EXPLANATORY MEMORANDUM TO

THE BOURNE FOUNDATION (DISSOLUTION) ORDER 2016

2016 No. 1196

1. Introduction

1.1 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

2.1 The purpose of the Bourne Foundation (Dissolution) Order 2016 ("the Order") is to dissolve the Bourne Foundation, a corporate foundation body that was established to perform certain functions, including holding property and appointing foundation governors, for groups of three or more foundation or voluntary schools (or community schools which are proposed to become foundation or voluntary schools).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The Order relates to the Bourne Foundation and is being made because the foundation's membership has fallen below three schools, as a result of one of the schools leaving and another of the schools converting to academy status. In accordance with regulation 25(1)(c) of the 2000 Regulations, the Bourne Foundation must consequently be dissolved.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 The Bourne Foundation, a foundation body, was established as a body corporate in July 1999, under section 21(5) of the School Standards and Framework Act 1998 and

regulation 3 of the Foundation Body Regulations 1999. The 1999 Regulations were subsequently revoked and replaced by the 2000 Regulations.

7.2 Foundation bodies may act for groups of foundation schools (without a foundation), voluntary controlled schools or voluntary aided schools. Foundation bodies can hold land and other property of the schools in the group, appoint foundation governors to schools in the group and promote co-operation between schools in the group. In connection with those things, foundation bodies may borrow money, accept gifts for use by the schools, fund raise (to the extent compatible with their charitable status) and employ necessary staff.

7.3 If membership of a group falls below three as a result of one or more schools leaving or closing, then the foundation body must be dissolved.

7.4 The Bourne Foundation was originally established to perform functions in relation to four schools: Selsdon Primary and Nursery School; Riddlesdown High School; de Stafford College of Technology and the Arts; and Whyteleafe School. Riddlesdown High School left the foundation body on 1 April 2011 when it changed category from voluntary aided to foundation (with a foundation) and on 1 December 2014 Whyteleafe School converted to academy status and left the foundation body.

7.5 Subsequently, membership of the group was reduced to two, so the Bourne Foundation must be dissolved.

Consolidation

7.6 As this instrument does not amend any other instrument, consolidation is not relevant.

8. Consultation outcome

8.1 Consultation on the instrument has not been undertaken as it is not appropriate, the Bourne Foundation must be dissolved. However, Whyteleafe School gave at least three months' notice to the governing body of the other schools in the group, the foundation body and the Secretary of State, in accordance with regulation 23(1) of the 2000 Regulations. Both Selsdon Primary and Nursery School and de Stafford School provided written confirmation of their consent for Whyteleafe School to leave the foundation body on 24 June 2014 and 27 June 2014, respectively.

9. Guidance

9.1 Guidance for this instrument is not required as its only purpose is the dissolution of the foundation body.

10. Impact

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

10.2 There is no impact on the public sector.

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

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 There are no plans to monitor or review this instrument as the Bourne Foundation must be dissolved. All of the schools that were members of the group will continue to be monitored through Ofsted inspections.

13. Contact

13.1 Sarah Todd at the Department for Education, Telephone: 0114 2742387 or email: sarah.todd@education.gsi.gov.uk can answer any queries regarding the instrument.