

**EXPLANATORY MEMORANDUM TO
THE CUMBRIA INSTITUTE OF THE ARTS HIGHER EDUCATION
CORPORATION (DISSOLUTION) ORDER 2007**

2007 No. 1848

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 provides for the dissolution of Cumbria Institute of the Arts and the transfer of its property, rights and liabilities to St Martin's College – what is effectively a merger of the two institutions.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None

4. **Legislative Background**
 - 4.1 Cumbria Institute of the Arts became a higher education corporation in 1997 as the Cumbria College of Art and Design. Previous to this the institution was a further education corporation, also known as Cumbria College of Art and Design. The Cumbria College of Art and Design changed its name to Cumbria Institute of the Arts in December 2001 with the approval of the Privy Council. St Martin's College was originally established by Trust Deed in 1964 but became incorporated as a company limited by guarantee on 19 December 2006. It is an educational charity.

 - 4.2 Section 128 of the Education Reform Act 1988 gives the Secretary of State powers to dissolve higher education corporations and to transfer the property, rights and liabilities of the corporation to a person or body engaged in the provision of educational facilities or services, a higher education funding council or to the Learning Skills Council for England or the National Assembly for Wales.

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 The Education Reform Act 1988 brought polytechnics and colleges out of local authority control, giving them status as separate legal entities, and independence.

Further education colleges with no separate legal status became further education corporations; higher education colleges with no separate legal status became higher education corporations. When further education corporations transfer to the higher education sector they become higher education corporations. Like all other higher education institutions, higher education corporations are autonomous institutions, responsible for managing their own affairs. As such they are free to merge with other institutions. However, mergers of higher education institutions usually require one of the institutions to be dissolved and all of its property, rights and liabilities to be transferred to the other institution. In the case of a higher education corporation, this requires action by the Secretary of State.

7.2 Before he consents to dissolve a higher education corporation, the Secretary of State must consult with both the corporation and the relevant funding council – which is the Higher Education Funding Council for England (HEFCE) in the case of institutions in England. HEFCE has to ensure that the merger proposals are properly thought through, achieve benefit for the sector as a whole and do not weaken the institutions concerned. HEFCE has been consulted and is supportive of the merger. The Secretary of State must also obtain the consent of the person or body to whom the property, rights or liabilities are being transferred. Both governing bodies of the institutions have confirmed that they are happy for the merger to take place.

7.3 The Department's White Paper 'The future of higher education' published in 2003 made clear that greater freedom and competition in the higher education sector will compel higher education institutions to improve their efficiency and management. As a result, the Department expects to see growing collaboration in the higher education sector with more strategic alliances and pooling of facilities, particularly between institutions with complimentary missions. In some cases this may lead to mergers.

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 negligible.

9. Contact

Gudrun Groves at the Department for Education and Skills Tel: 0207 925 5214 or e-mail: gudrun.groves@dfes.gsi.gov.uk can answer any queries regarding the instrument.