EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (ELECTED MAYORS) (ENGLAND) REGULATIONS 2005

2005 No.2121

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 instrument provides that where an authority has an elected mayor the mayor may be treated as an elected member of the authority for the purposes of designating a lead member for children's services.

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

3.1 None

4. Legislative Background

4.1 Section 19 of the Children Act 2004 ("the 2004 Act") provides that a children's services authority in England must designate one of their members as their "lead member for children's services". Councils with executive arrangements under section 11 of the Local Government Act 2000 ("the 2000 Act") must adopt one of three executive arrangements: leader and cabinet; mayor and cabinet; or mayor and council manager. By virtue of section 39(4) of the 2000 Act "elected executive member" means an individual elected as a member of a local authority executive, but does not include an elected mayor. Under section 39(5) an elected mayor of a local authority is to be treated as a member or councillor of the authority for the purposes of such enactments (whenever passed or made) as may be specified in regulations made by the Secretary of State. Regulation 2 of this instrument, made under section 39(5) of the 2000 Act, specifies that an elected mayor is to be treated as a member of the authority for the purposes of section 19 of the 2004 Act (designation of "lead member for children's services"). The Instrument will come into force on the day to be appointed for section 19 of the 2004 Act to come into force.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

The Minister for Children (Beverley Hughes MP) has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of The Local Authorities (Elected Mayors) (England) Regulations 2005 are compatible with the Convention rights.

7. Policy background

7.1 The government Green Paper "Every Child Matters" (Cm 5860), published in September 2003, announced the government's proposal to legislate for each local authority that has education and social services functions to appoint a director of children's services ("DCS") and to designate a lead member for children's services. This was intended to deliver a clear line of accountability for local authority children's services, as recommend by Lord Laming in the report of his Inquiry into the death of Victoria Climbié. This proposal has now been enacted in sections 18 and 19 of the 2004 Act. Statutory guidance on the role of the lead member, published on 5 April 2005, makes clear that the lead member will have a strategic function in relation to local authority children's services and provide leadership across the range of those services and through engagement with the authority's partners, particularly those named in section 10 of the 2004 Act (arrangements for cooperation to improve children's well-being), and a particular focus, with the DCS, on safeguarding and promoting the welfare of children across all agencies.

7. 2 The Secretary of State anticipates making a commencement order during 2006 bringing section 19 of the 2004 Act into force on 1 September 2008, on which date all local authorities will be required to have a lead member for children's services, but acting upon statutory guidance issued by the Secretary of State many authorities have already designated a lead member. Making this instrument now allows for a transitional period, so where authorities designate the elected mayor as lead member that person will be treated as a member of the authority for the purposes of section 19 of the 2004 Act.

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 that it allows any children's services authority with an executive involving an elected mayor to designate the mayor as lead member for children's services.

9. Contact

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