

A Consultation Document on Changes to Plans Required of Local Education Authorities

Amending the School Standards and Framework Act 1998 and the Education Act 1996

To

Repeal sections 6 and 7 of the *School Standards and Framework Act 1998* concerning the Education Development Plan, sections 120 and 121 of the *School Standards and Framework Act 1998* concerning the Early Years Development and Childcare Plan, section 26 of the *School Standards and Framework Act 1998* concerning the School Organisation Plan, section 527A of the *Education Act 1996* as amended by section 9 of the *Education Act 1997* concerning the Behaviour Support Plan, and introduce the Single Education Plan.

A Consultation Paper Issued by

The Department for Education and Skills 14 November 2003

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Summary of Proposals

What is being consulted on:	<p>The removal of certain statutory planning requirements imposed on local education authorities and the introduction of the Single Education Plan.</p> <ul style="list-style-type: none"> • The removal of the requirement for local education authorities to produce an Education Development Plan, an Early Years Development and Childcare Plan, a School Organisation Plan, a Behaviour Support Plan and • the introduction of the SEP involves new requirements. 	<p>Chapter 3, paragraph 1 & Chapter 4, paragraphs 1-10.</p> <p>Chapter 3, paragraphs 3-15 and chapter 4, paragraphs 11-17</p>
How will these proposals be taken forward, and when will they be implemented?	<p>We intend that the proposed changes to legislation are made through a Regulatory Reform Order (RRO) under the Regulatory Reform Act 2001. Subject to the outcome of consultation, we propose that the changes are implemented as soon as the order is made for authorities listed in Schedule 1 of the draft RRO at Annex H, and from April 2005 for other authorities.</p>	
Consultation	<p>This consultation is being made in accordance with the requirements of the Regulatory Reform Act 2001 and the terms of the Government's Code of Practice on Written Consultations.</p> <p>All responses should be received by 6 February 2004.</p>	Annex D

Chapter 1: Introduction

1. This consultation paper sets out in detail the Government's proposals for reforming the legislation governing plans required by the Department for Education and Skills (DfES) of local education authorities (LEAs) and for introducing the Single Education Plan (SEP).
2. These proposals will affect LEAs by reducing DfES requirements concerning planning. LEAs will continue to plan, but would not submit their detailed plans to the DfES as they are currently required to do in some cases. The SEP will provide a strategic overarching direction to an LEA's performance.
3. The changes are needed to enable LEAs to plan more effectively, whilst still taking account of national education priorities. They will also help to reduce bureaucracy and duplication for LEAs and we expect that they will benefit schools by reducing LEA demands on schools. They are consistent with DfES core principles of system wide reform and specifically with the emphasis on showing how initiatives link together.
4. The broad policy purpose behind the proposals is to increase LEA effectiveness and reduce bureaucracy. Removing requirements for plans will mean that LEA plans can reflect local circumstances more easily and will enable LEAs to focus on their core responsibilities.
5. We propose to introduce the reform by means of a Regulatory Reform Order (RRO) under the Regulatory Reform Act 2001 (the 2001 Act). This consultation is being conducted in accordance with the provisions of section 5 of the 2001 Act. Views are invited on all aspects of the consultation paper, and specific questions are set out at Annex B.

Regulatory Reform Order-making

6. Each proposal for a Regulatory Reform Order must satisfy a number of legal tests set out in the 2001 Act. The questions at Annex B are designed to elicit the information that the Minister will need in order to satisfy the Committees that, among other things, the proposal satisfies these tests.
7. For this reason, we would particularly welcome your views on how each aspect of the proposed changes in this consultation document meets the following tests:
 - **Necessary protection** The Minister making a RRO must be of the opinion that it does not remove any necessary protection. This means that no order can be made unless the Minister is of the opinion that it would maintain any protection that the Minister considers to be necessary. Such protection relates to the checks and balances associated with a particular regulatory regime. The protection does not have to be statutory in nature and does not have to be for the purposes originally intended by Parliament. If the Minister considers a particular protection to be no longer necessary, he or she must provide the Parliamentary scrutiny committees with compelling evidence to support this view.
 - **Rights and freedoms** An RRO cannot be made unless the Minister is satisfied that it does not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to enjoy. This test recognises that there are certain rights that it would not be fair to take away from people under these procedures.

Other Safeguards

8. In order to provide for the effective reform of regulatory regimes, RROs can re-state existing burdens and create new burdens. But where that is the case stringent additional safeguards apply:
- **Proportionality** If a new legal burden is being imposed (or an existing burden is being re-enacted), then the Minister must ensure that it is proportionate to the benefit it brings. This means, for example, that imposing a burden which will cost charities several thousand pounds in return for some negligible benefit would not pass the test.
 - **Fair balance** Before proposing any RRO that has the effect of imposing new legal burdens, the Minister must be of the opinion that a fair balance is being struck between the interests of the person affected by the Order and the interests of the wider public. In this context, fairness does not mean that everyone must benefit. What it does mean is that the benefit to society as a whole must be such as to justify the additional burden on a small group or the individual.
 - **Desirability** Before proposing any RRO that has the effect of imposing new legal burdens, the Minister making the RRO must be of the opinion that the extent to which it removes burdens or brings other benefits makes the Order as a whole desirable.

Consultation

9. The Act requires Departments to consult widely on regulatory reform proposals. It requires us to collect evidence on a number of issues from a wide range of consultees. The list of consultees, including the devolved administrations, to whom the document has been sent, is at Annex A. It is also available on the Internet at:

- <http://www.dfes.gov.uk/consultations/>
 - <http://www.cabinet-office.gov.uk/regulation/act/condocs.htm>
 - <http://www.ukonline.gov.uk> and
 - <http://www.standards.dfes.gov.uk/lea/planrat>
10. Comments are invited from all interested parties, and not just from those to whom the document has been sent. A response form is at Annex B.
11. The Parliamentary Committees who will deal with orders under the 2001 Act have requested that a note explaining the Parliamentary process for orders to be made under the Act be annexed to all consultation papers so that consultees understand when and to whom they are able to put their views, should they wish to do so. This is set out in Annex C.
12. A draft RRO is included at Annex H to assist consultees in understanding the scope of the proposed changes and we are not seeking comments on its drafting. The draft is at an early stage and may undergo substantial amendment.
13. This consultation document follows the format recommended by the Cabinet Office for such proposals. The criteria applicable to all UK public consultations under the Cabinet Office [Code of Practice on Written Consultations](#) are set out in Annex D.

Disclosure

14. Normal practice will be for details of representations received in response to this consultation document to be disclosed, or for respondents to be identified. While the Act provides for non-disclosure of representations, the Minister is required to include the names of all respondents in the list submitted to Parliament alongside the draft Order. You should note that:

- If you request that your representation is not disclosed, the Minister will not be able to disclose the contents of your representation without your express consent and, if the representation concerns a third party, their consent too. Alternatively, the Minister may disclose the content of your representation but only in such a way as to anonymise it.
 - In all cases where your representation concerns information that may be damaging to the interests of a third party, the Minister is not obliged to pass it on to Parliament if he does not believe it to be true or he is unable to obtain the consent of the third party.
15. Please identify any information which you or any other person involved do not wish to be disclosed. You should note that many facsimile and e-mail messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-inclusion in the post consultation review unless accompanied by an additional specific request for confidentiality, such as an indication in the tick-box provided for that purpose in the response form of Annex B.
16. Finally, you should be aware that the Scrutiny Committees will be able to request sight of your representation as originally submitted. This is a safeguard against attempts to bring improper influence to bear on the Minister. We envisage that, in the normal course of events, this provision will only be used rarely and on an exceptional basis.
17. Comments should be sent by **6 February 2004** at the latest to: the **Plan Rationalisation Team, Department for Education and Skills, 3N, Sanctuary Buildings, 20 Great Smith Street, Westminster, London, SW1P 3BT** or electronically to sep.information@dfes.gsi.gov.uk from whom further copies of this document may also be obtained.

