

Explanatory Memorandum to the Education (Student Information) (Wales) (Amendment) Regulations 2024

This Explanatory Memorandum has been prepared by the Education, Culture and Welsh Language Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above Regulations and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Student Information) (Wales) (Amendment) Regulations 2024.

Lynne Neagle MS
Cabinet Secretary for Education
21 June 2024

1. Description

The Education (Student Information) (Wales) (Amendment) Regulations 2024 ('the regulations') amend the Education (Student Information) (Wales) Regulations 2017 to substitute references to the Higher Education Funding Council for Wales ('HEFCW') with references to the Commission for Tertiary Education and Research ('the Commission'). They also replace a reference to the Higher Education Funding Council for England with one to the Office for Students.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The power to make these Regulations is exercisable by the Welsh Ministers under Section 253A of the Apprenticeships, Skills, Children and Learning Act 2009 ('ASCLA 2009').

Student information is defined in subsection (6) of section 253A of ASCLA 2009 as information relating to an individual who is seeking or has sought to obtain, or has obtained, a "regulated qualification" as defined by section 130 of ASCLA 2009 or a "relevant qualification" as defined by the Section 30 of the Education Act 1997.

Persons in Wales may provide student information in respect of students who are, or who have been enrolled with them (i.e. schools, further education institutions, work based learning providers or other learning providers) to the Welsh Ministers or an information collator acting on their behalf, or to a person or category of person prescribed by the Welsh Ministers in regulations.

The Commission was established as a legal entity on 15 December 2022 through the commencement of section 1 of the Tertiary Education and Research (Wales) Act 2022 ('TERA') (as provided for by the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 1) Order 2022).

The Commission was fully established on 4 September 2023, when the CEO and five ordinary members took up their posts and following the making of the Tertiary Education and Research (Wales) Act 2022 (Commencement No. 2 and Transitory Provision) Order 2023.

The Commission will become operational on 1 August 2024.

The Regulations are subject to the negative procedure.

4. Purpose & intended effect of the legislation

The Commission will be responsible for the strategy, funding and oversight of the following post-16 sectors in Wales:-

- further education, including colleges and school sixth-forms,
- higher education, including research and innovation,
- adult education and adult community learning, and
- apprenticeships.

The Regulations will allow information about the qualifications achieved by students to be shared with the Commission as a prescribed person within Schedule 2 to the Regulations. Amendments have also been made to update references to the Higher Education Funding Council for England, which has been replaced by the Office for Students.

5. Consultation

No public consultation has taken place in respect of these Regulations. The amendments to this statutory instrument are technical in nature and are consequential on provisions within TERA, and do not represent any substantive policy changes. This approach is in line with standard Welsh Government practice in relation to consulting on draft subordinate legislation.

6. Regulatory Impact Assessment (RIA)

As these Regulations makes factual amendments to update subordinate legislation and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation. However, the [RIA](#) to accompany TERA at its introduction to the Senedd assessed the potential costs and benefits associated with establishing the Commission.