Draft Regulations laid before Parliament under section 66(3) of the Children Act 2004, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2007 No.

CHILDREN AND YOUNG PERSONS, ENGLAND

The Children Act 2004 Information Database (England) Regulations 2007

Laid before Parliament *2007*

Coming into force in accordance with regulation 1

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The Secretary of State for Education and Skills, in exercise of the powers conferred by sections 12(4)(f) and (h), (5), (6), (7)(f), (8)(e), (10) and (11) and 66(1) of the Children Act 2004(**a**), makes the following Regulations, a draft of which was laid before Parliament and approved by a resolution of each House of Parliament in accordance with section 66(3) of that Act:

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the Children Act 2004 Information Database (England) Regulations 2007 and come into force on the seventh day after the day on which they are made.

(2) These Regulations apply in relation to the establishment and operation of a database under section 12 of the Children Act 2004.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Children Act 2004;

"archived information" shall be construed in accordance with regulation 8;

"child record" in relation to a child or participating young person (including a child or participating young person who is not ordinarily resident in England or who has died) means the information contained in the database relating to that person;

"the database" means the database established and operated, or to be established and operated, by the Secretary of State for Education and Skills under section 12 of the Act;

(**a**) 2004 c. 31. Section 12 was amended by paragraph 43 of Schedule 2 to the Childcare Act 2006 (c. 21) and paragraph 265 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43).

"local authority" means a children's services authority in England within the meaning of section 65(1) of the Act;

"national partner" has the meaning given in regulation 9(1)(b);

"parental responsibility" has the same meaning as in section 3 of the Children Act 1989(**a**);

"participating young person" has the meaning given in regulation 4(2);

"relevant young person" means a person (other than a child) in relation to whom arrangements under section 10 of the Act may be made;

"a Schedule 4 body" has the meaning given in regulation 11(1)(a);

"a Schedule 5 body" has the meaning given in regulation 11(1)(b);

"sensitive service" means a specialist or targeted service which relates to—

(a) sexual health,

(b) mental health, or

(c) substance abuse;

"specialist or targeted service" means any service which is not normally provided to all persons in a particular age group.

(2) In these Regulations any reference to a child record for which a local authority is responsible means a child record for which, by virtue of regulation 3(2), the authority is responsible, and references to a local authority being responsible for child records are to be construed accordingly.

(3) In these Regulations any reference to a person employed includes a person employed whether under a contract of service or a contract for services, a person seconded to the organisation in question and a person working as a volunteer, and references to an employee are to be construed accordingly.

(4) In these Regulations a person (A) is not to be treated as having the care of another person (B) by reason only of the fact that A acts as a childminder to B or provides day care to B for part of the day only.

Participation by local authorities

3.—(1) A local authority must participate in the operation of the database in accordance with these Regulations.

(2) A local authority is responsible for any child records, responsibility for which—

(a) is allocated to the authority by the Secretary of State for Education and Skills; or

(b) is accepted by the authority with the agreement of the local authority which previously had responsibility for that child record.

PART 2

Information in the database

Information in the database

4.—(1) The database must contain such information of the descriptions specified in Schedule 1 as is available to the Secretary of State for Education and Skills relating to—

(a) each child, and

(b) subject to paragraph (2), each participating young person,

who is ordinarily resident in England.

(**a**) 1989 c. 41.

(2) A child record relating to a relevant young person may only contain information that is not archived information if that person consents to that information being contained in the child record (and in these Regulations a person who has consented and has not withdrawn the consent is referred to as a "participating young person").

(3) The database may contain information about a child or participating young person who is no longer ordinarily resident in England or who has died.

Procedures for ensuring the accuracy of information in the database

5.—(1) A Schedule 4 or Schedule 5 body which discloses information for inclusion in the database must take reasonable steps to ensure the information is accurate.

(2) In providing information under section 12(9) of the Act the Secretary of State must take reasonable steps to ensure the information is accurate.

(3) Where it appears to a local authority that a child record for which it is responsible is or may be inaccurate or incomplete, the authority must take reasonable steps to correct the inaccuracy or to complete the record.