Chapter 2: Background to the Policy and Legislation

1. Currently the Department requires LEAs to produce 13 plans, listed at Annex G, to fulfil a variety of purposes. Some of them, like those which are the subject of this consultation, are required by law, i.e. they are statutory plans, while others, like the plans concerned with the management of assets, are not statutory, but are a condition of funding. Plans fulfil a variety of purposes, including performance management, arrangements for securing local involvement and data collection.
2. These plans have been brought in at different times since 1997 as a response to particular problems and they last for different periods of time before they are renewed. Many, but not all of them, are submitted to the Secretary of State for approval or to the Department as a condition of funding. Generally they have not been introduced in the context of other education plans and taken as a whole do not present a coherent package.
3. Whilst in many ways beneficial in focussing attention on solving a problem, the introduction of so many plans has led to duplication and over-prescription for LEAs. The Department's policy now is to remove requirements concerning both the statutory and non-statutory plans and introduce the SEP. In the case of statutory plans, this means legislative change.
4. Each of the four plans which are the subject of this consultation on a potential RRO was introduced for a different reason (see chapter 3, paragraph 1). The legislation governing these plans needs reforming now because LEAs are accustomed to such planning and many have reached a stage where they will operate more effectively with greater freedom. In practice LEAs tend to plan with their own circumstances in mind and then produce the required plan according to central

Government prescription. This is not a good use of their resources and leads to duplication of effort.

5. We have made some exceptions to the consultation. The Accessibility Strategy under the Disability Discrimination Act 1995 (as amended by the SEN and Disability Act 2001) places a duty on LEAs to plan for increased access for disabled pupils. It is equal opportunities legislation which it would be inadvisable to change. The Accessibility Strategy is not submitted to the Department and can be subsumed within any operational plan as long as the duties are complied with and so is already consistent with the aims of the plan rationalisation proposals. It is therefore excluded.
6. The Post Inspection Action Plan, which the LEA prepares following an Ofsted inspection, has been excluded from the consultation because of proposals in the Green Paper 'Every Child Matters' for an integrated inspection framework. It would not be practical to make changes to a plan which is likely to be the subject of change from a different direction at a similar time. Plans which are the responsibility of the Learning and Skills Council (LSC), e.g. the Adult Learning Plan, are also beyond scope, as is the 14-19 Area Inspection Plan, which is the joint responsibility of the LEA and the LSC.
7. Those affected by the current arrangements are principally LEAs, and, to the extent that LEAs require information from them for the completion of their plans, schools and providers of early years education and childcare. Stakeholders, e.g. diocesan authorities, are also affected as they are consulted on the plans. However, removing statutory requirements for planning in a certain way does not mean that LEAs will cease to plan, or to consult key stakeholders on their plans. It is essential that they plan for the delivery of their responsibilities. The difference made by these changes will be that, in their planning, LEAs will be able to take greater account of their local circumstances and thereby be more effective, focussing on delivery rather than

bureaucracy.

8. There has been no previous attempt at reform of this kind and on this scale. Since 2002, five LEAs (Birmingham, Blackburn with Darwen, Derbyshire, Stockton-on-Tees and Warwickshire) have been piloting a Local Education Strategy (LES) as a way of merging their Education Development Plan, Literacy Plan, Numeracy Plan, Key Stage 3 Plan, Behaviour Support Plan, and ICT Action Plan. The Department's internal evaluation of the LES indicated that school improvement planning in the participating LEAs had become more integrated and more coherent as a result. The proposals in this document are intended to enable LEAs to plan more effectively across the full range of their responsibilities and to reduce bureaucracy in line with the work of the five LEAs.
9. Part of the wider policy context is that of the national framework of standards and accountability and the devolution of power to local councils introduced by the Local Government White Paper of December 2001 (Strong Local Leadership-Quality Public Services). The national framework of standards and accountability is now in place as Comprehensive Performance Assessment (CPA). The White Paper contained commitments to plan rationalisation, namely the rationalisation of plans required of local government by 50% and the granting of planning freedoms flowing from CPA. The planning freedoms for education are to be granted to LEAs categorised as excellent under CPA and with 3* for performance in education. They will not have to produce any plans except for the Best Value Performance Plan (BVPP) and the Community Strategy. ODPM is preparing a draft Order under section 6 of the Local Government Act 2000 by which the necessary legislative changes will be made for other plans, but the freedom from the need to prepare the SEP will be contained in the RRO.

10. Ministers adopted principles for plan rationalisation following the publication of the Local Government White Paper. The proposals in this consultation document are consistent with those principles.

Chapter 3: The Proposals

Consultees are invited to consider the following two proposals.

Removal of Existing Statutory Requirements

1. The first proposal is to remove existing statutory planning requirements in relation to the plans listed below:-

- The Education Development Plan (EDP), which sets out the LEA's programme for raising standards for children in the area, and improving the performance of schools maintained by the authority.
- The Early Years Development and Childcare Plan (EYDCP), which shows how LEAs secure sufficient nursery education and childcare places for their area.
- The School Organisation Plan (SOP), which concerns the organisation of school places.
- The Behaviour Support Plan (BSP), which sets out the LEA's approach to improving behaviour in schools.

2. The four plans proposed for removal all concern key responsibilities for LEAs. They would continue to plan for school improvement, services for early years and childcare, school organisation and behaviour support as central to operational planning and would make strategic and high level reference to the related policies in their SEP. The difference is that they would not be required to plan in the format prescribed by the current legislation. Their operational plans, that is, the more detailed plans concerning a particular policy, which sit immediately below the strategic SEP in the planning structure, would not normally be seen by the Department as LEAs would no longer be required to submit them. The operational plans would however be inspected by Ofsted, during an inspection carried out under section 38 of the Education Act 1997, and would form a basis for the discussions between LEAs and Advisers employed by the Department to work with them. Implementation of the proposal would enable LEAs to plan more effectively because they would be able to tailor their plans to local circumstances, whilst still working towards educational objectives shared by central and local government.

Introduction of the Single Education Plan

3. The second proposal is to introduce the SEP, having in the main removed existing planning requirements from LEAs. The SEP will be a strategic, over-arching three year plan, linked to the authority's corporate priorities and supported by more detailed operational plans. It will be subject to guidance from the Secretary of State, and submitted to the Department for review. The SEP should be useful and informative to the LEA's education partners and local stakeholders as well as to the LEA itself, and guidance will stress the importance of their involvement in the development of the SEP, and in monitoring and evaluating its implementation. The SEP will be introduced in the context of the Compact being developed between the Department and individual LEAs setting out a strategic agreement to work in partnership on key priorities. Compact priorities will be reflected in the SEP and the Compact may refer to the SEP.

4. It is intrinsic to the concept of a SEP, which must be strategic and coherent, that it covers the full range of an LEA's responsibilities: Sure Start, school age education, 14-19, higher education, the youth service and adult education.

5. The SEP will also link with other cycles and initiatives in relation to central and local government and other partners, e.g. the Ofsted inspection framework, CPA, funding cycles, and proposals in the Children's Green Paper.

6. Because of the importance of effective consultation with stakeholders, the RRO will require LEAs to consult key stakeholders, specifically the governing body of every school maintained by the LEA, independent schools within the area of the LEA, the Church of England and the Roman Catholic diocesan authorities, the local branch of the Learning and Skills Council responsible for planning and funding post-16 learning in England, the School Organisation Committee, which considers statutory proposals for changes to schools, and others as appropriate, in the preparation of the SEP. Others may include, for example, any LEA adjacent to the authority in question and parents and teachers in the authority's area who may be affected by the

proposals.

7. The length of the SEP will not be specified. It should be short enough to be widely accessible and long enough to be useful to educationalists, but if that is not possible, LEAs can produce a summary document for wider use. That will be suggested in guidance.

Timing of Implementation

8. We have begun work with 12 pilot authorities, listed at Annex F, to signal the importance of the change and identify issues early. They will have an SEP in place by April 2004 on a voluntary basis. The SEP would be in place by April 2005 for a further 61 of the LEAs listed in schedule 1 to the draft RRO at Annex H, chosen on the basis of CPA outcomes, and for remaining LEAs in April 2006. A phased approach would allow us to build on good practice and learn from it. The LEAs in phase 1 will benefit from the pilot exercise and those in phase 2 from the experience of phase 1.

New plans

9. The changes mean that DfES Ministers will no longer require LEAs to provide further versions of the plans listed in paragraph 1 above. New priorities can be integrated at a strategic level with the SEP, which will be a living document. A gateway within the Department, linked to the Implementation Review Unit, which monitors bureaucracy in schools and LEAs, will consider proposals for new plans and suggest other ways to achieve policy objectives.

Review of the SEP

10. The SEP will be capable of flexing to changed circumstances and priorities. But it will also give strategic direction and there will be a formal requirement to produce a new SEP every three years, and for it to be reviewed annually by the LEA to reflect progress and any change in circumstances and priorities. Both the plan and the annual review will be submitted to the Department. The SEP will not be subject to formal approval

by the Secretary of State. Instead, DfES Schools Directorate Advisers, in liaison with officials and others working directly with LEAs, will give consolidated feedback to LEAs. This support and challenge will need to be well-managed, structured and purposeful. It places more emphasis on field visits. It is this feedback offered to LEAs that will make the difference in practice.

