

**EXPLANATORY MEMORANDUM TO**  
**THE CIRENCESTER TERTIARY COLLEGE SIXTH FORM COLLEGE**  
**CORPORATION DESIGNATION (ENGLAND) ORDER 2011**

**2011 No. 2487**

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

**2. Purpose of the instrument**

The instrument designates the Cirencester Tertiary College as a sixth form college corporation.

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

None

**4. Legislative Context**

4.1 Section 125 of and Schedule 8 to the Apprenticeships, Skills, Children and Learning Act 2009 (“ASCL Act”) inserted new provisions for sixth form college corporations in England into the Further and Higher Education Act 1992 (“FHEA 1992”) including section 33B.

4.2 Section 33B provides for the designation of existing further education corporations as sixth form college corporations by order made by the Secretary of State. Designation will take effect from a date that is specified in the order. The designation order may provide for the continuity of governance between the former further education corporation and the new sixth form college corporation.

**5. Territorial Extent and Application**

This instrument applies to England.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 The ASCL Act transferred the duties and powers of the Learning and Skills Council in relation to sixth form colleges to local authorities (LAs) and, by amending FHEA 1992, provided for the creation of sixth form college corporations with a distinct legal status. Prior to this what were referred to as sixth form colleges were legally further education colleges. The amendments enabled sixth form colleges to be performance managed by their home LA. Section 33A FHEA allowed the initial designation of any existing further education

corporation as a sixth form college corporation. 93 of the 95 colleges that were identified as sixth form colleges and invited to designate under section 33A chose to designate under this initial order.

7.2 Section 33B FHEA 1992 makes provision for subsequent designation by application. Section 33B(1) gives the Secretary of State for Education the power to designate, by order, existing further education college corporations as sixth form college corporations.

7.3 Section 33B provides that the Secretary of State may make a designation order only on application by the governing body, and if it appears to him that, on the date of application, at least 80% of its total enrolment number (as calculated under Schedule 3 to the FHEA 1992) is aged over compulsory school age but under 19.

## **8. Consultation outcome**

Key local stakeholders have been consulted during the designation application process including the relevant LA. Centrally the Young Persons Learning Agency (YPLA), Skills Funding Agency and the Department for Business Innovation and Skills have all been consulted regarding the application from Cirencester Tertiary College to designate as a sixth form college corporation. The application has received full support following all local and central consultation and no objections have been raised.

## **9. Guidance**

None.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There will be limited impact and only a few associated costs to the public sector. There will be minimal costs for the relevant LA in performance managing this sixth form college; as sixth form colleges will remain independent corporations, the LA role will be comparatively light touch except in the rare instances where intervention is required.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring & review**

This is an administrative measure which will be exercised only once to effect the designation of an existing further education college as a sixth form college corporation so is not subject to monitoring and review.

### **13. Contact**

Mark Nightingale at the Department for Education Tel: 0114 2742464 or email: [mark.nightingale@education.gsi.gov.uk](mailto:mark.nightingale@education.gsi.gov.uk) can answer any queries regarding the instrument.

# **EXTRACT FROM THE IMPACT ASSESSMENT PREPARED FOR THE APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING BILL**

## **1.4 SIXTH FORM COLLEGES**

### **RATIONALE**

Sixth form colleges (SFCs) mainly provide for students aged 16-19 although many have diversified since they were first incorporated in the FE sector in 1993. SFCs have maintained a distinct identity within the FE sector, although there are few objective criteria that differentiate precisely between SFCs and FE colleges. SFCs have a reputation for high standards. They tend to offer Level 3 provision, are often seen as a bridging phase into higher education and negotiate pay and conditions that take account of school teachers' pay and conditions. They are represented by the Sixth Form Colleges Forum, of which all existing SFCs are members. Ministers want to recognise the strength of SFCs and their contribution to the education of young people by identifying the SFC sector as a distinct legal category.

### **AIMS AND OBJECTIVES**

The main objective of the proposals is to create a separate legal identity for sixth form colleges, which will be based on a single commissioning and performance management relationship between the SFC and its home local authority.

### **BENEFITS**

The benefits of a separate SFC sector will be in student outcomes: SFCs are among the highest performing post-16 settings (as shown by attainment data and in Ofsted reports) and the strengths of a developing SFC sector will help raise standards. The presence of high performing institutions within 14-19 partnerships will help to secure better 14-19 outcomes in local areas. SFCs are generally popular with parents and students and a strong and separate SFC sector will add to quality, choice, diversity and learner satisfaction – all indicators of a successful post-16 system.

### **COSTS**

This is largely an administrative change with few associated costs to the public sector. There will be minimal costs for LAs in performance managing SFCs; as the SFCs will remain independent corporations, the LA role will be comparatively light touch except in the rare instances where intervention is required. The YPLA will have a strategic role in developing an intervention strategy for SFCs, the costs of which will be part of the initial establishment cost.