

**EXPLANATORY MEMORANDUM TO THE  
SOUTHWARK LONDON BOROUGH COUNCIL (PRESCRIBED ALTERATION)  
ORDER 2005**

**2005 No. 2836**

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

**2. Description**

2.1 This Order is made under section 2 of the Education Act 2002. Article 2 exempts the Southwark London Borough Council (acting in its capacity as local education authority) from having to publish statutory proposals in respect of the change of the age range of pupils at four community schools maintained by it. Article 3 specifies that the Order shall have effect until 18<sup>th</sup> November 2007.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 The Order is made under section 2 of Chapter 1 (sections 1 to 5) of the Education Act 2002. The purpose of Chapter 1 of that Act is to facilitate the implementation of innovative projects that may (in the opinion of the Secretary of State) contribute to the raising of educational standards. Specifically, section 2 gives the Secretary of State the power, upon the application of one or more qualifying bodies, to suspend (and make consequential modifications to) particular provisions of education legislation in order to further such innovative projects. Orders made under s. 2 have effect for the period specified in the order, which cannot exceed 3 years.

4.2 The Order suspends sections 28(1)(b) and 33(1)(b) of the School Standards and Framework Act 1998. Section 28(1)(b) provides that where a local education authority propose to make any prescribed alteration to a community school, they must publish statutory proposals. For these purposes, the Education (School Organisation Proposals) Regulations 1999, as amended (“the Regulations”), provide that the alteration of the upper age limit at a school constitutes a “prescribed alteration” for which statutory proposals must be published. Section 33(1)(b) provides that no prescribed alteration can be made to a maintained school except in pursuance of proposals falling to be implemented under an enactment.

4.3 The effect of the suspension of these two provisions by the Order is, therefore, to exempt the Southwark London Borough Council (acting in its capacity as local education authority) from having to publish statutory proposals in respect of the change of the age range of pupils at four community schools maintained by it.

**5. Extent**

5.1 This instrument applies to the Southwark London Borough Council acting in their capacity as local education authority.

## **6. European Convention on Human Rights**

No statement is required.

## **7. Policy background**

7.1 The Power to Innovate (“the Power”) provides the Governing Body of schools, LEAs, the proprietors of certain special schools and Education Action Forums with an opportunity to apply to the Secretary of State to lift regulatory requirements in education legislation for a time-limited period (by means of a Power to Innovate Order), so they can trial a specific innovative project that has the potential to raise educational standards. The Power is the result of concerns that innovative ideas can be unintentionally thwarted by detailed regulations and legislation. It is intended to facilitate the implementation of these ideas and to ensure that no opportunity is lost to trial innovative proposals that could raise standards. It is intended that the lessons learned will be used for further deregulation for the system as a whole.

7.2 As part of the 14-19 Pathfinder in the London Borough of Southwark, four Year 7-11 community schools have taken Year 12 students on to their rolls as part of a “Collaborative Transition Sixth Form”. The students are those identified as unlikely to make a successful transition at the age of 16 - and as such unlikely to be in education, employment or training (NEET). The Southwark LEA wish to be exempted from carrying out the statutory process for changing the age range at the schools, to enable the pilot project to continue uninterrupted until the end of the three year pilot period.

7.3 The work of the pathfinder is to continue for a further two years, after which a decision will be taken as to whether to permanently adopt the arrangements and follow the statutory process through the School Organisation Committee. However, in the meantime the LEA have applied to be exempted from carrying out the full process (which will take almost one year to complete). The authority argue that to halt the 3-year project pending completion would seriously compromise the detailed longitudinal evaluation, as well as further disadvantaging the cohort of young people who could have expected to join a Collaborative Transition Sixth Form at the beginning of the 2005/2006 academic year.

7.4 A further consideration is the LEA’s wish not to unsettle neighbouring schools with sixth forms. There is a complicated and developing agenda for post-16 provision in Southwark, and the LEA believe that it would be unhelpful and misleading to enter into a process designed for permanent change to accommodate this experimental and time-limited project.

7.4 Before making an application under the power to innovate provisions of the Education Act 2002, applicants must consult such persons as appear to them to be appropriate and, in particular, governing bodies must consult the Local Education Authority. The 14-19 Pathfinder is managed by the Southwark 14-19 Forum which includes representatives of all local partners: headteachers of all the secondary schools in Southwark; Principal of Southwark College; Connexions; training providers; the Learning and Skills Council; and Southwark LEA – all have been consulted, as have the governing bodies and staff of the four schools. The pathfinder project has been

developed collaboratively with many 14-19 partners during the consultation stage. The process has been iterative and developmental and all partners support this initiative and share the vision and strategy.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

Penny Baker at the Department for Education & Skills Tel: 020 7925 6099 or e-mail: penny.baker@dfes.gsi.gov.uk can answer any queries regarding the instrument.