

EXPLANATORY MEMORANDUM

The Education (Student Information) (Wales) Regulations 2017

This Explanatory Memorandum has been prepared by Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Information) (Wales) Regulations 2017.

Alun Davies
Minister for Lifelong Learning and Welsh Language

11 September 2017

1. Description

- 1.1. These Regulations will allow the Welsh Government to share the data it already collects on individual learners' attainment from awarding organisations with institutions at learner level, before publishing it in aggregated form. As well as enabling institutions to check their data prior to publication, it will help to increase confidence in published performance information and help institutions improve learner outcomes, make informed decisions about what provision to offer, and give appropriate careers advice by enhancing their understanding of the outcomes achieved by their learners.
- 1.2. These Regulations build on the existing information sharing power, in section 537A of the Education Act 1996, which the Welsh Ministers have in relation to schools.
- 1.3. We are planning to introduce a set of performance measures for post-16 academic and vocational qualifications at provider, local authority and national level. This will provide parents and learners with a reliable source of comparative information on the achievements of individual schools with sixth forms and further education institutions so they can choose the provider that offers the best chance of helping them to achieve their ambitions.
- 1.4. The production of high quality performance data relies on the collection and sharing back of qualification information of individual learners. Learner-level qualification information is collected from awarding bodies by the Welsh Government and its contractors. It is then aggregated to calculate performance measures at institution-level. For quality assurance, this information is then shared back to the institution where the student is on roll before the data is published. The Regulations will provide a legal gateway in which the sharing of qualification information can take place between these persons.
- 1.5. Student information is defined in subsection (6) of section 253A of the Apprenticeships, Skills, Children and Learning Act 2009 ("the 2009 Act") as information relating to an individual who is seeking or has sought to obtain, or has obtained, a "regulated qualification" as defined by section 130 of the 2009 Act or a "relevant qualification" as defined by the Section 30 of the Education Act 1997.
- 1.6. Persons in Wales may provide student information in respect of students who are, or who have been enrolled with them (i.e. schools, further education institutions, work based learning providers or other learning providers) with Welsh Ministers, an information collator (defined as the Welsh Government's contractor or Welsh Government officials), prescribed persons or person within a prescribed category, as set out in Part 1 and 2 of Schedule 2.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 There are no matters of special interest raised by the statutory instrument.

3. Legislative background

- 3.1 The Small Business, Enterprise and Employment Bill received Royal Assent and became an Act (the Act) on 26 March 2014¹.
- 3.2 Part 6 of the Act concerns education evaluation data sharing. Section 79 relates to sharing student information to provide new and improved information on learning outcomes by tracking students through education into the labour market and allow the UK Government and Welsh Government to share, at student level, information on the examination outcomes of students with colleges in England and Wales.
- 3.3 The powers to make the Regulations are exercisable by the Welsh Ministers under Section 253A of the Apprenticeships, Skills, Children and Learning Act 2009. Section 253A which was inserted by section 79 of the Small Business, Enterprise and Employment Act 2015.
- 3.4 This instrument is subject to the negative procedure.

4. Purpose & intended effect of the legislation

- 4.1 The Regulations will allow information about the qualifications achieved by students to be shared with the Welsh Ministers, its contractors and those persons prescribed by the Regulations
- 4.2 If the Regulations are not made it will impact on the development of consistent performance measures for the post-16 sector, as we will be unable to share data on examination outcomes received from Awarding Bodies back with FE institutions to enable them to check and verify the results for their learners.
- 4.3 A new section (section 253A) has been inserted into the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”). Section 253A enables persons in England and Wales to share “student information” with a range of persons.
- 4.4 The Welsh Ministers currently share student level data with schools via a contractor on an annual basis. Schools are asked to check the results for students once they have reached the end of their study programme. This legislation enables the Welsh Ministers to share student information with Further Education Institutions without being reliant on implied powers.

¹ <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted/data.htm>

5. Consultation

- 5.1 A twelve week consultation on the content of the Education (Student Information) (Wales) Regulations 2017 was held between the 8 May 2017 and 31 July 2017. The purpose of the consultation was to seek views on the policy. The consultation was published on the Welsh Government website and key stakeholders were contacted directly and invited to take part in the consultation. These included local authorities, further education institutions, Estyn and the Welsh Local Government Association.
- 5.2 In total, ten formal written responses to the consultation were received. Overall, the respondents welcomed the Regulations and did not raise any significant concerns.
- 5.3 The summary of consultation responses report and the Welsh Government response to the consultation was published on the Welsh Government website on 22 August 2017:
<https://consultations.gov.wales/consultations/regulations-sharing-student-information>

6. Regulatory Impact Assessment (RIA)

- 6.1 There were no differential impacts identified following the consultation responses:
- The impact on education providers will be no different to before introduction of the Act.
 - There is no impact on businesses, charities or voluntary bodies.
 - The impact on the public sector is none.
- 6.2 Therefore no Regulatory Impact Assessment is required.

Benefits

- 6.3 These powers are important in ensuring the accuracy and credibility of performance measures for post-16 providers in Wales, as they will allow transparent sharing of data with further education institutions and other learning providers. They are also crucial in enabling learners to make informed choices about their education and training.

Cost

- 6.4 The new regulations have no direct financial implication for the Welsh Government or education providers.

Monitoring and review

- 6.5 The Welsh Government will monitor the implementation of these Regulations as part of its programme of work.
- 6.6 Officials will continue to engage with stakeholders via existing performance measures stakeholder groups.