

EXPLANATORY MEMORANDUM TO
THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS) (ENGLAND)
(AMENDMENT) REGULATIONS 2012

2012 No. 1919

- 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

This instrument amends the Education (Information about Individual Pupils) (England) Regulations 2006 (“the Regulations”) to require the collection of information, in both the School Census and Pupil Referral Unit Census, indicating which pupils aged 16 to 19 have been awarded a bursary during the academic year of the collections.

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

None.

4. Legislative Context

The Regulations provide the legislative underpinning for the School and PRU Census collections. They are detailed, defining down to data item level the statutory elements of the collections. This gives clarity of statutory requirements to schools and local authorities and also gives them cover in terms of their Data Protection Act responsibilities. This approach also provides reassurance to the Department that all the information required to support funding and policy/delivery decisions will be provided. These amending regulations are being made to require the provision by schools of one new data item indicating whether or not a student, aged between 16 and 19 years, has received an award under the 16-19 Bursary Fund.

5. Territorial Extent and Application

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

7.1 The 16-19 Bursary Fund was introduced in September 2011 following the Government's decision to phase out the Education Maintenance Allowance (EMA). The aim of the 16-19 Bursary Fund is to enable education providers to target financial support on young people who are particularly economically disadvantaged and who might otherwise be prevented from participating in education or training beyond the age of 16. It provides the most vulnerable young people – young people in care and care leavers, those on income support and disabled young people in receipt of both Employment Support Allowance and Disability Living Allowance – annual bursaries of £1,200. The rest of the Bursary Fund is allocated on a discretionary basis by schools and colleges.

7.2 To ensure that the Bursary Fund is achieving its stated objectives the Department has commissioned a three year independent evaluation. The Secretary of State has publicly committed to publishing the outcomes of the evaluation. This commitment was reinforced in the published Equality Impact Assessment, which noted the importance of monitoring the impact of the new arrangements on young people with characteristics protected by equality law.

7.3 To enable the evaluation to draw meaningful conclusions, it requires information about which pupils have been awarded bursaries. One new data item "Learner Support Code" will therefore be added to the 2013 School Census and PRU Census collections and will indicate whether a pupil has been awarded either or both the vulnerable group bursary and discretionary bursary. This information will be automatically extracted, alongside other information already collected, such as gender, date of birth and ethnicity and form part of the Census returns submitted to the Department. Similar information is being collected from colleges and post-16 training providers via the Individualised Learner Record (ILR).

7.4 The collection of this data will allow detailed analysis to be undertaken of pupils awarded bursaries and enable processes and eligibility criteria to be continuously improved so that those students who need them most receive bursaries in the future. Although this data will not be used to calculate allocations of funding to schools, it will be reviewed alongside the aggregate expenditure information provided to the Education Funding Agency (formerly the YPLA) to help ensure allocations remain equitable and fit for purpose.

7.5 Consideration was given to collecting the data on a voluntary basis. However, putting the collection of the new data item on a statutory basis helps ensure compliance by data providers (schools, PRUs and local authorities). It will also provide statutory cover for data providers without which they might be open to challenges from pupils or parents that by providing data voluntarily they had breached the Data Protection Act 1998 and their duty of confidentiality to pupils. Further details of the options considered for the collection of this data can be found in the Impact Assessment (see Section 10 below).

7.6 Whilst the Regulations have now been amended eight times these have all been minor amendments. The purpose of the amendments has been to include additional data items that schools and local authorities need to report rather than to change the substance of the Regulations. However, given the number of amendments, consideration will be given to consolidating at the next opportunity and an informal consolidated text will be published.

7.7 In line with the commitment made to the Secondary Legislation Scrutiny Committee (previously known as the Merits Committee) these amending regulations are being laid in September and come into force in January 2013 to give schools a term's notice before the first collection of additional information in the January 2013 School Census and PRU Census collections.

8. Consultation outcome

8.1 As has been the established practice when amending the Regulations, 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 have approved the changes to the collections. The providers of management information systems to schools have also agreed to develop their systems to hold the required data so that it can be automatically returned to the Department as part of the School or PRU Census collection. Schools are already required for audit purposes to keep their own records of who has been awarded a bursary. The burden on schools providing this additional data item should be very low.

8.3 The Star Chamber Scrutiny Board helps to assess all Department 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 timed 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.

9. Guidance

In order to ensure that schools, PRUs and local authorities are aware of the amendments being made to the School Census and the Pupil Referral Unit 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 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 The impact on business, charities or voluntary bodies is a net cost to business of £0.001m.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

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

13. Contact

Gill Turner at the Department for Education, Tel: 0114 2742551 or email: gill.turner@education.gsi.gov.uk, can answer any queries regarding the instrument.