

Draft Regulations to be laid before Parliament.

The Information Sharing Index (England) Regulations 2007

Citation and commencement

1. These Regulations may be cited as the Information Sharing Index (England) Regulations 2007 and come into force on the seventh day after the day on which they are made.

Interpretation

2. In these Regulations—

“the Act” means the Children Act 2004;

“child record” has the meaning given in regulation 4;

“the index” (subject to regulation 7(9)) means the database containing the information specified in these Regulations established by the Secretary of State and operated by him or under arrangements made by him under section 12(1)(b) of the Act;

“local authority” means—

- (a) a county council in England;
- (b) a metropolitan district council;
- (c) a non-metropolitan district council for an area for which there is no county council;
- (d) a London borough council;
- (e) the Common Council of the City of London; and
- (f) the Council of the Isles of Scilly;

“the Secretary of State” means the Secretary of State for Education and Skills except in relation to information provided under section 12(9) of the Act, where a reference to information provided by a Secretary of State is a reference to information provided by any of Her Majesty’s Principal Secretaries of State;

“sensitive service” means a specialist or targeted service which relates to—

- (a) sexual health,
- (b) mental health, or
- (c) substance abuse;

“specialist or targeted service” means any service which is not normally provided to all persons in a particular age group.

Participation by local authorities in the operation of the index

3. Each local authority shall participate in the operation of the index in accordance with regulations 6, 8 and 9.

Information to be contained in the index

4.—(1) Subject to paragraph (2) the index shall at any time contain such of the information specified in Schedule 1 relating to—

- (a) each child, and
- (b) each person falling within section 10(9) of the Act

who at that time is ordinarily resident in England, as is available to the Secretary of State.

(2) The index shall not however contain any information relating to any person falling within section 10(9) of the Act unless that person has consented to such information being contained in the index.

(3) In these Regulations “child record” in relation to a person referred to in paragraph (1) means the information contained in the index relating to that person.

Disclosure of information for inclusion in the index

5.—(1) Subject to paragraph (5) each person or body specified in Schedule 2 shall disclose for inclusion in the index such of the information specified in Schedule 1 relating to each person mentioned in regulation 4, as is available to the person or body.

(2) Subject to paragraph (5) each person or body specified in Schedule 3 may disclose for inclusion in the index any information specified in Schedule 1 relating to persons mentioned in regulation 4, which is available to the person or body.

(3) Subject to paragraph (5), where information about any matter disclosed pursuant to paragraph (1) or (2) is superseded by new information about that matter the person or body shall disclose the new information for inclusion in the index.

(4) The information referred to in paragraph (1) or (3) shall be disclosed to the Secretary of State at such times as he may specify.

(5) A person or body specified in Schedule 2 or 3 shall not however disclose any information specified in paragraph 9 of Schedule 1, if the service in question is a sensitive service, without the consent—

(a) of the person in question, where it appears to the person or body specified in Schedule 2 or 3 that the person has sufficient understanding to give consent; or

(b) if sub-paragraph (a) does not apply, of any person specified in the index as having parental responsibility for, or the care of, the person in question,

unless the person or body considers that there is reasonable cause to suspect that the child is suffering, or is likely to suffer, significant harm.

(6) Disclosure of information for inclusion in the index shall be made—

(a) where the person disclosing the information or an employee of the person or body disclosing the information also has access to the index pursuant to regulation 6, by the person with access to the index adding the information to the index, and

(b) in any other case by disclosing the information to a person who has access to the index pursuant to regulation 6(3)(a).

(7) Where, pursuant to paragraph (6)(b) information is disclosed to a person employed by a local authority that person shall—

(a) add the information to the index, and

(b) not use the information for any other purpose.

Access to the index

6.—(1) In this Regulation “accessible child record” means a child record without the information referred to in paragraph 15 of Schedule 1 and, where the child record contains information referred to in paragraph 9 of Schedule 1 relating to a sensitive service, without the name or contact details of the person or body providing the service.

(2) Subject to paragraphs (3) and (5), each local authority shall determine who is to have access to the index for the purpose of disclosing information pursuant to regulation 5(6) and for the purpose of reading any accessible child record.

