

2023 No. 1186

EDUCATION, ENGLAND

**The Information as to Provision of Education (England)
(Amendment) Regulations 2023**

<i>Made</i> - - - -	<i>7th November 2023</i>
<i>Laid before Parliament</i>	<i>8th November 2023</i>
<i>Coming into force</i> - -	<i>30th November 2023</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 29(3) and 569(4) of the Education Act 1996(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Information as to Provision of Education (England) (Amendment) Regulations 2023 and come into force on 30th November 2023.

(2) These Regulations extend to England and Wales.

Amendment of the Information as to Provision of Education (England) Regulations 2016

2.—(1) The Information as to Provision of Education (England) Regulations 2016(b) are amended as follows.

(2) For regulation 2 (interpretation) substitute—

“Interpretation

2. In these Regulations—

“collection year” means—

- (a) the period of twelve months beginning with 1st January 2024, or
- (b) any subsequent period of twelve months beginning with 1st January;

“early years provision” has the meaning given in section 20 of the Childcare Act 2006(c);

“mainstream school” means—

- (a) a maintained school that is not a special school, or

(a) 1996 c. 56. Section 29(3) was amended by paragraph 67 of Schedule 30 and Schedule 31 to the School Standards and Framework Act 1998 (c. 31) and S.I. 2010/1158. There are amendments to section 569(4), but none is relevant to these Regulations. See section 579(1) for the meaning of “prescribed” and “regulations”.

(b) S.I. 2016/555.

(c) 2006 c. 21.

(b) an Academy school(a) that is not a special school;

“maintained school” means—

(a) a community school, foundation school or voluntary school(b), or

(b) a community special school or foundation special school(c);

“pupil planning area” means a grouping of schools within the area of a local authority which is used by that local authority for the purpose of assessing current and future demand for school places;

“resourced provision” means a unit in a mainstream school which is recognised by the local authority in whose area the school is located as specially organised for pupils(d) with special educational needs who are to be taught mainly outside that unit;

“special educational needs” has the meaning given in section 20(1) of the Children and Families Act 2014(e);

“special educational needs unit” means a unit in a mainstream school which is recognised by the local authority in whose area the school is located as specially organised for pupils with special educational needs who are to be taught mainly inside that unit;

“special school” has the meaning given in section 337 of the Education Act 1996(f).”.

(3) For regulation 3 (information to be provided to the Secretary of State by local authorities) substitute—

“Information about school capacity etc. to be provided to the Secretary of State by local authorities

3.—(1) A local authority must provide the Secretary of State each collection year with the information specified in Schedule 1 (school capacity etc. information) during the period beginning with the first Monday in June and ending on the last Friday in July.

(2) The information must be provided using the COLLECT portal.

(3) In paragraph (2), “the COLLECT portal” means the online facility known by that name and provided by the Secretary of State for submitting the information referred to in paragraph (1).

(4) For the purposes of this regulation, a school or other educational institution which provides early years provision is to be treated as if it did not; and the provisions of Schedule 1 are to be interpreted accordingly.

(a) For the meaning of “Academy school”, see section 579(1) of the Education Act 1996, as amended by paragraph 9(17)(b) of Schedule 13 to the Education Act 2011 (c. 21).

(b) For the meaning of “community school”, “foundation school” and “voluntary school”, see section 20 of the School Standards and Framework Act 1998 (c. 31). By virtue of section 142(8) of the School Standards and Framework Act 1998, the School Standards and Framework Act 1998 is to be construed as one with the Education Act 1996.

(c) For the meaning of “community special school” and “foundation special school”, see section 20 of the School Standards and Framework Act 1998.

(d) For the meaning of “pupil”, see section 3 of the Education Act 1996, as amended by paragraph 9 of Schedule 7 to the Education Act 1997 (c. 44) and paragraph 34(1) to (3) of, and Schedule 21 to, the Education Act 2002 (c. 32).

(e) 2014 c. 6.

(f) Section 337 of the Education Act 1996 was substituted by paragraph 36 of Schedule 3 to the Children and Families Act 2014 and amended by paragraph 4(10) of Schedule 1 to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2).

