

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL TEACHERS' APPRAISAL) (ENGLAND)
REGULATIONS 2012

2012 No. 115

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 These regulations make provision for the appraisal of school teachers (including head teachers) in the maintained sector.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 These regulations revoke the Education (School Teacher Performance Management) (England) Regulations 2006. Those regulations continue to apply to any performance management and review cycle which is in progress on 1 September 2012, unless the governing body or local authority decides to end that cycle early and to begin a new appraisal period starting on or after that date. These regulations prescribe revised, shortened and simplified arrangements for the appraisal of teachers (including head teachers) employed by governing bodies and local authorities at maintained schools, and other teachers employed by local authorities (“unattached teachers”).
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 The White Paper, ‘The Importance of Teaching’, set out a number of proposals intended to give schools and head teachers greater freedoms to reward good performance and address poor performance. Among other things it proposed that the regulations for the performance management of teachers should be shortened and simplified. The aim of

these regulations is to provide a national framework within which schools and local authorities are free to develop their own policies for appraising their teachers and head teachers without prescribing the detail of what they should do.

7.2 The Education (School Teachers' Appraisal) (England) Regulations 2012 require:

- governing bodies (in respect of teachers employed at a school) and local authorities (in respect of unattached teachers) to have a written document setting out the appraisal process;
- governing bodies to appoint an external adviser for the purposes of providing them with advice and support in relation to appraising the head teacher;
- objectives to be set for each teacher which, if achieved, contribute to improving the education of pupils;
- each teacher to be informed of the standards against which the teacher will be assessed;
- an annual appraisal of teachers, to include:
 - an assessment of the performance of their role against their objectives and the relevant standards;
 - an assessment of their training and development needs and identification of the action that will be taken to address them; and
 - where relevant, a recommendation on pay; and
- teachers to receive a written appraisal report.

Governing bodies and local authorities will be free to make their own decisions about all other appraisal matters.

8. Consultation outcome

8.1 A public consultation on the proposed changes to these regulations ran for a period of 12 weeks from 24 May to 16 August 2011. There were 250 responses. Over 80 percent of respondents to the consultation reacted positively to all of the proposals that are being taken forward.

8.2 The main concerns were:

- opposition to the proposal to require employers (and former employers) to provide copies of a teacher's previous appraisal reports to a potential employer when asked by them to do so in support of an application for a teaching post. We are not proceeding with this proposal; and
- worries that the removal of central regulation could lead to inconsistencies, unfairness and potentially more disputes. In order to address this point, guidance for schools is being published in the form of an optional model appraisal policy.

9. Guidance

9.1 As mentioned above, an optional model policy is available on the Department's website. This covers arrangements for appraisals and also contains information about capability procedures.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is that schools and local authorities will need to review their current teacher appraisal policies and revise them where necessary to ensure they comply with the new regulations. Schools can minimise the burden of revising their policies by adopting the optional model policy.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 We will be seeking to gather information about how the regulations are being implemented by schools and local authorities in the first year of operation (2012/13). We are developing plans for longer-term monitoring and review.

13. Contact

Jenny Curtis at the Department for Education Tel: 0207 340 8142 or email: jenny.curtis@education.gsi.gov.uk can answer any queries regarding the instrument.