EXPLANATORY MEMORANDUM TO

THE SCHOOL INFORMATION (ENGLAND) (AMENDMENT) REGULATIONS 2021

2021 No. 570

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The instrument amends the School Information (England) Regulations 2008 ("the School Information Regulations 2008") to ensure they align with the new requirements in the School Admissions Code 2021 ("the 2021 Code") (which amends the School Admissions Code 2014 ("the 2014 Code")). The instrument also reflects the discontinuance of the Year 7 catch up premium grant.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Although this instrument is necessary to effect policy changes in relation to school admissions, it also takes the opportunity to make one correction. Regulation 2(3)(e) amends regulation 10(5) of the Information Regulations so that "and", in the second place it occurs, is replaced with "or".

3.2 Although substantive, the corrective amendment is minor relative to the instrument as a whole. In light of this, the department considers that the free issue procedure would be disproportionate and therefore will not be adopting it in relation to this instrument. The department confirms that it has complied with the requirement in paragraph 4.7.6 of SIP and has consulted the SI Registrar on the use of the free issue procedure in relation to this instrument.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

6. Legislative Context

School admissions

6.1 Section 84(1) of the School Standards and Framework Act 1998 ("SSFA 1998") requires the Secretary of State to issue or revise a code for school admissions. In accordance with section 84(2) of the SSFA 1998, the 2021 Code imposes requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of school admissions functions by local authorities, governing bodies of maintained schools, appeal panels and schools adjudicators. Its purpose is to ensure that all school places for maintained schools and academies (excluding special schools) are allocated and offered in an open and fair way.

6.2 Following public consultation, the Government has laid the 2021 Code before Parliament in draft alongside this instrument. The 2021 Code will revise and replace the 2014 Code. Subject to the Parliamentary procedure set out in section 85 of the SSFA 1998, the 2021 Code will come into force on 1 September 2021.

6.3 The School Information Regulations 2008 set out mandatory requirements on local authorities and governing bodies about what information should be published about school admissions and other matters. A number of the obligations set out in the 2021 Code overlap with existing obligations set out in the School Information Regulations 2008. As a result, the amendments made by this instrument are necessary to ensure that the provisions in the School Information Regulations 2008 are consistent with the 2021 Code.

6.4 This instrument, the School Information Regulations 2008 and the 2021 Code apply directly to governing bodies of maintained schools and local authorities. They also apply indirectly to academy schools by virtue of their funding agreements with the Secretary of State.

Year 7 catch up premium grant

6.5 Paragraph 13 of Schedule 4 to the School Information Regulations 2008 (as added by regulation 2(2) of The School Information (England) (Amendment) Regulations, 2013/758) set out information to be published on a website by governing bodies of maintained schools in respect of receipt of any allocations of the Year 7 literacy and numeracy catch-up premium grant.

6.6 The purpose of that provision was to provide transparency on how a school intended to spend the current academic year's allocation; how the previous academic year's allocation was spent; and the effect of that spending. As the Year 7 catch up premium grant has been discontinued, this instrument withdraws that requirement.

7. Policy background

What is being done and why?

School admissions

7.1 The changes introduced in the 2021 Code aim to improve the in-year admissions system and, in particular, support the in-year admission of vulnerable children. An in-year application is an application for a school place either starting at some point during, rather than at the beginning of, the academic year, or at the start of a year which is not the normal point of entry to the school. The normal point of entry to school is usually reception class in a primary school or year 7 in a secondary school.

7.2 The Children in Need Review identified that children in need are more likely to seek a school place outside the normal admissions round and that delays in securing a school place in-year can lead to children missing education. As a result, the Department committed to make changes to the 2014 Code to improve the clarity, timeliness and transparency of the in-year admissions process to ensure all vulnerable children can access a school place as quickly as possible. A public consultation on the proposed changes to the 2014 Code was carried out in 2020.

7.3 Changes proposed under the 2021 Code necessitate changes to two of the requirements set out in the School Information Regulations 2008 to align and remove inconsistency between the 2021 Code and the School Information Regulations 2008.

