

**EXPLANATORY MEMORANDUM TO THE
EDUCATION (PUPIL INFORMATION) (ENGLAND) REGULATIONS 2005
2005 No. 1437**

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This statutory instrument requires schools to keep a curricular record for each pupil, disclose a pupil's educational record to his parent upon request, and to transfer a pupil's common transfer file and educational record to the new school when the pupil changes school. It also requires schools to provide an annual report of the pupil's educational achievements at school to his parent or, if he is 18 or over, the pupil himself, and a school leavers' report to the pupil himself.

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

- 3.1 None

4. **Legislative Background**

- 4.1 These Regulations revoke and replace the Education (Pupil Information) (England) Regulations 2000 (as amended) which imposed very similar requirements upon schools.
- 4.2 However, these Regulations provide for new reporting arrangements in relation to pupils at Key Stage 1 to reflect the new assessment arrangements introduced for these pupils by The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 (SI 2004/2783). They also incorporate other changes, which are described below.

5. **Extent**

- 5.1 This instrument applies to England.

6. **European Convention on Human Rights**

Not applicable.

7. Policy background

Changes made following consultation

- 7.1 Head teachers argued that a teacher's overall, rounded assessment of a pupil's progress throughout the year, taking into account the results of regular tests and tasks undertaken by him, would provide a more accurate guide to his progress at Key Stage 1 than his performance in any particular set of tests and tasks. In response to this, new arrangements for assessment and reporting at Key Stage 1 were trialled, where participating schools administered teacher assessments and tasks and tests in reading, writing, and mathematics. Teachers made one overall judgement on attainment in each of these subjects which were reported to parents and transferred to any school to which the pupil transferred – in place of the usual obligatory reporting of separate results by assessment and tasks and tests. (The results of teacher assessment in speaking and listening and science were also reported.) The trial was successful and consultation revealed a high level of support for the obligatory reporting and transfer of these overall assessments only. This statutory instrument requires all schools to follow the arrangements outlined above from now on.
- 7.2 Consultees were also asked for their views on other proposed changes regarding any Personal Education Plan (PEP) held for a pupil and the transfer of pupils' educational records to schools outside England. These were strongly supported and are now incorporated into these Regulations as follows.
- 7.3 Where a pupil has a PEP this will now form part of his/her educational record. (A PEP is drawn up by children's social services when a child is taken into care and is maintained by the school. It provides details of the child's educational needs, objectives, progress and attainment.)
- 7.4 From 2005/6, schools will be required to transfer a pupil's educational record and common transfer file when he moves to a new school in Wales, Scotland or Northern Ireland. (Previously, this duty only applied in relation to transfers between schools in England.)

Changes made where previous Regulations did not achieve the original Policy intention

- 7.5 Some changes have been made where the previous Regulations did not achieve the original policy intentions. The definition of "educational record" is amended to include any statement of special educational needs. The Regulations now make clear that a school must not disclose to parents information in the educational record which it could not lawfully disclose to the pupil himself under the Data Protection Act 1998 or in relation to which the pupil would have no right of access by

virtue of any order made under section 30(2) or section 38(1) of that Act.

Other changes

7.6 Responsibilities for keeping curricular records, disclosing educational records to parents and transferring common transfer files and educational records to other schools are transferred from head teachers to governing bodies, reflecting the fact that governing bodies are legally responsible for the management of their schools. This will not impact on workload as these functions may be delegated to head teachers in line with any established practice.

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.

8.2 The impact on the public sector is negligible.

9. Contact

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