

EXPLANATORY MEMORANDUM TO
THE SCHOOL INFORMATION (ENGLAND) (AMENDMENT) REGULATIONS
2016

2016 No. 451

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to update the current requirements on maintained schools to publish their key stage 2 and key stage 4 results. The instrument also introduces a requirement to publish 16 to 18 (key stage 5) results on the websites of all schools with a sixth form for the first time. It adds a new requirement on schools to publish their complaints procedure online and makes some changes to the current pupil premium publication requirements.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The changes to the publication requirements of key stage 2 and key stage 4 results have been made because the performance measures are changing in 2016 and the requirements in the current regulations will no longer be relevant.
- 4.2 The requirement to publish 16 to 18 results in schools with a sixth form will ensure that there is consistent published information for the benefit of students and parents to make informed choices when applying to schools.
- 4.3 Schools are already required to have a complaints procedure in place pursuant to Section 29 of the Education Act 2002. This further requirement obliges schools to publish the complaints procedure on the school's website.
- 4.4 The requirement for schools to publish their pupil premium strategy is being introduced to ensure that this additional funding allocated to schools is being used for maximum impact.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

6.1 The Minister of State for Schools has made the following statement regarding Human Rights:

In my view the provisions of the School Information (England)(Amendment) Regulations 2016 are compatible with the Convention rights as no human rights are affected by the Regulations.

7. Policy background

What is being done and why

7.1 The School Information (England) Regulations 2008 (SI 2008/3093) (“the 2008 Regulations”) came into force on 10th February 2009 and are made under section 537 of the Education Act 1996, and section 92 School Standards and Frameworks Act 1998. In summary, they specify:

- the process by which local authorities make general information on their educational policies available to parents, and the information on local educational policies which local authorities must publish; and
- the process for individual schools’ governing bodies to publish information on their websites including:
- the school’s latest Key Stage 2 and/or Key Stage 4 attainment and progress measures as presented in the School Performance Tables;
- details of the school’s curriculum, content and approach, by academic year and by subject (including details of GCSE options and other qualifications offered at Key Stage 4 (for secondary schools), and approach to phonics and reading schemes (for primary schools);
- details of the school’s policies on behaviour, charging, SEN and disability provision;
- details of the school’s pupil premium allocation and plans to spend it in the current year and, for the previous year, a statement of how the money was spent and the impact that it had on educational attainment of those pupils at the school in respect of whom grant funding was allocated;
- where applicable, details or links to the school’s admission arrangements, including its selection and oversubscription criteria, published admission number and the school’s process for applications through the local authority;
- links to the school’s Ofsted reports and DfE School Performance Tables and a statement of the school’s ethos and values.

7.2 The 2008 Regulations apply to all maintained schools except for maintained nursery schools; and to other school types (e.g. maintained special schools, academies, city technology colleges etc.) where specified in the regulations.

7.3 These amendments to the 2008 regulations change the performance measures that schools are required to publish on their websites. The change is necessary because the accountability framework is being reformed from 2016. The data necessary to fulfil the current requirements will no longer be produced and parents and students will want to know how schools perform against new performance measures for primary and secondary schools.

7.4 At key stage 2 the new requirements are to publish the following information:

- (a) percentage of pupils achieving the expected standard in reading, writing and mathematics;
- (b) average progress in reading;
- (c) average progress in writing;
- (d) average progress in mathematics;
- (e) percentage of pupils achieving a high level of attainment in reading, writing and mathematics;
- (f) average scaled score in reading;
- (g) average scaled score in mathematics.

7.5 At key stage 4 the requirements are to publish the following information:

- (a) progress 8 score
- (b) attainment 8 score;
- (c) percentage of pupils achieving a good pass in English and mathematics; and
- (d) percentage of pupils achieving the English Baccalaureate.

An explanation of the EBacc can be found here: [English Baccalaureate \(EBacc\) - GOV.UK](#)

7.6 We are also introducing a requirement to publish data on sixth form performance for the first time. Schools with sixth forms will be required to publish 16 to 18 results under the following categories:

- (a) progress;
- (b) attainment;
- (c) English and maths progress;
- (d) retention; and
- (e) destinations.

7.7 We know from research with parents and students that they choose to look at schools' websites to find out information and that is why it is important that the performance information on their website is up to date and reflects the latest data available on a school's performance.

7.8 Two further changes are being made to the regulations. The first is to add a requirement that school's publish their complaints policy on the schools website. This is not adding additional burdens as schools are already required to have a complaints policy and make it available to parents on request.

7.9 The second change is to add an existing requirement to provide details on: the amount of the school's allocation from the pupil premium grant; how it is intended to be spent and the effect of the expenditure on the educational attainment of the pupils. This is the pupil premium strategy. To "Improve the effectiveness of pupil premium spending" is an explicit commitment of the department for education's delivery priority to "Deliver fair and sustainable funding". Ensuring all schools adopt a strategic approach to their pupil premium use, informed by robust external or self-review, is at the heart of the department's policy for achieving this priority. Therefore, the change to the current regulations will require schools to publish their pupil

premium strategy online. It will require schools to explain how the use of the pupil premium may have benefited pupils who are not eligible for pupil premium funding, for example if the school has taken a whole school approach to raise standards

- 7.10 The requirement will include:
- a) The previous academic year: how the pupil premium allocation was spent; the impact of the expenditure on eligible and other pupils; b) The current academic year: the amount of the school's allocation of pupil premium grant; details of the main barriers to educational achievement; how the allocation will be spent to address the barriers and why these approaches were taken; how the school will measure the impact of the pupil premium; and the date of the next pupil premium strategy review.
- 7.11 Where a school does not have a website, the requirement to publish online may be fulfilled by publishing the information on a website provided by another organisation, the address and details of which are made known to parents.
- 7.12 The instrument will come into force on 1st September 2016. The new requirements will apply only in relation to England and only to information in relation to the academic year 2016-2017 and subsequent years.
- 7.13 The data for the new performance measures will not be available until December 2016 (for key stage 2) and January 2017 (for key stage 4 and 16-18, although provisional data will be available earlier). Therefore schools will change the performance measures on their websites after the new data is published. This data is also published on the School Performance Tables website which is available here: www.compare-school-performance.service.gov.uk

Consolidation

- 7.14 There are no plans to consolidate amendments to these regulations.