(3) A local authority may only determine in accordance with paragraph (2) that a person may have access to the index if the person is—

(a) employed by, or engaged to provide services to, the authority, in connection with—

- (i) their social services functions (within the meaning of the Local Authority Social Services Act 1970⁽¹⁾),
 - (ii) their functions under sections 10 and 11 of the Act,
 - (iii) their functions (as a local education authority) under Parts IV (Special educational needs) and VI (School admissions, attendance and charges) of the Education Act 1996⁽²⁾ and under section 175 of the Education Act 2002⁽³⁾, or
 - (iv) their functions under this regulation;
- (b) a health care professional regulated by a body specified in or under section 25(3) of the National Health Service Reform and Health Care Professions Act 2002⁽⁴⁾, or a person employed, or engaged to provide services, to assist such a professional in the exercise of his profession;
 - (c) an employee of a police authority, a chief officer of police for a police area in England, or an employee of a police force for a police area in England who has been authorised by a chief officer of police;
 - (d) an officer of a local probation board for an area in England;
 - (e) a member of a youth offending team for an area in England;
 - (f) a person referred to in paragraph 12 of Schedule 2;
 - (g) an individual providing services under section 114 of the Learning and Skills Act 2000, or an individual employed or engaged to provide services to a person providing such services;
 - (h) a person employed at or engaged to provide services at a school or an institution within the further education sector such as is referred to in paragraphs 14 to 16 of Schedule 2 as—
 - (i) the head teacher;
 - (ii) the deputy head teacher;
 - (iii) a school administrator;
 - (iv) a head of year or teacher other than a head of year who in the opinion of the local authority has pastoral or child protection responsibilities;
 - (v) a teacher of children with special educational needs;
 - (vi) a coordinator of special educational needs provision
 and any other person employed at or engaged to provide services at such a school or an institution within the further education sector who, in the opinion of the local authority, is carrying out functions equivalent to the functions of a person referred to in paragraphs (ii) to (v) of this sub-paragraph;
 - (i) the proprietor of an independent school such as is referred to in paragraph 16 of Schedule 2 if an individual;
 - (j) a member of, or person employed by, a voluntary organisation such as is referred to in paragraph 2 of Schedule 3;
 - (k) an officer of the British Transport Police Authority, so far as exercising functions in relation to England; or
 - (l) a social care worker within the meaning of section 55(2) of the Care Standards Act 2000⁽⁵⁾ who is registered with the General Social Care Council.

(4) Subject to paragraph (5), a local authority shall determine that one or more persons employed by the authority is to have access to the index for the purpose of reading any

⁽¹⁾ 1970 c. 42.
⁽²⁾ 1996 c. 56.
⁽³⁾ 2002 c. 32.
⁽⁴⁾ 2002 c. 17.
⁽⁵⁾ 2000 c. 14.

information referred to in paragraph 9 of Schedule 1 relating to the name and contact details of any person or body providing a sensitive service to any person.

(5) A local authority may also only determine in accordance with paragraph (2) or (4) that a person may have access to the index if—

- (a) an enhanced criminal record certificate, issued pursuant to Part V of the Police Act 1997⁽⁶⁾ has been obtained in respect of the person, unless the person is a person referred to paragraph 3(c) and in the opinion of the chief officer of police for a police force area in England has undergone a comparable system of vetting;
- (b) the person has undergone training provided by or on behalf of the local authority in accordance with such training materials as the Secretary of State may supply to the local authority; and
- (c) the person has undergone such other training as the local authority in question considers appropriate.

(6) Subject to paragraph (7), a local authority may determine that persons—

- (a) may have access to the index for the purpose of reading some (but not all) of an accessible child record; or
- (b) shall not have access to a particular category or type of record.

(7) In making a determination under paragraph (6), the local authority shall have regard to any views expressed —

- (i) by the person or body who disclosed the information;
- (ii) by a person specified in paragraph 6 of Schedule 1, in relation to access to any information referred to in paragraphs 2, 6(1) and 7 of Schedule 1.

(8) Each local authority shall make arrangements to secure that any person or body specified in Schedule 2 or Schedule 3 who does not have access to the index by virtue of paragraph (2) is nevertheless able to disclose information to the index in accordance with regulation 5.

(9) Subject to paragraph (5), a local authority may delegate their functions under paragraph (2) in relation to determining whether certain persons or categories of person are to have access to the index for the purposes of disclosing information and reading any accessible child record, to a person or body who has been accredited for the time being by the local authority for those purposes.

(10) The Secretary of State may designate one or more persons or bodies (referred to as “a designated authority”) specified in Schedule 2 or 3 for the purposes of determining access to the index.

(11) Subject to paragraph (12), each designated authority shall determine which one or more of its employees, or of the persons engaged to provide services to it, is to have access to the index for the purposes of reading, or adding information to, any accessible child record.

