EXPLANATORY MEMORANDUM TO

THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS) (ENGLAND) (AMENDMENT) REGULATIONS 2026

2026 No. 639

1. Introduction

1.1 This Explanatory Memorandum has been prepared by The Department for Education and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister Olivia Bailey MP, the Minister for Early Education at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Patrick Healy, Deputy Director for Enterprise Data for Access and Sharing, at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Paul Hirst at the Department for Education can be contacted by email at the following address with any queries regarding the instrument: datacollections.dfe@education.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Education (Information About Individual Pupils) (England) Regulations 2013 ("the 2013 Regulations") consolidate the Education (Information About Individual Pupils) (England) Regulations 2006 ("the 2006 Regulations"). This instrument amends the Regulations 2013 to update the requirements on state-funded schools in England to provide specified information about individual pupils.

4.2 The Regulations set out the individual pupil data items to be collected from schools in the School Census and contains a new regulation which requires the collection of some data about children living in kinship care arrangements from 2026 onwards.

4.3 From the start of academic year 2026/27, the Department for Education is introducing a new entitlement to Free School Meals 'FSM' for children whose households are in receipt of Universal Credit 'Expanded' FSM. This will sit alongside the existing criteria for FSM of households on Universal Credit with an annual income of no more than £7.400, known as 'Targeted' FSM. The amendment to the Regulations requires the collection of data from schools in order to distinguish which pupils are eligible under each category for funding purposes as those eligible for 'Expanded' FSM will be entitled to meals only whereas those eligible for 'Targeted' FSM will attract pupil premium funding and other disadvantage funding for their schools. Once the new entitlement is in place from academic year 2026/27 schools will be required to recheck eligibility for FSM annually. This amendment to the regulations will therefore require schools to record the date of the last eligibility check to ensure that the data collected through the census is up to date and accurate for funding purposes.

4.4 The amendments ensure that schools are required to supply more comprehensive data relating to managed moves, exclusions, and exclusion review outcomes, so that pupil movement and exclusion processes are more transparent and consistently recorded.

4.5 Under the 2013 Regulations, schools were required to provide only limited exclusion related information and no statutory information on managed moves. The Education (Information About Individual Pupils) (Amendment) (England) Regulations 2026 ('the 2026 Regulations') close these gaps by requiring schools to provide this additional information. This strengthens the Department's ability to monitor exclusion practice, track reinstatement decisions and understand how and why pupils move between educational settings.

4.6 The Regulations also extend the existing requirements for information about exclusions so that information previously collected only for non-reinstated pupils must now also be provided for reinstated pupils, ensuring full visibility of all outcomes within the statutory exclusion process. In addition, the amendments provide for the transfer of Independent Review Panel (IRP) outcome data, which is collected annually every January from local authorities through the APEX collection (School Exclusion review data) into the School Census. This change reduces an administrative burden and ensures that every aspect of the school exclusion review process is captured at a school level on a timelier basis.

4.7 The amendments to the 2013 Regulations require the provision of information about free breakfast club provision in certain schools in England. The new provisions apply in relation to qualifying primary pupils and require schools, when requested, to provide information about the availability of free breakfast club provision, pupils' attendance or non-attendance at such provision, and the reasons why provision was not made available on relevant school days.

4.8 This information will support the monitoring and evaluation of free breakfast club provision and enable the Secretary of State and other prescribed persons to understand patterns of availability and participation. The Regulations require the provision only of information already recorded in schools' electronic information management systems and do not prescribe how information should be collected. No significant additional administrative burden on schools is anticipated.

4.9 This information was previously collected manually from schools. Collecting this information through the school census ensures that it is gathered in a uniform and systematic way, using established data collection processes enabling a more efficient data collection.

Where does the legislation extend to, and apply?

4.10 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.11 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The central aim of the amendment to the 2013 Regulations is to enable the collection of data on the number of children living in kinship care arrangements. The amendment is required because children living in kinship care arrangements is not

listed in Schedule 1 of the 2013 Regulations, which means that the Secretary of State cannot request that schools provide that information as part of the school census.

