EXPLANATORY MEMORANDUM TO

THE HARBOUR SCHOOL (AMENDMENT) ORDER 2010

2010 No. 2804

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

2. Purpose of the instrument

2.1 This Order is made under sections 2 and 3 of the Education Act 2002. It amends the Harbour School Order 2007 (SI 2007/3205)(" the 2007 Order") to provide that the 2007 Order is extended by a period of three years until the 16th December 2013.

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

3.1 None.

4. Legislative Context

4.1 The 2007 Order was made under section 2 of Chapter 1 of Part 1 of the Education Act 2002 as amended by the Education and Inspections Act 2006. The purpose of Chapter 1 of the Education Act 2002 is to facilitate the implementation of innovative projects which may (in the opinion of the Secretary of State in relation to England or the National Assembly for Wales in relation to Wales) contribute to the raising of educational standards in England or Wales. This Order relates to a school in England. Section 2 gives the Secretary of State the power, on the application of one or more qualifying bodies, to exempt particular provisions of education legislation, or to relax the requirements of, or to make modifications to, such provisions in order to further such innovative projects in relation to England. 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 Explanatory Memorandum to the 2007 Order sets out in full detail its legislative effect. A copy of it is attached for ease of reference.

4.3 This Order provides that the 2007 Order is extended for a period of three years so that instead of having effect until 16th December 2010, the 2007 Order has effect until 16th December 2013.

5. Territorial Extent and Application

5.1 This instrument applies to The Harbour School, 151 Locksway Road, Milton, Portsmouth, Hampshire, PQ4 8LD; the Portsmouth City Council, Children's Services Authority, Civic Offices, Guildhall Square, Portsmouth, PO1 2PX and any other local authority encompassed by Article 5 of the 2007 Order.

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 power to innovate was introduced in the Education Act 2002. On the application of one or more qualifying bodies (which includes the governing body of a maintained school, head teachers of maintained schools, a qualifying foundation, proprietors of Academies, and local authorities) the Secretary of State (in relation to England) may make an order exempting, relaxing or modifying education legislation or enabling the applicant to exercise the educational functions of any other qualifying body, for a period of up to three years to allow the testing of an innovative idea. Orders can also be varied (including in relation to their duration) and they can be extended once for a period of up to an additional three years.

7.2 The Harbour School, a Community Special School, provides 190 schools places for children with Behaviour, Emotional and Social Difficulties (BESD). It opened in September 2007, as an amalgamation of a BESD school, three pupil referral units (PRUs) and multi-agency services, following extensive review and consultation by Portsmouth City Council. It was agreed that services and provision to support the continuum of need for children and young people should be combined under a single management and governance structure. The school delivers its services over five sites across the city

7.3 The school received its first Ofsted inspection in June 2009; its overall effectiveness was graded as satisfactory. The report stated that the school meets its objectives, particularly in ensuring that learners have parity with their mainstream peers in the range of opportunities and choices available to them. As a result, most learners continued to further education, employment or training (EET). The report also goes onto to say that a strength of the school is the effective relationship with outside agencies and other professionals and its partnership with mainstream schools to support the personal and academic development of learners.

7.4 When submitting their application to extend their 2007 Order, Portsmouth City Council has provided evidence to show what impact the project has had on educational standards since the Order took effect. The number of permanent exclusions has reduced from seven in 2006/07 to just one in 2007/08 and two in 2008/09. The number of pupils returning to mainstream education has improved by 10%. In the two years since the school opened 15 pupils with statements have re-integrated back into mainstream school. This is a 100% improvement on the position before the school was opened. There has been a reduction in sessions lost to fixed term exclusions (23% reduction in 2007/08 and a 56% reduction in 2009/10). Pupils remaining in education, employment or training post 16 has increased from 77% in 2007/08 to 90% in 2009/10.

7.5 There is also evidence of improvements for pupils in Portsmouth's mainstream schools resulting from the creation of the Harbour School, for example, there has been a reduction in the number of permanent exclusions across the City. Fixed term exclusions have decreased year on year - in 2009/10 there were 478 fewer exclusions and 1014 fewer sessions lost to exclusion than in 2007/08. Approximately 75-80 Year 11 mainstream pupils are supported each year by one of the Harbour School's out reach teams (Targeted Mentoring Support). These are pupils identified as being at risk of becoming what is termed as NEET (not in education, employment or training) and of leaving school without accreditation. Between 2007/08 and 2009/10 those pupils leaving with accreditation has increased from 78% to 86%. Pupils continuing to further education, employment or training has risen from 88% to 92%.

7.6 This Order will allow Portsmouth City Council to continue their innovative work in supporting children with challenging behaviour across the City and support the continuum of need for children and young people under a single management and governance structure. It will also enable them to continue to provide a flexible service and provide supportive short-term programmes which are designed to improve behaviour and address the underlying learning needs of targeted pupils. The extension of this project for a further three years will also help significantly in assessing how the policy should be developed, and in determining whether a change should be made to the law.

- ***Consolidation***

7.6 This is an amending Order and consolidation is not appropriate.

8. Consultation outcome

8.1 There was extensive consultation prior to the original application for Order. Since the school opened there has been ongoing consultation with all major stakeholders (staff, pupils; parents, primary and secondary schools, statutory and voluntary agencies). This has been achieved through a variety of annual surveys which were sent out to gain their view about the Harbour school. The main stakeholders are generally very positive with 86% either agreeing or strongly agreeing that the school is making a positive difference for BESD learners in Portsmouth - none of the responses received disagreed. The overall response of parents was fairly limited but strenuous efforts are being made to engage with them. The annual staff survey shows satisfaction is high and has increased since the school opened. There has been improvement in both staff recruitment and retention. The local authority Departmental Management Team has been kept informed of progress at the school since its opening and approves this proposed application for an extension. There has been no opposition to this application to extend.

9. Guidance

9.1 Guidance is provided to applicants who seek a power to innovate order under Part 1. The Guidance sets out the requirements for project review and analysis, evaluation, and plans for reverting to existing practice at the end of the project if necessary.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Power to innovate projects are closely monitored by the Department to assess their impact on educational standards. Applications must include the measures to be used to monitor the effect of projects and must include a broad description of the evaluation strategy. A final evaluation report is required to be submitted by the School to the Department for Education (DfE) when the project ends, and where the project outcomes show a positive impact on standards, the Department will consider whether it would be desirable from a policy perspective to change education law. DfE publishes an annual report on the Power to Innovate Orders made each academic year.

12.2 Portsmouth City Council will continue to monitor the effectiveness of the arrangements and ensure the discharge of the local authority statutory responsibilities. Progress will be monitored through external quality controls via Ofsted and internally through School Improvement Service, School Improvement Partners and senior local authority officer with responsibility for alternative provision, the head of SEN and the School's Leadership Team.

13. Contact

13.1 Julia Armstrong at the Department for Education Tel: 020 7340 8100 or email: julia.armstrong@education.gsi.gov.uk can answer any queries regarding the instrument.