EXPLANATORY MEMORANDUM TO

THE HARINGEY LONDON BOROUGH COUNCIL (TEMPORARY GOVERNING BODY) ORDER 2005

2005 No. 3102

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 section 2 of the Education Act 2002. Article 2 exempts the Haringey London Borough Council (acting in its capacity as local education authority) from having to fulfil the statutory requirements as to the composition of the temporary governing body of the new Haringey Sixth Form Centre. Article 3 specifies that the Order shall have effect until 4 December 2008.

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. 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 amendments to) particular provisions of education legislation in order to further such innovate projects. Orders made under s.2 have effect for the period specified in the order, which cannot exceed 3 years.

4.2 The Order suspends regulation 19 of, and paragraph 1 of Schedule 2 to, the New Schools (General) (England) Regulations 2003 (as amended, "the Regulations"). Regulation 19 provides that the temporary governing body for a proposed community school must be composed of certain categories of temporary governor in certain proportions. Paragraph 1 of Schedule 2 to the Regulations provides that no person shall be qualified to be a temporary governor unless he is aged 18 or over at the date of his election or appointment.

4.3 The effect of the suspension of these two provisions by the Order is, therefore, to exempt the Haringey London Borough Council (acting in its capacity as local education authority) from having to constitute the temporary governing body for the new Haringey Community Sixth Form Centre in accordance with the Regulations and allows it to appoint or elect temporary governors below the age of 18.

5. Extent

5.1 This instrument applies to the Haringey London Borough Council acting in their capacity as a local education authority.

6. European Convention on Human Rights

6.1. No statement is required.

7. Policy background

7.1 The Power to Innovate ("the Power") provides the governing body of schools, LEAs, proprietors of certain schools and Education Action Forums with an opportunity to apply to the Secretary of State to lift regulatory requirements in educational 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 Haringey LEA, in co-operation with local partners and the local Learning & Skills Council, is in the process of establishing a new 16 – 19 Sixth Form Centre as a community school in accordance with the maintained schools organisation provisions. As part of these proposals, Haringey LEA is seeking an alternative governance composition for the temporary governing body of the new centre and wishes to be exempted from the statutory requirements as to the composition of a temporary governing body.

7.3 The 'Governance Group' was created jointly by Haringey LEA and the Learning & Skills Council London North Post 16 Project Team. It was charged with considering issues relating to the governance of the new Haringey Sixth Form Centre. The authority wishes make the following changes to the temporary governing body of the new centre:

- Student Governors & their Minimum Age: The creation of 4 student governors aged from 16. This will empower students by ensuring student voice is integral to provision in the Borough. By involving students in the decision making process and the corporate responsibility of the new centre, Haringey LEA will ensure the new centre is focussed on the needs of its learners. 16 and 17 year olds will, however, be unable to vote on Financial, Admissions, Pupil Discipline, Headteacher Appraisal or Contractual matters. This is consistent with the FE college arrangements, where there are no statutory restrictions as to age.

- LSC Representation: Representation of the local authority will be reduced from the statutory requirement to allow for LSC representation on the Governing Body. Haringey LEA see local participation and wider community involvement as integral to the success of the new Sixth Form Centre.

7.4 Before making an application under the Power to Innovate provisions of the Education Act 2002, applicants must consult such persons as appear to them to be appropriate. Haringey LEA have provided evidence that they have sought approval for these proposals from all stakeholders, including the LSC, Headteachers, Governors and staff of the secondary and special schools in the area; the Principal of the College of North East London; and the National Union of Students. Haringey LEA have created a memorandum of understanding, signed by and to protect, the commitment by all stakeholders as listed above.

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 6099 or email: penny.baker@dfes.gsi.gov.uk can answer any queries regarding the instrument.