A Differentiated Approach

11. The SEP will reflect the purpose of differentiating the approach according to performance and directing support and challenge to LEAs where most needed.

12. Authorities categorised as excellent authorities under CPA and with 3* for performance in education will not be required to produce the SEP, although they would be free to do so. Inspection by Ofsted of excellent authorities will not be impeded by this freedom as Ofsted's approach to inspection is also differentiated by performance and involves a lighter touch with authorities performing well. These authorities are required to reflect key education outcomes in their BVPP.

13. Existing arrangements for intervention in poorly performing LEAs will continue. Their SEPs will be closely monitored and Ofsted will provide advice to the Department on request. We propose that the RRO give the Secretary of State a reserve power to require changes in the SEP of an LEA. The Department would also want to see operational plans in the event of concerns about performance.

Data Collection

14. Data in existing plans, and which is necessary to the Department, can be collected through a separate exercise, in which all LEAs will participate. This will reduce duplication and the burden on users and create a single source of information. We envisage a considerable reduction in the amount of data collected by the Department from LEAs. Information about attainment targets, at present collected through the EDP, would instead form part of the

data return.

15. Taken together, these proposals fit into the broader purpose of reform outlined above in that they encourage more effective performance by LEAs, reduce prescription by central Government and reduce bureaucracy for LEAs.

Extent

16. The geographical extent of the reforms is England. Wales does not wish to be included in the RRO but may pursue a similar course to a slightly longer timescale. The proposals do not concern Scotland and Northern Ireland and have no implications for the devolved administrations in those countries. However, they are included on the list at Annex A as consultees.

Costs and Savings

17. On the basis of calculations involving three LEAs, we have estimated that the approximate cost of producing the four statutory plans is in the range of £28,000 - £91,000 per LEA. The total estimated savings of the proposal in the first year and for the four plans is approximately £17,850 - £26,600 per LEA, increasing to savings of £24,500 to £35,700 after the first year. We stress that these figures are approximate because an exact calculation is not possible.

Summary of the Partial Regulatory Impact Assessment (Annex E)

18. The partial Regulatory Impact Assessment (RIA) identifies 3 possible options for reforming LEA planning. The recommended option is to use the RRO to amend the School Standards and Framework Act 1998 and the Education Act 1996 to remove 4 statutory planning requirements and introduce the Single Education Plan (SEP). The RIA does not identify any adverse impact or increased costs to small firms or any effect on the market structure. Using an RRO to remove the requirement to submit the specified plans to the Department allows authorities greater scope to plan as fits their local needs. The replacement of the current plans with a more strategic high level single education plan is in keeping with the purpose of the 2001 Act,

which provides a vehicle for streamlining and removing burdens on outdated legislation. The implementation of the RRO will mean a significant reduction not only in the Department's requirement for LEAs to produce plans which fit central Government proscription, allowing LEAs greater freedom and efficiency, but also in the amount of information requested by the Department from LEAs.

Supplemental/Incidental/Transitional Provision

19. There is one such provision, which is that until the LEA has produced the SEP, the School Organisation Committee is to continue to have regard to the SOP.

Related Controversial Issue

20. No controversial issues have been identified. Discussions so far with LEAs and related organisations, with Ofsted and the Audit Commission have demonstrated general approval for the proposals. The Church of England and the Catholic Education Service wish to ensure consultation with diocesan authorities when LEAs prepare the SEP, as specified in the draft RRO.

Chapter 4: Legal Analysis against Requirements of the Regulatory Reform Act

Proposal A

1. The proposal is to remove the burdens on LEAs to produce the EDP, the EYDCP, the SOP and the BSP.

The Education Development Plan

2. The proposal is to remove the burden on LEAs to produce an EDP.
3. Sections 6 and 7 of the School Standards and Framework Act 1998 require every LEA to prepare an EDP, in accordance with regulations made under that Act, to demonstrate how progress will be made in school improvement. As the next EDP is not required until 2007, the phased implementation of the RRO between 2004 and 2006 would not cut across preparation of the next EDP. LEAs will be required to continue to keep their EDPs under review and up to date until the implementation of the RRO for the authority in question.

The Early Years Development and Childcare Plan

4. The proposal is to remove the burden on LEAs and the Early Years Development and Childcare Partnership to produce this plan.
5. Sections 120 and 121 of the School Standards and Framework Act 1998 (amended by section 150 of the Education Act 2002) require every LEA to prepare an EYDCP, in conjunction with the Early Years Development and Childcare Partnership for its area and in line with regulations made in accordance with those provisions in the Act, and deal with approval of the plan. The proposal is not to remove the requirement to have an Early Years Development and Childcare Partnership, set out in section 119 of the School Standards and Framework Act 1998 as amended by section 150(1) of the Education Act 2002. The Partnership's statutory function regarding

preparation of the plan, prescribed in section 119(5)(b) of the School Standards and Framework Act 1998, would, however, be removed by the RRO. Guidance would require LEAs to continue to involve the partnership in planning for early years provision and the RRO would require LEAs to consult the Partnership in preparing the SEP.

6. The next EYDCP is due to be submitted in February 2004, i.e. before the Regulatory Reform Order would be implemented. The Education (Nursery Education and Early Years Development) (England) Regulations 1999 and the Education (Nursery Education and Early Years Development) (England) (Amendment) Regulations 2002 will be amended to delete the requirement to prepare and submit an EYDC Plan to the Department by 1st February 2004. The amendment of the regulations will not affect the statutory requirement on the Partnership to work with the LEA in reviewing the sufficiency of provision of nursery education and childcare.

The School Organisation Plan

7. The proposal is to remove the burden on LEAs to publish an SOP, including the requirement for it to be approved by the School Organisation Committee.

8. Under section 26 of the School Standards and Framework Act 1998, every LEA must prepare a SOP, in accordance with regulations, on their provision of school places. Every LEA in England should have published a further SOP by 1 August 2003 (to cover the period 2003-04 to 2007-08), and the next plan must be published on 1 June 2006 unless there is a significant change in policy, strategy or local circumstances. In that case, a draft plan would be published earlier. The RRO would therefore be in place before the next SOP is due and would relieve LEAs of the duty to produce a SOP in June 2006. The LEA would still have to publish a new SOP, in 2004 or 2005, if there were to be a change in policy or local circumstances relating to the provision of primary or secondary education.

The Behaviour Support Plan

9. Under section 527A of the Education Act 1996, as inserted by section 9 of the Education Act 1997, LEAs are burdened by having to prepare and review a statement about the education of children with behavioural difficulties. This burden will be removed by the introduction of the RRO. BSPs last for three years and Regulations require the next plan in April 2004. Ministers have decided that LEAs will prepare another BSP, although the timing of introduction of the SEP means that it will not be for the full period. This requirement will not apply to LEAs categorised as excellent under CPA and with 3* for performance in education and LEAs participating in the pilot for the SEP.

Reasons for the Removal of these Requirements

10. The reasons for the removal of the requirements concerning the plans listed above are the same in each case: to reduce bureaucracy for LEAs and enable them to function more effectively. LEAs will continue with operational planning, which is essential for them to carry out their functions, but the ability to plan in the light of local circumstances, with less Government prescription, will enable them to function more effectively. The policy is welcomed by those LEAs (23 out of 150) consulted in the preparation of these proposals and by LEA-related organisations consulted already.

The SEP

11. The RRO will include new provision imposing legal burdens on LEAs in the form of the SEP. The following paragraphs examine the question of the safeguards of proportionality, fair balance, desirability, necessary protection and rights and freedoms.

Proportionality

12. The burden imposed on LEAs by the SEP will be proportionate to the benefit it will bring for two reasons.

- First, it is accompanied by the removal of requirements for four

existing statutory plans. In the first year of preparing for and introducing the SEP, the benefit in reduction of bureaucracy may not be as apparent as it will become after the SEP is established. But we anticipate that removing requirements for four plans and introducing a single new one will over time result in a significant benefit to the LEA in reducing bureaucracy. Although LEAs will continue with operational planning, it will not be according to Government prescription.

- Second, the emphasis in the SEP on a strategic approach will benefit LEAs who do not already have a similar plan in place because it will enable better connections to be made across the policy spectrum. This will have a beneficial effect on the direction of the LEA and on the operational plans sitting below the SEP. Thus planning will be more effective. In LEAs which already have a form of SEP, any burden in complying with requirements for the SEP being introduced by the RRO is likely to be minimal.

