

SL(6)212 – The Education (Information About Individual Pupils) (Wales) (Amendment) Regulations 2022

Background and Purpose

Under powers derived from section 537A of the Education Act 1996, Welsh Ministers may make regulations specifying persons (“Prescribed Persons”) with whom they may share data about school pupils.

The Prescribed Persons are listed in regulation 5(2) of the *Education (Information About Individual Pupils) (Wales) Regulations 2007* (the “2007 Regulations”). The list includes, amongst others: local authorities, Qualifications Wales and the Education and Skills Funding Agency.

These [Regulations](#) amend the 2007 Regulations to add the Universities and Colleges Admissions Service (“UCAS”) to the list of Prescribed Persons.

The Explanatory Memorandum provides that the purpose of the amendment is to allow Welsh Ministers to share the FSM (free school meals) data of school leavers with UCAS to “aid university admissions in ensuring [that] offers are made to disadvantaged learners, and [that] participation to higher education is widened”. It further provides that the amendment is necessary to establish a legal basis under data protection legislation for such data sharing.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.



1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

This amendment has been deemed urgent in order to have data in place for universities to use in the clearing and confirmation process in August. Therefore any consultation would not take place at a formative stage in the policy development [...] and therefore was not viewed as appropriate in this case.

Whilst the Explanatory Memorandum explains the relative urgency for the Regulations, it does not explain why they have become urgent. It is not clear from the Explanatory Memorandum why the Regulations were not made sooner, in anticipation of the university clearing process in August.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

20 June 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee