

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SUPPLY OF INFORMATION ABOUT THE SCHOOL
WORKFORCE)(No. 2)(ENGLAND) REGULATIONS 2007

2007 No. 2260

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations impose a duty on schools and local authorities to supply items of data about each member of the school workforce to the Department for Children, Schools and Families (the Department) when requested to do so. They also specify which items of information should be provided, how they will be used and with whom they may be shared.

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

3.1 This instrument replaces the Education (Supply of Information about the School Workforce)(England) Regulations 2007 (SI 2007/1264) which came into force on 25th May. These previous regulations were reported by the Committee for defective drafting in its report no.19 of 18 June 2007. The Department is taking this first opportunity to correct the instrument.

4. Legislative Background

4.1 This instrument outlines the information that schools and local authorities are expected to supply to the Department about each individual member of the school workforce. .

4.2 The instrument states how the data may be used and with whom the data may be shared. In the case of some partner organisations, such as the General Teaching Council for England, this draws upon their existing legal right to hold individual level data about members of the school workforce.

4.3 The Commons Select Committee on Education and Skills reported on 21 September 2004 that ‘It would be a significant step forward if there was to be agreement between the different organisations on the form of data to be collected so that schools are asked only once to provide the information and a consistent interpretation of the trends is possible’ [*Secondary Education: Teacher Retention and Recruitment. 5th Report of Session 2003-04, volume 1, p.10*]. This instrument, by enabling the collection of individual level data to a set of common definitions and allowing the data to be shared with partner organisations, helps to make that step forward a reality. The sharing will mean that schools will no longer be asked to respond to uncoordinated surveys

from official bodies, possibly at different times of year and using different definitions.

4.4 There was some debate about the need to collect this information during the passage of the Bill through Parliament in October 2004. The most relevant points can be found in the House of Lords Hansard, volume 665, columns 451-453.

4.5 Various undertakings have been made by the Department to implement a School Workforce Census. These include the Department's response to the Smith Inquiry into Mathematics: *'The inquiry noted that we know relatively little about the characteristics of mathematics teachers and, in particular, of what qualifications they hold. In the past, our understanding of this key question has been based on an irregular survey of a small sample of secondary schools. The Inquiry felt that we needed a more complete understanding of exactly who is teaching mathematics in our schools and colleges as a basis for policy making. We [the Department] agree.'* [Making Mathematics Count; DfES; 2004].

4.6 More recently, in his answer to PQ118837 on 6th February 2007, the Minister for Schools said *'The Department is developing a school workforce database to enable the collection of individual level data about all people who work in maintained schools in England. This is planned for national rollout in 2010 and will include data both on teacher ethnicity and on pay awards.'* [House of Commons Hansard, column 859W].

4.7 A National Statistics Review of School Workforce Statistics, published in 2004, recommended the introduction of the School Workforce Common Basic Data Set (CBDS) and the School Workforce Census. The review steering group included representatives from the Teacher Training Agency (now the Training and Development Agency for Schools), the General Teaching Council for England, the Employers Organisation for Local Government and secondary and primary school head teachers.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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 The development of a New Relationship with Schools (NRwS) is a key part of the Government's agenda to reform the education system to focus more keenly on raising standards for all through personalised learning. By freeing them from unnecessary burdens and making sure demands for information are not duplicated, NRwS gives schools more time and resources to dedicate to

teaching and personalised learning. The relationship is based on a high degree of professional trust. Schools have more autonomy to determine their improvement priorities, and the appropriate support packages that will enable them to deliver these.

7.2 There are four key principles which underpin how data collection should be rationalised to fit with the NRwS policy initiative:

- a) Data should be collected once and used many times.
- b) Collection and sharing of data should be fully automated.
- c) The value of any data collected should demonstrably outweigh the costs.
- d) Personal data on individuals should be properly protected.

Sixteen partner organisations, such as the Training and Development Agency for Schools, the Local Government Association and the National College for School Leadership have also committed to achieving these principles by signing a Data Sharing Protocol.

7.3 Current national level data collections about the school workforce are both inefficient and burdensome for schools. Different parts of Government make their own data collections and waste valuable time and effort at school level. The data collected is often incompatible and fails adequately to cover some key areas such as teachers' qualifications.

7.4 This inefficient approach to data collection also impacts on schools and local authorities. They are asked to respond to requests for information at different times of year and using different definitions. It is not feasible to continue with this approach in the long term. The School Workforce Census (the Census) should streamline the collection process in schools and local authorities, as well as delivering significant improvements in the quality, timeliness and utility of school workforce statistics. The Census is supported by the Implementation Review Unit, which has a remit to reduce bureaucracy in schools, because of the significant benefits to schools and local authorities.

