

EXPLANATORY MEMORANDUM TO
THE SCHOOL INFORMATION (ENGLAND) (AMENDMENT) REGULATIONS
2020

2020 No. 894

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 School Information (England) (Amendment) Regulations 2020 (the “Regulations”) require governing bodies of schools maintained by a local authority¹ to publish on their website (or other website where no website is maintained for the school) the number of school employees (if any) whose gross annual salary is £100,000 or more, presented on the website in £10,000 salary bands, and a link to the specific page on the Schools Financial Benchmarking website that is dedicated to their school using the unique reference number allocated to the school by the Department for Education.
- 2.2 The aim of these Regulations is to increase the levels of financial transparency in local authority maintained schools and create a more level playing field with academies, ultimately improving resource management in the sector.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

¹ In accordance with the regulations currently in place, by “schools maintained by a local authority” we mean any community, foundation or voluntary school, or any community or foundation special school which is not established in a hospital. Maintained nurseries and Pupil Referral Units are not within scope of these regulations.

6. Legislative Context

- 6.1 The School Information (England) Regulations 2008 (the “2008 Regulations”) prescribe school information that must be published by local authorities and schools in relation to the academic year. Regulation 10 of the 2008 Regulations was substituted by the School Information (England) (Amendment) Regulations 2012 to place a duty on the governing body of a community, foundation or voluntary school, or any community or foundation special school which is not established in a hospital to publish on the school’s website (or other website where no website is maintained for the school) the information specified in Schedule 4 to the 2008 Regulations and to update the information as soon as is reasonably practicable following a change to the information and at least annually.
- 6.2 The Regulations amend Schedule 4 to the 2008 Regulations to place a duty on the governing body of a community, foundation or voluntary school, or any community or foundation special school which is not established in a hospital to publish on the school’s website (or other website where no website is maintained for the school) the number of school employees (if any) whose gross annual salary is £100,000 or more, in £10,000 salary bands, and a link to the school’s page on the Schools Financial Benchmarking website.

7. Policy background

What is being done and why?

- 7.1 Current financial transparency arrangements for academies are generally more comprehensive than those in place for maintained schools. Transparency measures such as the requirement for academies to publish independently audited accounts each year, with particular scrutiny on any related party transactions, provide public assurance of their financial health and probity.
- 7.2 From 17 July to 30 September 2019 the Department ran a consultation entitled “[Financial transparency of local authority maintained schools and academy trusts](#)”. This consultation sought to propose ways in which the current academy transparency measures could be adapted and implemented across the maintained school sector, in order to strengthen the financial transparency and financial health arrangements for maintained schools and subsequently improve resource management in the sector. Two of the proposals (namely, proposals 7 and 8 in the consultation) require secondary legislation and are to be implemented through these Regulations, to come into force for January 2021. The other proposals can be implemented without legislation, for example via changes to the Schools Financial Value Standard. These are not discussed in this memorandum, but more information can be found in the [government’s consultation response](#).
- 7.3 Ordinarily, changes to the regulations that require schools to provide information on their websites come into force from 1 September. We intended to publish the government response to consultation in March 2020 and implement the change to the regulations from 1 September 2020. Since it became necessary to delay the response until July because of the coronavirus pandemic, we have delayed the change until 1 January 2021. The announcement in July gives schools a full term’s notice, as is conventional for such changes.
- 7.4 The consultation put forward proposal 7 in order to reduce the disparity in public access to information on high salaries between local authority maintained schools and

academy trusts. This will encourage greater accountability and better resource management in the maintained sector. In the consultation we proposed new regulations to place a duty on governing bodies of local authority maintained schools to publish the number of staff earning over £100,000 gross salary in £10,000 bandings. Currently, the “[Academies Accounts Direction](#)”, which sets out the requirements, and provides guidance, for academy trusts in preparing their annual report and financial statements, requires Academy trusts to disclose in their financial statements information about each individual earning over £60,000 in £10,000 bands. The disclosure of salaries over £60,000 is an accounting requirement for all organisations who account under the [Charities Statement of Recommended Practice](#), and academy trusts are charities. Academy trusts are also required to provide additional information in their accounts return to the Education and Skills Funding Agency (ESFA) in relation to staff whose emoluments exceed £100,000 per annum. It is this threshold that we proposed to match for maintained schools.