Fair Balance

13. Ministers are satisfied that, in introducing the SEP, a fair balance is being struck between the interests of the LEA and those of the wider public. The additional burden on the LEA of the SEP is justified by the overall loss of burdens and by the improvement in the effectiveness of the LEA arising from a more strategic approach. These proposals do not benefit LEAs at the expense of the wider public. The SEP will involve a desired level of planning, achieved through wide consultation. It will undergo scrutiny by the Department's field force, ie those advisers employed by the Department to work directly with schools and LEAs, as well as by officials in the Department and by Ofsted. There is a reduction in the right to make objections to the SOP, but, as explained in greater detail under Rights and Freedoms below, this right has been little used.

Desirability

14. Ministers consider that the Order is as a whole desirable because it will reduce overall burdens imposed on LEAs and bring positive benefits in the form of a more effective and more strategic approach to planning as well as in reduced costs, with estimated savings of between £24,500 and £35,700 per LEA after the first year.

Necessary protection

15. The protections provided by the current legislation are that the statutory plans ensure a prescribed level of planning by the LEA for education development, early years and childcare, school organisation and behaviour support. At the time these plans were introduced, many LEAs had no equivalent and the requirements for the plans fulfilled a useful purpose. But events have moved on since then. LEAs are all now accustomed to operational planning and will continue with it, according to their own circumstances, but free from Government prescription. The new regime will ensure that the protections currently in place are maintained as far as necessary:

- Ofsted inspection of LEAs according to a regular cycle and taking into account performance will continue.
- The Secretary of State's power under section 497A of the Education Act 1996 to secure proper performance of an LEA's functions in the case of poor performance will continue.
- The SEP will encourage a more strategic approach and LEAs will include the structure of their operational planning in their SEP.
- The SEP will be reviewed annually by the LEA and the Department and any concerns dealt with.
- Field force advisers employed by the Department to work with schools and LEAs will provide ongoing support.
- LEAs will be required to consult with key stakeholders in preparing

the SEP

- The Department will provide guidance, as needed, on best practice.

Rights and Freedoms

16. The RRO does not prevent anyone from exercising rights and freedoms they currently enjoy. The education community and the wider public will not suffer any loss of access to information or involvement in decisions. The School Organisation Committee (SOC) currently approves the SOP and this will not be the subject of requirement when legislation concerning the SOP is repealed. In addition, groups on the SOC would lose the ability to force it to refer the draft plan to the adjudicator. However, the protection set out in paragraph 15 above will apply and in only one case has a draft SOP been referred to the adjudicator. In addition, LEAs will continue to carry out school organisation planning and be required to make proposals to establish, discontinue and to make alterations to schools that it maintains, and such proposals will still be considered by the SOC. The SEP will contain high level references to school organisation planning and will be subject to consultation with the SOC. It will be published and made widely available.

17. It is true that members of the public would lose the right to make objections to the SOP. However, we understand from a review we conducted last year with LEAs that there was very little public response to their draft SOPs. Only references to the closure of a school caused a response and any proposal for the closure of a school is subject to a separate public consultation. We do not therefore consider it necessary to make provision for public objections to the SEP. We have made provision in the draft RRO for an LEA to consult widely in preparing the SEP and this may include members of the public.

18. We would welcome your views as to whether we are correct in thinking that our proposals do not remove any rights or freedoms that anyone could reasonably expect to continue to enjoy.

List of Consultees

Advisory Centre for Education
Association for Achievement and Improvement through Assessment
Association of Chief Education Officers
Association of Directors of Social Services
Association of Foundation and Voluntary Aided Schools/AFVAS
Association of London Government
Association of Muslim Schools (UK)
Association of Teachers and Lecturers
Audit Commission
Behaviour Improvement Programme (BIP) projects in EiCs
Board of Deputies of British Jews
British Humanist Association
British Sikh Education Council
Catholic Education Service
CEOs
Church Of England Board of Education
Commission for Racial Equality (CRE)
Council for Disabled Children
Council for Awards in Childcare & Education
CTC Chairmen's Forum
CTC Principals' Forum
Daycare Trust
Disability Rights Commission
Early Years Trainers Anti Racist Network
Education Management Information Exchange
Education Network
Equal Opportunities Commission
EYDCP Chairs
Foundation Special Schools Heads Group
Foundation and Voluntary Aided Schools Association
Free Church Federal Council
GMB Britain's General Union
Greek Orthodox Church
House of Commons
House of Lords
Human Scale Education
Improvement and Development Agency
Independent Schools Council (ISC)
Information for School and College Governors
JobCentre Plus
Kids Club Network
Learning and Skills Council (LSC)
Local Government Association
Local Learning and Skills Councils

Local School Organisation Committees
Montessori Education (UK) Ltd
Muslim Educational Trust
National Assembly for Wales
National Association of Education Inspectors, Advisors and Consultants
National Association of Governors and Managers
Nat Assoc of Schoolmasters/Union of Women Teachers (NASUWT)
National Assoc of Independent/Non-Maintained Special Schools
National Association of Foundation and Aided Primary Schools
National Association of Governors and Managers
National Association of Head Teachers
National Children's Bureau
National Confederation for Parent Teachers Associations
National Early Years Network
National Foundation for Educational Research (NFER)
National Governors' Council
National Secular Society
National Union of Teachers (NUT)
Northern Ireland Office
Office for Standards in Education (Ofsted)
Pre-school Learning Alliance
Professional Association of Teachers
Qualifications & Curriculum Authority (QCA)
Schools (Sample of 50)
Scottish Executive
Secondary Heads Association
Service Children's Education Authority
Seventh-Day Adventist Church
Sikh Secretariat
Social Services Inspectorate
Society of Chief Inspectors and Advisors
Society of Education Officers
Society of Friends - Quakers
Society of Local Authority Chief Executives
Steiner Waldorf Schools Fellowship
Technology Colleges Trust
The Education Network
The Methodist Church
The Virtual Staff College
Transport & General Workers Union
UNISON

Annex B

Annex B Consultation response form can be found as a separate document.

Regulatory Reform Orders - Parliamentary Consideration

Introduction

1. These reform proposals in relation to plans required of LEAs will require changes to primary legislation in order to give effect to them. The Minister could achieve these changes by introducing a Regulatory Reform Order under the Regulatory Reform Act 2001. Regulatory Reform Orders are subject to preliminary consultation and to extended Parliamentary scrutiny (by Committees in each House of Parliament) of any subsequently proposed Order. On that basis, the Minister invites comments on these reform proposals in relation to plans required of LEAs as measures that might be carried forward by a Regulatory Reform Order.

Regulatory Reform Proposals

2. This consultation document on plans required of LEAs has been produced because the starting point for regulatory reform proposals is thorough and effective consultation with interested parties. In undertaking this preliminary consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that he or she has addressed those concerns.
3. Following the consultation exercise, when the Minister lays proposals before Parliament under the Regulatory Reform Act, he or she must also lay a report for consideration by the Scrutiny Committees setting out a summary of:
 - the burden imposed by the existing law;
 - whether any of those burdens are proposed to be removed or reduced;
 - how the proposals otherwise further the other objects of the Regulatory Reform Act (re-enacting proportionate burdens, introducing new but proportionate burdens, removing inconsistencies and anomalies);
 - whether there is 'necessary protection' and how it is to be continued;
 - how any reasonable expectation of the exercise of rights or freedoms is affected (if at all) and how the exercise can be continued;
 - how new burdens (if any) are both proportionate and, taking the proposals as a whole, strike a fair balance between the public interest and the interests of the persons affected by the new burdens;
 - whether an Order that imposes burdens is desirable in terms either of the burdens it removes or the other benefits it brings;

- whether any parts of the proposed Order are being designated as ‘subordinate provisions’, allowing them to be changed by less elaborate Parliamentary procedures in the future;
 - what cost savings or increases are expected, and why;
 - what other benefits there will be from the proposals;
 - details of the consultation process;
 - any representations received as a result of that consultation; and
 - the changes made as a result.
4. On the day the Minister lays the proposals and report, the period for Parliamentary consideration begins. It lasts for 60 days, excluding Parliamentary recesses of more than four days. If you want a copy of the proposals and the Minister’s report, you will be able to get them either from the Government department concerned or by visiting the Cabinet Office’s website at <http://www.cabinet-office.gov.uk/regulation/act/>