(12) A designated authority may only determine in accordance with paragraph (11) that a person may have access to the index if—

- (a) the person is a person specified in paragraph (3);
- (b) an enhanced criminal record certificate, issued pursuant to Part V of the Police Act 1997⁽⁷⁾ has been obtained in respect of the person unless the person is a person referred to paragraph 3(c) and in the opinion of the chief officer of police for a police force area in England has undergone a comparable system of vetting;
- (c) the person has undergone training provided by or on behalf of the designated authority in accordance with such training materials as the Secretary of State may supply to the designated authority; and
- (d) the person has undergone such other training as the designated authority in question considers appropriate.

⁽⁶⁾ 1997 c. 50.

⁽⁷⁾ 1997 c. 50.

(13) Nothing in this regulation—

- (a) affects an individual's entitlement under section 7 of the Data Protection Act 1998⁽⁸⁾ (right of access to personal data), or
- (b) prevents the disclosure of information contained in the index in a form which does not enable the identification of the person to whom the information relates.

Retention of information

7.—(1) For the purposes of this regulation a child record becomes “archived material” on the date specified in paragraphs (2) to (5).

(2) In relation to the information referred to in paragraphs 1 to 8, 11 and 12, and 14 to 16 of Schedule 1 the date is the earliest of—

- (a) the date on which the person reaches the age of eighteen, or, in the case of a person falling within section 10(9) of the Act, where he, or a person specified in the index as having parental responsibility for him, has consented to the index containing information relating to him, twenty five;
- (b) where the person is no longer in England, the date on which the relevant local authority determine that the person does not intend to return to England; or
- (c) the date one year after the date of the person's death.

(3) In relation to any information referred to in paragraph 9 of Schedule 1 the date is the earlier of—

- (a) the date specified in paragraph (2), and
- (b) subject to paragraph (5), the date one year after the date on which provision of the service finished.

(4) In relation to any information referred to in paragraphs 10(a) and (c) of Schedule 1, the date is the earlier of—

- (a) the date specified in paragraph (2);
- (b) subject to paragraph (5), the date one year after the date on which the matter is to be considered to be concluded .

(5) The person or body who disclosed the information referred to in paragraphs (3) or (4) may determine that the information should remain in the index for a period longer than one year but not exceeding five years.

(6) In relation to any information referred to in paragraph 10(b) of Schedule 1, the date is the earlier of—

- (i) the date specified in paragraph (4) above; or
- (ii) the date on which such information is superseded by reason of disclosure to the index of information about any subsequent assessment.

(7) In relation to information referred to in paragraph 13 of Schedule 1 the date is the date fifteen months after the date of birth of the person or (if appropriate) the person's child.

(8) In paragraph (2) “the relevant local authority” means the local authority in whose area the person was last ordinarily resident.

(9) The Secretary of State may, in relation to any person—

- (a) determine that his child record should be archived material before the date specified in paragraph (2) or (3), and
- (b) take all practicable steps to secure that a new child record is included in the index.

(10) The Secretary of State may disclose a child record which has become archived material by virtue of a determination by the relevant local authority under paragraph (2)(b) for inclusion in the index if it appears to him that the person has returned to England.

⁽⁸⁾ 1998 c. 29.

(11) For the purposes of regulations 4(2) and 6 archived material is not to be treated as part of the index.

(12) Archived material shall be retained for six years after the date on which the information became archived material.

(13) The Secretary of State shall determine who is to have access to archived material, and may only determine that access shall be given where he is satisfied that the information is needed in respect of—

- (a) any access which is required by or under any enactment, by any rule of law or by order of the court;
- (b) the prevention or detection of crime;
- (c) the prosecution of offenders;
- (d) an investigation under section 47 of the Children Act 1989⁽⁹⁾;
- (e) the exercise by a Local Safeguarding Children Board of its functions under regulations 5(1)(e) and 6 of the Local Safeguarding Children Boards Regulations 2006⁽¹⁰⁾;
- (f) any complaint arising out of the establishment or operation of the index, or
- (g) a request by a person or body has demonstrated that in the circumstances there are compelling reasons for access to be given to that person or body.

Accuracy of index

8.—(1) Without prejudice to regulation 5(4) each person or body specified in Schedule 2 or 3 who has disclosed information for inclusion in the index shall take all such steps as are reasonably practicable to ensure that the information which the person or body has provided is and remains accurate.

(2) Where the Secretary of State has provided information for inclusion in the index pursuant to section 12(9) of the Act he shall take all such steps as are reasonably practicable to ensure that such information is and remains accurate.

(3) Where it appears to any local authority that a child record relating to a person ordinarily resident in their area is or may be inaccurate or incomplete (in particular through incorrect matching of information disclosed by different persons or bodies) the authority shall make such investigation as is reasonable and, where it appears that any information contained in a child record is inaccurate, they shall notify the person or body who disclosed the information.

