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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

Education (Student Information) (Wales)  
Regulations 2017

Education (Destination Information) (Prescribed  
Activities) (Wales) Regulations 2017

Date of issue: 8 May 2017

Action required: Responses by 31 July 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

<b>Overview</b>	This consultation seeks your views on the policy underlying two sets of Regulations setting out requirements relating to sharing student information to provide new and improved information on learning outcomes. The Regulations relate to the sharing of information on the qualifications and destinations of students with institutions in England and Wales.
<b>How to respond</b>	This consultation will close on <b>31 July 2017</b> . Responses can be submitted online via our website, or alternatively you can download a response form, complete and return it to <a href="mailto:post16quality@wales.gsi.gov.uk">post16quality@wales.gsi.gov.uk</a> , or to the postal address below.
<b>Further information and related documents</b>	<p><b>Large print, Braille and alternative language versions of this document are available on request.</b></p> <p>The consultation documents can be accessed from the Welsh Government's website at <a href="http://www.wales.gov.uk/consultations">www.wales.gov.uk/consultations</a></p> <p>Small Business, Enterprise and Employment Act 2015  <a href="http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted/data.htm">http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted/data.htm</a></p>
<b>Contact details</b>	<p>For further information:</p> <p>Post-16 Quality and Data Management Branch          Welsh Government          Tŷ'r Afon          Bedwas Road          Caerphilly          CF83 8WT          e-mail: <a href="mailto:post16quality@wales.gsi.gov.uk">post16quality@wales.gsi.gov.uk</a>          Tel: 0300 025 3905</p>
<b>Data protection</b>	Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

## Background

1. The Small Business, Enterprise and Employment Act 2015 received Royal Assent on 26 March 2015. Part 6 of the Act concerns education evaluation data sharing. Sections 79 and 80 inserted new section 253A in to the Apprenticeships, Skills, Children and Learning Act 2009 and new section 49B into the Further and Higher Education Act 1992. These provide for the Welsh Ministers to make Regulations setting out requirements relating to sharing improved information on learner outcomes, including progression through education and into the labour market. This will allow the UK and Welsh Governments to share, at student level, information on the qualifications and destinations of students with institutions in England and Wales.

## Policy background to the proposed regulations

2. The skills system in Wales needs to adapt to a range of challenges if we are to ensure it remains competitive and sustainable into the future. Measuring our performance and benchmarking our efforts internationally will be an important feature in keeping us on track to deliver change into the future. The Welsh Government's Skills Implementation Plan identifies jobs and growth amongst its key priorities for securing a sustainable, world class skills system in Wales. Progression from learning into further learning and employment will become one of the key performance measures which will enable the Welsh Government to assess the relevance and value for money of the programmes it funds.
3. We currently have separate arrangements for measuring performance in sixth forms and in further education and work-based learning in Wales. This means that we are unable to measure outcomes in a meaningful way across learning settings, and that learners and parents do not have access to transparent information to inform their choices. The existing measures are also based entirely on short-term outcomes such as learner attainment of qualifications, rather than on longer-term impacts such as progression to employment or further learning.
4. The need for learners to be able to consider their options more fully as they complete their pre-16 education is an important part of enabling young people to make effective choices.
5. We have recently consulted on our proposed approach to measuring the outcomes of post-16 learning programmes delivered in school sixth forms and further education institutions (FEIs)<sup>1</sup>. The outcomes of the consultation will be published shortly. The proposed new regulations described in this document will help us to ensure that the data used in the measures is transparent, credible and accurate.
6. The new regulations will allow for the information sharing powers that we already have for schools (under section 537A of the Education Act 1996) to be extended.

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<sup>1</sup> <https://consultations.gov.wales/consultations/consistent-measures-post-16-learning-wales>

This will include the sharing of information with FEIs and other learning providers (work-based learning providers, local authorities that deliver adult community learning and the National Centre for Learning Welsh). This will enable them to share the data it already collects on individual learners' attainment (from awarding organisations) and destinations (from a variety of sources), with institutions at learner level before publishing it in aggregated form.

7. As well as enabling learning providers to check their data prior to publication, it will help to increase confidence in published performance information and help institutions to improve learner outcomes; make informed decisions about what provision to offer; and give appropriate careers advice by enhancing their understanding of the outcomes achieved by their students.