Capital spend information to be provided to the Secretary of State by local authorities

3A.—(1) A local authority must provide the Secretary of State each collection year with the information specified in Schedule 1A (capital spend information) during the period beginning with the first Monday in April and ending on the last Friday in June.

(2) The information must be provided using the Capital Spend Survey portal.

(3) In paragraph (2) “the Capital Spend Survey portal” means the online facility known by that name and provided by the Secretary of State for submitting the information referred to in paragraph (1).

(4) For the purposes of this regulation, a school which provides early years provision is to be treated as if it did not; and the provisions of Schedule 1A are to be interpreted accordingly.”.

(4) For regulation 5 (determination of capacity of a school) substitute—

“Determination of capacity of a school etc.

5. For the purposes of Schedule 1, the capacity of each of the following are to be determined in accordance with the method of assessment provided in the guidance “Assessing the capacity of schools - guidance for local authorities and schools”, published by the Secretary of State on 3rd November 2023(a)—

- (a) a school;
- (b) in relation to a school which provides both primary and secondary education, the part of the school which provides primary education and the part of the school which provides secondary education;
- (c) a year group in a school;
- (d) a special educational needs unit;
- (e) resourced provision.”.

(5) For Schedule 1 substitute—

“SCHEDULE 1

Regulation 3

School capacity etc. information

1.—(1) The number of registered pupils, on the third Thursday in May in the collection year, in each mainstream school and special school located in the area of the local authority to which sub-paragraph (3) applies.

(2) The number of registered pupils, on the third Thursday in May in the collection year, in each year group in each mainstream school and special school located in the area of the local authority to which sub-paragraph (3) applies.

(3) This sub-paragraph applies to a mainstream school or special school which first admits pupils after the third Thursday in January in the collection year.

2. The capacity, on 1st May of the collection year, of—

(a) The guidance “Assessing the capacity of schools - guidance for local authorities and schools” is available electronically from <https://www.gov.uk/guidance/school-capacity-survey-guide-for-local-authorities>. A hard copy can be obtained by writing to the School Places Capital and Land Policy Team, the Department for Education at 20 Great Smith Street, London, SW1P 3BT.

- (a) each mainstream school and special school located in the area of the local authority which provides primary or secondary education (or both),
- (b) in relation to each mainstream school and special school which provides primary and secondary education—
 - (i) the part of the school which provides primary education, and
 - (ii) the part of the school which provides secondary education, and
- (c) in relation to each mainstream school located in the area of the local authority—
 - (i) each year group in the school to which pupils are normally admitted,
 - (ii) any special educational needs unit in the school, and
 - (iii) any resourced provision at the school.

3. In relation to each mainstream school located in the area of the local authority, for each of the three school years^(a) starting with the school year beginning in the collection year, any planned increase or decrease in the capacity of each year group in the school.

4.—(1) In relation to each pupil planning area used by the local authority or, if none is used, the area of the local authority, forecasts of, for each of the five school years starting with the school year beginning in the collection year, the number of pupils in each year group for whom primary education will be provided at mainstream schools.

(2) In relation to each pupil planning area used by the local authority or, if none is used, the area of the local authority, forecasts of, for each of the seven school years starting with the school year beginning in the collection year, the number of pupils in each year group for whom secondary education will be provided at mainstream schools.

5.—(1) In relation to the area of the local authority, forecasts of, for each of the four types of relevant setting and for each of the five school years starting with the school year beginning in the collection year, the number of pupils for whom, during some or all of that school year, primary education will be provided in that type of relevant setting while a relevant duty applies in respect of them.

(2) In relation to the area of the local authority, forecasts of, for each of the four types of relevant setting and for each of the seven school years starting with the school year beginning in the collection year, the number of pupils for whom, during some or all of that school year, secondary education will be provided in that type of relevant setting while a relevant duty applies in respect of them.

(3) In this paragraph—

- (a) the four types of relevant setting are—
 - (i) resourced provision or a special educational needs unit;
 - (ii) a special school;
 - (iii) an independent school^(b) other than an alternative provision Academy^(c) that is an independent school;
 - (iv) an educational institution, other than a mainstream school or a school falling within sub-paragraph (ii) or (iii), at which alternative provision is made;

^(a) For the meaning of “school year”, see section 579(1) of the Education Act 1996.

