

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (INDIVIDUAL PUPIL INFORMATION) (PRESCRIBED
PERSONS) (ENGLAND) REGULATIONS 2009**

2009 No. 1563

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

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

2. **Purpose of the instrument**

2.1 This statutory instrument consolidates the Education (Individual Pupil Information) (Prescribed Persons) Regulations 1999 (S.I. 1999/903). The Regulations are required in order to prescribe the persons and categories of persons who can exchange information relating to individual pupils. These Regulations are essentially the same as the Regulations they replace, with an update to the description of some of the persons and the addition to the list of Becta and Ofsted.

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

3.1 None

4. **Legislative Context**

4.1 Section 537A of the Education Act 1996 provides for the Secretary of State to prescribe persons and categories of person who can exchange individual pupil information. Individual pupil information is defined as “information relating to and identifying individual pupils or former pupils at any school”.

4.2 The Department for Children, Schools and Families uses the powers in section 537A to provide information about individual pupils to information collators, prescribed persons and prescribed categories of person for:

- a. research and statistical purposes which inform, influence and improve education policy and to monitor the performance of the Education sector;
- b. matching Departmental data sources together to model and monitor pupils’ educational achievements and progression;
- c. obtaining samples for statistical surveys, and matching data to data obtained from statistical surveys;
- d. operational purposes including the provision of pupil data for use in school inspections, the Pupil Test Registration process. Individual pupil level information is also shared with post-16 learning institutions to minimise the

administrative burden on application for a course and to aid the preparation of learning plans.

5. Territorial Extent and Application

5.1 This instrument applies to England

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

- *What is being done and why*

7.1 The Education (Individual Pupil Information) (Prescribed Persons) Regulations 1999 were made some time ago and have been amended on at least 6 occasions. Despite these amendments, several references remain out of date. There is now a need to add Becta to the list of prescribed persons. Becta (formerly known as the British Educational Communications and Technology Agency) is responsible for making grants available to eligible families as part of the Home Access Programme. The aim of the Home Access Programme is to ensure that families are provided with the support and guidance they need to realise the benefits of having access to technology at home. In order to verify information about individual applicants, Becta requires access to data held on the National Pupil Database which is classed as individual pupil information. Adding Becta to the list of prescribed persons will allow for this access.

7.2 The need to prescribe Becta as a person has provided the opportunity to consolidate the previous amendments to the 1999 Regulations and update any anachronistic descriptions of other prescribed persons. In addition the opportunity has been taken to add the Office for Standards in Education, Children's Services and Skills to the list of prescribed persons since they were inadvertently removed from the list by earlier amending Regulations.

8. Consultation outcome

8.1 Since these are effectively consolidating regulations, no specific consultation has been undertaken.

9. Guidance

9.1 Since these Regulations merely prescribe persons and categories of person, there is no relevant guidance on their application.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities, voluntary bodies or the public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department continually reviews its data sharing policies and processes which includes the list of persons and categories of person who may be prescribed to exchange individual pupil information. There is no specific monitoring and review of these Regulations.

13. Contact

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