

EXPLANATORY MEMORANDUM TO
THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS)
(ENGLAND) REGULATIONS 2013

2013 No. 2094

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 Education (Information About Individual Pupils) (England) Regulations 2013 (“the Regulations”) consolidate the Education (Information About Individual Pupils) (England) Regulations 2006 (“the 2006 Regulations”) and make certain additions and modifications. The Regulations set out the individual pupil data items to be collected from schools in the School and Pupil Referral Unit (“PRU”) Census and contain two new data items to be collected from 2014 onwards. Some drafting and structural changes have been made and three data items that are no longer collected have been removed.

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

3.1 None.

4. Legislative Context

4.1 The Regulations provide the legislative underpinning for the School and PRU Census collection. They provide details of the data items schools and local authorities are required to provide as part of this census collection.

4.2 The Regulations require the provision by schools of two new data items indicating—

- (a) whether or not the school is in receipt of top-up funding in respect of the pupil; and
- (b) whether pupils who have previously been looked after by a local authority, are no longer looked after as a result of the making of an adoption order, a special guardianship order or a residence order.

4.3 The Regulations remove the requirement on schools to return data items related to—

- pupils’ usual mode of the travel to school;
- the source of information provided in respect of a pupil’s ethnic group; and
- whether the pupil has been registered or identified by the school as belonging to its Gifted and Talented cohort.

4.4 The Regulations also consolidate the changes that have been made to the 2006 Regulations in previous years. Minor drafting amendments have been made.

5. Territorial Extent and Application

5.1 This instrument applies to schools and local authorities 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 The School Census and PRU Census collect information about individual pupils and information about the schools themselves, such as their educational provision (from 2014 the information collected by these two census will be collected in a single collection). The individual pupil information collected includes free school meal eligibility, ethnicity, special educational needs (“SEN”), attendance and exclusions. The data is widely used by the Department’s policy divisions, other government departments, local authorities, external agencies and educational researchers. Analysis of individual pupil records supports the drive to raise standards, the accurate targeting of funding and the monitoring and development of policy.

7.2 The Regulations require the provision by schools of two new data items—

Top up Funding

7.3 Top-up funding is funding paid by commissioning local authorities from their high needs budget directly to schools in order to meet the educational needs of a particular pupil. The commissioning local authority will be the local authority with responsibility for arranging the education provision for the pupil in question. In the case of a pupil referral unit or an alternative provision Academy, top-up funding may instead be paid by the school that commissions the education provision (for example the mainstream school in cases of fixed term exclusions from that school). The purpose of top-up funding is to meet the costs of the individual educational needs of a pupil (as opposed to, for example, funding for commissioned services), where those costs cannot be met by the amount allocated per-pupil in a school’s budget share or annual grant (including any additional support funding provided).

7.4 It is expected that most pupils for whom top-up funding is paid will also have a SEN statement, but this is not an automatic link.

7.5 Schools will be asked to indicate whether any top-up funding has been received for a pupil, rather than being asked to indicate the actual amount of funding received.

7.6 This data item will be used for funding allocation purposes, and to inform the development of the high needs funding system in the future. In particular it will allow the Department to monitor the relationship between SEN statements and the use of top-up funding over time in order to understand the success and impact of SEN and funding reforms. It will also allow the Department to monitor changes to high-cost pupil numbers over time, and use such analysis in estimating future costs and allocations.

Looked-after children

7.7 A data item will be introduced to identify those pupils on the school's register at the time of the collection who (to the knowledge of the school) had been looked after by a local authority, but are no longer looked after as a result of the making of an adoption order, a special guardianship order or a residence order. This will not include children who have left local authority care through some other means, nor will it include adopted children who were not previously looked after by a local authority.

7.8 As part of the Government's adoption reform programme the Department is considering a range of information that will help to inform thinking in relation to post-adoption support for those children who have been looked-after, as well as support for those looked-after children who are the subject of a residence or special guardianship order. Very little is known about the educational attainment of these children and the Department wants to have better information, collected via this new data item on a voluntary basis, to feed into that process.

7.9 As part of the guidance and communication activities that support this collection, schools will be reminded that this is a particularly sensitive data item. Schools should ensure that, as for other pupil level data items, they comply with their responsibilities under the Data Protection Act 1998 when processing this data.

8. Consultation outcome

8.1 As has been the established practice in relation to the previous Regulations underpinning the census collections, no formal consultation process has taken in place in relation to these changes. However, consultations have taken place with the Department's Star Chamber Scrutiny Board, and the providers of management information systems to schools and local authorities.

8.2 The Star Chamber Scrutiny Board helps to assess all Departmental proposals for new, or revised, data collections relating to children and young people. It aims to ensure all new collections, or revisions to existing collections, are feasible, necessary, provide value for money and are designed in such a way as to add as small a burden to the frontline as possible. The group is formed from frontline local authority representatives involved in children's services data, including education, social care and early years, plus serving head teachers from primary and secondary education.

8.3 The Star Chamber Scrutiny Board have approved the changes to the collections, including the addition of the two new data items. The providers of management

information systems to schools have also agreed to develop their systems to hold the required data and put in place functionality that allows schools to provide this data to the Department.

9. Guidance

9.1 In order to ensure that schools and local authorities are aware of the amendments being made to the School Census and PRU Census, the Department uses a number of different approaches:

- (a) preparation and guidance notes are issued, tailored to each phase of school (nursery, primary etc) for the School and PRU Census, with background about what is being collected, why it is being collected and information about any particular points of which they should be aware;
- (b) frequently asked questions are provided;
- (c) changes to collections are highlighted in newsletters and bulletins;
- (d) all documentation is made available on the Department's website - <http://www.education.gov.uk/schools/adminandfinance/schooladmin/ims/datacollections>.

10. Impact

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

10.2 The impact on the public sector is minimal and was considered as part of the Star Chamber Scrutiny Board process before approval to collect the additional data items was granted.

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 The outcome of this instrument will be subject to an internal review after 12 months and the legislation may be amended accordingly.

13. Contact

13.1 Ian Casey at the Department for Education, Tel: 020 7340 7975 or email: ian.casey@education.gsi.gov.uk, can answer any queries regarding the instrument.