

EXPLANATORY MEMORANDUM

The Education (Destination Information) (Prescribed Activities) (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 (Destination Information) (Prescribed Activities) (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 with further education institutions in Wales the data it already collects on individual learners' destinations from a variety of sources 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 published destination measures as [experimental statistics](#) for the first time in 2014. The published information shows the destinations of learners who have completed key stage 4; and those who have completed A-levels or other level 3 qualifications (key stage 5). The information is published in anonymous, aggregate form, showing the proportion of learners who go on to participate in education or training in the academic year after leaving key stage 4 or key stage 5.
- 1.4. We want to make learner level information available to schools and colleges so that they have a greater understanding of, and trust in, the information before it is published at provider level. Whilst existing legislation allows us to share pupil level information with schools, we do not have legislation in place to share learner level information with Further Education institutions. The Regulations will enable us to do this.
- 1.5. Destination information in relation to further education institutions means information relating to their former students, including prescribed information on the activities of the students once they have left the institution. The Regulations prescribe which activities will count as destination information. It is proposed that the activities will include information in relation to whether students have gone on to higher education, training or employment.

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 80 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 destinations of former students with colleges in England and Wales.
- 3.3 The powers to make the Regulations are exercisable by the Welsh Ministers under Section 49B(3) of the Further and Higher Education Act 1992. Section 49B which was inserted by section 80 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 intend to provide new and improved information on learning outcomes by tracking students through education into the labour market and allow the Welsh Ministers to share, at student level, information on the destinations of former students with further education institutions in Wales.
- 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 destinations back with FE institutions to enable them to check and verify the results for their learners.
- 4.3 A new section (section 49B) has been inserted into the Further and Higher Education Act 1992. Subsection (2) of the new section enables the Welsh Ministers to share destination information with the governing bodies of further education institutions in Wales.
- 4.4 Existing legislation allows the Welsh Ministers to share pupil level information with schools, but legislation is required to enable the Welsh Ministers to share student information with Further Education Institutions.

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 (Destination Information) (Prescribed Activities) (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 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.