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STATUTORY INSTRUMENTS

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**2007 No. 1065**

**EDUCATION, ENGLAND**

**The Education (Information About Children in  
Alternative Provision) (England) Regulations 2007**

<i>Made</i>	- - - -	<i>28th March 2007</i>
<i>Laid before Parliament</i>		<i>3rd April 2007</i>
<i>Coming into force</i>	- -	<i>30th April 2007</i>

The Secretary of State for Education and Skills, in exercise of the powers conferred by sections 537A, 537B and 569 of the Education Act 1996(1), makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Education (Information About Children in Alternative Provision) (England) Regulations 2007 and come into force on 30th April 2007.

**Interpretation**

2.—(1) In these Regulations—

“the 1996 Act” means the Education Act 1996;

“funded independent school education” has the meaning given by regulation 3(b);

“funded provision” has the meaning given by regulation 3;

“individual information” means, in relation to funded independent school education, individual pupil information, and in relation to funded education, individual child information;

“relevant local education authority” means the local education authority that funds or will fund the funded education;

“relevant person” has the meaning given by section 537A(2) or 537B(2) of the 1996 Act as the case may require;

“relevant provider” means a person who provides or will provide the child with funded education;

“relevant school” means a school at which the child is or will be a registered pupil if applicable;

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(1) [1996 c.56](#); section 537B was inserted into the 1996 Act by section 164 of the Education and Inspections Act [2006 \(c. 40\)](#), which came into force on 28<sup>th</sup> March 2007 (article 2 of [S.I. 2007/ 935 C.37](#)).

“special educational needs provision type” means the special educational needs provision type forming part of the graduated approach adopted pursuant to “The Special Educational Needs Code of Practice” issued by the Secretary of State on 3<sup>rd</sup> December 2001<sup>(2)</sup> under section 313 of the 1996 Act<sup>(3)</sup>;

“unique pupil number” means a combination of numbers which together with a letter or letters are allocated to a pupil and are unique to him, by use of a formula determined by the Department for Education and Skills; and

“work-based learning provider” means any employer or body providing a programme or programmes of education for children in the workplace as part of a course on which they are or will be enrolled at any school or college.

(2) For the purposes of these Regulations, a person is eligible for free school meals if that person falls within section 512ZB(4) of the 1996 Act.

### **Application**

3. These Regulations apply in relation to—

- (a) funded education where the relevant local education authority is a local education authority in England; and
- (b) education provided at an independent school arranged and funded by a local education authority in England pursuant to section 19 of the 1996 Act (in these Regulations referred to as “funded independent school education”),

and in these Regulations a reference to funded provision is a reference to such funded education and funded independent school education.

### **Requirement to provide individual information**

4. A person who provides funded provision must, when required to do so, provide individual information as prescribed in regulation 6 to the relevant person.

### **Extent of duty to comply with requirement**

5. A person will have complied with regulation 4 if they provide each item of individual information held by them that is requested.

### **Individual information**

6. For the purposes of sections 537A(1) and 537B(1) of the 1996 Act, individual information is prescribed as follows—

- (a) surname;
- (b) first name;
- (c) date of birth;
- (d) address and postcode;
- (e) unique pupil number, where one exists;
- (f) gender;
- (g) special educational needs provision type;

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(2) The definition of graduated approach is on page 203 of the Code.

(3) Section 313 has been amended by section 140(1) and paragraph 72 of Schedule 30 to the [School Standards and Framework Act 1998 \(c. 31\)](#) and section 195 and 215(1) of, and paragraphs 1 and 2 of Schedule 18 and paragraph 36 of Schedule 21 to, the Education Act 2002.

- (h) ethnicity;
- (i) whether English is not the first language;
- (j) whether eligible for free school meals; and
- (k) type of funded provision attended, that is whether it is—
  - (i) in a hospital (other than in a school established in a hospital);
  - (ii) in an independent school; or
  - (iii) not in a hospital or school.

**Persons to whom individual information may be required to be supplied in addition to the Secretary of State**

7. For the purposes of sections 537A(2)(b) and 537B(2)(b), a prescribed person is the relevant local education authority.