Parliamentary Scrutiny

5. Both Houses of Parliament scrutinise regulatory reform proposals and draft orders. This is done by the Scrutiny Committees.
6. Standing Orders in the Commons stipulate that the Committee there considers whether proposals:
- (a) appear to make an inappropriate use of delegated legislation;
 - (b) remove or reduce a burden or the authorisation or requirement of a burden;
 - (c) continue any necessary protection;
 - (d) have been the subject of, and take appropriate account of, adequate consultation;
 - (e) impose a charge on the public revenues or contain provisions requiring payments to be made to the Exchequer or any government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribe the amount of any such charge or payment;
 - (f) purport to have retrospective effect;
 - (g) give rise to doubts whether they are *intra vires*;
 - (h) require elucidation, are not written in plain English, or appear to be defectively drafted; or
 - (i) appear to be incompatible with any obligation resulting from membership of the European Union;
 - (j) prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
 - (k) satisfy the conditions of proportionality between burdens and benefits set out in sections 1 and 3 of the Act;
 - (l) satisfy the test of desirability set out in section 3(2)(b) of the Act;

- (m) have been the subject of, and take appropriate account of, estimates of increases or reductions in costs or other benefits which may result from their implementation; or
 - (n) include provisions to be designated in the draft order as subordinate provisions; and in the case of the latter consideration the committee shall report its opinion whether such a designation should be made, and to what parliamentary proceedings any subordinate provisions orders should be subject.
7. The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.
 8. Each Committee might take oral or written evidence to help it decide these matters, and each Committee could then be expected to report:
 - whether the Minister should proceed to lay a draft order in the same terms as the original proposal, or
 - whether amendment is necessary, or
 - whether the order-making power should not be used (for example, because of the significance or sensitivity of the proposal).
 9. Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website at
 - http://www.parliament.uk/parliamentary_committees/regulatory_reform_committee.cfm for the Regulatory Reform Committee in the Commons; and
 - www.parliament.the-stationery-office.co.uk/pa/ld/lddelreg.htm for the Delegated Powers and Regulatory Reform Committee in the Lords.
 10. After the 60 days for Parliamentary consideration, the Minister can lay a draft order before both Houses, this time for the approval of Parliament.
 11. Each of the Scrutiny Committees examines the draft order to see how far its views have been taken into account. They report, within 15 sitting days, whether the draft order should be approved or not, and it would then be for the relevant House itself to take its final decision.
 12. The final draft order then has to be approved by both Houses of Parliament before becoming law.

How to make your views known

13. Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the **Plan Rationalisation Team, Department for Education and Skills, Sanctuary Buildings, 20 Great Smith Street, Westminster, London, SW1P 3BT** e-mail sep.information@dfes.gsi.gov.uk . When the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees.
14. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.
15. Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.
16. The Scrutiny Committees appointed to scrutinise Regulatory Reform Orders can be contacted at:

Delegated Powers and
Regulatory Reform Committee
House of Lords
London
SW1A 0PW
Tel: 0207 219 3103
Fax: 0207 219 2571
email: DPDC@parliament.uk

Deregulation and Regulatory
Reform Committee
House of Commons
7 Millbank
London
SW1P 3JA
Tel: 020 7219 2830/2833/2837
Fax: 020 7219 2509
email: deregcom@parliament.uk

Non-disclosure of responses

17. Section 7 of the Act provides what should happen when someone responding to the consultation exercise on a proposed order requests that their response should not be disclosed.
18. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

19. If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party

to disclosure. This applies whether or not you ask for your representation not to be disclosed.

20. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of regulatory reform orders.

Regulatory Impact Unit
Cabinet Office

Consultation Criteria

The criteria in the "[Code of Practice on Written Consultation](#)" published by the Cabinet Office apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory or external requirements (e.g. under European Community law) they should otherwise generally be regarded as binding on UK Departments and their agencies unless Ministers conclude that exceptional circumstances require a departure.

The criteria should be reproduced in consultation documents with an explanation of any departure, and confirmation that they have otherwise been followed.

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.
6. Responses should be carefully and open-mindedly analysed, and reasons for decisions finally taken.
7. Designating a consultation co-ordinator who will ensure the lessons are disseminated.

Partial Regulatory Impact Assessment

Partial Regulatory Impact Assessment - assessing the impact of changes to plans required of local education authorities

Purpose and Intended Effect

The Objective

1. The proposed Regulatory Reform Order (RRO) would amend the School Standards and Framework Act 1998 and the Education Act 1996 to remove 4 statutory planning requirements on LEAs. The RRO would introduce the Single Education Plan (SEP).
2. The objective is to reduce the bureaucratic burden on LEAs, and improve LEA strategic planning and effectiveness. LEAs would need to continue planning at all levels for the delivery of services, but the removal of prescribed planning requirements would give them the freedom to do so in a way that meets their local needs rather than through prescription by central Government. In addition, we have identified a considerable reduction would occur in the amount of information requested by the Department from LEAs. LEAs would focus their resources on effective planning and delivery rather than unnecessary bureaucracy.
3. The SEP would provide the strategic direction of the LEA, focusing on the core responsibilities while taking into account national education priorities. It would also create greater coherence across the range of initiatives.
4. The proposal would directly affect LEAs and indirectly affect the main stakeholders of LEAs such as schools, local diocesan bodies and school organisation committees (SOCs). We expect that the reduction in bureaucracy and in duplication of effort for LEAs will in turn lessen the

demands of LEAs on schools and providers of early years and childcare.

5. There will be a requirement on LEAs to consult stakeholders in the preparation of the SEP, which will maintain the interests of stakeholder groups in the planning process.

6. The National Assembly for Wales does not wish to be included within this RRO, but will be undertaking an informal consultation to establish whether there is a consensus in Wales for changes, similar to those proposed by the Department.

Background

7. The Department currently requires from LEAs 13 plans within the scope of this consultation. These plans fulfil a variety of purposes such as performance management, arrangements for securing local involvement, data collection and resource allocation. The lifetime of the plans varies from one to five years. The plans have been brought in at different times as a response to particular problems and although they have helped LEAs focus on the problems concerned, the individual plans do not add up a package which is as coherent as it might be. They also prevent LEAs planning in a way that suits their particular circumstances.

8. Of the 13 plans, 9 are non-statutory planning requirements and 4 are statutory planning requirements. The non-statutory plans are not a formal requirement by nature, but as many of them are a condition of funding, they are perceived by LEAs to be required. The statutory plans are the Education Development Plan (EDP), the Early Years Development and Childcare Plan (EYDCP), the School Organisation Plan (SOP) and the Behaviour Support Plan (BSP). The RRO would reform the legislation governing plans required by the Department of LEAs by removing requirements for the EDP, EYDCP, SOP and BSP. The RRO would also introduce a SEP, lasting for three years each time. At the same time, the Department would remove the 9 non-statutory planning requirements.

9. The Department would continue to monitor, support and challenge LEA performance using a range of data and information and the DfES field force and Ofsted. The DfES field force consists of advisers with a professional background who are employed by the Department to work directly with LEAs. The SEP will be submitted in draft to the Department for review and LEAs will be given feedback to be taken into account before the SEP is finalised. The SEP will be reviewed annually by the LEA and the Department.

10. Existing arrangements for intervention in poorly performing LEAs will continue. Their SEPs will be closely monitored and the RRO would give the Secretary of State a reserve power to require changes in the SEP. The Department would also want to see operational plans, i.e. the more detailed plans concerning a particular policy, in the event of concerns about performance.

Risk Assessment

11. Those who will benefit from the proposed changes are the 150 LEAs in England. The 14 private companies to whom education services are outsourced would benefit in the same way as LEAs. Schools will benefit to the extent that demands on them, for example for information, by LEAs would reduce as a result of the reduced requirements placed on LEAs by the Department. We are including 50 schools in the consultation in order to calculate the extent of benefit to schools. The risks attached to the existing planning structure are as follows:

- It does not allow LEAs the freedom to plan in a way that meets their local needs. For example, an LEA with a Behaviour Improvement Partnership might want just one plan to address behavioural issues, rather than having a Behaviour Support Plan and a Behaviour Improvement Plan.
- It leads to duplication of effort if the LEA is producing plans for DfES and for local circumstances;

- It is not the most effective use of resources if the plans do not meet the LEA's needs. Resources could be better spent on delivery rather than unnecessary planning.
- The structure provided by DfES plans is not as coherent as it might be. It does not cover all of the priority areas across the education agenda or encourage the joining up of initiatives and activities.
- It is not consistent with the principles for plan rationalisation that we adopted following the publication of the 'Strong Local Leadership – Quality Public Services, the Local Government White Paper, published in December 2001, and which are intended to reduce the burden of planning requirements in terms of number of plans, detailed prescription and resources required for their production.

