

**EXPLANATORY MEMORANDUM TO  
THE EDUCATION (SCHOOL PERFORMANCE TARGETS) (ENGLAND)  
(AMENDMENT) REGULATIONS 2007**

**2007 No. 2975**

**THE EDUCATION (LOCAL EDUCATION AUTHORITY PERFORMANCE  
TARGETS) (ENGLAND) (AMENDMENT) REGULATIONS 2007**

**2007 No. 2972**

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The general description for both Statutory Instruments is to amend requirements in relation to the setting of annual targets by governing bodies and local authorities (LAs) for the educational performance of children in maintained schools.

(1) The Education (School Performance Targets) (England) (Amendment) Regulations. The Regulations make amendments to Statutory Instrument 2004/2858 in relation to the school performance threshold targets set at key stages 2, 3, and 4. Further to this there will be a new requirement to set progression targets at key stages 2, 3 and 4, which will focus on pupils making progress of two levels of attainment as provided out for at each key stage (excluding the first key stage) of the National Curriculum in English and mathematics.

(2) The Education (Local Education Authority Performance Targets) (England) (Amendment) Regulations. The Regulations make amendments to Statutory Instrument 2005/2450 in relation to the local authority performance threshold targets to be set at key stages 2, 3, and 4, and for minority ethnic groups, children in care and absence. The regulations further introduce a new requirement for local authorities to set progression targets at key stages 2, 3 and 4 and for minority ethnic groups which will focus on pupils making two levels of attainment at each key stage of the National Curriculum in English and mathematics.

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

3.1 None.

4. **Legislative Background**

4.1 The Education (School Performance Targets) (England) Regulations 2004 (SI 2004/2858) currently require governing bodies of maintained schools in England to set annual targets at key stages 2 and 3 for the percentage of relevant pupils to achieve the targeted level in each of English and mathematics. For key stage 4 these regulations were amended by SI 2006/3151 so that a governing body is required to set targets for the proportion of pupils aged 15 to achieve the level 2 threshold in approved external qualifications including grades A\*-C in GCSE English and mathematics.

4.2 The Education (Local Education Authority Performance Targets) (England) Regulations 2005 (SI 2005/2450) require Local Authorities in England to set annual targets at key stages 2 and 3 for the percentage of relevant pupils to achieve the targeted level in each of English and mathematics. For key stage 4 these regulations were amended by SI 2006/3150 so that local authorities are required to set targets for the proportion of pupils aged 15 to achieve the level 2 threshold in approved external qualifications including grades A\*-C in GCSE English and mathematics.

## 5. Extent

5.1 This instrument applies 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

7.1 The current Public Service Agreement requires the setting of threshold targets for achievement of expected levels for each of English, mathematics, science and ICT at the relevant Key Stage as set out in both the School and Local Authority Performance Targets Regulations. The outcome of the Comprehensive Spending Review (CSR2007) was announced on 9 October and includes the introduction of two new Public Service Agreement (PSA 10 & 11) targets on educational achievement effective from December 2008.

- **PSA 11: narrowing the gap in educational achievement** between children from lower income and disadvantaged backgrounds and their peers (including in pre and post-compulsory education); and
- **PSA 10: increasing educational achievement** with the aim of preparing every child and young person with the knowledge and skills to succeed in education and life (again, including in pre and post-compulsory education).

7.2 The indicators underpinning PSA 10 and 11 will enable us to maintain the focus on the core skills of English and mathematics ensuring this is driven throughout the system from 5-19. This is why we are moving to targets for those achieving the expected levels in both subjects at Key Stage 2 and 3. This is in line with the move already made to a GCSE English and mathematics target. The introduction of progression targets at key stages 2, 3 and 4 will ensure that LAs and schools also focus on those who can make progress but are unable to achieve the expected level and those who are capable of achievement beyond the expected level.

7.3 At key stage 3, LAs and secondary schools will continue to set a target for level 5 in science to ensure that momentum is not lost in raising achievement in this core subject and ensuring that pupils are able to access the Key Stage 4 science programme of study. LAs and schools will no longer have to set a target for ICT.

7.4 At Key Stage 4 the average points score target will be removed. This was aimed at ensuring that schools and LAs tried to improve outcomes for pupils who were

not able to achieve the 5 A\*-C standard. The introduction of the progression target for Key Stage 3-4 is a more effective measure since it will encourage LAs and schools to focus on maximising the progress in English and mathematics for all pupils including those unable to reach grade C. To bring the Key Stage 4 targets into line with reporting of performance in the Achievement and Attainment tables the targets for 2009 onwards will relate to all pupils completing the Key Stage 4 programme of study in year 11 and not just those aged 15 at the beginning of the year in which they take GCSE and equivalent examinations.

