



Lord Nash

Parliamentary Under Secretary of State for Schools

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Christine Ryan
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Dear Christine

Following commencement of the relevant sections of the Education and Skills Act 2008, I am now writing to formally appoint the ISI under section 106 of the Education and Skills Act to continue to undertake inspections of independent schools which are, or whose head teacher is, a full member of one of the following associations: GSA, HMC, IAPS, ISA, the Society of Heads, AGBIS and ISBA. Your approvals under s87A of the Children Act 1989 and s49(4) of the Childcare Act 2006 to inspect boarding and EYFS of the same schools will continue.

The annex to this letter sets out the Secretary of State's expectations as to the manner in which ISI will perform its functions as an approved body/person for the purposes of section 106 of the Education Act 2008 and section 87A of the Children Act 1989. This replaces any previous annex. The Secretary of State retains the statutory power to ask HMCI to inspect ISC schools, and this power may be exercised from time to time in exceptional circumstances.

The approval of the ISI for the purposes of section 106 of the Education Act 2008, section 87A of the Children Act 1989 and the expectations set out in the enclosed annex will continue unless either the Secretary of State, or the ISI, gives at least one year's notice of termination. Should notice be given, we would expect both parties to make every effort to resolve any difficulties and to provide, if appropriate, a formal warning of the intention to terminate. ISI's approval will be formally reviewed in September 2015, and any changes to the agreement following that review will be discussed fully.

With best wishes

JOHN NASH

Agreement between the Department for Education and the Independent Schools Inspectorate in respect of the approval of the Independent Schools Inspectorate under section 106 of the Education and Skills Act 2008 and as a person appointed under section 87A of the Children Act 1989, and additional responsibilities as agreed

Formal approval

1. The Secretary of State recognises the Independent Schools Inspectorate (ISI) as a body approved for the inspection of registered independent schools in England. Schools which are, or whose head teacher is, a full member of one of the following associations: GSA, HMC, IAPS, ISA, the Society of Heads, AGBIS, ISBA (herein after called the associations), may be inspected by ISI under s109(3) of the Education and Skills Act 2008.
2. Since September 2008, ISI has been approved under section 49(4) of the Childcare Act 2006 for the inspection of registered Early Years Foundation Stage provision.
3. Since 1 September 2011, ISI has been appointed under section 87A of the Children Act 1989 for the inspection of boarding welfare provision. The Secretary of State remains satisfied that ISI is an appropriate person to determine whether the welfare of children provided with accommodation by schools under section 87 of the Children Act 1989 is adequately safeguarded and promoted whilst they are accommodated by them. ISI, by virtue of this agreement, acts as an inspector for other purposes in relation to schools to which section 87(1) applies.
4. As a person appointed for the purposes of section 87A of the Children Act 1989, ISI may enter into agreements with any school which provides accommodation for children and which is, or whose head is, a full member of one of the associations. Where that agreement provides for ISI to have the function of determining whether the school is complying with its duty, under section 87(1) of the Children Act 1989, to safeguard and promote the welfare of children accommodated by the school, ISI will notify Ofsted that the agreements in respect of such schools have come into effect, and will copy that notification to DfE.
5. As a condition of approval under s106, ISI must make all reasonable efforts to meet the terms of the Department for Education (DfE) Advice *Approval of Independent Inspectorates*¹ published in August 2014, by September 2015.
6. ISI will be responsible for any reasonable costs incurred in meeting the requirements set out herein.
7. ISI will inform DfE of schools that have been accredited by associations. Schools applying for accreditation will remain with Ofsted for inspection purposes until ISI has informed DfE of the transfer. Schools will not be permitted to transfer unless they met all the independent school standards at their last published inspection, or have provided satisfactory evidence to DfE following the inspection. Schools leaving their association immediately

¹ <https://www.gov.uk/government/publications/approval-of-independent-inspectorates>

move back to Ofsted (unless simultaneously being accredited by an alternative association).

8. Where a non-association school and an association school amalgamate, ISI will advise DfE whether the non-association school will be accredited to the relevant association or absorbed into the accreditation of the association school.
9. DfE retains the right, in exceptional circumstances, to ask Ofsted to undertake an inspection of a school normally inspected by ISI, and will inform ISI of its intention to do so where this is the case.

Independence

10. ISI will ensure that it maintains its independence from the associations, and will publish a statement of its independence.
11. ISI will appoint a minimum of two independent board members who are experts in relevant fields and have no connection, including financial investment or interest, with inspected schools or the body/ies which established the inspectorate or the associations.
12. ISI will publish on its website the names of Board members and make available on request to DfE a register recording their interests in ISI inspected schools (employment, governor positions etc).
13. ISI will seek the Secretary of State's approval before appointing any new Chief Inspector or making any change to the composition of the pool from which inspection teams are drawn.
14. No association shall seek to influence the conduct of any ISI inspection, including the composition of the inspection team and the conclusions of the inspectors. Any attempt at undue influence shall be promptly reported by the Chief Inspector of ISI to the Chairman of the Board of Directors of ISI, and the actions taken in response to any such complaint shall be reported to DfE.