Local Authorities' complaints procedures in respect of the index

9.—(1) Each local authority shall make arrangements in accordance with this regulation for the handling and consideration of complaints in relation to that local authority's participation in the operation of the index in accordance with regulations 6 and 8.

(2) Each local authority shall designate a person ("the complaints manager") who is a member of their team which has responsibility for operating the index to manage the procedures for handling and considering complaints.

(3) The arrangements shall be set out in writing and a copy shall be given, free of charge, to any person whom makes a request for one.

(4) Subject to paragraph (5), a complaint to a local authority may be about any matter reasonably connected with the exercise of that authority's functions in respect of the index, including complaints where there has been a delegation by the local authority of their functions by virtue of regulation 6(9) to a person or body.

(5) The following complaints are excluded from the scope of arrangements under this regulation—

⁽⁹⁾ 1989 c. 41.
⁽¹⁰⁾ S.I. 2006/90.

- (a) a complaint about any decision or act of the Secretary of State or any person or body employed by or engaged to provide services for the Secretary of State in relation to the establishment or operation of the index;
- (b) a complaint about any regulations, guidance or directions made under section 12 of the Act;
- (c) a complaint made by another local authority in relation to the operation of the index;
- (d) a complaint about any decision or act of a person or body specified in regulation 6(3), Schedule 2 or Schedule 3;
- (e) a complaint about any person or body referred to in regulation 6(10) (a designated authority);
- (f) a complaint made by an employee of the local authority about any matter relating to his contract of employment;
- (g) a complaint made by a person or body engaged by the local authority under a contract for services which relates to the exercise of that local authority's functions in respect of the index;
- (h) a complaint arising out of a local authority's alleged failure to comply with a subject access request under the Data Protection Act 1998⁽¹¹⁾ or a request for information under the Freedom of Information Act 2000⁽¹²⁾;
- (i) a complaint about which the complainant has stated in writing that he intends to take legal proceedings.

(6) Subject to paragraph (7), arrangements made in accordance with this regulation shall provide that a complaint may only be made within—

- (a) one year of the date on which the matter which is the subject of the complaint occurred; or
- (b) one year of the date on which the matter which is the subject of the complaint came to the notice of the complainant.

(7) Where a complaint is made after the expiry of the period mentioned in paragraph (6), the complaints manager may investigate it if he is of the opinion that—

- (a) having regard to all the circumstances, the complainant had good reasons for not making the complaint within that period; and
- (b) notwithstanding the time that has elapsed it is still possible to investigate the complaint effectively and efficiently.

(8) Arrangements made in accordance with this regulation shall provide that the complaints manager shall send a written response to the complainant within 20 working days beginning on the date on which the complaint was made to or received by the local authority or, where that is not possible, as soon as reasonably practicable.

(9) In this regulation, “working day” means any day other than a Saturday, a Sunday, Christmas Day, Boxing Day, Good Friday or a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971⁽¹³⁾.

General provisions in respect of disclosure of information, etc.

10. Any—

- (a) disclosure of information for inclusion in the index under regulation 5(2),
- (b) provision of information by the Secretary of State for inclusion in the index under section 12(9) of the Act, or
- (c) access to the index under regulation 6,

⁽¹¹⁾ 1998 c. 29.

⁽¹²⁾ 2000 c. 36.

⁽¹³⁾ 1971 c. 80.

may (without prejudice to regulation 5(5)) be made or given notwithstanding any rule of common law which prohibits or restricts the disclosure of the information.

Revocation

11. The Information Sharing Index (England) Regulation 2006⁽¹⁴⁾ are revoked.

SCHEDULE 1

Regulation 4

Information to be included in the index

- 1.** The person's name (or names if the person has more than one).
- 2.** The person's address (or addresses if the person has more than one) or if, at any time, there is no known address for the person, his last known address.
- 3.** The person's gender (including indeterminate gender if the person's gender is recorded as such).
- 4.** The person's date of birth (or, where this is not known, a statement to that effect).
- 5.** A number to be used to identify the person.
- 6.**—(1) The name and contact details of any person with parental responsibility for the person (within the meaning of section 3 of the Children Act 1989(a)) or who has the care of the person at any time.
 - (2) For the purposes of this paragraph —
 - (a) the cases where a person (A) is to be treated as having the care of another person (B) include cases where —
 - (i) A is the grandparent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity) or step-parent of B who looks after B in circumstances where neither of B's parents look after him;
 - (ii) A is a local authority foster parent (within the meaning of section 23(3) of the Children Act 1989) in relation to B;
 - (iii) A is a foster parent with whom B has been placed by a voluntary organisation; or
 - (iv) A fosters B privately, and
 - (b) a person (A) shall be not be treated as having the care of another person (B) by reason only of the fact that—
 - (i) A (not being the parent of B) is or was the spouse or civil partner of B's parent or lives with B's parent as husband and wife or as civil partners, or
 - (ii) A acts as a child minder to B or provides day care to B for part of the day only.
- 7.**—(1) Where the person is attending an educational institution the name and address of the institution.
 - (2) Where the person is receiving education otherwise than at an educational institution, details of the education being received.
- 8.** The name and contact details of any person providing primary medical services in relation to the person under Part 1 of the National Health Service Act 1977⁽¹⁵⁾ (unless those services comprise only a sensitive service), and the date on which those services were first provided.

