy savings calculations

Following advice from the sector the benefit of the removal of the surplus information obligations in respect of staff details is estimated at an average annual saving per school of £30. This saving will be made by each of the approximately 100 schools that open each year which must currently provide this information within the first year of the admission of pupils. This part of the sector will therefore benefit from an annual saving of £3,000.

Established schools will benefit by an equivalent amount because the same information is currently provided for newly recruited staff every year in the Annual School Census. This results in an annual saving of £72,000.

The total annual saving for the whole sector is therefore £75,000.

Wider impact

None, these requirements impact solely on proposed and registered independent schools in England

Summary and preferred option and description of implementation plan

That in light of the response to the consultation the changes referenced above are made and the Education (Provision of Information by Independent Schools) (England) Regulations 2010 are implemented.

The regulations will come into force on 1 September 2010 and schools will be notified directly of the changes once the regulations have been laid.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; There is an ongoing commitment to review existing policy</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To ensure independent schools are not subject to any unnecessary burdens</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The approach is to seek advice from organisations that represent the sector on whether the changes have had the desired effect.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The current regulations require schools to provide information that is no longer required.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Confirmation from the sector that the estimated savings have been made</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] None, the costs of this would be disproportionate to the benefit.</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] Not applicable</p>

ANNEX 2

Small Firms Impact Test

Around 600 institutions have less than 100 pupils (i.e. 29% of the sector). Of these, 417 do not have charitable status and are therefore operating as small businesses (i.e. 19% of the sector). When independent schools were consulted in 2003, when the new provision of information arrangements were introduced, only 12% of schools that were operating as small businesses responded. 36% of respondents did not agree with our proposals for providing information prior to registration compared with 46% who agreed.

Whilst schools with a small number of staff may make less of a saving than large schools in no longer needing to provide certain information about staff, the overall cost to the sector is calculated on an average amount. Therefore, these proposals will not significantly affect small schools compared to large schools.

Competition Assessment

There are around 2,400 independent schools in England of which about 50% are charities. Independent schools vary in size depending upon the market they target. Some are small schools catering for children with special educational needs with placements paid for by the local authority. Others are small schools catering for pupils from minority faiths. Some 600 independent schools have less than 100 pupils. No independent school has more than a 10% market share. There would be no effect on the market structure as the proposals apply equally to all schools.

Equality Screening Impact Assessment

Introduction

The Department has a duty to assess the likely impact on gender, minority ethnic groups, those with disabilities and human rights of legislation that we propose to introduce. Everyone should have an equal opportunity to meet their aspirations, realise their full potential and improve their life chances.

Context – Provision of Information regulations and equality and diversity

The focus of these regulations is to obtain information from independent schools that allows inspectorates and the Department to ensure independent schools are meeting the following statutory standards:

The quality of the education provided;
The spiritual, moral, social and cultural development of pupils;
The welfare, health and safety of pupils;
The suitability of proprietors and staff;
School premises and accommodation;
The provision of information; and
The manner in which complaints are handled.

The current regulations (as amended) containing these standards may be found at:

<http://www.legislation.hmsso.gov.uk/si/si2003/20031910.htm>

These standards are fully inclusive of all registered independent schools and their pupils, regardless of their ethnicity, culture, religion or belief, home language, family background, disability or special educational need, gender or ability.

The current regulations governing the provision of information may be found at;

<http://www.opsi.gov.uk/si/si2003/20031934.htm>

The proposed amendments to these regulations do not impact more heavily on one group than another and nor do they infringe any human rights.