EXPLANATORY MEMORANDUM TO

THE SCHOOL ADMISSIONS (ADJUDICATOR DETERMINATIONS RELATING TO LOOKED AFTER AND CERTAIN OTHER CHILDREN) (ENGLAND) REGULATIONS 2007

2007 No. 105

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

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

2. Description

2.1 This instrument requires the Schools' Adjudicator to consult certain bodies if he wishes to determine that an admission authority for a maintained school in England is to be required to admit a looked after child, or a child who is the subject of a local authority direction having been refused admission to, or excluded from, every school within a reasonable distance of their home.

2.2 The instrument also requires the admission authority for the school concerned to provide the Adjudicator with the information he requests relating to the circumstances of the school in connection with the determination he is considering making.

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

3.1 None

4. Legislative Background

4.1 The instrument results from changes made to the School Standards and Framework Act 1998 by the Education and Inspections Act 2006. The 2006 Act inserts new provisions into the 1998 Act relating to referrals to the Adjudicator in respect of looked after children, and children who are the subject of a direction under section 96 of the 1998 Act (children who have been refused admission to or excluded from every school within a reasonable travelling distance of their home).

4.2 These Regulations, made under new sections 95A and 97C of the 1998 Act prescribe the bodies who must be consulted on a reference to the adjudicator pursuant to sections 95A, 97 or 97B of the Act before the Adjudicator determines that a school is to be required to admit a child. They also require admission authorities to provide information to the Adjudicator when requested, on such a reference.

5. Territorial Extent and Application

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 Admissions casework functions are being transferred to the Schools Adjudicator. In addition, the Adjudicator will take on the new role of considering directions relating to looked after children. Consideration of such cases will draw on the expertise of the Adjudicator and is a logical step that will ensure consistency in the way that all types of admissions cases are dealt with.

7.2 The new powers for the Schools Adjudicator build on their existing role in considering and making decisions on objections to schools' admission arrangements; and determining proposals to set up, close or make changes to schools in cases where agreement cannot be reached locally.

Consultation

7.3 A public consultation took place via the Department for Education and Skills Consultation website on these regulations, alongside the School Admissions Code, between 8 September and 1 December. Members of both Houses were given a copy of the draft regulations at this time as part of a consultation pack called 'School Admissions Consultation 2006'. Local authorities, schools, parent groups, faith groups and other representative organisations were consulted. The Council on Tribunals was consulted separately. No consultation responses were received on these regulations.

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

9.1 Clare Howe at the Department for Education and Skills Tel: 01325 391292 or e-mail: clare.howe@dfes.gsi.gov.uk can answer any queries regarding the instrument.