

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS) (ENGLAND)
REGULATIONS 2006**

2006 No. 2601

1. This explanatory memorandum has been prepared by the Department for Education and Skills (DfES) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument defines the individual pupil data items to be collected from schools in the School Census in future.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 This instrument consolidates the Education (Information About Individual Pupils) (England) Regulations 2001 (S.I. 2001/4020) and subsequent Amendment Regulations (S.I. 2002/3112, S.I. 2003/3277 and S.I. 2005/3101) and outlines additional information that schools are expected to provide for all pupils in 2007. In addition to the items specified in S.I. 2001/4020 schools must also provide:

- the pupil's usual mode of travel to school,
- the number of and reason for any authorised and unauthorised absences from the total number of sessions held by the school,
- the qualification accreditation number, start date, planned end date, actual end date and completion status for each learning aim studied by pupils in year 12 and above,

and in relation to certain excluded pupils:

- the in care indicator at the time of any exclusion.

4.2 The Department for Education and Skills and Department for Transport have a joint 'Travelling to School' initiative. It sets out a programme of activity for schools, Local Authorities (LAs) and central government to increase walking, cycling and use of public transport and to reduce car use for journeys to and from school. 250 school travel advisers in LAs are funded to support schools developing and implementing active Travel Plans, and capital grants are being paid to schools with Travel Plans that meet the national minimum standard. A key element of each school Travel Plan is the requirement to monitor changes in mode share for journeys to school. Collection of the data through the Census will form a valuable cross-departmental strategic resource and will enable local transport planners to identify infrastructure improvements, for example the bus services needed to provide better support for pupils travelling to schools in their LA area.

- 4.3 By collecting information on the number of pupil absences and the reason for absence, better information will become available on why pupils miss school, thereby informing local and national attendance strategies. Schools will also be able to benchmark their absence rates against other schools.
- 4.4 The “Success for All” strategy¹ and the “14-19 Education and Skills” White Paper² have announced the development of comparable measures of success across all Post-16 provision. Data for the Further Education and Work Based Learning sectors are collected at learning aim level for each student. Data previously available from school sixth forms was limited to achievement data and aggregated participation data collected via the School Census. To ensure equitable treatment across the Post-16 sectors and proper accountability, data from sixth forms need to be provided in a manner similar to that for the other sectors.
- 4.5 The new Regulation 6 provides for the collection of information in respect of primary and special schools prior to 1 March 2007. This regulation makes provision for the final collection of data on permanent exclusions during 2005/6 in the same way that it had been collected in previous years as part the Pupil Level Annual School Census (PLASC) in respect of these schools, after which they will be required to submit information on all exclusions according to the School Census, as secondary schools currently do, several times a year. These schools will be required to submit information by reference to the “permanent exclusion date”, that is, the date on which the name of a permanently excluded pupil is deleted from the register during the academic year ending on 31 August 2006. After 1 March 2007 these schools will be required to submit information on all exclusions by reference to “the exclusion start date”, that is, the date set by a head teacher for the exclusion to take effect.

5. Extent

- 5.1 This instrument applies to England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 Most of this policy background information was included with the previous year’s amending Regulations but is included again here as it is still relevant to these Regulations.
- 7.2 The Census is the DfES's largest and most complex data collection exercise. Nursery, Primary, Middle, Secondary and Special schools are required to submit an electronic return, including a named pupil record.

¹ Success for All is the long-term reform strategy to develop the high-quality, demand-led, responsive colleges and providers needed in the learning and skills sector. See www.successforall.gov.uk/.

² Cm 6476. See www.dfes.gov.uk/publications/14-19educationandskills/.

- 7.3 As part of the **New Relationship with Schools** (NRwS) initiative, the new School Census replaced the Pupil Level Annual School Census (PLASC) for all maintained Secondary schools including those Middle Deemed; City Technology Colleges (CTCs); Academies; and on a voluntary basis, Service Children's Education (Secondary) in 2006 and will replace all maintained Nursery, Primary including Middle Deemed Primary, and Special schools and Non Maintained Special Schools (NMSS) in 2007.
- 7.4 The provision by schools of individual pupil information is a statutory requirement by virtue of these Regulations, which are made under Section 537A of the Education Act 1996. Pupils are not given the option not to supply data for collection in the Census.
- 7.5 The prime function of the Census is reporting pupil numbers (and thus funding entitlements). But each year requests are made for new data items to be added to the Census, as well as for amendments or deletions of existing data. These requests are considered in consultation with LA and school representatives in a series of Focus Groups. Their views are then put to the Census Board who make recommendations on which additional items should be included in the Census. Census Board recommendations are further considered by the Education Data Advisory Panel (EDAP), the Implementation Review Unit (IRU), the DfES Star Chamber and the NRwS Data Sub-programme Board before the Schools Data Management Group (SDMG) make a final decision which is submitted to Ministers for their agreement.
- 7.6 During the 2007 Census commissioning process 36 business cases for new items were considered for inclusion in the Census but the only additional items for inclusion in School Census 2007 are those itemised in paragraph 4.1. There were no requests for items to be deleted although the 5 post-16 learning aims data items replace the 7 post-16 courses data items previously collected in PLASC and School Census.
- 7.7 The School Census pupil level data is transferred to the DfES from schools' management information systems (MIS). As part of a general review of the market for schools' MIS, British Educational Communications and Technology Agency (Becta) have proposed a two-year period in which there is a "stability of requirement" for data items from the centre. As a direct result there will be no Census commissioning process for 2008 and 2009 and the Department will endeavour to keep changes to School Census 2008 and 2009 to a minimum.
- 7.8 The Department has individual pupil data back to 2002 (the first year of the full electronic pupil level collection from schools). The pupil level data underpins important benchmarking data in the National Pupil Database (NPD) (Census data (as collected under these regulations) matched with attainment data (results of key stage and external qualifications)) and publications such as RaiseOnline and is used for research and statistical purposes, to inform, influence and improve education policy and to monitor the performance of the education service as a whole.
- 7.9 The DfES will also provide Ofsted with pupil level data for use in school inspection and where relevant, pupil information may also be shared with post-