Accessible child record

6.—(1) Subject to paragraph (9), the Secretary of State for Education and Skills must ensure that a person who is given access to the database under regulation 9(1)(b) is not able to read the information contained in a child record specified in paragraph (3).

(2) Subject to paragraphs (4) and (9), a local authority must ensure that a person who is given access to the database by the authority under regulation 9(1)(a) is not able to read the information contained in a child record specified in paragraph (3).

(3) The information referred to in paragraph (1) is—

(a) the name and contact details of a person or body providing a sensitive service;

(b) information of the description specified in paragraph 15 of Schedule 1;

(c) information of the description specified in paragraph 18 of Schedule 1 (unless the person who has access to the database is employed by the Schedule 4 or Schedule 5 body in relation to functions for the purposes of which the number has been allocated);

(d) information of the description specified in paragraph 20 of Schedule 1;

(e) archived information.

(4) Paragraph (2) does not apply to persons given access to the database by the authority under regulation 9(1)(a) solely for the purposes of the functions conferred on the authority under these Regulations.

(5) Subject to paragraph (9), a local authority may determine, in relation to a particular child record, that persons given access to the database under regulation 9 may read only information of the description specified in paragraph (6).

(6) The information referred to in paragraph (5) is—

(a) information of the descriptions specified in paragraphs 1, 3, 4 and 5 of Schedule 1; and

(b) in the case of—

(i) a child, the name of any person with parental responsibility for the child or who has care of him at any time; or

(ii) a participating young person, the name of any person who has care of him at any time.

(7) In making a determination under paragraph (5) the authority must take into account any views expressed by—

(a) the person to whom the record relates;

(b) any person with parental responsibility for that person or who has care of him at any time;

(c) a Schedule 4 or Schedule 5 body.

(8) The Secretary of State for Education and Skills or a local authority may for the purposes of child protection authorise a person to read the information contained in a child record which he would otherwise be able to see but for a determination under paragraph (5).

(9) A person having access to the database under regulation 9 may read information contained in a child record specified in paragraph (3)(a) to (c) if that information was disclosed for inclusion in the database by that person.

Retention of information

7.—(1) Subject to paragraph (2), information disclosed for inclusion in the database under these Regulations, or provided by the Secretary of State under section 12(9) of the Act, may be retained for six years from the date on which it becomes archived information.

(2) The information may be retained for longer than six years from the date on which it becomes archived information if the Secretary of State for Education and Skills or a local authority is satisfied it is necessary to retain the information for the purposes of—

(a) an investigation under section 47 of the Children Act 1989(**a**) (local authority's duty to investigate); or

(b) the exercise by a Local Safeguarding Children Board(**b**) of its functions under regulation 5(1)(e) (serious case reviews) or 6 (functions relating to child deaths) of the Local Safeguarding Children Boards Regulations 2006(**c**).

Archived information

8.—(1) Subject to paragraph (4), and so far as it is not already archived information, information in a child record becomes archived information on the earliest of the dates specified in paragraph (2).

(2) In the case of—

(a) a child record for a child who is not a participating young person, the date on which he attains the age of 18;

(b) a child record for a participating young person, the date on which he attains the age of 25, or (if earlier) the date on which his consent to the information being contained in the child record is withdrawn;

(c) a child record for a person who ceases to be ordinarily resident in England, the date on which the Secretary of State for Education and Skills or the local authority responsible for his child record becomes aware that he is no longer ordinarily resident in England and that it is unlikely he will resume ordinary residence in England within three years from that date;

(d) a child record for a person who has died, the first anniversary of his death;

(e) information of the description specified in paragraph 7 of Schedule 1, the date one year after the date on which the person ceased to attend the educational institution or to receive education otherwise than at an educational institution;

(f) information of the description specified in paragraph 8 of Schedule 1, the date one year after the date on which the provision of the services to which that information relates ended;

(g) information of the description specified in paragraph 9 of Schedule 1, the date of the expiry of the period in the statement described in paragraph 15 of that Schedule relating

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(**a**) Section 47 was amended by paragraph 118(7) of the Health Authorities Act 1995 (c. 17); section 15(4) of, and paragraph 69 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37); paragraph 24(7) of Schedule 1 to the Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000, S.I. 2000/90; paragraph 79 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43); and section 53(3) of the Children Act 2004.