#### Education (Student Information) (Wales) Regulations 2017

8. The production of high quality performance data relies on the collection and sharing back of qualification information of individual learners. For schools, learner-level qualification information is collected from awarding bodies by the Welsh Government and its contractors. It is then aggregated to calculate performance measures at school level. For quality assurance, this information is then shared back to the institution where the student is on roll before the data is published under the existing information sharing powers in section 537A of the Education Act 1996. Schools are asked to check the results for students before the publication of performance measures.
9. It is proposed for the regulations to extend these information sharing powers to FEIs and other learning providers (work-based learning providers, local authorities that deliver adult community learning and the National Centre for Learning Welsh) to ensure the accuracy and credibility of performance measures for post-16 providers in Wales, as they will allow transparent sharing of data prior to the publication of aggregated performance data.

#### Education (Destination Information) (Prescribed Activities) (Wales) Regulations 2017

10. We published destination measures as [experimental statistics](#) for the first time in 2014. The published information showed the destinations of students who completed key stage 4; and those who completed A levels or other level 3 qualifications (key stage 5). The information was published in anonymous, aggregate form, showing the proportion of students who went on to participate in education or training in the academic year after leaving key stage 4 or key stage 5.
11. We want to make learner level information available to schools and colleges so that they have a greater understanding of, and trust in, the information before it is published. Whilst existing legislation allows us to share pupil level information with schools, we do not have legislation in place to share learner level information with other learning providers. The Regulations will enable us to do this.

**Q1. Do you agree that the policy underlying both sets of regulations is appropriate?**

**Q2.** Do you think there are any equality impacts arising from the policy underlying both sets of regulations?

## **Legislative background to the proposed regulations**

### Education (Student Information) (Wales) Regulations 2017

12. The Regulations extend the information sharing powers that we already have with schools under section 537A of the Education Act 1996 to include FEIs and other learning providers (work-based learning providers, local authorities that deliver adult community learning and the National Centre for Learning Welsh).
13. Section 253A of the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”) enables persons in England and Wales to share “student information” with a range of persons.
14. Section 253A enables any person in England and Wales to share “student information” with the Secretary of State, Welsh Ministers, an information collator or a prescribed person or category of persons. The persons between whom the sharing of information can take place will be prescribed in regulations, as will the information that can be shared and circumstances in which it can be shared.

### *Student Information*

15. Student information is defined in subsection (6) of section 253A. The information can only be shared if it falls within a description prescribed in regulations. Information shared under the clause will be restricted to qualification information, such as the name of the student and their examination results.

### *Prescribed circumstances*

16. Regulations also determine the circumstances in which sharing of student information may take place:
  - (i) the Welsh Ministers or an information collator may provide student information if that information relates to a person who is or was enrolled with a learning provider for the purpose of obtaining an approved qualification (a qualification that is eligible to receive funding from the Welsh Ministers under the Learning and Skills Act 2000 or Part 4 of the Qualifications Wales Act 2015).
  - (ii) information may be provided to the Welsh Ministers or an information collator if the information relates to a person who is or was enrolled or registered with a learning provider for the purposes of obtaining an approved qualification and the Welsh Ministers or an information collator has requested that information.
  - (iii) information may be provided to a prescribed person or a prescribed category of person if the information relates to a person who is or was enrolled with a learning provider for the purpose of obtaining an approved qualification and

that person was enrolled or registered with the person providing the information.

**Q3.** Do you agree with the circumstances in which student information can be shared?

*Prescribed persons or person within a prescribed category*

17. The regulations prescribe the persons and the categories of person to whom a person in Wales can provide student information:

<b>Prescribed person</b>	<b>Reason</b>
Estyn, Her Majesty's Inspectorate for Education and Training in Wales	To support the inspectorate to undertake their statutory functions connected with post-16 education in Wales.
Higher Education Council for Wales (HEFCW)	To enable statistical analysis on widening participation.
Higher Education Council for England (HEFCE)	
Secretary of State	To provide data on Welsh-domiciled learners who have moved over the border to England.
Student Loans Company	Provide eligible student population numbers to enable them to calculate take up rate.
Universities and Colleges Admissions Service (UCAS)	To support the university clearing process.
Higher Education Statistics Agency (HESA)	To support the analysis of HE data for Welsh domiciled students.
Careers Wales	To support the youth engagement and progression framework to reduce the number of young people not in education, employment or training (NEET).
Joint Council for Qualifications	To ensure the accuracy and credibility of examination outcomes before publication.
Qualifications Wales	To meet the requirements of research into vocational qualifications.
The Office of Qualifications and Examinations Regulation (Ofqual)	

<b>Prescribed category of person</b>	<b>Reason</b>
Learning providers (a person (including further and higher education institutions) providing a programme of education or training developed to meet the needs of a person aged 16 and above for which funding is received from the Welsh Ministers).	To enable checking of the results for their students to ensure the accuracy and credibility of performance measures for post-16 providers in Wales prior to publication.
Persons who, for the purpose of promoting education or well-being of	Approved on a case by case basis to enable academics or research

Prescribed category of person	Reason
students in Wales are: (a) conducting research or analysis; (b) producing statistics; (c) providing information, advice or guidance	organisations to undertake statistical research. Any statistical publications based on such research will contain anonymised data.