Options

12. We have identified three options.

Option 1

13. Amend the School Standards and Framework Act 1998 and the Education Act 1996 to remove the 4 statutory plans, remove the 9 non-statutory plans and introduce the SEP. By changing the current legislation governing plans required by the Department of LEAs and introducing one strategic SEP we would be addressing the risks identified in paragraph 10. Thus, in terms of requirements made on LEAs by the Department, the SEP will replace 13 plans. However, the SEP will not require resources equal to producing 13 plans because it will be different in nature from them. The SEP will be a strategic, overarching plan which will make relatively high level references to different policy areas.

Option 2

14. Remove the non-statutory planning requirements, keep the 4 statutory

plans in place and introduce a non-statutory SEP. This option would only address part of the problem as substantial planning requirements would remain in place. In addition, a non-statutory SEP would duplicate parts of the statutory planning requirements such as the strategic parts of the EDP. It would be inconsistent with the principles for plan rationalisation in the Local Government White Paper.

Option 3

15. Maintain the status quo. The risks in paragraph 10 would remain in place.

Benefits

Option 1

16. In consultation with three LEAs of different sizes, we have estimated that the approximate cost of producing the four statutory plans is in the range of £ 28,000 - £91,000 per LEA. These costings are approximate because they have been provided on request for this consultation. LEAs do not normally cost the production of plans. The variation in the figures reflects the difference in size and circumstances of LEAs. Of the three asked to cost Option 1, one is a small authority, one a city and one a large shire county. LEAs will need to continue planning to deliver their services and meet their local needs. The real savings will depend on the planning structure adopted by the LEA, that is, by how many they reduce the number of their plans, but we are confident there will be significant savings, such as will have a meaning to the LEA and be perceived as a real benefit. The table below shows the estimated costings :

LEA	Officer time spent on 4 statutory plans	Total cost of 4 Current Statutory Plans £	SEP Costs £	Net Savings £
A	12 weeks	28,000 The cost was estimated at £7,000 per plan.	7,000 (1 st year) 3,500 (after 1 st year)	21,000 24,500 (after 1 st year)
B	52 weeks	91,000 comprising £28,000 (EDP), £36,750 (SOP), £17,500 (EYDCP) and £8,750 (BSP)	74,200 (1 st year) 55,300 after 1 st year	17,850 (1 st year) 35,700 (after 1 st year)
C	30 weeks	53,200 (cost of each plan estimated at 13,300)	26,600, assuming a 50% saving.	26,600

17. This proposal will result in planning requirements which:

- are a greater reflection of local circumstances. LEAs will continue planning at an operational level but will do so in a way that suits their own circumstances rather than according to central Government prescription.
- minimise planning duplication leading to a more effective and efficient use of resources focusing on delivery rather than bureaucracy.
- are consistent with the principles for plan rationalisation that we adopted following the publication of the Local Government White Paper.
- provide a single strategic overarching single education plan which would be a more coherent picture of the LEAs objectives and priorities than the sum of current plans provides. The emphasis in the SEP on a strategic

approach will benefit LEAs who do not already have a similar plan in place because it will enable better connections to be made across the policy spectrum. This will have a beneficial effect on the direction of the LEA and on the operational plans sitting below the SEP. Thus planning will be more effective.

Option 2

18. Under option 2, the 4 statutory planning requirements would remain in place, a non-statutory SEP would be introduced and 9 non-statutory plans would be removed giving LEAs more freedom to plan according to local needs and therefore make savings. LEAs do not already have this freedom because the non-statutory plans are mainly conditions of funding and therefore they are effectively requirements. They would still need to do operational planning in order to carry out their responsibilities, and so would not simply dispense with the 9 plans. However, LEAs would possibly merge or group plans to reflect their own circumstances to a greater extent than is possible now, with an estimated saving of approximately up to £28,000 per LEA. One LEA estimated a saving of £14,000 and one a saving of £28,000 in relation to the 9 non-statutory plans.

19. This option would therefore give some freedom to plan to local circumstances, remove some unnecessary burdens and thus have a positive effective on resources. A non statutory SEP would encourage a more effective and coherent planning structure and greater joining up of initiatives and activities than currently exists.

Option 3

19. There would be no obvious benefits to maintaining the status quo except those of not changing systems or familiarising staff with new requirements.

Costs

Compliance costs

Option 1

20. The cost of producing a SEP in year 1 is estimated to be approximately £7,000 - £74,200 per LEA, reducing to £3,500-£55,300 after the first year.

This is a considerable range, but we expected something like it because LEAs vary so much in size and circumstances. The three LEAs from which we obtained costings reflect this variation. The range reflects what the three LEAs thought it could cost them to prepare the SEP; that is, to understand the requirements, consult others, draft, edit and secure approval. This cost would be offset by the savings in the table above. The total estimated savings of the proposal in the first year are approximately £17,850 - £26,600 per LEA, increasing to savings of £24,500 to £35,700 after the first year. In LEAs which already have a form of single education plan, the cost of complying with requirements for the SEP is likely to be less. We estimate that some 120 out of the 150 LEAs in England have a form of single education plan in place. This estimate is based on the fact that 19 of the 23 LEAs we consulted in developing our proposals had such a plan, and also takes into account the bias in our sample towards LEAs with better planning processes in place. The single education plans we have seen comply well with our intentions for the SEP and indeed were influential in helping us to develop the policy. They would need only minor changes to comply with the requirements for the SEP.

21. The costs of the SEP are higher for the first year than subsequent years because there will be additional development activity as staff adapt to the new requirement and because in years 2 and 3 the focus is on review rather than full preparation of a plan. Additional development activity would include briefings for LEA staff and external partners consulted to enable them to understand the change in requirements.

Option 2

22. The cost of producing a non statutory SEP would be approximately £7,000- £74,200 in the first year, reducing to £3,500- £55,300 in years 2 and 3. This would be offset by savings, estimated by the three LEAs as up to £28,000 per LEA, derived from not producing some unnecessary non-statutory plans or the removal of duplication of planning.

Option 3

23. There will be no new costs.

Other costs

24. No other costs have been identified.

Costs/benefits for the voluntary sector

25. Diocesan authorities are members of the SOC which approves the SOP. This requirement for approval would disappear, although LEAs would be required to consult the SOC in developing the SEP.

26. Dioceses contribute information to plans required of LEAs and would expect to see some benefit in reduced requests for data.

Costs for a typical business

27. The businesses affected by the proposals would be private sector companies that are contracted to deliver education services. The services of nine LEAs, including the preparation of plans, are outsourced to private companies, although three of those cases involve strategic management only. In addition, a handful of LEAs (the exact number is not known) have chosen to contract out some of their services, possibly including planning, to private companies. LEAs may also purchase services from the private sector and this

could include employing consultants to write plans, but the extent of such activity is not known. The cost for a typical business running an outsourced authority would be the same as for other LEAs.

Consultation with small business: the Small Firms' Impact Test

28. We have not been able to identify any adverse impact or increased costs to small firms that may arise out of the RRO. We anticipate that these proposals will have a neutral impact on, to give an example, those small firms who are early years and child care providers as LEAs do not request information from them when preparing their plans. We have consulted with the Small Business Service who agree with our findings that these proposals will have an insignificant impact on small firms.

Competition Assessment

29. The proposals should not affect the market structure. The only market affected by the proposals is private sector companies that are contracted to deliver education services. These organisations will benefit from the proposed planning freedoms in the same way as LEAs in that they will not be required to produce the four statutory plans for which requirements are being lifted and they will prepare the SEP. The reduction in bureaucracy and the more strategic approach to planning will enable them to be more effective.

Enforcement and sanctions

30. If LEAs were not complying with the requirement to produce a SEP, the Secretary of State would have the power of direction under sections 496 and 497 of the Education Act 1996. Section 496 empowers the Secretary of State to give directions as to the exercise of a power or the performance of a duty imposed by the Education Acts, as defined by section 578 of the Education Act 1996, if he is satisfied that the LEA has acted or are proposing to act unreasonably in respect of any of those powers or duties. Section 497 provides that where the Secretary of State is satisfied that a LEA has failed to

discharge a duty under the Education Acts he may declare the body to be in default and give the LEA directions to enforce the performance of the duty.

Monitoring and review

31. The DfES would use existing systems to monitor the effectiveness of the legislation. SEPs and operational plans prepared by LEAs would be inspected by Ofsted and would form a basis for the discussions between LEAs and field force advisers employed by the Department to work with them. The Department would continue to monitor, support and challenge LEA performance using a range of data and information.

Consultation

32. We are undertaking a full consultation with those who would be affected by the changes in planning and this will inform the implementation of the RRO. Annex A to the consultation document provides a list.

