

**EXPLANATORY MEMORANDUM TO THE
EDUCATION (VARIATION OF ADMISSION ARRANGEMENTS)
(ENGLAND) (AMENDMENT) REGULATIONS 2005**

2005 No. 873

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

This memorandum contains information for the Parliamentary debate.

2. **Description**

- 2.1 This instrument amends the Education (Variation of Admission Arrangements) (England) Regulations 2002 (“the Variation of Admission Arrangement Regulations”).

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

- 3.1 None

4. **Legislative Background**

- 4.1 The admission arrangements for a school or schools are determined after the admission authority for that school or schools has consulted on its proposed arrangements widely and, in particular, with all other admission authorities, the governing body and the local education authority (if not the admission authority for that school itself), and all other governing bodies for any other community and voluntary controlled schools in the area.
- 4.2 In most cases, once admission arrangements have been determined and published for that school year, any variation to those arrangements can only be made if there is a major change in circumstances. The proposed variation must then be referred to the adjudicator, who will decide whether or not that change should be made.
- 4.3 An admission forum is a body set up by the local authority to discuss, advise and promote, among other things, good admissions practice. Admission forums are expected to formulate and agree with admission authorities and Academies in the area, a protocol for sharing the admission of hard to place children in its area by September 2005.
- 4.4 The protocol will set out how places for hard to place children within local schools in the area will be allocated fairly and how their admission will be managed. A hard to place child can be any category of child as agreed to be included in a local admission forum protocol who would otherwise be likely to be refused admission to a suitable school; and will usually always be a child without a school place after the normal round of admissions.

- 4.5 Once the protocol is agreed, it may have an impact, in the case of some schools, on the admission arrangements already set for that year, in that the protocol may need to be added to their arrangements where none already exists. This would amount to a variation to admission arrangements, which would otherwise require the admission authority to refer the proposed changes to the adjudicator before the admission arrangements are varied.
- 4.6 Therefore, this instrument is being made to allow admission forum protocols on sharing hard to place children to be implemented in a timely and effective manner by enabling an admission authority to change its admission arrangements following agreement to a protocol without referring that change to the adjudicator.

5. Extent

- 5.1 This instrument applies only in relation to England.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 Section 89(8) (e) and (f) of the School Standards and Framework Act 1998, allows for the Secretary of State to say under which circumstances an admission authority may change its determined admission arrangements, and for those changes to be applied as if they had been referred to the adjudicator. Section 138(7) of the Act allows that any order or regulations may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- 7.2 By virtue of section 89(8) (e) and (f) and 138(7) of the Act the Secretary of State has made the Education (Variation of Admission Arrangements) (England) (Amendment) Regulations 2005 to enable an admission authority to change its admission arrangements after they have been set, without referring the change to the adjudicator, where the change is necessary to implement an admission forum protocol for sharing hard to place children. The regulations further define an “admission forum” “admission forum protocol”, and “hard to place children”.

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

Linda Cuthbert at the Department for Education and Skills Tel: 020 7925 6947 or e-mail: linda.cuthbert@dfes.gsi.gov.uk can answer any queries regarding the instrument.