

**EXPLANATORY MEMORANDUM TO
THE FURTHER EDUCATION (PRINCIPALS' QUALIFICATIONS) (ENGLAND)
REGULATIONS 2007**

2007 No. 1864

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 These Regulations require all newly appointed principals of further education institutions to hold or be working towards the Principals' Qualification. The Principals' Qualification will be awarded by the Centre for Excellence in Leadership (CEL) where it is satisfied that the person has successfully completed the Principals' Qualifying Programme. The Programme itself will be provided by CEL and approved by the Secretary of State.
 - 2.2 These Regulations apply in relation to all further education institutions, including general and specialist colleges and sixth form colleges (ie, those designated as further education institutions under the Further and Higher Education Act 1992).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 Section 137 of the Education Act 2002 enables the Secretary of State to make regulations which provide that a person may serve as a principal of a further education institution only if he has a specified qualification. These Regulations are made under that section.
 - 4.2 This will be the first use of this power under this Act.
5. **Territorial Extent and Application**
 - 5.1 These Regulations apply to England only.
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

Policy

- 7.1 It is the Government's intention to introduce new regulations as part of the professionalisation of the further education sector, by setting standards for leaders and to ensure a fully qualified and professional workforce. The aim is to have a professionally qualified workforce by 2010. Unlike school head teachers, principals of FE institutions (FEIs) do not have to hold a specific qualification to work as a principal. Weaknesses in FE leadership were identified by Ofsted in its inspections and by Sir Andrew Foster in his independent review of FE. There is also a considerable leadership challenge because of the key role FE has in delivering key policy and public sector reforms.
- 7.2 As part of the Government's intention to professionalise the FE sector, there is a need to ensure a good supply of potential successors to leadership roles within FEIs, both from inside and outside of the learning and skills sector. Part of the strategy for this is to create a strong career structure for leaders in the sector and to establish a coherent framework of standards and skills.
- 7.3 Paragraph 4.28 of the FE White Paper *Raising Skills, Improving Life Chances* 2006, stated that the Department would introduce a qualification which all newly appointed principals of FEIs will be expected to achieve.
- 7.4 These Regulations will create a professionally qualified cadre of FE principals, actively develop new principals' potential and help convince middle managers that the top leadership role is worth striving for and that there is professional development to support them. They will also help create a professional image for attracting people into FE leadership from the business sector. Similarly, the programme will give governing bodies greater confidence when appointing new principals, as it will provide professional training for the role of principal and will enable the person appointed to carry out the role more effectively. Additionally it will help candidates from more diverse backgrounds to aspire to and perform effectively in a principal's role.
- 7.5 Two other options were explored prior to introducing legislation. The first was to allow FEIs to continue as at present whereby there is no requirement for principals to be qualified. This was discounted as it would not address the weaknesses identified in FE leadership by Ofsted and Sir Andrew Foster; the Government would be seen as not giving the concerns about leadership sufficient priority; and Ministerial expectations would not be met. The second option was to adopt a voluntary approach to the take up of the principals' qualification. This was also discounted as it would create inconsistencies in the system, leading to slower take up of the principals' qualification and some principals not being qualified.

Consultation

- 7.6 A consultation exercise "The Professionalisation of the Learning and Skills Sector" ran between 11 April 2006 and 4 July 2006. The results of this consultation exercise were analysed and informed the policy development which underpins these Regulations. This policy was developed by the Improvement Group in the Lifelong Learning and Skills Directorate, consulting with other relevant teams and Legal Advisor's Office.

- 7.7 A further consultation took place with stakeholders and key partners, including the Association of Colleges, LLUK and the LSC, to gain the views of both the sector and partner agencies on the draft regulations and how best to implement this new policy.
- 7.8 Feedback from both consultations was positive, with the sector welcoming the introduction of these Regulations.

Guidance

- 7.9 Guidance will be issued to aid transition whilst these Regulations are being embedded into the sector.

8. Impact

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is that all newly appointed principals of FEIs will be professionally qualified, which in turn will enhance the standing of this role. There will be a cost per individual to undertake the qualifying programme, but this will be subsidised by the Department.

9. Contact

Jackie Matthews in the Improvement Group at the Department for Education and Skills, telephone: 0114 259 1096, or e-mail: jackie.matthews@dfes.gsi.gov.uk, can answer any queries regarding the instrument.

REGULATORY IMPACT ASSESSMENT - FE PRINCIPALS' QUALIFICATIONS

1. TITLE OF PROPOSAL

Introduction of a mandatory leadership qualification for all newly appointed principals of Further Education Institutions.