(**b**) Local Safeguarding Children Boards are established under section 13 of the Children Act 2004.

(**c**) S.I. 2006/90.

to that information (that period to be measured from the date on which the provision of the service ended);

(h) information of the description specified in paragraph 10 of Schedule 1, the date one year after the date on which information about a subsequent assessment of the person under the system known as the Common Assessment Framework(**a**) has been added to the child record;

(i) information of a description specified in any of paragraphs 11 to 13 of Schedule 1, the date of the expiry of the period in the statement described in paragraph 15 of that Schedule relating to that information (that period to be measured from the date on which the services of the health visitor, school nurse or midwife ended);

(j) information of the description in paragraph 14 or 15 of Schedule 1, the date on which the information to which it relates becomes archived information.

(3) The Secretary of State for Education and Skills or the local authority responsible for a child record may decide that information in a child record that has become archived information by virtue of paragraph (2)(c) should no longer be archived information if the person is a child who again becomes ordinarily resident in England.

(4) The Secretary of State for Education and Skills or the local authority responsible for a child record may at any time decide that information in a child record should become archived information.

PART 3

Access to the database

Access to the database

9.—(1) Persons of the following descriptions may permit a person to have access to the database for the purpose of adding or reading information—

(a) a local authority; and

(b) the persons listed in Schedule 2 (referred to in these Regulations as "national partners").

(2) A local authority may only permit a person specified in Schedule 3 to have access to the database.

(3) A national partner may only permit a person to have access to the database if the person is an employee of that national partner.

(4) A local authority or a national partner may suspend or terminate a person's access to the database.

Conditions on access

10.—(1) The conditions on which a person may be given access to the database are that—

(a) in the case of a person falling within paragraph 3 or 4 of Schedule 3, the person has been the subject of a system of vetting which involves the collection of details and information broadly comparable to the details and information collected for the purposes of an enhanced criminal record certificate;

(b) in any other case an enhanced criminal record certificate has been obtained in respect of the person;

(c) in the case of a person—

(**a**) *The Common Assessment Framework for children & young people: Practitioners' guide* was published by the Department for Education and Skills in April 2006, ISBN 1 84478-707-9.

(i) given access under regulation 9(1)(a), he has undergone training provided by or on behalf of the local authority in accordance with such training materials as the Secretary of State for Education and Skills may supply to the local authority, together with such other training as the local authority in question considers appropriate; or

(ii) given access under regulation 9(1)(b), he has undergone training provided by or on behalf of the national partner in accordance with such training materials as the Secretary of State for Education and Skills may supply to the national partner, together with such other training as the national partner in question considers appropriate; and

(d) the person has agreed to have regard to guidance given by the Secretary of State for Education and Skills.

(2) A local authority or a national partner must terminate a person's access to the database if the most recent enhanced criminal record certificate obtained in respect of that person was issued more than three years previously.

(3) In this regulation "enhanced criminal record certificate" means an enhanced criminal record certificate within the meaning of section 113B of the Police Act 1997(**a**).

PART 4

Disclosure of information to and from the database

Disclosure of information for inclusion in the database

11.—(1) Subject to paragraph (3)—

(a) a person or body specified in Schedule 4 ("a Schedule 4 body") must disclose for inclusion in the database, at such times as the Secretary of State for Education and Skills may specify, such of the information specified in Schedule 1 relating to a child or participating young person as is available to the person or body; and

(b) a person or body specified in Schedule 5 ("a Schedule 5 body") may disclose for inclusion in the database any information specified in Schedule 1 relating to a child or participating young person as is available to the person or body.

(2) Subject to paragraph (3), where any information disclosed for inclusion in the database pursuant to paragraph (1) is superseded by new information, the person or body must disclose that new information for inclusion in the database at such times as the Secretary of State for Education and Skills may specify.

(3) Information about a sensitive service provided to a child or participating young person may only be disclosed for inclusion in the database—

(a) if the child or participating young person consents to the disclosure; or

(b) if the person or body providing the sensitive service considers there is reasonable cause to suspect that the child or participating young person is suffering, or is likely to suffer, significant harm within the meaning of section 31 of the Children Act 1989(**b**) (care and supervision orders).