7.5 National indicators for BME pupils are an essential lever to narrow unacceptable attainment gaps. LAs will continue to set and report targets for BME groups where there are 30 or more pupils from that group in any particular cohort. For Gypsy/Roma and Traveller of Irish Heritage pupils, for whom targets are not currently set, they will be included in the statutory targets for 2009, mirroring the groups for whom data is collected through the Pupil Level Annual Schools Census.

7.6 Absence targets at LA level will focus on tackling the issue of secondary pupils who are 'persistently absent' from 20% or more of their education.

7.7 For children in care LAs will be required to set a targets based on the proportion achieving 5 A\*-C grades at GCSE and equivalent, including GCSE English and mathematics.

7.8 **Making Good Progress Consultation (MGP)** - The 2005 White Paper "Higher Standards – Better Schools For All" committed the Government to develop a more effective way of measuring pupil progress. The MGP consultation was announced on January 8<sup>th</sup> 2007. The pilot focused at Key Stages 2 and 3, and trialed new ways to measure, assess, report and stimulate progress for all pupils. There were 152 responses, including from OfSTED, NASUWT, NaHT, ATL, ASCL, NUT, PAT, ADCS, LGA and Aspect.

7.9 With regard to establishing a measure for improvement in progression rates there were 134 responses of which **54%** were favourable compared with **31%** who were against. Whilst the question based on formulating the progression measure received a less favourable response – **45%** against and **31%** in favour, the Department was able to distinguish between the number of individual responses received and the weight of opinion represented, although it is not possible to reference groups' statements publicly without their consent. The most influential educational bodies, including the Qualifications and Curriculum Authority, Association of Directors for Children's Services, Professional Association of Teachers, Local Government Association and OfSTED expressed they were in favour of establishing a progress measure.

7.10 In the Department's response to the MGP consultation it was noted that respondents raised the issue of whether an increase of two levels of progress was the right target for either or both key stages. Consideration was given to suggestions for alternative progression targets, and whilst we are not pursuing these, we will offer schools the opportunity to look at different methods of measuring pupils' progression as part of their own data analysis.

7.11 **DCSF consultation on the National Indicator Set (NIS)/PSA targets** - For the Comprehensive Spending Review 2007 the Department carried out extensive

consultative meetings with organisations (Annex A) on the progression measure indicator as part of discussions on the full National Indicator Set (NIS) which underpins the range of Public Service Agreement targets. The consultation also focused on the Local Government sector. Below are the main groups with which we have discussed the PSA targets and NIS:

### **Knowledge for Improvement external reference group**

This is a group of about 30 members, mainly comprising middle-ranking local authority children's services staff, Primary Care Trusts, some voluntary/third sector engagement (in the form of Barnardos and the Office of the Children's Commissioner) and Ofsted. This group meets approximately every quarter and has seen our work in this area as it has progressed from last year's work on outcome-focused indicators and the 'exemplification'. This year the group discussed the White Paper and the NIS on 18 January and 17 April.

### **Star Chamber External Scrutiny Group**

This is a body of around 15 members, with a split between those with a children's services/social care background, and those from education. The main purpose of the group is to scrutinise the data requests that the DCSF makes of LAs and schools. It also includes a representative of Ofsted. This group looked at the draft NIS set in great detail over a number of sessions at their meetings of 13 April, 11 May and 8 June.

### **Representative bodies**

We received detailed comments on the draft NIS from the LGA, and from Association of Directors and Children's Services. Regular meetings took place with the ADCS and the NIS has been discussed at these.

### **Directors of Children's Services**

The Department hosted three events this year (11 June in Birmingham, 14 June in London and 15 June in Leeds). Attendees were representatives from GO regions and Directors of Children's Services (DCS), and representatives from Primary Care Trusts. The events took the form of workshops in which the Department took detailed comments on all the indicators we were proposing, and on the broad approach itself. The Department has also discussed the NIS at kits with DCSs.

### **External Target-setting Group**

We consulted our External Target Setting Group on 26 June which includes representatives of ADCS and LAs, social partners including NAHT, NASUWT and ASCL, National Governors' Association and Specialist Schools and Academies Trust. They offered helpful comments for the target setting guidance and were content with the LA and school targets. It was agreed that looking at the overall progression was the right direction of travel.

## **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 No impact on the public sector.

## **9. Contact**

Lorna Serieux at the Department for Children, Schools and Families Tel: 020 7925-6703 or e-mail: [lorna.serieux@dcsf.gsi.gov.uk](mailto:lorna.serieux@dcsf.gsi.gov.uk) can answer any queries regarding the instrument.