2. PURPOSE AND INTENDED EFFECT

Objective

- 2.1 To make it mandatory for all newly appointed principals of FE Institutions (FEIs) to hold or be working towards the Principals' Qualification; a leadership qualification awarded by the Centre for Excellence in Leadership (CEL) upon successful completion of the Principals' Qualifying Programme. The programme will be provided by CEL and approved by the Secretary of State.
- 2.2 The Regulations will apply to all FEIs, including general and specialist colleges and sixth form colleges (ie, those designated as further education institutions under the Further and Higher Education Act 1992).
- 2.3 This qualification will be mandatory for all newly appointed principals. The qualification will be the benchmark for FEI principals and is designed to help develop participants' abilities to meet the challenges of leadership. The qualifying programme itself will be flexible and personalised to meet individual needs.
- 2.4 The Regulations will not apply to a person who has been appointed as the principal of an FEI before they come into force. Neither will they prevent a person from temporarily carrying out the functions of the principal in his/her absence or pending the appointment of a new principal.
- 2.5 The Regulations will come into force on 1 September 2007. From that time all newly appointed principals will be required to hold the Principals' Qualification or be enrolled on the Principals' Qualifying Programme.
- 2.6 The making of these Regulations forms part of the Government's wider strategy to have a professionally qualified workforce in the FE sector by setting standards for leaders and to ensure a fully qualified and professional workforce.

Background

- 2.7 Our policy is to have a professionally qualified workforce by 2010. Unlike school head teachers, principals of FE Institutions currently do not have to hold a specific qualification to work as a principal. Weaknesses in FE leadership were identified by Ofsted in its inspections and by Sir Andrew Foster in his independent review of FE. There is also a considerable leadership challenge because of the key role FE has in delivering key policy and public sector reforms.

- 2.8 Paragraph 4.28 of the FE White Paper *Raising Skills, Improving Life Chances* 2006, stated that the Department would introduce a qualification which all newly appointed principals of FEIs will be expected to achieve.

Rationale

- 2.9 The Education Act 2002 articulated the Government's intention to professionalise the FE sector, as there is a need to ensure a good supply of potential successors to leadership roles within FE Institutions, both from inside and outside of the learning and skills sector. Part of the strategy for this is to create a strong career structure for leaders in the sector and to establish a coherent framework of standards and skills. These Regulations will create a professionally qualified cadre of FE principals, actively develop new principals' potential and help convince middle managers that the top leadership role is worth striving for and that there is professional development to support them. They will also help create a professional image for attracting people into FE leadership from the business sector. Similarly, the programme will give governing bodies greater confidence when appointing new principals, as it will provide professional training for the role of principal and will enable the person appointed to carry out the role more effectively. Additionally it will help candidates from more diverse backgrounds to aspire to and perform effectively in a principal's role.

3. CONSULTATION

Within government

- 3.1 This policy has been developed by Improvement Group, Lifelong Learning and Skills Directorate, consulting with other relevant teams and Legal Advisor's Office. We have also consulted with partner agencies and bodies including the Association of Colleges, Lifelong Learning UK and Learning and Skills Council. We have formed a steering group of officials, key stakeholders and interest groups to guide the development of this policy.

Public Consultation

- 3.2 A consultation exercise "The Professionalisation of the Learning and Skills Sector" ran between 11 April 2006 and 4 July 2006. The results of this consultation exercise were analysed and informed the policy development which underpins these regulations.
- 3.3 A further consultation of key partners and stakeholders on the draft regulations was conducted to gain the views of the sector and of partner agencies in how best to implement this policy.
- 3.4 Feedback from both consultations was positive, with the sector welcoming the introduction of these Regulations.

4. OPTIONS

Option 1

- 4.1 Do nothing. Practice continues as at present, with a wide range of performance across the sector.

Option 2

- 4.2 Introduce regulations requiring newly appointed principals to hold or work towards a specified leadership qualification through the Centre for Excellence in Leadership (CEL). This will help ensure newly appointed principals are given the appropriate training and support in order to be more effective in their new posts.

Option 3

- 4.3 Adopt a voluntary approach to the take up of the principals' qualification. Some newly appointed principals will complete the qualifying programme. However, many will not and will not benefit from the skills this qualification will provide them with, leading to a perpetuation of uneven quality of leadership.

5. BENEFITS AND COSTS

Sectors and groups affected

- 5.1 Further Education Institution principals and governors, aspiring middle and senior managers and leaders from other public or private sector backgrounds who apply to become an FEI principal.

