

EXPLANATORY MEMORANDUM TO
THE EDUCATION (PROVISION OF INFORMATION ABOUT YOUNG CHILDREN)
(ENGLAND) REGULATIONS 2007

2007 No. 712

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The Education (Provision of Information About Young Children) (England) Regulations 2007 prescribe the persons and categories of person who can collect and exchange information under section 99 of the Childcare Act 2006 and section 537A of the Education Act 1996, regarding individual children receiving funded nursery education or relevant nursery education. The regulations also prescribe the individual child information and individual pupil information which can be processed.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Section 537A of the Education Act 1996 allows for individual pupil information as prescribed to be collected in respect of all pupils in schools and for this information to be provided to the Secretary of State and other prescribed persons. Section 537A also gives the Secretary of State the power to make regulations providing for information collected in this way to be exchanged with other prescribed persons. Individual pupil information is already collected in relation to pupils in schools under S.I. 2006/2601, which were made under section 537A. This information is passed to local authorities and then to the Secretary of State.

Section 99 of the Childcare Act 2006 contains similar provisions to those in section 537A of the Education Act 1996 but relating to private, voluntary and independent nursery education providers. This instrument is the first use of these powers.

Section 100 of the Childcare Act 2006 contains transitory provisions which modify section 99 pending the coming into force of section 7 of that Act.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England.

- 5.2 Welsh colleagues are working on instruments under section 101 of the Childcare Act regarding collection of data from private, voluntary sector and independent providers of nursery education in Wales.

6. European Convention on Human Rights

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 policy objective for the Childcare Act 2006 is to bring into statutory force the Government's Ten Year Childcare Strategy, "Choice for Parents, the Best Start for Children", this statutory instrument supports that by collecting the necessary data needed to ensure that free early years education of 3 and 4 year olds is being funded and delivered appropriately.
- 7.2 A public consultation took place from 21 September to 14 December 2006. The consultation sought views on the collection of individual child level information from early years providers funded to deliver the free entitlement for 3 and 4 year olds. It also sought views on provisions for schools to provide data on Foundation Stage Profile (FSP) scores to local authorities and for this to be passed to the Department. The consultation also sought views on who should be permitted to access the data.

In all, 11 responses were received from a range of relevant professionals and organisations. Overall the majority supported the data collection regulations and no major objections were received.

Most comments were received in relation to the anticipated additional costs that Local Authorities and providers may incur in implementing the regulations e.g. collection of data and transfer to Local Authority and DfES IT systems both in the set up phase and ongoing costs, such as training staff. There is currently no evidence to suggest that costs will be higher than the Department has estimated but a pilot data collection beginning in March 2007 will refine our costings.

- 7.3 The purpose of collecting this data is so that the Department can ensure that sufficient quality data is collected on how the private, voluntary and independent as well as maintained schools are supporting the free entitlement to early years education for 3 and 4 year olds.
- 7.4 Guidance on the new statutory power and the implications for Local Authorities, private, voluntary and independent providers as well as maintained schools and maintained nursery schools will be issued to those affected prior to the requests being made for the relevant data.

8. Impact

- 8.1 An initial assessment of the costs and benefits of the exercise suggest a minimal impact on the sector as settings (schools and childcare providers) already collect this data.

8.2 In the first year of operation the information prescribed in Part 2 of the Schedule will be requested from a sample of 44 Local Authorities. This “pilot” exercise will inform the policy and the full regulatory impact assessment which will be prepared in the Autumn of 2006.

9. Contact

Claire Hilder at the Sure Start, Extended Schools & Childcare Group in DfES Tel: 020 7273 5900 or e-mail: Claire.hilder@dfes.gsi.gov.uk can answer any queries regarding the instrument.