5.2 The policy intention is to improve the data on children living in kinship care arrangements. The Department for Education does not currently have robust data on the number of children living in kinship care arrangements. Children living in kinship care often face unique challenges, including trauma from separation, abuse, or neglect. Children who are growing up in kinship care arrangements often experience adversity similar to children in care or children who have a social worker but are often hidden in the data, especially if they are in an informal arrangement or are subject to a permanence order without previously being in care.

5.3 The lack of robust data for this cohort of children greatly hinders policy development at a local and national level. Collecting this data will help to quantify the informal kinship care cohort and non-previously looked after formal kinship care cohort, strengthening the evidence base to ensure we have the right support offers in place; the department cannot achieve this without a more accurate picture of the kinship care cohort.

5.4 By collecting this data, schools will be better able to address these children's specific educational and emotional needs. They will also be able to consider the impact of the children's particular circumstances on their education.

5.5 The aim of the amendment to the 2013 Regulations is to enable the collection of data from schools via the school census on who is eligible for FSM against the two categories that will be in place from September 2026:

- 'Targeted' FSM which continues to be based on the existing threshold, covering pupils who are in households in receipt of Universal Credit with annual household earnings of no more than £7400.
- 'Expanded' FSM, a new category covering pupils who do not qualify for targeted FSM, but who are in households receiving Universal Credit.

5.6 Pupils eligible for 'Targeted' FSM will receive a free meal and attract pupil premium and other disadvantage funding for their schools. Pupils eligible for 'Expanded' FSM will receive free meals only.

5.7 By collecting this data from schools this will enable the Department for Education to distinguish between the two categories and allocate funding accordingly.

5.8 The regulations also require schools to provide the date a pupil's eligibility was last verified. From the start of the 2026/27 academic year, FSM eligibility must be rechecked annually by schools ahead of the October school census which is used to allocate funding to FSM pupils.

5.9 The aim of the amendments to the 2013 Regulations is to strengthen and expand the statutory collection of pupil-level data relating to suspensions, permanent exclusions and managed moves. The amendments are required because existing framework does not encompass several important stages in the exclusions process. As a result, there are gaps in the national dataset which prevent the Department for Education (the Department) from fully understanding how exclusions, reinstatements, and managed moves operate across the school system.

5.10 The policy intention is to address longstanding gaps in the national exclusions dataset which limit the Department for Education's ability to understand how exclusions operate in practice. While the Department routinely collects exclusion data through

the termly School Census and Daily Attendance Data, these returns focus primarily on the type and reason for exclusion. They do not capture whether exclusions are later cancelled, whether pupils are reinstated following governing board review, the outcomes of Independent Review Panels, or the circumstances in which exclusions are rescinded. Nor do they provide a clear picture of pupil movement, including managed moves.

5.11 These data gaps reduce transparency and weaken oversight of statutory protections for pupils. Without comprehensive, pupil-level data, the Department cannot robustly monitor patterns of exclusion, assess the consistency of decision-making across schools, or identify where processes may not be operating as intended. This hampers the Department's ability to safeguard pupils, to ensure the lawful use of exclusion and managed moves, and to develop evidence-based behaviour and inclusion policy at both national and local level.

5.12 Recent changes to the statutory framework for suspensions and permanent exclusions have further underlined the need for reform. Amendments made in July 2022 and May 2023 to the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, alongside updated statutory guidance, clarified expectations around cancellation of exclusions, governing board and IRP processes, data scrutiny responsibilities, and the lawful use of managed moves. These reforms strengthened statutory decision-making but also highlighted that the absence of consistent national data makes it difficult to monitor compliance with, and the impact of, the revised framework.

5.13 The 2026 Regulations prescribe new exclusion-related data items within established data collections. These include information on cancelled exclusions and reasons for cancellation, dates of reinstatement, and the outcomes of governing board reviews. The Regulations also move the collection of IRP outcome data from the local-authority-level APEX survey into the School Census. This change reduces burden on local authorities, improves data consistency, and reflects the fact that schools hold this information directly.

