EXPLANATORY MEMORANDUM TO

THE EDUCATION (DESTINATION INFORMATION) (PRESCRIBED ACTIVITIES) (ENGLAND) REGULATIONS 2015

2015 No. 1564

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

2.1 The Education (Destination Information) (Prescribed Activities) (England) Regulations 2005 ("the 2005 Regulations") prescribe which activities of a former student after leaving a further education institution in England count for the purposes of "destination information", under section 49B(3) of the Further and Higher Education Act 1992 ("the 1992 Act"). This section was inserted into the 1992 Act by section 80 of the Small Business, Enterprise and Employment Act 2015 ("the 2015 Act").

2.2. This instrument will come into force on 1st September 2015.

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

3.1 None

4. Legislative Context

4.1 Section 49B of the 1992 Act enables the Secretary of State to provide destination information to the governing body of an institution in England within the further education sector ("a further education institution"). Similarly, it also enables Welsh Ministers to provide destination information to the governing body of an institution in Wales within the further education sector. Destination information, in relation to such a further education institution, means information which relates to a former student of the institution, and includes information as to prescribed activities of the former student after leaving the institution. Information received by governing bodies under this section of the Act must not be published in any form that identifies individuals.

4.2 These Regulations prescribe activities of a former student in relation to which information can be shared with governing bodies of further education institutions. Those activities are made up of any form of education; employment; training; or a combination of any such activities taking place between 1st October to 30th April of the information year that immediately follows a student's departure from a further education institution.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In 2010 the White Paper *The Importance of Teaching* stated "we will put greater emphasis on the progress of every child – setting out more prominently in performance tables how well pupils progress…We will introduce a measure of how young people do when they leave school".

7.2 Education Destination Measures were published for the first time on 17th July 2012. The Measures showed in aggregate form the percentage of students continuing their education in school, Further Education or 6th form college or Higher Education institution, and the percentage training through an apprenticeship or work-based learning. The data was published as a Statistical First Release (experimental statistics), available at: Statistics: destinations of key stage 4 and key stage 5 pupils - GOV.UK

7.3 The destination measures are based on participation in education or training in all of the first two terms (defined as October to March) of the year after the young person left Key Stage 4 (KS4) or took A level or equivalent qualifications. This encourages schools and colleges to support and prepare their students to take up education or training which offers good long term prospects. It is also the measurement period that is closest to the point at which the young person left their former school or college and so is the point over which the institution has most influence.

7.4 The destination measures published in June 2013 also included employment and training destinations and those who were not in education, employment or training (NEET) for the first time. The KS4 Education Destination Measure data was also published on the School Performance Tables website.

7.5 Prior to publishing the KS4 measures through performance tables, pupil level data was shared back with schools through the information sharing gateway in Section 537A Education Act 1996. It is important that we share pupil level data, securely, with schools so that they can understand how the measures are calculated and use the information to improve their curriculum offer, their information, advice and guidance services and the support they offer to students at transition to the next stage of their lives. This is also true for further education institutions.Until Section 80 of the 2015 Act came into force, however, there was no express gateway in place. This gateway, together with the regulations, now provide a such a mechanism through which the Secretary of State may share student level destinations information with further education institutions, in the same way that KS4 destination measures pupil level data is currently shared with schools.

This will allow further education institutions to use the data internally in more sophisticated ways than they can currently.

8. Consultation outcome

8.1 Section 80 of the 2015Act was initially included as a clause in an Information sharing Hand Out Bill in 2013. In preparation for the introduction of the Hand Out Bill, an informal consultation through a series of workshops was held with key stakeholders about the proposals in summer 2013. The stakeholders included Ofqual, The Joint Council for Qualifications, The Federation of Awarding Bodies, The Association of Colleges, the 157 Group, The Sixth Form Colleges Association, the Association of Employment and Learning Providers, The Sutton Trust and Universities UK. Written evidence was also received on the Small Business, Enterprise and Employment Bill: Small Business, Enterprise and Employment Bill (15th October 2014);
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An informal, public consultation was also held on the content of these regulations over the period from 20 February 2015 to 13 March 2015 Reform of Performance Tables - The Department for Education. Thirty two organisations were e-mailed to draw their attention to the draft regulations. This included NAHT, Ofsted, BIS, HESA, LGA, UCAS and all those organisations who had previously attended the workshops on the Hand Out Bill. No responses were received to the informal consultation on the prescribed activities regulations. Earlier engagement activity confirmed that stakeholders were supportive of the proposal to share student level data with further education institutions.

8.2 There has also been close liaison with the Welsh Government over the policy intention for, and the content of, the regulations during the passage of the Small Business, Enterprise and Employment Bill and subsequently during the course of drafting the regulations.

9. Guidance

9.1 A technical note is published alongside the experimental statistics. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397988/Technical_Note_2015_FINAL.pdf A guidance note is also provided for the current pupil level data sharing with schools and it is intended that a similar note will be provided when student level data is shared withfurther education institutions.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is limited to further education institutions and is in connection with how closely they interrogate the data provided to them. The principal impact is if they choose to corss check the data with their own records and use the data to inform their future planning. However, there is no obligation on further education institutions to use the data. Some further education institutions have, however, asked for

this data in the past and we anticipate that further education institutions will welcome the data.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation only incidentally applies to small businesses.

12. Monitoring & review

12.1 This instrument will only have indirect effects, if at all, on business since any sharing of destination information will be one-way, from the Secretary of State to further education institutions in England. Thus, any impact will principally be borne by the Secretary of State and the express information gateway (in section 49B of the Further and Higher Education Act 1992), for which these regulations prescribe "activities" for the purposes of "destination information", is permissive in nature only. Consequently, a review provision would be disproportionate and is thus not appropriate in this context.

13. Contact

Linda Rose or Andrew Taylor at the Department for Education email: Linda.Rose@education.gsi.gov.uk or Andrew.Taylor@education.gsi.gov.uk can answer any queries regarding the instrument.