7.5 Following the successful introduction of the Census, the Department is committed to phasing out three existing surveys of the school workforce. Two other surveys of teachers, conducted by signatories to the Data Sharing Protocol, will also cease when the Census starts as the Department will be able to share the relevant data with partners. These collections are:

- a) Form 618G: the annual survey of teacher numbers and teacher vacancies (including sickness absence and teacher ethnicity).
- b) The workforce elements of the Annual School Census.
- c) The Secondary School Curriculum and Staffing Survey.
- d) The Pay Survey, run by the Office of Manpower Economics on behalf of the School Teachers' Review Body.
- e) The Teacher Resignations and Recruitment Survey, run by the National Employers Organisation for School Teachers – part of the Employers Organisation for Local Government.

7.6 The data collected through the Census will enhance the evidence base available to inform policy making, particularly around the recruitment, retention and turnover of the workforce, equal opportunities and diversity, the qualifications of the workforce and deployment of specialist teachers. The data may also be matched with other data collected about a school through the School Census.

7.7 The majority of data items to be collected by the Department are items which the school or local authority will require for their own purposes, for example the contract and pay details of an individual.

7.8 The data collected may be shared with a number of partner organisations. This will be for evaluation, planning, statistics and research purposes only. This data sharing is a key element of reducing the burdens on schools as it enables us to meet our aspiration to collect data once and use it many times. However, each case will be determined on its merits and subject to approval. Confidentiality agreements will be used to ensure that data is only shared where it is appropriate to do so and that the data is only used for the stated purpose.

7.9 The Department may use the information collected through the Census to obtain samples for research or statistics. These surveys may be carried out by research agencies working under contract to the Department and participation in such surveys is voluntary. This is a continuation of the Department's current practise.

7.10 To meet the requirements of the Data Protection Act 1998, employers need to issue a 'Fair Processing Notice' to all members of the workforce covered by the Census summarising the information held about them, why it is held and the third parties to whom it may be passed on. The Department has provided the text of the Fair Processing Notice and guidance on issuing it to employees. This has also been shared with the Information Commissioner.

7.11 Because teachers' careers can span 40 or more years, our current intention is to retain all individual 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. This policy will be kept under review.

7.12 As the Regulatory Impact Assessment sets out, the consequences of not implementing this new system include:

- a) Schools will continue to use valuable resources on providing data to fit the varying needs of users. This is not consistent with the requirement to reduce bureaucracy contained within the National Workforce agreement.
- b) The aim to collect data once and use many times will not be met.
- c) School performance will be impeded by the continuing inefficient use of resources on data collection and because they will not have easy access to comparative data they need for

- their own use – for example, workforce turnover, workforce ethnicity, workforce pay progression.
- d) The improvement in school workforce data that the DfES and other users reported to the National Statistics Review will not be possible.

Consultation

7.13 The Adult (now School Workforce) Common Basic Data Set (the CBDS) was formally consulted on in 2002. Forty three responses were received: 36 from Local Authorities, 3 from teacher unions, 1 from a support staff union, 1 from a diocesan body and 2 others. In general most respondents agreed with the categories that the Data Items had been arranged within. Although many commented that the data would be useful they were concerned about the resources needed to gather the data and requested further clarification of various aspects of the Data Items. Several respondents also mentioned that the data could be unreliable and difficult to collect. The CBDS and the plans for collection were altered to take these comments on board.

7.14 Draft regulations were available when the Bill was going through Parliament in late 2004/early 2005. The Regulatory Impact Assessment, published at the same time, sets out the breadth of consultation undertaken.

7.15 The regulations, in draft form, were subject to an informal consultation in December 2006 and January 2007 with over 200 stakeholders, including all Local Authorities, all known companies responsible for providing Management Information Systems software to schools, all Data Sharing Protocol signatories and all members of the Workforce Agreement Monitoring Group which includes those teacher and support staff unions and employers who are working in partnership with the Government. Responses were also invited from other parties via TeacherNet.

7.16 Fourteen responses were received. Two of these raised specific points which have all been resolved. Other responses raised a number of issues for consideration. The most frequently mentioned response was around workload, with 5 respondents mentioning concerns about the initial workload associated with the census and the timings. In response, the Department has changed the deadline for the return of data from fourteen days to twenty-seven days. The majority of data items will be required by schools and local authorities for their own purposes and the data requirement will be known in advance of the Census date. The School Census regulations allow 14 days for responses so we feel that this extended deadline should allow sufficient time, although it will be kept under review.

7.17 Schools, local authorities, teaching and support staff unions and partner organisations such as the General Teaching Council for England have been consulted about the project on an ongoing basis since 2002. Their views and comments have been valuable in shaping the project.

Guidance

7.18 Guidance is being prepared and will be available electronically to Local Authorities. The guidance was consulted on at the same time as the draft regulations and with the same groups of people. The guidance has been revised in light of the responses received.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the private sector is limited to those companies providing management information software systems to schools and local authorities, or any third party managing information on behalf of a school or local authority. We are actively working with software suppliers to ensure that their systems can meet the Department's requirements.

9. Contact

9.1 Louise Skelton at the Department for Children, Schools and Families, Tel: 020 7925 6069 or email: louise.skelton@dcsf.gsi.gov.uk can answer any queries regarding the instrument.