8. Consultation outcome

- 8.1 Full public consultations were held on proposed changes to primary, secondary and 16-19 accountability, which included proposed changes to performance measures.
- 8.2 **Primary:** A 12 week formal public consultation was held on proposed changes to primary assessment and accountability between 17 July 2013 and 11 October 2013. The government response was published on 27 March 2014. 1,187 written responses were received to the consultation and discussions were held at a series of events and conferences. The consultation and government response are available here: [Primary assessment and accountability consultation and government response](#). The technical guidance which describes the measures in detail is available here: [Primary Technical Guidance](#)
- 8.3 **Secondary:** A full 12 week formal public consultation was held on proposed changes to secondary school accountability between 7 February 2013 and 1 May 2013. The government response was published on 14 October 2013. The consultation proposed changes to the headline secondary school accountability measures and sought views on the publication of other data which could strengthen the secondary accountability system. We received 412 written responses to the consultation, and held discussions at a series of events and conferences. The proposals were broadly welcomed as an improvement on the current accountability measures. The Government response to the secondary school accountability consultation can be found here:

[Secondary school accountability consultation - Consultations - GOV.UK](#). The technical guidance which describes the measures in detail is available here: [Progress 8 Technical Guidance](#)

- 8.4 **16-19:** A 10 week formal public consultation was held on proposed changes to 16-19 accountability between 12 September 2013 and 20 November 2013. The government response was published on 27 March 2014. 247 written responses were received to the consultation, and a number of discussions were held with interested parties. Respondents to the consultation were generally pleased that 16-19 accountability was being strengthened. While most of the proposed measures were seen as comprehensive and useful to educators and other professionals, they were thought too numerous and complex for parents and students to understand easily. Therefore the indicators have been reduced to five and it is these five measures that schools will be required to publish on their websites. The consultation and government response are available here: [16 to 19 accountability consultation - Consultations - GOV.UK](#) The technical guidance which describes the measures in detail is available here: [16-18 Technical Guidance](#)
- 8.5 **Complaints policy:** No formal consultation has taken place in respect of the requirement to publish the school's complaints policy on their website. However, anecdotal evidence from the consideration of several hundred complaint cases by the Department for Education's School Complaints Unit over the last three years has shown that parents can access information online more easily and, as complaints can be emotive, without engaging directly with the school. It also reduces the time needed by schools to process requests for copies of the procedure. We do not consider this an onerous requirement. Schools are already required to have a complaints policy pursuant to Section 29 of the Education Act 2002, the only addition is that schools publish the complaints policy on their website.
- 8.6 **Pupil Premium:** Sectoral feedback has been available through the completion of independent reports on the pupil premium policy: A 2013 independent evaluation of the pupil premium found school leaders often making choices about pupil premium use without a clear rationale. In 2014 Ofsted reported that, while schools were generally using the funding more effectively, in schools with weak leadership pupil premium funding was often not effectively used. A National Audit Office investigation in 2015 into funding for disadvantaged pupils found that, while it was too early to measure the policy's impact, and school leaders were increasingly focusing on the needs of eligible pupils, the funding's use and impact was inconsistent across the country. Evidence was gathered from pupil premium users for these reports and the department's current policy intent responds to this.

9. Guidance

- 9.1 Guidance on what maintained schools must publish on their websites is available on Gov.uk: [What maintained schools must publish online - Detailed guidance - GOV.UK](#)
- 9.2 This guidance will be updated once the regulations are made. We will also communicate the changes through teacher representative bodies for example through the Association of School and College Leaders (ASCL) and the National Association of Head Teachers (NAHT).
- 9.3 The School Complaints Unit issued updated best practice advice to schools on complaints procedures in January 2016:
<https://www.gov.uk/government/publications/school-complaints-procedures>

9.4 Guidance will be included in a non-statutory Guide to pupil premium policy available here: [Pupil premium reviews - Detailed guidance - GOV.UK](#) . This will include a template that schools will be invited to use to produce a compliant pupil premium strategy.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible. The instrument does not introduce new obligations on schools. It updates current performance measures and pupil premium requirements and requires complaints policies, that must already be held, to be published online.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 A review provision is not appropriate as these regulations do regulate business.

12.2 When preparing for inspection inspectors check the school's website for background information, including in relation to statutory requirements to publish certain information. Inspectors ensure that, when writing their report, they address whether the school meets requirements and if not, what requirement(s) is (are) not being met.

12.3 The outcome will be subject to internal review, after 12 months of the regulations being implemented, as part of the Department's wider work to reduce bureaucracy for schools.

12.4 We will also be alert to any feedback from practitioners and will take advantage of any opportunities to identify concerns.

13. Contact

13.1 Linda Rose at the Department for Education Telephone: 020 7340 8023 or email: linda.rose@education.gsi.gov.uk can answer any queries regarding the instrument.