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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides the legal framework for the Wiltshire Council and secondary schools (maintained schools and Academies) in Wiltshire to participate in an exclusions trial. The Order is made on the application of the local authority and the proprietors of the schools mentioned in the Schedule. The Order ceases to have effect on 31 July 2014 when the trial is due to end.

Article 3(1) provides that the local authority is exempt from the duty conferred by section 19(1) of the Education Act 1996 (“the 1996 Act”) to make arrangements for the provision of suitable education for permanently excluded pupils (“the duty”). Article 3(2) provides that the proprietors of the schools must exercise the duty in respect of those pupils in place of the local authority.

The Order applies to the exercise of the duty only in relation to children of compulsory school age who live in Wiltshire and who are permanently excluded from a participating school in Wiltshire (articles 2 to 4).

Article 4 provides that if a maintained school converts to an Academy, on the conversion date the Order ceases to apply to the exercise of the duty in relation to any pupil permanently excluded from the maintained school. The effect of this provision is that, from the conversion date, the local authority must exercise the duty in section 19(1) of the 1996 Act in relation to those pupils.

Part 3 contains modifications to provisions of education legislation consequential on the provision made by article 3. The major modifications are—

- (a) the omission of the requirement for the proprietor of the excluding school to delete from the admission register the name of a permanently excluded pupil (article 10);
- (b) the omission of the requirement for the local authority to reduce a school’s budget share by an amount calculated in accordance with regulations following the permanent exclusion of a pupil (article 13); and
- (c) if a permanently excluded pupil is provided with education in the area of another local authority (“the new authority”), the proprietor of the excluding school must pay an amount calculated in accordance with regulations—
  - (i) to the new authority; or,
  - (ii) if the education is provided in the area of the new authority but otherwise than at school, to the provider of the education (articles 6 and 9).

There are further consequential modifications applying the duty to the proprietor in place of the local authority. With the exception of the financial provisions, all provisions modified by the Order apply to proprietors of both maintained schools and Academies (article 5). Deeds of Variation making similar modifications to financial provisions in the Academies’ Funding Agreements have been agreed and are to have effect from the coming into force of this Order.

An impact assessment of the effect of the provisions commenced by this Order has not been produced as no impact on the private, voluntary or business sectors is foreseen.