Inspection Framework

15. Inspections will be carried out in accordance with ISI's framework (the framework), which will include a requirement to report on schools' compliance with the Independent School Standards² and, where applicable, with the Early Years Foundation Stage provision for pupils. In addition, when ISI carry out an inspection of a boarding school under section 87A of the Children Act 1989, it must assess whether the school is adequately safeguarding and promoting the welfare of the children for whom accommodation is provided (including schools where all boarders are 16 or over) by reference to the National Minimum Standards for Boarding Schools.
16. The framework should be agreed by DfE. Any subsequent changes to the

² The Education (Independent School Standards) (England) Regulations 2014

framework must continue to enable ISI to report effectively on all the relevant standards and must be agreed with DfE. ISI will make any alterations to the framework needed to maintain alignment with any new regulations or standards.

17. ISI will publish the framework on their website. The published framework will include, but not be limited to, reporting on the relevant standards, composition of inspection teams, inspection timelines, notice periods, key judgement areas, grade descriptors and arrangements for publishing reports. The framework may also include reporting on other matters as determined by ISI after consultation with its stakeholders.
18. The framework should also include reporting on the extent to which a school complies with Schedule 10 of the Equality Act 2010.
19. ISI will consult schools and DfE on substantive changes to their frameworks and DfE will offer timely comments on any changes proposed.

Inspection commissioning

20. ISI will send a schedule of inspections for DfE approval at least one term in advance. Any request from a school to defer an inspection should be agreed in advance with DfE. DfE may request an inspection to be deferred or brought forward from the schedule where circumstances require this.
21. Where relevant, ISI will integrate education and welfare inspections, and inspections of registered EYFS as much as possible.
22. ISI will provide DfE with at least monthly updates during term time of inspections scheduled and completed within the term, including inspections commissioned by DfE outside of the regular cycle.
23. ISI will carry out emergency inspections commissioned by DfE, and will discuss with DfE where there are any questions about the commission, its supporting evidence or the timescales.
24. ISI will carry out progress monitoring inspections when commissioned by DfE.
25. ISI will carry out material change inspections when commissioned by DfE.
26. ISI will evaluate action plans when commissioned by DfE, following action by DfE in relation to regulatory failings.
27. ISI will provide witness evidence and representation at tribunal hearings, and provide inspectorate representation at local authority strategy meetings and serious case reviews when agreed with DfE.

Inspection reporting

28. ISI will publish inspection reports in a timely manner for regular cycle inspections, progress monitoring inspections, and emergency inspections

where this is agreed with DfE.

29. Before publication, ISI will send reports to schools to allow them to check for factual accuracy.
30. ISI will incorporate, at or near the start of the inspection report, the following wording: "Ofsted monitors the work of independent inspectorates on behalf of the DfE, including a sample of inspections, and you can find the latest report on the work of ISI on the Ofsted website".

Complaints handling

31. ISI will publish and implement a policy for handling complaints about ISI inspections, to include consideration by an independent adjudicator where necessary.
32. Complaints will not normally delay publication of a report, but if a report is to be delayed, ISI will alert DfE.
33. ISI will forward any complaint about an independent school that may indicate that the standards are not being met to DfE, for consideration of whether an inspection or any other action may be required.
34. ISI will also publish and implement a policy for complaints about ISI.

Quality Assurance

35. ISI will agree to Ofsted monitoring of samples of inspections and reports, in relation to the requirements set out herein and ISI's own framework as agreed with DfE. Details of monitoring activity will be agreed after discussion between Ofsted, ISI and DfE, and will be in line with a memorandum of understanding jointly agreed by them to be published by DfE.
36. ISI will provide Ofsted with details of scheduled inspections including inspections commissioned by DfE outside of the regular cycle, inspection documentation such as frameworks and guidance for inspectors, and other information as reasonably requested by Ofsted and agreed by DfE.
37. ISI will action any reasonable recommendations as a result of Ofsted's annual report and/or any report of individual monitoring activity, subject to an appeals procedure.
38. Any disagreement between ISI and Ofsted will be handled in line with a published procedure for appeals, the basis of which is agreed between ISI, Ofsted and DfE and which will include a formal process of appeal in relation to findings from monitoring reports and its annual report on ISI inspections.
39. Any complaint about ISI will be considered by DfE, who may ask Ofsted to carry out additional monitoring if this is deemed necessary by DfE. Complaints should have followed ISI complaints process first. DfE will inform ISI about any such complaint and its nature. DfE will also discuss

with ISI the outcomes of any additional monitoring by Ofsted. ISI will be able to respond/ discuss any such complaint and outcomes with the DfE.

Review

40. ISI will keep the quality and reliability of its inspections and reports under rigorous review and take all necessary actions to improve quality and remedy deficiency.
41. Any questions arising on a day-to-day basis about the operation of this agreement will be taken forward between the Chief Inspector of ISI and the Team Leader for the Independent Education and Boarding Team at DfE.
42. DfE will review the approval of ISI in September 2015. The review will consider ISI's compliance with this agreement and the *Advice Approval of Independent Inspectorates*. The review will also consider the annual report and termly updates from Ofsted, and any other evidence. The review will be shared with ISI and there will be an opportunity for ISI to respond.
43. ISI and DfE will have termly KIT meetings.
44. Any future changes to this agreement will be discussed fully between DfE and ISI.
45. This agreement will continue unless one year's notice is given of termination by either party, subject to both parties making every effort to resolve difficulties leading to termination including, if appropriate, formal warning of the intention to terminate.