- 7.5 Proposal 8 in the consultation originally proposed that all local authority maintained schools should be required to publish annually on their websites their latest Consistent Financial Reporting (CFR) statement of income, expenditure and balances. However, taking on board some of the feedback in the consultation, it was decided instead to implement an amended proposal 8. Schools will be required instead to publish a link from their own pages on the Schools Financial Benchmarking (SFB) website, where the CFR is already published. This should minimise the burdens for schools and make the information more accessible to parents and other stakeholders looking at it as the SFB website has explanatory information about the CFR figures. Maintained schools do not publish accounts, whereas academy trusts do: the CFR is the nearest equivalent for maintained schools to academy trusts’ accounts.
- 7.6 The aim of these changes is to ensure that local authority maintained schools publish information on their website which will bring them more into line with the accountability and transparency standards that proprietors of academy trusts are already required to meet. It is hoped that this will subsequently promote more efficient resource management within the sector.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

- 10.1 The consultation on “Financial transparency of local authority maintained schools and academy trusts” ran from 17 July to 30 September 2019 and the government published its response on 21 July 2020 entitled: [Financial transparency of local authority maintained schools and academy trusts: government response](#).
- 10.2 The Department for Education consulted on 8 new measures (some of which had different options within them) to improve transparency of the financial health and management of local authority maintained schools – levelling up reporting requirements between local authority maintained schools and academy trusts and

ensuring parents and other key stakeholders have a better view of what is happening inside local authority maintained schools. We received 255 responses, out of which 86 were from local authorities and 97 from maintained schools or academies. The two proposals requiring secondary legislation, and which the Regulations implement, were proposals 7 and 8.

- 10.3 Proposal 7 which sought to improve the public visibility of high salaries in the sector was strongly supported. A significant majority of respondents overall (74%), and a majority of the LAs consulted (70%), agreed with the proposal. The proposal will only affect a minority of maintained schools with staff on salaries above £100,000, and for those it would increase transparency and scrutiny. We consider that the impact on those schools from this additional burden is negligible. Given this, and the strong support for the proposal, it is being implemented as suggested in the consultation.
- 10.4 For proposal 8, the majority of respondents (59%) agreed that the publication of financial information on schools' websites would improve financial transparency. We acknowledged the feedback that some stakeholders would have difficulty interpreting the CFR statements without any additional information to explain and contextualise the data and decided to implement an amended proposal 8. Schools will now be required to publish a link from their own websites to the Schools Financial Benchmarking (SFB) website, where the CFR is already published. As discussed above (7.5), this places less burden on schools and is more comprehensible for parents and other stakeholders. The Department for Education will provide guidance on how to post the required link on their websites.

11. Guidance

- 11.1 There is already guidance online for what maintained schools must publish on their websites. This can be found here: <https://www.gov.uk/guidance/what-maintained-schools-must-publish-online>. We will update this page to include the new requirements discussed above by the end of August 2020.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The burden placed on governing bodies of local authority maintained schools to publish the information on their websites (or other website where no website is maintained for the school) is considered negligible, and no more onerous than that which is already placed upon the academy sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because of the reasons laid out in 12.1 and 12.2.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is the usual contact that the Funding Policy Unit within the Department for Education has with schools and local authorities. The team will log and review any correspondence from schools and local authorities relating to the instrument.
- 14.2 The Regulations do not include a statutory review clause.

15. Contact

- 15.1 Daniel Tovey at the Department for Education Telephone: 079 8262 7181 or email: Daniel.tovey@education.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Tom Goldman, Deputy Director for Funding Policy Unit at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Berridge at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.