5.14 The amendments do not represent a substantive change in policy direction. Instead, they place all affected schools on a consistent statutory footing by requiring complete, accurate and transparent reporting of exclusion- and movement-related information, including managed moves. In doing so, the Regulations strengthen the Department's ability to monitor trends, uphold statutory protections and support its wider programmes of safeguarding, attendance and behaviour reform, while promoting fairness and consistency across the education system.

5.15 The aim of the amendment is to enable the collection of attendance at free breakfast clubs via the school census in a low-burden, consistent and transparent manner. The government is committed to rolling out free breakfast clubs in all state-funded schools with primary-aged pupils. Through the Children's Well Being and Schools Bill, relevant schools will be required to offer a free, 30-minute breakfast club to all pupils in reception to Year 6 before the start of the school day. As this is a new programme, there is currently no data collected on it through the census and the current process of schools manually completing two forms per term is burdensome and not sustainable as the programme is rolled out to more schools.

5.16 Collecting this data through the census will allow the department to monitor delivery and assess the impact of the programme, including on specific cohorts of pupils, such as pupils with special educational needs and disabilities (SEND). This will help to

inform the continued rollout of the programme and future policy development. It will also allow the department to share the data back with schools and help them to consider whether pupils who are most likely to benefit from the programme are accessing the offer.

What was the previous policy, how is this different?

5.17 Prior to this amendment, there was no legislative requirement to provide information about children living in kinship care. This amendment requires schools to record whether a child is living in a kinship care arrangement starting from the autumn 2026 census. This information is provided by self-declaration by the child, kinship carer, or parent. Data collected will be used to inform future policy development.

5.18 Prior to this amendment, there was one category of benefits-based FSM. Eligibility for free school meals was based on pupils who were in households in receipt of Universal Credit with annual household earnings of no more than £7400 i.e. what is now referred to as 'Targeted' FSM. Therefore, schools were only required to provide information in schools census returns relating to the start date and end date of the period of eligibility of FSM as opposed to which category of entitlement the pupil was eligible under. Transitional protections also meant that if a pupil was eligible for FSM since 2018, they would continue to be eligible even if their household income exceeded the £7400 annual income threshold. As a result, schools were not required to recheck eligibility annually as once a pupil had become eligible for FSM, they would remain eligible for FSM until the start of academic year 2026/27.

5.19 The Department of Education has confirmed that transitional protections will end from the start of academic year 2026/27. This means that a pupil will only be eligible for FSM either under 'Targeted' and 'Expanded' FSM if they meet the criteria. To ensure accurate funding is provided for eligible pupils, the Department for Education is requiring schools to recheck eligibility annually. The amendment to the regulations requires schools to record the date of their last eligibility check in the school census to ensure this annual recheck has been completed.

5.20 Under the previous policy, the 2013 Regulations required schools to provide only limited exclusion-related information, primarily covering the fact of a suspension or permanent exclusion and certain details for pupils who were not reinstated. Schools were not required to report the outcomes of governing board decisions on reinstatement, IRPs, or the circumstances in which an exclusion had been cancelled, nor were they required to report information on managed moves. This resulted in longstanding gaps in national oversight, including a lack of transparency about cancelled exclusions, inconsistent understanding of reinstatement decisions, and no systematic data on pupil movement through managed moves.

5.21 Under the new policy implemented by these Regulations, schools are required to provide comprehensive information about managed moves and all exclusion-related outcomes. The Regulations also extend existing duties so that some information previously required only for non-reinstated pupils must now be provided for pupils who are reinstated. This ensures consistent and transparent reporting across all state school types.

5.22 Prior to this amendment, there was no legislation requiring the collecting of free breakfast club data through the school census because the programme did not exist until April 2025. This data is necessary to monitor the delivery and assess the impact of the programme, to inform future policy develop and determine value for money. Collecting through the school census has been assessed to be least burdensome and

most consistent approach. Only schools taking part in the Free Breakfast Club Programme are affected by the amendment; schools do not need to report pupil attendance at other breakfast clubs.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2013 Regulations provides the legislative underpinning for the School and Pupil Referral Unit (PRU) Census collection. They provide details of the data items schools and local authorities are required to provide as part of this census collection.