(**a**) 1997 c. 50. Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47) and paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c. 52).

(**b**) Section 31 was amended by paragraph 127 of Schedule 9 to the Powers of Criminal Courts Act 2000 (c. 6); paragraph 90 of Schedule 7 to the Criminal Justice and Courts Services Act 2000 (c. 43) and sections 120 and 121(1) of the Adoption and Children Act 2002 (c. 38).

Disclosure of information from the database

12.—(1) The Secretary of State for Education and Skills or a local authority may disclose information included in the database if he, or it, is satisfied that—

(a) disclosure is required by or under any enactment, by any rule of common law or by order of the court;

(b) disclosure is necessary for the purposes of—

(i) the prevention or detection of crime;

(ii) the prosecution of offenders;

(iii) an investigation under section 47 of the Children Act 1989; or

(iv) the exercise by a Local Safeguarding Children Board of its functions under regulation 5(1)(e) or 6 of the Local Safeguarding Children Boards Regulations 2006.

(2) Subject to regulation 6(5), a local authority may disclose information of a description specified in paragraphs 1, 2 and 4 to 7 of Schedule 1 contained in a child record which is not archived information to a person exercising functions of the authority under Part 6 (school admissions, attendance and charges) of the Education Act 1996(**a**).

General provisions in respect of access to and disclosure of information

13. Without prejudice to regulation 11(3), any—

(a) permission given under regulation 9;

(b) disclosure of information for inclusion in the database under regulation 11(1)(b);

(c) disclosure of information from the database under regulation 12;

(d) provision of information by the Secretary of State under section 12(9) of the Act,

may be given or made notwithstanding any rule of common law which prohibits or restricts the disclosure of information.

PART 5

Revocation

Revocation

14. The Information Sharing Index (England) Regulations 2006(**b**) are revoked.

Name
Minister of State
Date Department for Education and Skills

SCHEDULE 1

Regulation 4

Information to be included in the database

1. The person's name (including any former name).

2. As respects the person's address or whereabouts—

(**a**) 1996 c. 56. Section 19(1) was amended by section 47(2) of the Education Act 1997 (c. 44).
(**b**) S.I. 2006/983.

(a) his current address;

(b) if, at any time, there is no known current address for the person, his last-known address;

(c) a statement that there is no known address for the person; or

(d) where the person has ceased to be ordinarily resident in England, a statement that a Schedule 4 or Schedule 5 body—

(i) has information that the person intends to return to England within a period of three years from the date on which that body considers that the person ceased to be ordinarily resident in England;

(ii) has information that the person does not intend to return to England within a period of three years from the date on which that body considers that the person ceased to be ordinarily resident in England; or

(iii) does not have any information as to whether the person does or does not intend to return to England.

3. The person's gender, or if the person's gender has not been specified, a statement to that effect.

4. The person's date of birth.

5. Such number as is used to identify the person in the database.

6. The name and contact details—

(a) in the case of a child, of any person with parental responsibility for the child or who has care of the child at any time; or

(b) in the case of a participating young person, of any person who has care of him at any time.

7.—(1) Where the person is attending an educational institution, the name and contact details of the institution, the date on which the person started attending the institution and (where applicable) the date on which he ceased attending.

(2) Where the person is receiving education otherwise than at an educational institution, the name and contact details of a person or body providing such education, the date on which such education started and (where applicable) the date on which it ended.

8.—(1) Subject to sub-paragraph (2), the name and contact details of any person providing primary medical services under Part 1 of the National Health Service Act 2006(**a**) (promotion and provision of the health service in England) to the person.

(2) Where the primary medical services comprise only a sensitive service, sub-paragraph (1) shall not apply and paragraph 9 applies.

9. In relation to any specialist or targeted service which is, or has been, provided to the person by or on behalf of a Schedule 4 or Schedule 5 body—

(a) the name and contact details of the person providing the service; and

(b) where the service is a sensitive service, a statement that a sensitive service is being or has been provided.

