

EXPLANATORY MEMORANDUM TO
THE INITIAL SIXTH FORM COLLEGE CORPORATION DESIGNATION
(ENGLAND) ORDER 2010

2010 No. 624

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

2. Purpose of the instrument

The instrument designates certain further education corporations as sixth form college corporations.

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 33A FHEA 1992.

4.2 Section 33A provides for the initial 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 and may specify the initial name of the new corporation.

4.3 The institutions that may be designated as sixth form college corporations under section 33A include both further education corporations established under section 16 of the FHEA 1992 and “designated institutions”. Designated institutions are colleges that were sixth form colleges before 1992. They entered the further education sector by way of designation under section 28 of the FHEA 1992, and were later incorporated as further education corporations under section 143 of the Learning and Skills Act 2000.

4.4 This Order is made under section 33A FHEA 1992.

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

The ASCL Act transfers the duties and powers of the Learning and Skills Council in relation to sixth form colleges to Local Authorities (LAs) and provides for the creation of sixth form college corporations with a distinct legal status. This will enable sixth form colleges to be performance managed by their home LA. As sixth form colleges are high performing institutions it is intended that this will have the effect of raising standards across all 16-18 provision in areas where sixth form colleges exist. Separate legal status will also facilitate the development of the sector by providing the basis for any further legislative changes that may be necessary to meet changing circumstances.

8. Consultation outcome

The provisions in the ASCL Act for the designation of sixth form colleges relate to reforms proposed in the White Paper 'Raising Expectations: Enabling the System to Deliver'. While the majority of correspondents (64%) were in favour of the LA role in commissioning and performance management to improve quality there were requests for greater clarity over what designation entailed for colleges. The details of the process were agreed with Ministers after the consultation and were supported by sixth form college, FE college and LA representative bodies including the Sixth Form College Forum, Association of Colleges and Local Government Association.

9. Guidance

The Department will not be issuing separate guidance in relation to this instrument. The position of sixth form colleges will be covered in guidance that Young People's Learning Agency for England ("YPLA") will issue on the National Commissioning Framework and the Quality Assurance System.

10. Impact

A separate sixth form college sector will benefit local areas by raising standards and improving student outcomes. There will be few associated costs to the public sector. There will be minimal costs for LAs in performance managing sixth form colleges; as the sixth form colleges 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 sixth form colleges, the cost of which will be part of the initial establishment cost.

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 existing sixth form colleges so is not subject to monitoring and review.

13. Contact

Brian Teahan at the Department for Children, Schools and Families Tel: 0114 2594112 or email: brian.teahan@dcf.gov.uk can answer any queries regarding the instrument.

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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. The 94 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.