EXPLANATORY MEMORANDUM TO

THE BLACKBURN WITH DARWEN (MAINTAINED NURSERY SCHOOL GOVERNANCE) (AMENDMENT) ORDER 2007

2007 No. 676

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 sections 2 and 3 of the Education Act 2002. Article 2 provides that the Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 shall be amended to allow the Council of Blackburn with Darwen exemption from the requirements of Part 3 of the Education Act 2002 to constitute a governing body for seven of its nine maintained nursery schools for a further period of two years. Article 2 specifies that the Order shall have effect until 30 March 2009.

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 as amended by the Education and Inspections Act 2006. 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, or to relax the requirements of such legislation, in order to further such innovative projects. Orders made under section 2 have effect for the period specified in the order, which cannot exceed 3 years. Section 3(2) allows the Secretary of State, on one occasion only, to extend the period for which an order has effect by a period of not more than three years.

4.2 The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (SI 2004/657) exempted the Council from the requirement in Part 3 of the Education Act 2002 to constitute a governing body for seven of its nine maintained nursery schools and made modifications to education law consequential on that exemption. This Amendment order extends the period of that order by a further two years, to 30 March 2009.

5. Extent

5.1 This instrument applies to Blackburn with Darwen Local Authority Children's Services, West 2, The Exchange, Ainsworth Street, Blackburn, BB1 6AD.

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 Power to Innovate ("the Power") provides schools, Local Authorities, Further Education Colleges and foundations 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 The Order will allow Blackburn with Darwen Local Authority to continue to test the effectiveness and properly evaluate the evidence and the wider benefits of the governance arrangements for the Council's Integrated Children's Centres. Initial evaluation indicates that the Council's strategy is laying down important foundations for combating the effects of deprivation and historic lack of multi-agency working, which inhibit the life chances of many children including those from the poorest communities. It also reflects the positive benefits of much earlier intervention and the effectiveness of partnership working, including pooling resources across the authority. An extension is being allowed because more time is required to measure the full impact.

7.3 Before making an application to extend a Power to Innovate Order applicants must consult such persons as appear to them to be appropriate. The Authority held meetings with parents/carers, Chairs and Management Board members for each of the children's centres and consulted a cross-section of staff. They have consulted a range of partners on the Children and Young People's Partnership (including the Blackburn with Darwen Primary Care Trust) and local Governors Forum. All these groups supported an extension to the current Order. Many parents/carers in particular cited their positive experiences of using children's centre services leading, in some cases, to their decision to join the Local Management Board and influence the services delivered from the centres from a user perspective. The Authority also received a number of written responses from parents/users and staff and one from the 'Broadlands Virtual School' which provides high quality, specialist support for children with disabilities and their families across the network of children's centres throughout the Borough of Blackburn with Darwen. All were supportive of the application for an extension.

7.4 While the majority of those consulted were in favour of the extension, there was opposition from individuals associated with the former governing body of the Kelsall Avenue Nursery School, which was relocated and now forms part of the development of the Little Harwood Children's Centre. The objection related to the lack of consultation about the "amalgamation" of the nursery school with the children's centre and the change of site. The objectors wished Kelsall Avenue Nursery to remain as a Nursery School with traditional leadership, budget and

governance arrangements. The Authority is firm that there was sufficient consultation on the proposals to relocate Kelsall Avenue Nursery School. A separate objection to the extension received from the Headteacher of Ashworth Nursery School indicated that, whilst they were not in principle against the Power to Innovate, they were concerned about the long-term future of the school. Ashworth Nursery School is included in the Power to Innovate Order but is not currently part of a children's centre.

7.5 The consultation responses have been considered carefully by the Department alongside the Authority's application. On balance, it was felt that Little Harwood Children's Centre (incorporating Kelsall Avenue Nursery School) and the Ashworth Nursery School should remain part of the Power to Innovate Order which should be extended for a further two years to March 2009.

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 5354 or e-mail: penny.baker@dfes.gsi.gov.uk can answer any queries regarding the instrument.