Implementation

33. We have begun work with 12 pilot authorities to signal the importance of the change and identify issues early. They will have an SEP in place by April 2004. The SEP could be in place by April 2005 for a further 61 good LEAs (phase 1), chosen on the basis of CPA outcomes, and all other LEAs (except those given education planning freedoms under CPA) in April 2006. A phased approach would allow us to build on good practice and learn from it to the benefit of LEAs in the second phase.

Summary and Recommendation

34. The RIA identifies 3 possible options for reforming LEA planning.

Option 1

35. Would use the RRO to amend the School Standards and Framework Act 1998 and the Education Act 1996 to remove 4 statutory planning requirements and introduce the Single Education Plan (SEP). The estimated cost of this option is between £7,000-£74,200 to produce the SEP in the first year, reducing to £3,500-£55,300 thereafter. Net savings of £17,850 – 26,600 per LEA in the first year and £24,500-£35,700 after the first year have been identified. Using an RRO to remove the requirement to submit plans to the Department allowing authorities to plan as fits their local needs and the replacement of the current plans with a more strategic high level single education plan is in keeping with the purpose of the Regulatory Reform Act, which provides a vehicle for streamlining and removing burdens on outdated legislation. The implementation of the RRO will mean a significant reduction not only in the Department's requirement for LEAs to produce plans which fit central Government prescription, allowing LEAs greater freedom and efficiency, but also in the amount of information requested by the Department from LEAs.

Option 2

20. Would remove non-statutory plans and introduce a non statutory SEP and the statutory plans would remain in place. The estimated cost of this option is £7,000-74,200, reducing to £3,500-£55,300 after the first year. Some benefit, of up to £28,000 per LEA, would arise from removal by the Department of the non-statutory plans.

Option 3

21. Would retain the status quo.

38. It is recommended that option 1 be implemented.

Ministerial declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

(This remains blank until the legislation is to be sent to Parliament. It then becomes a final RIA)

Contact Point

The Plan Rationalisation Team,
Department for Education and Skills,
Area 3N, Sanctuary Buildings,
20 Great Smith Street,
Westminster,
London,
SW1P 3BT

Tel: 020 7925 6213

Or by e-mail to Sep.information@dfes.gsi.gov.uk

Annex F

List of LEAs Piloting the SEP

Birmingham
Blackburn with Darwen
Buckinghamshire
Cambridgeshire
Camden
Derbyshire
St Helens
Stockton on Tees
Suffolk
Sutton
Telford & Wrekin
Warwickshire

DfES plans to be replaced by the SEP

Asset Management Plan
Behaviour Support Plan
Education Development Plan
Early Years Development and Childcare Plan
ICT Development Plan
School Organisation Plan
Under Performing Schools Plan
Primary Strategy Plan (formerly literacy and numeracy plans)
Key Stage 3 Plan
Youth Service Plan
Behaviour Improvement Plan
EiC Plan
Cluster Plan

Draft 4/11/03

**A proposal in the form of draft order laid before both Houses of Parliament
under section 6(1) of the Regulatory Reform Act 2001**

DRAFT STATUTORY INSTRUMENTS

2004 NO. []

EDUCATION, ENGLAND

REGULATORY REFORM, ENGLAND

**The Regulatory Reform (Single Education Plan) (England)
Order 2004**

Made - - - - []

Coming into force - -

For authorities specified in Schedule 1 []

For other authorities 1st April 2005

Whereas:

- (a) The Secretary of State for Education and Skills (“the Secretary of State”) consulted
 - (i) such organisations as appeared to him to be representative of interests substantially affected by his proposals in this Order,
 - (ii) the statutory bodies to whose functions those proposals relate, and
 - (iii) such other persons as he considered appropriate;
- (b) following the consultation mentioned in recital (a) the Secretary of State considered it appropriate to proceed with the making of this Order;
- (c) a document containing the Secretary of State’s proposals was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001(a) and the period for Parliamentary consideration under section 8 of that Act has expired;
- (d) the Secretary of State had regard to the representations made during that period and in particular to [];
- (e) a draft of this Order has been laid before Parliament with a statement giving details of those representations and the changes to the Secretary of State’s proposals in the light of them;
- (f) a draft of this Order has been approved by resolution of each House of Parliament;

(a) 2001 c.6

- (g) the Secretary of State is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise; and
- (h) this order creates burdens affecting persons in the carrying on of certain activities, and the Secretary of State is of the opinion that—
 - (i) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burdens being created, and
 - (ii) the extent to which this Order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the burdens imposed by the existing law, makes it desirable for this Order to be made;

Now, therefore, the Secretary of State in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Regulatory Reform (Single Education Plan) (England) Order 2004

(2) In this Order:

“the 1996 Act” means the Education Act 1996(a)

“the 1997 Act” means the Education Act 1997(b);

“the 1998 Act” means the School Standards and Framework Act 1998(c); and

“the 2000 Act” means the Learning and Skills Act 2000(d);

“independent school”, “local education authority” and “proprietor” have the same meanings as in the 1996 Act;

“school maintained by a local education authority” has the same meaning as in section 142 of the 1998 Act; and

“single education plan” has the meaning given to it by article 5(2).

Commencement

2. This Order shall come into force—

- (a) on the seventh day after the day on which this Order is made for the local education authorities specified in Schedule 1; and
- (b) on 1 April 2005 for other local education authorities.

Extent

3. This Order extends only to England.

Repeal of requirements relating to plans

4. The following enactments are repealed —

- (a) section 527A of the 1996 Act (Duty of LEA to prepare plan relating to children with behavioural difficulties);

(a) 1996 c.56
 (b) 1997 c. 44
 (c) 1998 c. 31
 (d) 2000 c. 21

- (b) sections 6 and 7 of the 1998 Act (Preparation of education development plans and approval, modification and review of statement of proposals);
- (c) section 26 of the 1998 Act (School organisation plans); and
- (d) sections 120 and 121 of the 1998 Act (Early years development and childcare plans and the approval, modification and review of early years development and childcare plan).

Single Education Plan

5.—(1) Every local education authority shall prepare a single education plan for its area at intervals specified in article 7.

(2) A single education plan is a statement which sets out, for the period to which the plan relates and for the authority's area, the authority's strategy relating to the performance of the duties imposed on it and the exercise the powers conferred on it in its capacity as a local education authority.

(3) In the course of preparing a single education plan the authority shall consult —

- (a) the governing body and head teacher of every school maintained by the authority;
- (b) the proprietor of every independent school situated in the authority's area;
- (c) the appropriate diocesan authority (within the meaning of section 142 (1) and (4) of the 1998 Act) for any foundation or voluntary school in their area which is a Church of England or Roman Catholic Church school;
- (d) the local learning and skills council (that is to say any learning and skills council constituted under section 19 of the 2000 Act any part of the area of which falls within the area of the authority);
- (e) the school organisation committee (within the meaning of section 24(4) of the 1998 Act) for the authority's area;
- (f) the early years development and childcare partnership for their area; and
- (g) such other persons as it considers appropriate.

(4) When performing its functions under this article the authority shall have regard to any guidance given from time to time by the Secretary of State.

(5) The period to which the single education plan relates is the period which starts on 1st April in the year when the plan is published in accordance with article 8 and which ends on the 31st March in the year in which the next plan is to be published in accordance with that article.

Submission of draft single education plans to the Secretary of State

6.—(1) Before publishing a single education plan in accordance with article 8, the authority shall, by the date specified in article 7, submit a draft plan to the Secretary of State.

(2) The Secretary of State may require the authority to make such modifications to the draft plan as he may specify.

(3) If the Secretary of State requires the authority to make modifications to the draft plan—

- (a) he shall notify the authority of his decision and of his reasons for it and,
- (b) the authority shall prepare a revised draft and submit it to the Secretary of State by such date as he may determine.

Intervals when local education authorities must submit draft single education plans

7. An authority shall—

- (a) submit a draft of its first single education plan to the Secretary of State by 15th December in the first year in which article 5 is in force in relation to it;
- (b) submit a draft of its second plan to the Secretary of State by 15th December 2008; and

- (c) submit a draft of its subsequent plans to the Secretary of State by 15th December every third year thereafter.

Publication of Single Education plans

8.—(1) An authority shall publish the single education plan by 1st April in the year following the submission of the draft plan to the Secretary of State.

(2) The authority shall publish the single education plan by —

- (a) sending a copy to the bodies mentioned in article 5(3);
- (b) placing it on its website; and
- (c) depositing a copy of the plan in such public libraries in the area of the authority as it considers appropriate.

Review of single education plans

9.—(1) The authority shall review its single education plan prepared in accordance with article 5.

