EXPLANATORY MEMORANDUM TO

THE LEARNING AND SKILLS COUNCIL FOR ENGLAND (SUPPLEMENTARY FUNCTIONS) ORDER 2007

2007 No. 1178

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 confers and imposes certain powers and duties on the Learning and Skills Council for England ("the LSC") to enable it to take on greater responsibility for managing national policy, complaints handling and liaison with Local Education Authorities ("LEAs") who support and fund home to school and college transport for students of sixth form age.

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

3.1 None

4. Legislative Background

4.1 Section 18 of the Learning and Skills Act 2000 enables the Secretary of State to confer or impose powers and duties on the LSC provided that they relate to the provision of post-16 education and training. The Education and Inspections Act 2006 inserted a new subsection (6) into section 18 of the Learning and Skills Act 2000, to enable the Secretary of State to confer or impose on the LSC functions connected to the Secretary of State's existing powers in relation to the provision of transport support for students of sixth form age.

4.2 In particular, the powers and duties which can be conferred or imposed are those exercisable in connection with the Secretary of State's function under section 509AA(9) of the Education Act 1996 ("the 1996 Act") and any of his functions under sections 496 to 497B of the 1996 Act as regards anything done by LEAs under section 509AA to AB of that Act. Sections 496 to 497B give the Secretary of State power to direct local education authorities as to the performance of their functions.

5. Extent

5.1 This instrument applies to England.

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

7.1 Under the 1996 Act (as amended by the Education Act 2002) LEAs have a duty in relation to students in England aged 16-18, and those completing courses started before their 19th birthday, to prepare and publish a transport policy statement specifying what arrangements for the provision of transport or otherwise, and for the provision of financial assistance, it considers necessary to facilitate their attendance at schools and other education institutions.

7.2 The 1996 Act also requires LEAs to have responsibility for consulting with their partners and preparing and publishing agreed local transport policy statements by 31 May each year. These statements should outline the transport services and support available to students.

7.3 Matters to which a local authority must have regard as local transport policy statements are developed include: the distance between home and school/college; the need to secure a choice of institutions and the needs of those who could not easily attend a particular institution if no arrangements were made. Section 509AB (5) states that, in preparing its statement, an LEA shall have regard to guidance issued by the Secretary of State (this guidance is published annually). Section 509AA (9) provides that the Secretary of State can direct an LEA to make arrangements for transport or financial assistance for travelling expenses which are not in the statement.

7.4 The legislation was designed to ensure partnership and collaboration between LEAs and other key local organisations in developing, publishing and delivering transport policy statements for students.

7.5 Following a review of the role and responsibilities of the Department, it was decided to transfer greater responsibility for arranging and managing 16-19 financial and other support programmes from the Secretary of State to the LSC. As a part of this, responsibility for investigating and resolving complaints against LEAs with regard to their transport functions should move to the LSC. As the Secretary of State's responsibility for transport policy was set out in primary legislation, and the LSC had no existing power to carry out these functions, it was necessary to provide the Order making power in the Education and Inspections Act 2006 and to make an Order transferring the functions to the LSC.

7.6 The Order confers and imposes duties on the LSC with regard to the investigation and resolution of complaints about the provision of transport by LEAs.

7.7 The transfer of greater responsibility to the LSC will not change the responsibility for LEAs to lead local partnerships of colleges and others to create and publish transport policy statements and to provide transport provision or support for learners of 6th form age. It will, however, help to centralise the management of learner support programmes in the Learner Support Unit in LSC Head Office. The Secretary of State retains the power to direct LEAs where their transport policies are not satisfactory.

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 to transfer greater responsibilities for administrative functions in relation to transport policy for people of sixth form age from the Secretary of State to the LSC.

9. Contact

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