Annex B

Equality Impact Assessment – School Workforce Census

Initial Screening Stage

1.1	Name of policy, practice or procedure	School Workforce Census
1.2	Who is the policy lead?	Helen Barugh
1.3	What is the aim of the policy, practice or procedure?	To provide enhanced, coherent and comprehensive data about each member of the school workforce to feed into policy making around, for example, teacher and support staff recruitment, retention, pay and equal opportunities.
1.4	Who is likely to be affected by the policy, both internal to the DfES and outside it?	The main impact is on schools and local authorities who will be responsible for providing the data back to the Department. Other stakeholders include signatories to the Data Sharing Protocol, the workforce trade unions and providers of management information software in schools. Pupils are an indirect stakeholder as the enhanced data should have a positive impact on workforce planning at both the national and the local level.
1.5	How does the policy fit into our wider aims?	The Census is part of the New Relationships with Schools policy. The enhanced data will have a positive impact on a range of the Department's wider aims by providing better information about the school workforce and facilitating better informed policy making. In terms of reducing burdens on schools, the Census will replace 5 existing data collections.

2.0 Identify the Evidence Base

2.1	Examples of information that would be helpful in assessing the likely impact on particular groups: demographic data and other statistics, including census findings; recent research findings; the results of consultations or recent surveys (NB qualitative and quantitative data); the results of equality and diversity monitoring data, from our own records or from other public authorities. Information from groups and agencies directly in touch with particular groups in the communities; we serve (for example, qualitative studies by trade unions and voluntary and community organisations); comparisons with similar policies in other departments or public authorities; analysis of records of public enquiries about our services or policies, or complaints about them; recommendations of inspection and audit reports and reviews; recommendations/reports by representative groups/bodies; Individual Learner Record (ILR) Data; Statistical First Release (SFR).	
2.2	What information (including data and research) do we have about this policy?	The object of this policy is to collect data. However, a number of research projects and other sources such as consultation and focus groups provide some relevant information. Powney et al (DfES 2003) conducted research on behalf of the Department entitled 'Teachers' Careers: The Impact of Age, Disability, Ethnicity, Gender and Sexual Orientation'. Key findings from the research include:

		<ul style="list-style-type: none"> - Many white male teachers thought that teachers are promoted according to their experience and ability. In contrast female teachers, teachers with disabilities and teachers from minority ethnic groups are more likely to think that age, disability, ethnicity or gender has affected their career progression. - Most respondents with disabilities reported experiencing difficulties both in entering and in making progress in the profession. - Members of minority ethnic groups were more likely to seek promotion than other groups of teachers. Many also believed that they have not received promotion commensurate with their qualifications and experience. - Respondents perceived their age as either an advantage or a disadvantage depending on the stage they had reached in their careers. - Some groups of teachers, such as part time and supply staff, reported experiencing problems accessing continuing professional development and promotion. These groups are predominantly female. <p>The Follow Up Research into the State of School Leadership in England (MORI, DfES 2005) included a survey of serving head teachers. They found that, of the 911 respondents to the survey just 12 were not white, with a further 11 not providing details.</p> <p>Information about the ethnicity of all teachers is gathered annually by the Department. This shows that 5.2% of teachers in England are non-white (compared to 9% of the working age population). The ethnic diversity in London is much greater (17.4% of teachers are non-white, compared to 31% of the working age population). It does not break down this information by grade. There is no information available about the ethnicity of support staff.</p> <p>There is currently no information available about the level of disability in the school workforce.</p>
2.3	<p>What does this information show? Are there different groups who appear to be impacted in different ways?</p> <p><i>It is not necessarily the case that a difference in quantitative data proves discrimination.</i></p>	<p>The Census will collect the same information about each teacher and a slightly reduced amount of information about each teaching assistant and each other member of support staff in schools. For all members of the workforce, this will include their date of birth, gender, ethnicity and (proposed) whether they have a declared disability. Individuals will be given the option of refusing to provide any of this information except date of birth. Therefore, although no other information is available to support this conclusion, the policy should not have a different impact on different groups of individuals. In addition, it will provide information and evidence to allow the Department and Local Authorities to meet their monitoring requirements under the various discrimination laws.</p>

3.0 Is the policy Relevant to equality?

		Yes	No	No Evidence	
3.1	Might the impact of the policy (or change to the policy) have a negative impact on equality, or differ according to people's ethnicity, gender or disability?	Ethnicity		X	
		Disability		X	
		Gender		X	
		Age		X	
3.2	Is the policy likely to affect relations between particular groups, for example because it is seen as favouring a particular group or denying opportunities to another? <i>Is there reason to believe that people could be affected negatively by the policy?</i>		Yes	No	No Evidence
		Ethnicity		X	
		Disability		X	
		Gender		X	
3.3	Is the policy likely to damage relations between any particular groups or communities and the Department?		Yes	No	No Evidence
		Ethnicity		X	
		Disability		X	
		Gender		X	
3.4	Is there reason to believe or evidence to support the view that the policy, or any part of it, could discriminate against a particular group? If so is the policy directly or indirectly discriminatory?		Yes	No	No Evidence
		Ethnicity		X	
		Disability		X	
		Gender		X	
				X	