16 learning institutions to minimise the administrative burden on application for a course and to aid the preparation of learning plans.

- 7.10 The DfES may also use contact details from these sources to obtain samples for statistical surveys: these surveys may be carried out by research agencies working under contract to the Department and participation in such surveys is usually voluntary. Schools will be responsible for explaining to parents and pupils that a pupil's contact data may be used to invite them to take part in a sample survey and give them the option not to be included in any sample. Even if pupils are approached to take part in a survey they can refuse to do so.
- 7.11 Additionally in 2007 we will be collecting learning aims data from pupils in year 12 and above. The collection of this data is essential to calculate funding levels, retention and success rates for school 6th forms in a comparable manner to that which applies to FE colleges. Priorities for Success identified a potential £90m annual savings to be released by moving schools onto the same funding system (but not the same rates) as FE. However, if we are to achieve the savings then we need the data to narrow the funding gap that exists between school sixth forms and FE colleges.
- 7.12 The Children Act 2004 provides for the Secretary of State to issue Regulations requiring the "governing body of a maintained school in England" to disclose information for inclusion on the Information Sharing (IS) Index.
- To ensure high standards of accuracy, information on the IS Index will be drawn from a number of sources including the termly School Census from which, from January 2007, pupils' home address will be collected.
- 7.13 To meet the requirements of the Data Protection Act 1998, schools need to issue a "Fair Processing Notice" to pupils and/or parents summarising the information held about pupils, why it is held, and the third parties to whom it may be passed on. The Department provides the text of the fair processing notice and guidance on issuing it to parents to LAs, who work with their schools to ensure that the Fair Processing Notice is issued to parents. (The text of the most recent Fair Processing Notice and guidance for LAs is attached.)
- 7.14 Pupil data may also be shared with other Government Departments and Agencies (including the Office for National Statistics) for statistical or research purposes only. The DfES may also disclose individual pupil information to independent researchers into the educational achievements of pupils who have a legitimate need for it for their research, but each case will be determined on its merits and subject to the approval of the Department's Chief Statistician. Researchers will only be given access to anonymised pupil level data and must complete a confidentiality declaration. In order to anonymise data the following identifying features are removed: forename, middle name, surname and unique pupil identifier. Additionally home postcode is changed into Super Output Area (Super Output Areas are a new geographic hierarchy designed by Office for National Statistics to improve the reporting of small area statistics) and date of birth into age in months. Based on these actions data cannot be used to identify any living individual.

- 7.15 The pupil level data is used nationally for the National Assessment Agency's (NAA's) DC2 Pupil Test Registration process, ending the requirement for schools to provide separate pupil level information for DC2 purposes. (The DC2 form was used by schools to order Key Stage test papers for their pupils by supplying identifier information for all pupils expected to be entered for the tests and by the Data Collection Agency to produce mark sheets for test markers.)
- 7.16 Pupil information may be matched with other data sources that the Department holds in order to model and monitor pupils' educational progression facilitating matching with post-16, higher education and adult learner records. For this purpose the Department needs to keep data for several years to pull together information on a life cycle of learning adding value back into the system.
- 7.17 Because pupil level data is relatively new, our intention to date has been to retain all pupil level data. The length of time for retention of the data will need to take into account relevant limitation periods for any possible legal action arising from the data collection or operation of the database containing the data collected.
- 7.18 We have carried out a review in 2006 and our current retention policy is that a young person's information should be kept on the live system up to their 20th birthday. The Head of Profession for Statisticians at DfES is keen that we continue this review process by setting up a Data Release & Storage Advisory Panel including Data Protection and legal experts and an independent ONS representative. One of the roles of this group will be to agree the storage, retention and security policy within the Data Services Group and to advise on the processes required to manage this area of work.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Ann Wass at the Department for Education and Skills, Tel: 020 7925 5156 or e-mail: ann.wass@dfes.gsi.gov.uk, can answer any queries regarding the instrument.