EXPLANATORY MEMORANDUM TO

THE NORTHERN SCHOOL OF ART (BECOMING A HIGHER EDUCATION CORPORATION) ORDER 2026

2026 No. 740

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister Jacqui Smith, the Minister for Skills at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

Roger Cotes, Director of Regions and Providers Skills Group, at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Martin Courbet at the Department for Education can be contacted by email at the following address with any queries regarding the instrument: martin.courbet@education.gov.uk. Alternatively, the department can be contacted by telephone on 0370 000 2288.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument coming into force causes a Further Education Corporation to become a Higher Education Corporation.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is England and Wales.

4.3 The territorial application of this instrument is England.

5. Policy Context

What is being done and why?

5.1 The instrument provides for the Northern School of Art, a Further Education Corporation in England, to become a Higher Education Corporation in England. The change in status will allow the Northern School of Art to apply for university status in England.

5.2 The policy position is that a university in England should primarily be a provider focussed on providing Higher Education, and so that a provider within the statutory Further Education Sector, is not eligible to apply.

5.3 Institutions conducted by Further Education Corporations in England are per se Further Education Institutions. Further Education Institutions are within the statutory Further Education Sector. The Northern School of Art is currently an institution

conducted by a Further Education Corporation, and it is therefore in the statutory Further Education Sector, and so is not eligible to apply for university status.

5.4 By giving ministerial approval to this instrument, and once the order comes into force, the Further Education Corporation will become a Higher Education Corporation and so the institution will no longer be in the statutory Further Education Sector.

5.5 The Further Education provision within the Northern School of Art, will continue to be assured and protected by being transferred to a wholly owned subsidiary of Northern School of Art, the Northern College of Art. The Northern College of Art will be designated as a Further Education Institution and continue as an institution within the Further Education Sector. The designation will be achieved by ministers also approving an order for the purposes of s28 of the Further and Higher Education Act 1992 simultaneously with this s122ZA Order.

What was the previous policy, how is this different?

5.6 The policy is the same as it was upon the commencement of s122ZA on 1st August 2019.

6. Legislative and Legal Context

How has the law changed?

6.1 None. This instrument does not amend or supplement existing legislation.

Why was this approach taken to change the law?

6.2 The legal effect of the s122ZA order is to change the status of the Northern School of Art from a Further Education Corporation to a Higher Education Corporation. The Northern School of Art has established a new wholly owned subsidiary company, the Northern College of Art. The Northern School of Art has agreed to transfer its further education provision to the Northern College of Art which will conduct the further education provision as a separate institution. This institution will be designated under s28 of the Further and Higher Education Act 1992. The s28 designation order will be made and will come into force at the same time as the s122ZA order.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Northern School of Art (the 'NSoA') conducted a consultation on the proposal to transfer to a higher education corporation in 2023.[1] The consultation ran from 29 August 2023 to 29 September 2023. The NSoA consulted on a detailed consultation document which set out its proposal and the benefits to learners and the region. Consultees included staff and students at the NSoA, schools, sixth form colleges, further education colleges and universities, local authorities, MPs, business and community groups and creative industries in the Tees Valley region.

7.2 The NSoA was required to demonstrate that its further education provision would be protected robustly, that it would satisfy the criteria for a section 28 order, and that any transfer would have a positive impact on both the local community and the overall

[1] https://northernart.ac.uk/wp-content/uploads/2023/08/290823-FINAL-HE-Sector-Transfer-Consultation-Document.pdf

education and training offer for learners and employers. Consultation responses[2] indicated strong support for the proposal: 95% of the 174 respondents were in favour, with high support across all groups (staff 100%, students 94%, external 90%). Of the external bodies consulted, two raised concerns: one about unnecessary competition, and the other about university status potentially reducing accessibility for some learners. In response, NSoA noted that the proposals strengthen, not reduce, access and inclusion by retaining further education provision and supporting progression for disadvantaged students. It also emphasises that it will preserve its distinct education offer and ethos.

7.3 The Department was satisfied that the NSoA had successfully demonstrated through the consultation process that an application to transfer out of the Further Education Sector was appropriate.

8. Applicable Guidance

8.1 This Order is specific to Northern School of Art and does not therefore require any guidance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this Order as it has no, or no significant, impact on the private or voluntary sector.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on, or no significant impact, on business, charities, or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant impact, on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause. We do not consider a review clause to be proportionate. The instrument causes the Further Education Corporation to become a Higher Education Corporation, and the likely impact and burden of this instrument, which is low, is limited to Northern School of Art.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

[2] https://northernart.ac.uk/wp-content/uploads/2023/12/Consultation-Result-Responses-FINAL-14-Dec-2023-1.pdf

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").