EXPLANATORY MEMORANDUM TO THE

EDUCATION (LOCAL EDUCATION AUTHORITIES PERFORMANCE TARGETS) (ENGLAND) REGULATIONS 2005

2005 No. 2450

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 These regulations require local education authorities to set annual targets for the educational performance of children in maintained schools and of looked after children. The targets must be submitted to the Secretary of State who can require an authority to modify them. The regulations also require local education authorities to send to the Secretary of State, the targets sent to them by every maintained school in their area under the Education (School Performance Targets) (England) Regulations 2004.

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

3.1 None

4. Legislative Background

4.1 Until 1st March 2005 local education authorities were required to set and submit educational performance targets for approval by the Secretary of State, through the Education Development Plans (England) Regulations 2001 (SI 2001/3815) made under section 6 of the School Standards and Framework Act 1998. Section 6 was repealed by section 64 of, and Part 1 of Schedule 5 to, the Children Act 2004 with effect from 1st March (Children Act 2004 (Commencement No 1) (England) Order 2005 (SI 2005/394)).

4.2 These regulations are the first use of the power in section 102 of the Education Act 2005.

4.3 The regulations also use the power in section 29(3) of the Education Act 1996 to require local education authorities to provide to the Secretary of State, the information required to be submitted by the governing bodies of maintained schools on the educational performance targets set under the Education (School Performance Targets) (England) Regulations 2004 (SI 2004/2858).

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

7.1 The policy aim is to enable the Secretary of State to require local education authorities to set and submit educational performance targets and for the Secretary of State to be able to require a target to be modified. The targets in question cover:

- Pupil performance in tests at the end of Key Stage 2 and Key Stage 3;
- Pupil performance in GCSE exams and other approved qualifications;
- Performance by looked after pupils;
- Performance by pupils from minority ethnic groups;
- Attendance at school

7.2 Although schools have responsibility for setting their own targets (through the Education (School Performance Targets) (England) Regulations 2004 and the Education (School Attendance Targets) (England) Regulations 2005 SI 2005/58) Ministers have made clear that they wish to retain a power to require local education authorities to set separate authority wide targets as part of the continuing drive to raise educational standards in primary and secondary schools and to narrow the achievement gap for particular pupils such as minority ethnic groups and those in the care of the local authority.

7.3 The Education Development Plan ("EDP") provisions described in paragraph 4.1 above were repealed as part of the local authority plan rationalisation provisions flowing from the introduction of the Children and Young People's Plan (CYPP) which all local authorities are now required to have under section 17 of the Children Act 2004. As the CYPP does not have to be submitted to the Secretary of State for approval, this can no longer be used as the vehicle for requiring local education authorities to set and submit educational performance targets to the Secretary of State. Section 102 of the Education Act 2005 and these regulations therefore replace the previous statutory provisions covering the setting of educational performance targets by local education authorities. The actual targets to be set and the process for setting and submitting them are the same as the targets required under the EDP regulations.

7.4 Under the EDP regulations, a local education authority's targets were subject to approval by the Secretary of State. Although section 102 of the Education Act 2005 no longer requires local education authorities to seek the Secretary of State's formal approval to their educational performance targets, the Secretary of State has retained a power to require an authority to modify its target. This power ensures that where a local education authority sets a target which shows insufficient ambition for the progress it expects to make in improving educational performance, the Secretary of State is able to challenge that target. Where a target is subject to challenge, the Secretary of State will expect to agree a revised target in negotiation with the local education authority, based on her assessment of the prior attainment of pupils and the expected progress they should make by the end of the particular key stage looking at comparable national attainment data.

7.5 The Department has consulted representatives of the local authority associations and the Head teacher associations on the terms of the regulations. As the provisions maintain the current statutory position the Department has not received any substantive comments on the policy.

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

8.2 The impact on the public sector is minimal.

9. Contact

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