6.2 There is currently no legislative requirement for schools to collect information about children living in kinship care arrangements.

6.3 Under Schedule 1 paragraph 14 of the 2013 regulations, schools are required to provide information to the Department for Education via the school census on whether a pupil has been found eligible for FSM according to the remit of s512(3) and 512ZB of the Education Act 1996.

6.4 'Expanded' FSM falls within s512(3) and 512ZB of the Education Act 1996 and so schools will be required to include them in their return for the number of children eligible for FSM. However, the regulations did not require schools to provide information on which category of eligibility a child falls under. The amendment to the regulations requires schools to report this information to the Department for Education and to report the date an eligibility check was last conducted to ensure accurate allocation of funding for eligible FSM pupils.

6.5 The regulations also enable the Secretary of State to request information on eligibility covered under 'other arrangements'. This will include those who are eligible for FSM under Department for Education guidance or grant conditions and not via statutory provision.

6.6 Schedule 1 of the 2013 Regulations sets out the information that must be provided in the school census. Regulation 6 of the 2026 Regulations inserts a new Part 1B into Schedule 1 of the 2013 Regulations to require schools to provide information on managed moves (where a pupil's school helps to arrange for them to move permanently to another educational institution). This information includes the date of the move, the name of the receiving institution and some circumstances of the move. This information will therefore have to be provided on request as set out in regulations 3 to 5 of the 2013 Regulations.

6.7 Regulation 7 of the 2026 Regulations amends Part 2 of Schedule 1 to the 2013 Regulations, which prescribes information about excluded pupils. Previously most of the information in Part 2 related only to pupils who had not been reinstated following their exclusion. Regulation 7 requires some of that information to be provided in relation to reinstated pupils as well. It also adds further information to be proved in relation to all excluded pupils (reinstated or not), including information about cancellations, reinstatement decisions and review outcomes. Some of this information is about the specific statutory procedures set out in the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and therefore is only required to be provided in relation to schools to which those Regulations apply.

6.8 The instrument amends Schedule 1 to the Education (Information About Individual Pupils) (England) Regulations 2013 by inserting a new Part 1ZA. This creates a clear statutory framework requiring schools, when requested, to provide specified

pupil-level information about free breakfast club provision, including whether such provision was made available, pupils' attendance or non-attendance, and the reasons recorded where provision was not available. Prior to this amendment, the 2013 Regulations did not explicitly require the collection or provision of information about the availability of free breakfast club provision or pupils' participation in it. Such information was collected manually. Collecting it through the school census will streamline data collection, reduce administrative burden, and improve consistency and transparency.

Why was this approach taken to change the law?

6.9 Kinship Care Arrangements: This is the only possible approach to obtain data regarding children living in kinship care arrangements.

6.10 Free School Meals: The 2013 regulations already cover reporting requirements on schools in relation to FSM eligibility and so the Department for Education views these regulations as the most appropriate mechanism for enacting the new reporting requirements on FSM.

6.11 Managed Moves and School Exclusion: This is the only possible approach to make necessary changes to obtain the data.

6.12 Free breakfast clubs: School attendance is already collected through the census in a similar manner, and this approach is familiar to schools. By requiring this data to be collected through the census, management information system (MIS) suppliers will build a free breakfast club session into their systems, making it easy for schools to record this data daily. No other approach would incentivise MIS suppliers to do this and any other approach would be counter to normal practice for similar data.

7. Consultation

Summary of consultation outcome and methodology

7.1 Consultation with representatives from the National Association for Virtual School Heads and a small sample of schools indicated that collecting this data would help them carry out their duties regarding children living in kinship care arrangements.

7.2 In respect of FSM, the Department has engaged with representatives of school and academies as part of the Star Chamber approval board process as well as engagement with external software suppliers who schools often use to make changes to their information management systems.