(2) A review under subsection (1) shall be completed by 1st May in any year in which the authority are not required to produce a single education plan.

(3) In conducting such a review the authority shall—

- (a) review the proposals contained in the plan and their implementation; and
- (b) decide whether it is necessary to make any new proposals in respect of the matters reviewed.

(4) In conducting the review the authority shall consult the bodies mentioned in article 5(3).

(5) A draft copy of the authority's conclusions on the review shall be sent to the Secretary of State by 1 May in the year in which the review is to be completed.

(6) The Secretary of State may require the authority to make such modifications to any new proposals made in respect of the matters reviewed as he may specify.

(7) If the Secretary of State requires the authority to make any modifications under this article—

- (a) he shall notify the authority of his decision and his reasons for it; and,
- (b) the authority shall prepare revised proposals and submit them to the Secretary of State by such date as he may determine.

(8) The authority shall publish the result of the review by 1st July in the year in which they are required to complete it by—

- (a) sending a copy to the bodies mentioned in article 5(3);
- (b) placing it on its website; and
- (c) depositing a copy in such public libraries in the area of the authority as it considers appropriate.

(9) When performing its functions under this article the authority shall have regard to any guidance given from time to time by the Secretary of State.

Exception for certain authorities

10. Articles 5 to 9 shall not apply to any local education authority specified in Schedule 2.

Application of sections 496 and 497 of 1996 Act

11. For the purposes of sections 496 and 497 of the 1996 Act (powers to prevent unreasonable exercise of functions and general default powers) the provisions of articles 5 to 9 shall be treated as if they were provisions of that Act.

Consequential Amendments

12.—(1) In paragraph 3(4) (b) of Schedule 6 to the 1998 Act and paragraph 35(2)(b) of Schedule 7 to the 2000 Act —

- (a) for “school organisation plan” there is substituted “any current single education plan required to be prepared by the Regulatory Reform (Single Education Plan) (England) Order 2004”; and
 - (b) at the end there shall be added “unless the local education authority are not required to prepare such a plan by virtue of article 10 of that Order”.
- (2) In the Contracting Out (Local Education Authority Functions) (England) Order 2002(a) —
- (a) in Schedule 2, paragraphs (a), (f) and (cc) are omitted; and
 - (b) in Schedule 3 after paragraph (t) there is inserted—
“(u) articles 5 to 9 of the Regulatory Reform (Single Education Plan) (England) Order 2004 (preparation and review of single education plan).”

Repeals and revocations consequential on article 4

13.—(1) The following additional enactments are repealed—

- (a) section 9 of the 1997 Act;
 - (b) section 119(5)(b) of the 1998 Act;
 - (c) section 26A of the 1998 Act;
 - (d) paragraph 80 of Schedule 9 to the 2000 Act;
 - (e) in paragraph 81 of Schedule 9 to the 2000 Act, the entry relating to section 26A of the 1998 Act (Plans of local learning and skills councils); and
 - (f) in section 150 of the Education Act 2002(b) subsections (2) and (3) and in subsection (5) the words “and early years development plans are renamed ‘early years development and childcare plans’”.
- (2) The regulations specified in the first column of Schedule 3 are revoked.

Transitional provisions

14. Despite the coming into force of article 12, a school organisation committee shall continue to have regard to the school organisation plan for the committee’s area until the local education authority has published its first single education plan in accordance with article 8.

Subordinate Provisions

15. Articles 7, 8(1), 9(2) and 10 and Schedule 2 are subordinate provisions for the purposes of section 4 of the Regulatory Reform Act 2001 and a subordinate provisions order (within the meaning of section 4(4) of that Act) made in respect of those provisions shall be subject to annulment in pursuance of a resolution of either House of Parliament.

2003

Minister of State
Department for Education and Skills

(a) SI 2002/928 amended by SI 2003/2704
(b) 2002 c. 32

SCHEDULE 1

Article 2(b)

Local education authorities for which articles 4 to 9 and 11 to 15 come into force on the 7th day after this order is made

<i>Local Education Authority</i>
Barnsley
Bath and North East Somerset
Bedfordshire
Bexley
Birmingham
Blackburn with Darwen
Bolton
Bournemouth
Bracknell Forest
Brighton and Hove
Buckinghamshire
Cambridgeshire
Camden
Cheshire
City of London
Cornwall
Darlington
Derby
Derbyshire
Devon
Doncaster
Durham
Essex
Gateshead
Gloucestershire
Halton
Hammersmith and Fulham
Hampshire
Haringey
Harrow
Hartlepool
Havering
Herefordshire
Hertfordshire
Kensington and Chelsea
Kingston upon Thames
Kirklees
Lancashire

Leicester
Leicestershire
Lincolnshire
Medway
Middlesbrough
Newcastle upon Tyne
Norfolk
Northamptonshire
North Lincolnshire
Northumberland
North Yorkshire
Nottinghamshire
Peterborough
Plymouth
Poole
Portsmouth
Reading
Rochdale
Rutland
St Helens
Sheffield
Shropshire
Solihull
Somerset
South Gloucestershire
Southampton
Stockport
Stockton on Tees
Suffolk
Sunderland
Surrey
Sutton
Tameside
Telford and Wrekin
Tower Hamlets
Wandsworth
Warrington
Warwickshire
Westminster
West Sussex
Wigan
Windsor and Maidenhead
Wokingham
Wolverhampton
Worcestershire
York

SCHEDULE 2

Article 10

Authorities to which articles 5 to 9 do not apply

Camden
Cheshire
City of London
Cornwall
Hampshire
Hartlepool
Hertfordshire
Kensington and Chelsea
Kingston upon Thames
Kirklees
West Sussex
Wigan

Revocation of Regulations consequential on article 4

<i>(1) Regulations revoked</i>	<i>(2) References</i>
The Local Education Authority (Behaviour Support Plans) Regulations 1998	SI 1998/644
The Education Development Plans (England) Regulations 1999	SI 1999/138
The Education (School Organisation Plans)(England) Regulations 1999	SI 1999/701
The Local Education Authority (Behaviour Support) (Amendment) (England) Regulations 2001	SI 2001/828
The Education Development Plans (England) Regulations 2001	SI 2001/3815
The Education Development Plans (England) (Amendment) Regulations 2002	SI 2002/423
The Education (School Organisation Plans) (England) (Amendment) Regulations 2003	SI 2003/1201

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Regulatory Reform Act 2001. It repeals section 527A of the Education Act 1996 ("the 1996 Act") and sections 6, 7, 26, 120 and 121 of the School Standards and Framework Act 1998 ("the 1998 Act"). New provisions require local education authorities in England to produce a single education plan. The effect of the repeal of the provisions in the 1996 and 1998 Acts and the creation of the new provisions in the 1998 Act is to reform the planning requirements of local education authorities, which impose burdens on these authorities, with a view to reducing the overall burdens on them.

The repeal of the sections in the 1996 and 1998 Acts will remove a local education authority's requirement to produce the following plans:

- (a) the Behaviour Support Plan, which sets out the authority's approach to improving behaviour in schools (section 527A of the 1996 Act);
- (b) the Education Development Plan, which sets out the local education authority's programme for raising standards for children in the area, and improving the performance of schools maintained by the authority (sections 6 and 7 of the 1998 Act);
- (c) the School Organisation Plan which concerns the organisation of school places (section 26 of the 1998 Act); and
- (d) the Early Years Development and Childcare Plan, which shows how local education authorities plan to secure efficient nursery education and childcare places for their area (sections 120 and 121 of the 1998 Act).

The Single Education Plan will be a single and strategic plan which outlines how the authority proposes to perform the duties imposed on them and the powers conferred on them in their capacity as a local education authority. Articles 5 to 9 contain the new provisions. Their effect is that:

- (a) local education authorities must produce and publish single education plans for their areas at three yearly intervals;
- (b) in the course of preparing the plan the authority must consult widely;
- (c) before publishing a plan the authority must submit a draft plan to the Secretary of State;
- (d) the Secretary of State may require the authority to modify the draft plan;
- (e) authorities must review their plans in any year in which they are not required to produce a plan and a draft copy of such a review must be sent to the Secretary of State who may require the authority to make modifications to any new proposals that the authority may have made; and
- (f) the authority must publish a copy of the review

Under article 10 the authorities listed in Schedule 2 are exempt from these requirements. These authorities are currently categorised as excellent under the Comprehensive Performance Assessment and with a 3* for education.

Articles 12 and 13 make consequential amendments and further repeals.

Article 15 makes certain provisions "subordinate provisions" for the purposes of section 4 of the Regulatory Reform Act; the effect of this is that they can be amended by order subject to negative resolution.