**Other persons to whom individual information supplied may be passed in addition to information collators**

8. For the purposes of sections 537A(3)(b), (4)(b) and 5(b)(i) and 537B(3)(b), (4)(b) and (5)(b) (i), a prescribed person is any of the following—

- (a) the States of Jersey Department for Education, Sport and Culture Department;
- (b) the Joint Council for General Qualifications(4);
- (c) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills;
- (d) the Qualifications and Curriculum Authority(5);
- (e) the relevant local education authority;
- (f) the Training and Development Agency for Schools(6);
- (g) the Welsh Joint Education Committee(7);
- (h) the Learning and Skills Council for England and the relevant local learning and skills council(8) in whose area the child or pupil is receiving funded provision or proposes to receive further education;
- (i) the States of Guernsey Education Department;
- (j) the Isle of Man Department of Education;
- (k) any person with whom the Secretary of State has made arrangements for the provision of services under section 114(2) of the Learning and Skills Act 2000(9);
- (l) the Higher Education Funding Council for England(10);
- (m) the National Assembly for Wales;
- (n) the National Assessment Agency(11);

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(4) The Joint Council for General Qualifications is a registered charity in England (number 1039302).

(5) The Qualifications and Curriculum Authority was established by section 21 of the Education Act 1997 (c.44).

(6) The Training and Development Agency for Schools was established originally as The Teacher Training Agency by section 1 of the Education Act 1994 (c.30) and was renamed by section 74 of the Education Act 2005 (c.18).

(7) The Welsh Joint Education Committee is the trading name of WJEC CBAC Limited, a company limited by guarantee registered in England and Wales No. 3150875.

(8) The Learning and Skills Council for England was established by section 1 of the Learning and Skills Act 2000 (c.21) and local learning and skills councils were established by section 19 of that Act.

(9) 2000 (c.21).

(10) The Higher Education Funding Council for England was established by section 62 of the Further and Higher Education Act 1992 (c.13).

(11) The National Assessment Agency is a subsidiary of the Qualifications and Curriculum Authority.

- (o) the Scottish Exchange of Educational Data<sup>(12)</sup>; or
- (p) the relevant school or other relevant provider of funded provision.

**Persons (in addition to the Secretary of State and information collators) to whom any person may supply individual information**

9. For the purposes of sections 537A(6)(c) and 537B(6)(c), a prescribed person is be either of the following—

- (a) the relevant local education authority; or
- (b) the relevant school or other relevant provider of funded provision.

**Categories of person to whom the Secretary of State or information collators may supply individual information**

10.—(1) For the purposes of sections 537A(4)(c) and (5)(b)(ii) and 537B(4)(c) and (5)(b)(ii), a prescribed category of person is any of the following—

- (a) an institution which provides further education or a work-based learning provider where either has accepted the relevant individual for funded education; or
- (b) persons conducting research into the educational achievements of children and who require individual information for that purpose.

(2) In this paragraph “the relevant individual” means the individual who is the subject of the individual information.

28th March 2007

*Jim Knight*  
Minister of State  
Department for Education and Skills

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(12) The Scottish Exchange of Educational Data is a part of the Scottish Executive Education Department.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the supply of individual data items about children receiving education which is funded by the local authority outside mainstream schools, usually referred to as alternative provision. This could include education at an independent school. The providers of such education must supply such information to either the Secretary of State or the local authority which is funding such education, when required to do so.

Regulation 6 stipulates the items of individual information to be supplied.

Regulation 8 authorises the provision of such data to various prescribed bodies either by the Secretary of State, by a body responsible for collating information for him in connection with his functions in regard to alternative provision or by a local authority.

Regulation 9 prescribes that the relevant local authority or provider of alternative provision may be provided with individual information.

Regulation 10 stipulates the categories of bodies to which the Secretary of State can supply individual information.

A partial regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Education and Skills, Great Smith Street, London SW1P 3BT and is annexed to the Explanatory Memorandum which is available alongside the instrument on the website of the Office of Public Sector Information, [www.opsi.gov.uk](http://www.opsi.gov.uk).

A full regulatory impact assessment is to be prepared following a pilot collection of data.

The Special Educational Needs Code of Practice, referred to in regulation 2, can be accessed at the following link—

<http://www.teachernet.gov.uk/docbank/index.cfm?id=3724>