^(b) For the meaning of “independent school”, see section 463 of the Education Act 1996.

^(c) For the meaning of “alternative provision Academy”, see section 579(1) of the Education Act 1996, as amended by paragraph 9(17)(b) of Schedule 13 to the Education Act 2011.

- (b) “alternative provision” means educational provision for which a local authority has made arrangements under section 19 of the Education Act 1996 (exceptional provision of education in pupil referral units or elsewhere: England)(a);
- (c) “relevant duty” means a duty under any of sections 36(8) and 37(1)(a) and (b) of the Children and Families Act 2014 (duty of the local authority to secure an EHC needs assessment, to prepare an EHC plan and to maintain an EHC plan, respectively(b)).

6.—(1) A statement accompanying the forecasts referred to in paragraphs 4 and 5 which—

- (a) describes the methodology used to prepare each forecast,
- (b) summarises any changes to the methodology used to prepare each forecast since the previous collection year,
- (c) describes what, if any, assumptions were made about the following factors to prepare the forecasts—
 - (i) migration;
 - (ii) housing developments;
 - (iii) the expected number of pupils from housing developments;
 - (iv) cross-border movements of pupils between the area of the local authority and other local authority areas;
 - (v) birth rates,
- (d) describes any other assumptions made to prepare the forecasts, and
- (e) provides information about—
 - (i) the data sources used to provide the forecasts,
 - (ii) the quality assurance arrangements for checking the forecasts, and
 - (iii) the use, if any, of external organisations to provide the forecasts.

(2) Where the collection year is the period of 12 months beginning with 1st January 2024—

- (a) the information referred to in sub-paragraph (1)(b) is required in relation to the forecasts referred to in paragraph 4 only, and
- (b) the reference to “the previous collection year” in sub-paragraph (1)(b) is to be read as a reference to “the year beginning with 1st January 2023”.

7.—(1) In relation to the area of the local authority, the trend in—

- (a) the number of pupils for whom primary education is provided in mainstream schools,
- (b) the number of pupils for whom secondary education is provided in mainstream schools, and
- (c) the number of pupils for whom special educational provision is provided.

(2) To the extent necessary for an understanding of the trends referred to in sub-paragraph (1), information about the factors which are affecting, or are likely to affect, the numbers referred to in sub-paragraph (1).

(a) Relevant amendments are made by sections 47 and 57(4) of, and Schedule 8 to, the Education Act 1997 (c. 44), section 101 of the Education and Inspections Act 2006 (c. 40), sections 3 and 25 of, and paragraph 1 of Schedule 3 and Schedule 4 to, the Children, Schools and Families Act 2010 (c. 26), paragraph 3 of Schedule 2 to the Curriculum and Assessment (Wales) Act 2021 (asc 4) and S.I. 2007/1507 and 2010/1158.

(b) For the meaning of “EHC needs assessment” and “EHC plan”, see section 83(2) of the Children and Families Act 2014.

(3) In sub-paragraph (1), “special educational provision” has the meaning given in section 21(1) of the Children and Families Act 2014.

- 8.—(1) Information about the matters specified in sub-paragraph (2) in relation to—
- (a) any pupil planning area used by the local authority, or
 - (b) if pupil planning areas are not used, any geographical area within the area of the local authority,

which is experiencing or is expected to experience a shortfall or excess of mainstream school places.

- (2) The matters are—
- (a) the extent of the shortfall or excess of places;
 - (b) any factors specific to the area of the local authority which are contributing to the shortfall or excess of places;
 - (c) the school or schools which are experiencing a shortfall or excess of places;
 - (d) the actions which the local authority is taking to address the shortfall or excess of places;
 - (e) where sub-paragraph (1)(a) applies, how circumstances relating to other pupil planning areas used by the local authority are contributing to or helping to resolve the shortfall or excess of places.