⁽¹⁴⁾ S.I. 2006/983.

⁽¹⁵⁾ 1977 c. 49.

9. Subject to regulation 5(5), the name and contact details of any person or body specified in Schedule 2 or 3 providing a specialist or targeted service to the person together with—

- (a) (where the service is a sensitive service) a statement that a sensitive service is being or has been provided;
- (b) the date on which the service was first provided and (where applicable) the date on which the provision of the service finished; and
- (c) a statement as to whether the person providing the service was the lead professional.

10. Where any person or body specified in Schedules 2 or 3—

- (a) considers that he or it has important information to share relating to the person, or
- (b) has undertaken an assessment of the person under the system known as the Common Assessment Framework, or
- (c) has taken any action relating to the person,

the name and contact details of the person or body, a statement as to which of the matters specified in sub-paragraphs (a) to (c) is applicable and a statement as to date on which the matter is to be considered to be concluded.

11. The name and contact details of the person's health visitor (if any).

12. The name and contact details of the person's school nurse (if any).

13. The name and contact details of the person's named midwife.

14. Where the person has died, the date of the person's death.

15. Any number used by any person or body specified in Schedules 2 or 3 to identify the record relating to a person.

16. Such metadata as may be required by the Secretary of State relating to information specified in paragraphs 1 to 14.

SCHEDULE 2

Regulation 5(1)

Persons and bodies required to disclose information for inclusion in the index

1. A local authority in England.
2. A non-metropolitan district council for an area for which there is a county council.
3. A Strategic Health Authority.
4. A Special Health Authority, so far as exercising functions in relation to England, designated by order made by the Secretary of State for the purposes of Section 11 of the Act⁽¹⁶⁾.
5. A Primary Care Trust.
6. An NHS trust all or most of whose hospitals, establishments and facilities are situated in England.
7. An NHS foundation trust.
8. The police authority and chief officer of police for a police area in England.
9. The British Transport Police Authority, so far as exercising functions in relation to England.

⁽¹⁶⁾ NHS Direct has been designated-see SI 2005/2411.

10. A local probation board for an area in England.
11. A youth offending team for an area in England.
12. The governor of a prison or secure training centre in England (or, in the case of a contracted out prison or secure training centre, its director).
13. Any person to the extent that he is providing services under section 114 of the Learning and Skills Act 2000⁽¹⁷⁾.
14. The Learning and Skills Council for England.
15. The governing body of a maintained school in England (within the meaning of section 175 of the Education Act 2002).
16. The governing body of an institution in England within the further education sector (within the meaning of that section).
17. The proprietor of an independent school in England (within the meaning of the Education Act 1996).
18. The governing body of a special school which is not maintained by a local authority and which has been approved as a special school under section 342 of the Education Act 1996.
19. The Registrar General for England and Wales.
20. The Children and Family Court Advisory and Support Service⁽¹⁸⁾.

SCHEDULE 3

Regulation 5(2)

Persons and bodies permitted to disclose information for inclusion in the index.

1. A person registered under Part 3 of the Childcare Act 2006⁽¹⁹⁾.
2. A voluntary organisation exercising functions or engaged in activities in relation to persons to whom arrangements specified in section 12(1) of the Act relate.
3. Her Majesty's Revenue and Customs.
4. A registered social landlord.
5. A health care professional regulated by a body specified in or under section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.
6. The Fire and Rescue Authority (determined in accordance with Part 1 of the Fire and Rescue Services Act 2004⁽²⁰⁾) for any area in England where the local authority is not the Fire and Rescue Authority for the area.

⁽¹⁷⁾ 2000 c. 21.
⁽¹⁸⁾ Established under section 11 of the Criminal Justice and Court Services Act 2000 (c.43).
⁽¹⁹⁾ 2006 c. 2006 c.21.
⁽²⁰⁾ 2004 c. 21.