10. Where a Schedule 4 or Schedule 5 body has undertaken an assessment of the person under the system known as the Common Assessment Framework(**b**)—

(a) the name and contact details of the person who has undertaken the assessment;

(b) the date on which the assessment was undertaken, and

(c) the date on which actions arising from the assessment are considered completed.

(**a**) 2006 c. 41.

(**b**) *The Common Assessment Framework for children & young people: Practitioners' guide* was published by the Department for Education and Skills in April 2006, ISBN 1 84478-707-9.

11. The name and contact details of the person's health visitor (if any).

12. The name and contact details of the person's school nurse (if any).

13. Where the person has not attained the age of one, the name and contact details of the person's midwife (if any).

14. The date on which—

(a) a service of a description specified in paragraph 8 or 9; or

(b) a service provided by a person of a description specified in any of paragraphs 11 to 13,

was first provided, and where applicable the date on which the provision ended.

15. In relation to information specified in any of paragraphs 9 and 11 to 13, a statement as to the period of time before the information becomes archived information (being a period of one, two, three, four or five years from the date on which the service ended or the services of the health visitor, school nurse or midwife ended).

16. Information as to whether—

(a) a person providing a service of a description specified in paragraph 8 or 9;

(b) a person who has undertaken an assessment of the description specified in paragraph 10;

(c) a person of a description specified in any of paragraphs 11 to 13; or

(d) a person of a description specified in paragraph 9 of Schedule 3,

is the lead professional(**a**) in relation to the person, the date on which the person became the lead professional and where applicable the date on which he ceased to be the lead professional.

17. Where the person has died, the date of the person's death.

18. Any number used by a Schedule 4 or Schedule 5 body to identify a record relating to a person.

19. The name of the local authority which is responsible for the person's child record.

20. Such metadata as may be requested or required by the Secretary of State for Education and Skills relating to information specified in paragraphs 1 to 19.

SCHEDULE 2

Regulation 9(1)(b)

Persons who may permit access to the database ("national partners")

1. KIDS (registered charity number 275936).

2. Barnardo's (registered charity number 216250).

3. The National Society for the Prevention of Cruelty to Children (registered charity number 216401).

4. NCH (registered charity number 1097940).

5. Church of England Children's Society (registered charity number 221124).

6. The Child Exploitation and Online Protection Centre (an affiliate of the Serious Organised Crime Agency(**b**)), so far as it is exercising functions in relation to the sexual abuse of children.

(**a**) *The lead professional: Practitioners' guide* was published by the Department for Education and Skills in April 2006, ISBN 1 84478-705-2.

(**b**) The Serious Organised Crime Agency was established by section 1 of the Serious Organised Crime and Police Act 2005 (c. 15). For its functions see section 2 of that Act.

7. The Children and Family Court Advisory and Support Service(**a**).

SCHEDULE 3

Regulation 9(2)

Persons who may be given access to the database by a local authority

1.—(1) A person employed in relation to the exercise by or on behalf of a local authority of the functions specified in paragraph (2).

(2) The functions referred to in paragraph (1) are—

(a) social services functions (within the meaning of the Local Authority Social Services Act 1970(**b**));

(b) functions under—

(i) Parts 4 (special educational needs) and 6 (school admissions, attendance and charges) of the Education Act 1996(**c**);

(ii) section 175 of the Education Act 2002(**d**) (duties of LEAs and governing bodies in relation to welfare of children);

(c) functions under Part 1 of the Fire and Rescue Services Act 2004(**e**) (fire and rescue authorities) so far as relating to a fire and rescue service strategy for children and young people;

(d) functions under section 10 (co-operation to improve well-being) or 11 (arrangements to safeguard and promote welfare) of the Act;

(e) functions conferred on the authority by these Regulations.

2. A health care professional regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**f**), or a person assisting such a professional in the exercise of his profession.

3. A member or an employee of a police authority, a chief officer of police for a police area in England, or a member or any other employee of a police force for a police area in England.

4. An officer of the British Transport Police Authority, so far as exercising functions in relation to England.

5. An officer of a local probation board for an area in England(**g**).

6. A member of a youth offending team for an area in England(**h**).

7.—(1) The governor of a prison or secure training centre in England (or, in the case of a contracted out prison or secure training centre, its director).