9. Where the local authority does not use planning areas, information about any geographical areas within the area of the local authority where the rate of growth or decline in the number of pupils is expected to be significantly different from the rate of growth or decline in the area of the local authority as a whole.

10. Any changes made to a pupil planning area within the area of the local authority since the previous collection year.

SCHEDULE 1A

Regulation 3A

Capital spend information

1. In relation to mainstream and special schools located within the area of the local authority, the following information about any project which was completed in the financial year(a) ending on 31st March of the collection year and increased the capacity of one or more such schools—

- (a) each year group to which places were added;
- (b) the number of places added to any year group to which places were added;
- (c) whether the additional places referred to in sub-paragraph (b)—
 - (i) were intended to be permanent additional places, or
 - (ii) were added only in respect of the financial year to which the information relates;
- (d) how the additional places were accommodated;
- (e) the total cost of the accommodation provided;
- (f) the sources of funding used to pay for the accommodation provided;

(a) For the meaning of “financial year”, see section 579 of the Education Act 1996.

(g) the amount of funding from each such source.

2.—(1) Where the information provided in relation to paragraph 1(d) indicates that building works were undertaken to accommodate the additional places, the following information in relation to the project concerned—

- (a) the pupil planning area code for the building works;
- (b) the date on which the building works began;
- (c) the internal floor area in square metres covered by the completed building works;
- (d) the total cost of the project, including any abnormal costs;
- (e) for each of group elements 0 to 12 in RICS NRM 1 (so far as relevant), the cost of all the components of the project which fall within that group element, including any abnormal costs;
- (f) the sum total of any abnormal costs relating to the project;
- (g) the cost of any site acquisition.

(2) In sub-paragraph (1)—

“abnormal costs” has the meaning given in the document entitled “RICS NRM 3: Order of cost estimating and cost planning for building maintenance works”, published by the Royal Institution of Chartered Surveyors on 29th October 2021(a);

“building works” has the meaning given in RICS NRM 1;

“RICS NRM 1” means the document entitled “RICS NRM 1: Order of cost estimating and cost planning for capital building works”, published by the Royal Institution of Chartered Surveyors on 29th October 2021(b).”.

7th November 2023

Barran
Parliamentary Under-Secretary of State
Department for Education

(a) The document entitled “RICS NRM 3: Order of cost estimating and cost planning for building maintenance works” can be accessed electronically at <https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/const-ruktion-standards/nrm>. A hard copy can be obtained by writing to the School Places Capital and Land Policy Team, the Department for Education at 20 Great Smith Street, London, SW1P 3BT.

(b) The document entitled “RICS NRM 1: Order of cost estimating and cost planning for capital building works” can be accessed electronically at <https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/construct-ion-standards/nrm>. A hard copy can be obtained by writing to the School Places Capital and Land Policy Team, the Department for Education at 20 Great Smith Street, London, SW1P 3BT.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Information as to Provision of Education (England) Regulations 2016 (“the 2016 Regulations”) (S.I. 2016/555), which require local authorities in England to provide to the Secretary of State each year prescribed information relating to the provision of primary and secondary education in their area.

Regulation 2(2) replaces regulation 2 of the 2016 Regulations with new interpretation provisions to reflect the changes made by these Regulations.

Regulation 2(3) replaces regulation 3 of the 2016 Regulations with regulations 3 and 3A, with the effect that the information set out in Schedule 1 about the capacity of schools and pupil numbers is to be provided to the Secretary of State via the online facility known as the COLLECT portal, while the information set out in Schedule 1A about the capital spending of schools is to be provided via the online facility known as the Capital Spend Survey portal. The windows of time for providing this information are also amended.

Regulation 2(4) amends regulation 5 of the 2016 Regulations to ensure that the determination of the capacity of a school and settings within a school are calculated in accordance with updated guidance.

Regulation 2(5) replaces Schedule 1 to the 2016 Regulations with Schedules 1 and 1A to reflect the split between information to be provided via the COLLECT portal and information to be provided by the Capital Spend Survey portal. The substitution made by regulation 2(5) also makes changes to the information that local authorities must provide. The key change is that information regarding school capacity and pupil numbers is now required in relation to special schools and other high needs settings.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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