Benefits

Option 1

- 5.2 There are no benefits, other than retaining the status quo. If FEIs continue as at present and regulations are not introduced, the weaknesses identified by Ofsted and Sir Andrew Foster in FE leadership would not be addressed. The Government would be seen as not giving the concerns about leadership sufficient priority. Ministerial expectations would not be met.

Option 2

- 5.3 Benefits for all newly appointed principals and their colleges. If regulations are introduced, all principals covered by the requirement would hold a leadership qualification, or be working towards a specified leadership qualification, which in turn will enhance the standing of this role. Government commitments for professionalising the workforce, especially leaders, would be met; and weaknesses identified by Ofsted and Sir Andrew Foster in FE leadership would be addressed. By investing a relatively small amount of money in newly appointed principals of FEIs, some £6,000 (partly subsidised by the Department) compared with the cost of a principal's salary, often in the region of £100,000, the regulations should help colleges to gain more value for money as the programme will help newly appointed principals learn the role of principalship more rapidly and help the college to improve performance, effectiveness and efficiency. Other benefits include:

- Achievement of the FE White Paper commitment for better qualified leadership of FEIs
- Reinforcing signal to the sector that good leadership is valued and vital
- Reassuring stakeholders (such as learners, parents, businesses) about the quality of leadership
- Improvements to college performance
- Adding to the transparency of the appointment process
- Supporting governors appointing strong candidates from other public or private sectors as the PQP will provide professional training for the role of principal and will enable the person appointed to carry out the role more effectively
- The recent consultation with the sector, on introducing regulations for new principals, showed that existing principals felt their own development was not seen as a priority or was ignored due to work pressures, regulations would ensure that this would not happen in the future.

Option 3

- 5.4 Benefits only for those newly appointed principals who opt in, including all the benefits listed in Option 2 above but on a much smaller scale. Adopting a voluntary approach to the take up of the principals' qualification would only partially address the weaknesses identified by Ofsted and Sir Andrew Foster in FE leadership. It would also create inconsistencies in the system, leading to slower take up of the principals' qualification in the sector and some principals not being qualified and would perpetuate uneven quality of leadership.

Costs

Option 1

- 5.5 No additional direct cost.

Options 2 and 3

- 5.6 Costs per individual to undertake the programme would be £6,000 per individual (partly subsidised) plus a maximum of 10 days' time out of the workplace.

6. Small Firms Impact Test

- 6.1 No impact as this only affects principals of FEIs.

7. Competition assessment

- 7.1 N/A

8. Enforcement, sanctions and monitoring

Enforcement

- 8.1 Regulations will be introduced requiring all newly appointed principals to hold or be working towards a specified qualification. This will come into force on 1 September 2007. Guidance will be issued to aid transition whilst the Regulations are being embedded in the sector. Governing bodies will be expected to ensure that all newly appointed principals hold or are working towards the specified qualification - a form of self-regulation. If working towards, they will be expected to support principals whilst they are obtaining the qualification. The LSC will use development dialogues to support enforcement. Ofsted will also check compliance during the course of their inspections.

Sanctions

- 8.2 The merits of this policy will be evident to both governing bodies and principals. Non-compliance will harm the college and its reputation as much as official sanctions. Inspection reports will also take into account this policy and non-compliance could affect them, and ultimately the LSC will consider its funding if a college does not comply with regulations.

Monitoring

- 8.3 The responsibility for ensuring newly appointed principals comply with the Regulations will lie with governing bodies - a form of self-regulation. The Centre for Excellence in Leadership will monitor those who enrol on the course. Compliance monitoring of the regulations will be done through existing LSC mechanisms and these regulations will be incorporated into existing inspection procedures, so as not to add a new layer of bureaucracy.

9. IMPLEMENTATION AND DELIVERY PLAN

- 9.1 These Regulations will come into force on 1 September 2007. All FEI principals newly appointed after this date will be required to be appropriately qualified or be enrolled on the qualifying programme.

10. POST-IMPLEMENTATION REVIEW

- 10.1 DfES will undertake a review in 2009 to ensure all newly appointed principals are complying with these Regulations.

11. SUMMARY AND RECOMMENDATION

- 11.1 Introducing regulations requiring all newly appointed FEI principals to hold or be working towards a leadership qualification best meets ministerial policy commitments to professionalising the workforce. Feedback from the sector has been positive, welcoming the introduction of a leadership qualification and enhancing the standing of the role of principal, and they welcome the regulations for this. Therefore Option 2 is the recommended option.

12. DECLARATION AND PUBLICATION

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Date

Bill Rammell
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Department for Education and Skills

13. CONTACT POINT

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