(2) An officer of a prison or a secure training centre (or, in the case of a contracted out secure training centre, a custody officer).

(3) An administrator assisting an officer of a secure training centre (or, in the case of a contracted out secure training centre, assisting a custody officer).

(**a**) Established under section 11 of the Criminal Justice and Court Services Act 2000 (c. 43).
(**b**) 1970 c. 42. Section 1A (meaning of "social services functions") was inserted by section 102(3) of the Local Government Act 2000 (c. 22).
(**c**) 1996 c. 56.
(**d**) 2002 c. 32.
(**e**) 2004 c. 21. Section 1 was amended by paragraph 10(1) and (2) of Part 1 of Schedule 1 to the Civil Contingencies Act 2004 (c. 36).
(**f**) 2002 c. 17.
(**g**) Section 4 of the Criminal Justice and Court Services Act 2000 (c. 43) makes provision in respect of local probation boards.
(**h**) Section 39(1) of the Crime and Disorder Act 1998 (c. 37) provides for the establishment of youth offending teams.

8. A person (other than the Secretary of State) providing services under section 114 of the Learning and Skills Act 2000(**a**), or employed by such a person to provide those services.

9.—(1) A person employed at a school specified in sub-paragraph (2) as—

(a) the head teacher;

(b) a deputy head teacher;

(c) an administrator;

(d) a head of year or a teacher other than a head of year who has pastoral or child protection responsibilities;

(e) a teacher of children with special educational needs;

(f) a coordinator of special educational needs provision,

or who is carrying out functions equivalent to the functions of a person referred to in paragraphs (b) to (e).

(2) The schools referred to in sub-paragraph (1) are—

(a) a maintained school in England (within the meaning of section 175 of the Education Act 2002);

(b) an independent school in England (within the meaning of the Education Act 1996), and

(c) a special school which is not maintained by a local authority and which has been approved as a special school under section 342 of the Education Act 1996(**b**) (approval of non-maintained special schools).

10. A person employed at an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992(**c**)) as—

(a) the principal;

(b) a deputy principal;

(c) a tutor with pastoral or child protection responsibilities or responsibilities in relation to special educational needs;

(d) an administrator,

or who is carrying out functions equivalent to the functions of a person referred to in paragraphs (b) to (d).

11. An employee of a voluntary organisation exercising functions or engaged in activities in relation to persons to whom arrangements specified in section 12(1) of the Act relate.

12. A social care worker within the meaning of section 55(2) of the Care Standards Act 2000(**d**) who is registered with the General Social Care Council.

13. A member of the staff of the Children and Family Court Advisory and Support Service appointed under paragraph 5(1) of Schedule 2 to the Criminal Justice and Court Services Act 2000(**e**).

14.—(1) A person employed by a fire and rescue authority to which this paragraph applies in relation to a fire and rescue service strategy for children and young people.

(2) This paragraph applies to a fire and rescue authority (determined in accordance with Part 1 of the Fire and Rescue Services Act 2004) for any area in England for which the local authority (within the meaning in these Regulations) is not the fire and rescue authority.

(**a**) 2000 c. 21.
(**b**) 1996 c. 56. Section 342 was substituted by paragraph 82 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31).
(**c**) 1992 c. 13.
(**d**) 2000 c. 14. Section 55(2) was amended by paragraph 115 of Schedule 3 to the Adoption and Children Act 2002.
(**e**) 2000 c. 43.

15. An employee of the Child Exploitation and Online Protection Centre (an affiliate of the Serious Organised Crime Agency), so far as it is exercising functions in relation to the sexual abuse of children.

SCHEDULE 4

Regulation 11(1)(a)

Persons and bodies required to disclose information for inclusion in the database

1. The persons and bodies specified in section 12(7)(a) to (e) of the Act.

2. The governing body of a special school which is not maintained by a local authority and which has been approved as a special school under section 342 of the Education Act 1996.