7.4 The 2021 Code introduces a new requirement on local authorities to publish details on their website (with hard copies available to parents on request) about how in-year applications can be made and how they will be dealt with. This instrument therefore removes the requirement for local authorities to provide information about in-year applications relevant to offer years beginning on or after 1 August 2022 in their annual composite prospectus. Without this amendment, there would be an on-going obligation to publish in-year information in the composite prospectus as well as separately, which would be unduly burdensome for local authorities.

7.5 The 2021 Code introduces a new requirement for admission authorities of all categories of maintained schools and academies to update their own or the school's website with a copy of the relevant determined admission arrangements by 15 March each year. This is so that parents and others are allowed sufficient time to object to the schools adjudicator by the deadline of 15 May if they think a school's determined admission arrangements do not comply with the 2021 Code or associated legislation.

7.6 The School Information Regulations 2008 required governing bodies of community and voluntary controlled schools to update the school's website with similar information by a later point in the academic year (at least 6 weeks prior to the admissions deadline). The instrument therefore amends this requirement so that governing bodies must publish a copy of the relevant determined admission arrangements by 15 March each year, so the websites relevant to all schools will display the same information by the same point in the year.

Year 7 catch up premium grant

7.7 The Year 7 catch up premium was introduced in 2012 and initially funded from the Pupil Premium budget. A per pupil amount was paid to mainstream, special schools and alternative provision settings for each child who had failed to reach Level 4 (or later, as tests changed, the 'expected standard') in either the reading or mathematics

Key Stage 2 test. Schools had discretion on how to use this money on literacy and numeracy catch-up, but were required to publish on their websites details of how it had been used.

7.8 Due to the introduction of the National Funding Formula (NFF), the Year 7 catch up premium grant was discontinued in 2020, with last payments being made in respect of the 2019-2020 academic year. Schools will continue to attract funding via the National Funding Formula for pupils with low prior attainment. The NFF contains a Low Prior Attainment factor which is allocated on a similar basis to the Year 7 catch-up premium, but provides funding for all five years that a pupil is in secondary school rather than just in Year 7.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal).

9. Consolidation

9.1 There is no plan to consolidate.

10. Consultation outcome

10.1 A public consultation on the proposed changes to the 2014 Code was conducted between 26 June and 16 October 2020, involving key stakeholders including local authorities, school governing bodies, academy trusts, parents and carers, and other interested parties. 1,547 written responses were received and meetings were held with 80 different organisations. There was broad support for the proposed changes to the in-year admissions system. 82% of respondents agreed with the requirement for local authorities and admission authorities to publish information on in-year admissions online by a certain date and 87% of respondents believed that this would be helpful for parents.

10.2 A full analysis of responses to the consultation is available on the department's website: https://www.gov.uk/government/consultations/changes-to-the-school-admissions-code--4.

11. Guidance

11.1 No specific guidance is proposed in relation to the changes which are made under the Regulations.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant impact on business, charities or voluntary bodies is foreseen, either for the changes in relation to school admissions, or for the removal of the requirement for governing bodies to publish details about the Year 7 catch up premium grant.

12.4 The Department has carried out a new burdens assessment in relation to the 2021 Code and has concluded that there will be no net additional costs for local authorities as a result of changes made by the 2021 Code or this instrument.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Department will keep the 2021 Code and the School Information Regulations 2008 under regular review. Feedback relating to the admissions system is regularly received in a variety of ways, from a variety of stakeholders (including from parents, via departmental and ministerial correspondence). The Department regularly convenes meetings of the DfE Admissions Stakeholder group, which includes representatives of local authorities, academy trusts, faith bodies, the Ministry of Defence, and the local government and social care ombudsman, among others. Periodically, reviews are undertaken of specific aspects of the admissions system, focussing on how well it works in practice.

14.2 The regulation does not include a statutory review clause.

15. Contact

15.1 Alison Powell at the Department for Education Telephone: 07469031673 or email: Queries.ADMISSIONS@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kim Sibley, Deputy Director for Admissions, School Organisation and Transport, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nick Gibb, Minister of State for School Standards at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.