7.3 In respect of managed moves and school exclusion, the Department undertook targeted consultation with key stakeholders, using a combination of written surveys, direct engagement and structured feedback processes. The Department undertook a targeted and proportionate consultation process to test the feasibility, burden and sector acceptability of the proposed amendments. A survey setting out the proposed changes was disseminated through the school census bulletin, ensuring wide reach across maintained schools, academies, and alternative provision settings. Responses indicated strong overall support for expanding exclusion-related data collection, with no significant concerns raised about feasibility or burden; stakeholders confirmed that schools already hold the majority of the information required.

7.4 The Department conducted direct engagement with Ofsted, school leaders, local government representatives and commercial MIS suppliers. These discussions provided assurance that the proposed data items could be implemented within existing

systems and that transferring IRP-related data into the School Census would remove duplication and strengthen data quality. The Star Chamber Scrutiny Board reviewed the proposals through its established evidence-testing process and endorsed the amendments as necessary.

7.5 A wider public consultation was not required, as the amendments make technical changes to data-collection duties rather than altering the underlying exclusions framework.

7.6 In respect of free breakfast clubs, the Department engaged with schools; private, voluntary and independent (PVI) childcare providers and local authorities on the proposals, as well as Star Cahmber and MIS suppliers. All were supportive of the change.

7.7 Schools are broadly in agreement that a school register-style system integrated into the MIS would be highly beneficial and would significantly ease administrative tasks on their behalf, including two schools who described it as a 'excellent' and 'fantastic' idea. Schools told us that tracking breakfast club attendance via MIS would enable schools to monitor participation more effectively, streamline processes, and save valuable time.

8. Applicable Guidance

8.1 In order to ensure that schools and local authorities are aware of the amendments being made to the School Census and PRU 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 and PRU 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 - https://www.gov.uk/guidance/complete-the-school-census

8.2 Statutory guidance on Suspension and Permanent Exclusion is provided and available at https://assets.publishing.service.gov.uk/media/66be0d92c32366481ca4918a/Suspensions_and_permanent_exclusions_guidance.pdf

8.3 In addition to the school census guidance, a specific how to guide for reporting free breakfast club data will be provided to schools. This will be shared directly with schools in April 2026 and available on the free breakfast clubs portal.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 In respect of kinship care arrangements, there will be no impact on business, charities or voluntary bodies.

9.2 The impact on the public sector is minimal and was considered as part of the Star Chamber Scrutiny Board process before approval to collect the additional data items was granted.

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

9.4 In respect of FSM, an Impact Assessment has not been prepared for this instrument because it is out of scope given that the changes to the regulations do not directly regulate, deregulate or concern the regulation of business, charities or voluntary bodies.

9.5 The impact on the public sector in minimal and was considered as part of the Star Chamber Scrutiny Board process before approval to collect the additional data items via the school census.

9.6 A full Impact Assessment has not been prepared for this instrument because the instrument makes technical adjustments to existing data-collection requirements and is not expected to impose significant additional costs. Schools already hold the information being added, and transferring IRP data into the School Census replaces the APEX collection, resulting in no net increase in burden. The overall impact on the public, private and voluntary sectors is therefore minimal.

9.7 In respect of free breakfast clubs, an Impact Assessment has not been prepared for this instrument because it is out of scope given that the changes to the regulations do not directly regulate, deregulate or concern the regulation of business, charities or voluntary bodies.

9.8 The impact on the public sector in minimal and was considered as part of the Star Chamber Scrutiny Board process before approval to collect the additional data items via the school census

Impact on businesses, charities and voluntary bodies

9.9 There is no, or no significant, impact on business, charities or voluntary bodies because these amendments apply only to schools.

9.10 The legislation does not impact small or micro businesses.

9.11 The impact on the public sector is minimal with some administrative burden from schools which has been assessed by the sector as acceptable.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The department will keep the operation of this instrument under review with support of the externally facing sector scrutiny group known as the Star Chamber which includes representatives from unions, local authorities, schools and Ofsted.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").