3. The Registrar General for England and Wales(**a**).

SCHEDULE 5

Regulation 11(1)(b)

Persons and bodies permitted to disclose information for inclusion in the database

1. The persons and bodies specified in section 12(8)(a) to (d) of the Act(**b**).

2. A health care professional regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.

3. The fire and rescue authority (determined in accordance with Part 1 of the Fire and Rescue Services Act 2004) for any area in England where the local authority (within the meaning in these Regulations) is not the fire and rescue authority for the area.

4. The Children and Family Court Advisory and Support Service.

(**a**) Section 1 of the Registration Service Act 1953 (c. 37) provides for the appointment of the Registrar General for England and Wales.

(**b**) By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), the reference to the Commissioners of Inland Revenue in section 12(8)(c) of the Children Act 2004 is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 12 of the Children Act 2004 ("the Act") and apply to the establishment and operation of a database in England, which will be known as "ContactPoint". They revoke (at regulation 14) the Information Sharing Index (England) Regulations 2006 (S.I. 2006/983) which relate to a database that was established for the purpose of conducting data trials prior to the establishment of the database to which these Regulations relate. The Regulations come into force seven days after the day on which they are made.

The database is being established by the Secretary of State for Education and Skills under section 12(1)(b) of the Act, and will be operated with the participation of children's services authorities in England ("local authorities"). Regulation 3(1) requires a local authority to participate in the operation of the database in accordance with the Regulations. Each local authority will be responsible for any child record (as defined in regulation 2) which is allocated to it by the Secretary of State for Education and Skills, or for which the authority accepts responsibility with the agreement of the local authority which previously had responsibility for that child record.

The information which must be included in the database is limited to children ordinarily resident in England, and (with their consent) to young persons in relation to whom arrangements under section 10 of the Act may be made ("participating young persons"). Regulation 4 and Schedule 1 set out what information is to be included in the database.

Regulation 5 provides for duties on local authorities, as well as persons and bodies who disclose information for inclusion in the database, to maintain the accuracy of that information.

The database comprises two separate parts: the "live" database (though not defined as such in the Regulations), which contains child records which for the most part can be read and added to by persons given access to the database ("users"); and "archived information", which is not accessible to the users generally. Not all the "live" database information in a child record will be accessible to users: information relating to sensitive services (that is, specialist or targeted services relating to sexual health, mental health or substance abuse), metadata and certain other information will not be seen by users generally (regulation 6(3)).

Regulation 6(5) provides that local authorities and users may limit access to (or "shield") part of a child record. A shielded record will only display very limited information in a child record. There is a duty on the person making the decision to shield to take into account views of certain persons or bodies. These persons include (amongst others) the child or participating young person in question, and those persons (if any) with parental responsibility for, or care of, such a person. This is to ensure that a person making a decision on the shielding of information takes into account a range of issues, such as domestic violence.

The length of time for which information may be retained in the database is six years after it has become archived information (regulation 7(1)), although that may be extended in specified circumstances (regulation 7(2)). The date on which information in a child record becomes archived information is dependent on a range of factors, which are set out in regulation 8.

Regulation 9(1) provides that access to the database may be given by either a local authority, or those persons or bodies (called "national partners") specified in Schedule 2. The persons to whom access may be given by a local authority are specified in regulation 9(2) and Schedule 3. A national partner may only grant access to an employee of that national partner. Regulation 9(4) provides that a user's access can be suspended or terminated.

Regulation 10 sets out the conditions on access, which include enhanced Criminal Record Bureau checks, training and guidance.

Regulation 11(1)(a) and Schedule 4 provide that specified persons and bodies are *required* to disclose information for inclusion in the database. Regulation 11(1)(b) and Schedule 5 provide that specified persons and bodies are *permitted* to disclose information for inclusion in the database. Specific provision is made about disclosure of information for inclusion in the database concerning any sensitive service which is being provided (regulation 11(4)).

Regulation 12 makes provision as to how information is to be disclosed *from* the database. Regulation 12(1) permits the Secretary of State for Education and Skills or a local authority to disclose information from a child record for specified purposes.

Regulation 13 disapplies the common law of confidentiality in respect of access to the database and specified disclosures of information.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.dfes.gov.uk/ria and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website at www.opsi.gov.uk.

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