EXPLANATORY MEMORANDUM TO

THE PLYMOUTH COLLEGE OF ART (TRANSFER TO THE HIGHER EDUCATION SECTOR) ORDER 2014

2014 No. 1507

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This Order transfers the further education corporation known as Plymouth College of Art to the higher education sector. On transfer it will become a higher education corporation.

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

3.1 None

4. Legislative Context

4.1 Section 122A of the Education Reform Act 1988 makes provision for the Secretary of State, by Order, to transfer a further education corporation to the higher education sector, if it appears to him that the full-time equivalent enrolment number of the institution conducted by the corporation for courses of higher education exceeds 55 per cent of its total full-time equivalent enrolment number.

4.2 Having considered the application by Plymouth College of Art to transfer to the higher education sector, the Secretary of State has concluded that Plymouth College of Art meets the legislative criterion stated above and this Order gives effect to the transfer.

5. Territorial Extent and Application

5.1 This Order applies in relation 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

What is being done and why

7.1 The purpose of section 122A of the Education Reform Act is to provide a mechanism for further education corporations that meet the legislative criterion to transfer to the higher education sector as higher education corporations and to receive public funding from a higher education funding council.

7.2 Plymouth College of Art is a specialist further education corporation providing further and higher education courses in contemporary art, craft, design and media practices in the tradition of European art schools. It is of the view that being in the higher education sector would provide a better fit for its existing and future aspirations, provide access to the networks and markets (nationally and internationally) that will ensure its continued success and sustainability, and extend its activity further in terms of industry and community engagement.

7.3 In accordance with the Department for Business, Innovation and Skills' policy set out in "New Challenges, New Chances" (August 2011), any further education corporation considering a major change in its delivery model (including a transfer to the higher education sector) should first undertake a College Structure and Prospects Appraisal. The College completed its Appraisal in January 2014. The Department for Business, Innovation and Skills considered the Appraisal and was content that the process had been undertaken correctly and that, in reaching its decision to apply to transfer to the higher education sector, the College had considered thoroughly the impact of all options on its communities, consulting widely and transparently on its proposals, and taking explicit account of the views of the people that it serves.

7.4 In considering an application for transfer the Secretary of State has regard to whether the institution appears to him to satisfy the legislative requirement (that more than 55% of its total full-time equivalent enrolment number is for courses of higher education) and also has regard to the principles and tests set out in guidance published by the Higher Education Funding Council for England (HEFCE) as agreed with the Department for Business, Innovation and Skills. To inform his decision the Secretary of State takes advice from HEFCE who scrutinise the application against the legislative and administrative criteria, and such other interested parties as appropriate.

7.5 The Secretary of State has considered the College's application and the detailed advice received on it and is satisfied that it meets the legislative criterion and the principles and tests for designation. In doing so he is satisfied that the College:

- has met the 55% legislative criterion for at least two consecutive recruitment cycles (59% in both 2010/11 and 2011/12);
- offers distinctive provision through immersion in a community of artists and designers and has evidenced its reputation in the academic community and industry sector with strong letters of support;
- has a strong demand from students and a good graduate employment record going from 82% to 92% in the last three years;
- meets quality standards expected of higher education institutions;
- has demonstrated that it is in an adequate or satisfactory position with regard to the tests including financial viability, quality, corporate planning, estates and data management.

8. Consultation outcome

8.1 It has not been necessary to consult formally on the making of this Order. However, in considering this application, detailed advice was sought from HEFCE.

8.2 As described in paragraph 7.3. the College was required to undertake a College Structure and Prospects Appraisal prior to submitting its application to transfer to the higher education sector. This included the College itself consulting widely on its proposals. The Appraisal evidenced strong local support for a transfer to the higher education sector and showed that the decision the College had taken was based on the interests of the local learners and employers alongside the College's primary accountability for the distinctive educational character and ethos as an independent art college.

9. Guidance

9.1 This Order is specific to Plymouth College of Art and does not therefore require any guidance to be published.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An impact assessment has not been prepared for this Order as it has no impact on the private or voluntary sector.

10.4 As a public authority the Department for Business, Innovation and Skills is required to give due regard to the aims of the public sector equality duty when making decisions and when setting policies. As a service provider and employer, the College is required to meet the main provisions of the Equality Act 2010, and as such provide protection for its students and staff against discrimination, harassment and victimisation. Furthermore, as an institution funded by the Skills Funding Agency, the College already comes within the education provisions of the Equality Act, the public sector equality duty and the specific duties. This will continue to be the case for the College as a higher education institution.

11. Regulating small business

11.1 This Order is specific to Plymouth College of Art. It does not therefore apply to small business.

12. Monitoring & review

12.1 There is no monitoring and review of this instrument.

13. Contact

Martin Courbet at the Department for Business, Innovation and Skills Tel: 020 7215 3435 or email Martin.Courbet@bis.gsi.gov.uk can answer any queries regarding this Order.