**Q4.** Do you agree with the named organisations that persons may provide student information to?

**Q5.** If your organisation has not been named as a 'prescribed person' or 'person falling within a prescribed category' but you think you require access to student level information for purposes that go beyond research, analysis and provision of information, advice and guidance, please explain why?

*Education (Destination Information) (Prescribed Activities) (Wales) Regulations 2017*

18. A new section (section 49B) has been inserted into the Further and Higher Education Act 1992. Subsection (2) of the new section enables the Welsh Ministers to share destination information with the governing bodies of FEIs in Wales.
19. Destination information in relation to FEIs means information relating to their former students, including prescribed information on the activities of the students once they have left the institution. The regulations propose that the activities that will count as "destination information" will include information in relation to whether students have gone on to higher education, training or employment in the academic year following when the student ceased to be a student of the relevant institution.
20. Destination information that is received under the new clause will not be published in a form which identifies the individual to whom it relates. The data, while it relates to individual students, is not of a 'high risk' nature. It will specify whether an individual has gone on to undertake further learning or into employment. This is information which, in many cases, institutions already have; for example they receive information from UCAS on students' entry to higher education courses (and are directly involved in helping students with university applications and interviews).

**Q6.** Do you agree with the prescribed activities?

**Q7.** Do you agree that we should look at the destination of the student in the academic year following them leaving the relevant institution ?

**Data protection**

21. To ensure data security, we will follow existing practices which comply with the Data Protection Act 1998, and from 25 May 2018 with the General Data

Protection Regulation (GDPR). All information shared under these clauses will be held and transferred through secure electronic file transfer systems and websites that have been rigorously tested and adhere to international information security standards.

22. Information that identifies individual learners will not be published. The information will be published in an anonymous, aggregated form. Published statistics will use standard protocols to 'suppress' figures relating to small numbers of students (typically where a course or group of students is five or below) to minimise the risk of identifying an individual student.

**Consultation  
Response Form**

Your name:

Organisation (if applicable):

Email address

Telephone number:

Address:

**General questions on both sets of regulations**

**Q1.** Do you agree that the policy underlying both sets of regulations is appropriate?

Yes/No (please delete as appropriate)

If you have answered no, please explain why:

**Q2.** Do you think there are any equality impacts arising from the policy underlying both sets of regulations?

Yes/No (please delete as appropriate)

If you have answered yes, please explain what you think these are:

**Specific questions on the Education (Student Information) (Wales) Regulations 2017**

**Q3.** Do you agree with the circumstances in which student information can be shared as set out in paragraph 16 above?

Yes/No (please delete as appropriate)

If you have answered no, please explain why:

*Prescribed persons and categories of persons*

Named organisations listed in the draft regulations (either as ‘prescribed persons’ or ‘persons’ falling within a prescribed category’) are limited to those that require the data for purposes that go beyond research, information, advice and guidance. Examples include learning providers and government bodies working in the field of education. These bodies generally require student-level data for operational aims such as monitoring, inspection, minimising the burden of administration and quality assurance of information. All these organisations are subject to the Data Protection Act.

<b>Q4.</b> Do you agree with the named organisations that persons may provide student information to as set out in paragraph 17 above?
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Yes/No (please delete as appropriate)
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If you have answered no, please explain why:
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<b>Q5.</b> If your organisation has not been named as a ‘prescribed person’ or ‘person falling within a prescribed category’ but you think you require access to student level information for purposes that go beyond research, analysis and provision of information, advice and guidance, please explain why?
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**Specific questions on the Education (Destination Information) (Prescribed Activities) (Wales) Regulations 2017**

<b>Q6.</b> Do you agree with the prescribed activities set out in paragraph 19 above?
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Yes/No (please delete as appropriate)
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If you have answered no, please explain why:
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**Q7.** Do you agree that we should look at the destination of the student in the academic year following them leaving the relevant institution as set out in paragraph 19 above?

Yes/No (please delete as appropriate)

If you have answered no, please explain why and what period you think would be better:

**Q8.** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: