

Pre-registration inspection of all types of academies, free schools, studio schools and university technical colleges (UTC)

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This document provides guidance for inspectors on conducting a pre-registration inspection of an academy, free school, alternative provision academy or free school, studio school or university technical college (UTC), under section 99 of the Education and Skills Act 2008.

The guidance is not applicable to schools that have applied to the Secretary of State for Education for approval to convert to academy status, under the Academies Act 2010. These schools are not subject to an independent school pre-registration inspection.

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Introduction

Academies, free schools, alternative provision academies and free schools, studio schools and university technical colleges that are not subject to pre-registration inspection

1. The following types of school are not subject to an independent school pre-registration inspection, and as such this guidance is **not** applicable to them.
 - Maintained schools, pupil referral units maintained by a local authority and independent schools which apply to the Secretary of State for Education for approval to convert to academy status, under the Academies Act 2010.
 - Since January 2012, sponsored academies which gain academy status by the academy order route do not require an initial independent school pre-registration inspection except where the academy opens in: a new build; new provision; or in the buildings of a predecessor school that have recently undergone refurbishment, for example, to add new teaching space.^{1,2}

Standards checked in a pre-registration inspection

2. During the pre-registration inspection the proposed provision will be assessed against the standards listed in schedule 1 of the statutory instrument The Education (Independent School Standards) (England) Regulations 2010 as amended by The Education (Independent School Standards) (England) (Amendment) Regulations 2012.^{3,4} This is the case for all types of academies, free schools, studio schools and university technical colleges to which the guidance document relates.
3. Part 1 of the standards relating to curriculum, teaching and learning is not inspected in the pre-registration inspection.

Background to academies

4. Newly established sponsored academies (as opposed to maintained schools, pupil referral units maintained by a local authority or independent schools that are performing well and have converted to form a new school with academy status) are all-ability schools, established by sponsors from business, the

¹ Section 6(5) of the Academies Act 2010 provides that: 'The relevant independent school standards are to be treated as met in relation to the Academy on the conversion date':

www.legislation.gov.uk/ukpga/2010/32/section/6.

² Free schools, studio schools and university technical colleges cannot gain academy status through the academy order route.

³ The Education (Independent School Standards) (England) Regulations 2010; www.legislation.gov.uk/uksi/2010/1997/contents/made.

⁴ The Education (Independent School Standards) (England) (Amendment) Regulations 2012; www.legislation.gov.uk/uksi/2012/2962/contents/made.

education sector, faith or voluntary groups working in partnership with central government. The Department for Education (DfE) provides the capital costs for the academy. Running costs are met in full by the DfE. Academies either replace one or more schools facing challenging circumstances, or are established where there is a need for additional places. The establishment of an academy may involve a rebuild or substantial refurbishment of existing premises.

5. Academies are publicly funded independent schools. The academy trust of an academy is responsible for the appointment and employment of staff, administration of finances, authorisation of any changes to terms or conditions, and approval of personnel policies and procedures. The academy trust is accountable to local parents and carers in much the same way as the governing body of a maintained school is. The academy trust must take part in local admissions forums. In most cases staff transfer across from existing schools under the Transfer of Undertakings Protection of Employment Regulations 1981. As a result, the local authority may be involved in the procedures for criminal records checks for existing – and in some cases newly appointed – staff.
6. Academies are inspected under section 5 of the Education Act 2005 but, as independent schools, newly established sponsored academies must be subject to an initial independent school pre-registration inspection carried out by Ofsted under section 99 of the Education and Skills Act 2008. Ofsted has a statutory power of entry for the purposes of carrying out the pre-inspection inspection.
7. Academies offer a broad and balanced curriculum to pupils of all abilities; secondary phase academies may focus on one or more specialist subject areas. In line with maintained specialist schools, they may opt to admit 10% of pupils each year on the basis of their aptitude for certain specialisms. However, the regulations related to the curriculum and teaching and learning are not inspected as part of the pre-registration inspection.
8. Alternative provision academies (and therefore alternative provision free schools) can be established under section 1C of the Academies Act 2010. Alternative provision free schools and academies provide full- or part-time education for pupils of compulsory school age who may not otherwise receive suitable education for any period, due to illness, exclusion from school or any other reason.⁵ Alternative provision academies provide education for pupils of different abilities, who are mainly or wholly drawn from the area in which the institution is located. Pupil referral units that are maintained by a local authority

⁵ Alternative provision academies and free schools that provide part-time education do not meet the definition of an independent school. Therefore, in order to ensure that all alternative provision academies and free schools are registered and inspected in the same way as independent schools, the Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 has amended relevant legislation. Please refer to Annex A.

can apply to become alternative provision academies under the Academies Act 2010.

Background to free schools

9. The first free schools opened in September 2011 and information about the programme is available on the DfE website.⁶ They are part of the academies family of schools. In legislation, there is no difference between an academy and a free school. Free schools are established under the Academies Act 2010 (as amended), and include mainstream free schools and alternative provision free schools.
10. Free schools are non-profit making, independent, state-funded schools being set up in response to demand within a local area for a greater variety of schools. There is not a 'one-size-fits-all' approach. They are not defined by size or location: there is not a single type of free school and they can be primary or secondary schools. They can be located in traditional school buildings or appropriate community spaces such as office buildings or church halls. They can be set up by a wide range of proposers – including charities, universities, businesses, educational groups, visionary teachers or committed parents.
11. Free schools will have some additional freedoms. For example, teachers in free schools will not necessarily need to have qualified teacher status. Like academies, free schools will be funded on a comparable basis to other state-funded schools. Groups running free schools cannot make a profit.
12. The admissions arrangements of any free school must be fair and transparent. Free schools are expected to be open to pupils of all abilities from the area and cannot be academically selective. Free schools will need to take part in their local coordinated admissions process, and so parents apply for places for their child in the same way as any other local school.
13. Free schools are inspected under section 5 arrangements but, as independent schools, must be subject to an initial independent school pre-registration inspection. Entry in the Independent Schools Register is a legal requirement. The regulations related to the curriculum and teaching and learning are not inspected as part of the pre-registration inspection. As a result, the *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* is used.⁷

⁶ www.education.gov.uk/schools/leadership/typesofschools/freeschools.

⁷ *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* (090079), Ofsted, 2013; www.ofsted.gov.uk/resources/090079.

Background to studio schools

14. Studio schools are an innovative new model for 14–19-year-olds of all abilities. They seek to address the growing gap between what young people require to succeed in life and the skills and knowledge that the current education system provides. Studio schools will pioneer a bold new approach to learning, involving enterprise projects and real work with local employers. This will root students' learning in the real world and will help them to develop the skills they need to succeed.
15. The Studio Schools Trust is a joint venture between Edge and the Young Foundation.⁸ It is driving forward innovation in the British education system and works closely with a range of local partners and leading national educational bodies. The Studio Schools Trust is also developing a unique curriculum in partnership with the country's leading national educational bodies. It will focus on personalisation, practical learning and paid work experience.
16. Studio schools are inspected under section 5 arrangements but, as independent schools, must be subject to an initial independent school pre-registration inspection. Entry in the Independent Schools Register is a legal requirement. The regulations related to the curriculum and teaching and learning are not inspected as part of the pre-registration inspection. As a result, the *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* is used.⁹

Background to university technical colleges (UTCs)

17. University technical colleges (UTCs) are a new concept in education and they are part of the academies family of schools. They offer 14–19-year-olds the opportunity to take a highly regarded, technically-oriented course of study at a specialist college equipped to the highest standards. The colleges are sponsored by a university, often in partnership with a college of further education, offering clear progression routes into higher education or further learning in work.
18. Students start at the age of 14, combining hand and mind to learn in a very practical way, integrating academic requirements with technical and practical elements. Under the same roof they study technical subjects alongside the basic GCSE subjects of English, mathematics, science and IT. They also take part in sport, are trained in financial practices and learn how to set up a business.

⁸ www.studioschoolstrust.org.

⁹ *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* (090079), Ofsted, 2013; www.ofsted.gov.uk/resources/090079.

19. The colleges are developed under the academies programme, which means that the sponsor, as a university and/or further education college, does not have to provide any of the funds required to build a new college or to refurbish an existing school, nor does it have to contribute towards the running cost. The sponsor's commitment is to use its knowledge and expertise to support the UTC and engage in the college's activities through:
- curriculum development
 - helping in teaching
 - guiding suitably qualified students to foundation and full degrees.
20. UTCs are inspected under section 5 arrangements but, as independent schools, must be subject to an initial independent school pre-registration inspection. Entry in the Independent Schools Register is a legal requirement. The regulations related to the curriculum and teaching and learning are not inspected as part of the pre-registration inspection. As a result, the *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* is used.¹⁰

Circumstances of a pre-registration inspection

Background

21. Section 99 of the 2008 Education Act requires Ofsted to inspect an institution that has applied to be entered onto the register of independent schools.¹¹ Ofsted is required to report to the Secretary of State on the extent to which the school is **likely** to meet or is **not likely** to meet the independent school standards once it is open. This information is recorded on the *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* and this, together with the *Advice note for a pre-registration inspection of an academy/free school/studio school/university technical college (UTC)*, are sent to the DfE.^{12,13}

Academies

22. Pre-registration inspections to academies take place, typically, between mid-May and the end of August. At the time of the pre-registration inspection, it is likely that a principal will have been appointed. Occasionally the inspection will be hosted by a project manager, who will be responsible for the refurbishment or new build works.

¹⁰ Ibid.

¹¹ www.legislation.gov.uk/ukpga/2008/25/section/99.

¹² *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* (090079), Ofsted, 2013; www.ofsted.gov.uk/resources/090079.

¹³ *Advice note for a pre-registration inspection of an academy/free school/studio school/university technical college (UTC)* (090080), Ofsted, 2013; www.ofsted.gov.uk/resources/090080.

Inspections to the premises of the pre-existing school during or before refurbishment

23. This inspection relates to future arrangements and provision in the academy, not the predecessor school (if there is a predecessor school). It is essential that the staff and pupils of the predecessor school are not inconvenienced in any way. It will not be acceptable for the academy to simply produce the policies of the predecessor school.
24. In these cases also, it is essential to determine the extent of planning for refurbishment, timescales for completion, and the nature of any agreement between the academy and the local authority regarding responsibility for planned works.

Inspections to newly built premises before the admission of pupils

25. In these cases there are likely to be incomplete works and a judgement is needed about the proposed timescales for completion. Access to plans and the expertise of the project manager are invaluable in these circumstances. It will not be acceptable for the academy to simply produce the policies of the predecessor school.
26. At all times, during both types of pre-registration inspection, inspectors should carry their official identification badge. Both the inspection service provider and Ofsted should be able to verify inspectors' legitimate presence in the school, if this is needed.

Particular features of the pre-registration inspection

Checking the documentation

27. Before the inspection, the school will have received information about the registration process from the DfE. This information includes where to find:
 - details of the requirements of the registration inspection
 - a registration form, a copy of which will be provided to the inspector by the inspection service provider
 - legislative requirements relating to the use of restraint, safeguarding children, child protection, and CRB disclosure.
28. The information also refers to the standards for registration, reflecting the regulations set out in the *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)*.¹⁴

¹⁴ *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* (090079), Ofsted, 2013; www.ofsted.gov.uk/resources/090079.

29. The school will be expected to provide access to all documentation required for registration, as set out in the regulations.

Criminal Record Bureau checks

30. The requirements of an academy, free school, studio school or UTC regarding CRB checks for staff are the same as those for all independent schools. The academy must provide access to details of all CRB disclosures and evidence of its ongoing policy and procedures for new appointments. In many cases the procedures will include a role for the local authority.
31. Paragraph 21(5)(b)(i) of The Education (Independent School Standards)(England) Regulations 2010, as amended by The Education (Independent School Standards) (England) (Amendment) Regulations 2012 requires the chair of the governing body to have an enhanced criminal records check that has been countersigned by the Secretary of State.^{15,16} The chair of the governing body is responsible for ensuring that enhanced criminal records checks are obtained for all members of the governing body, under paragraph 21(6)(b). There are no circumstances under which members of a governing body would be exempted from these checks.

Compliance with The Regulatory Reform (Fire Safety) Order 2005

32. The Regulatory Reform (Fire Safety) Order 2005 places responsibility on the governors of an academy, free school, studio school or UTC to ensure compliance with fire safety requirements. To meet paragraph 13 of the independent school standards, the proprietor must comply with the requirements of the Fire Safety Order, which are summarised in the guidance *Completing the record of inspection evidence and judgements*. Please note that proposed academies and free schools are not inspected by the local fire and rescue service prior to opening.
33. Inspectors must refer to the guidance provided in *Completing the record of inspection evidence and judgements* in checking compliance with paragraph 13 of the independent school standards.¹⁷

Completion of the advice note and pre-registration regulatory check sheet

34. At the end of the inspection, the inspector should feed back to the headteacher or principal their judgement of the school's readiness for registration, making

¹⁵ www.legislation.gov.uk/uksi/2010/1997/contents/made.

¹⁶ www.legislation.gov.uk/uksi/2012/2962/contents/made.

¹⁷ *Completing the record of inspection evidence and judgements* (090051), Ofsted, 2014; www.ofsted.gov.uk/resources/090051.

clear where a regulation is not likely to be met, and what must be done to improve.

35. Advice to the school about what should be done to meet a regulation must be recorded in the pre-registration checklist, which will provide the DfE with an indication as to whether the school is likely to meet the regulation when it opens. It will also enable DfE advisors, if appropriate, to follow up the implementation of work with the school before or after it opens. Inspectors should take account of any plans with clear steps or milestones and a proposed timeline by when changes will be made when they make their judgements. The purpose of the checklist and procedures for its completion are identical to those for a pre-registration inspection of a proposed mainstream or special independent schools, and inspectors should refer to the guidance documents *Completing the record of inspection evidence and judgements* which provides guidance for inspectors on compliance with the independent school standards, and *Conducting additional inspections of independent schools*.^{18,19}
36. Inspectors must bear in mind that they cannot make a recommendation to return to check on a school's compliance with any of the regulations: once the academy has opened, it will be subject to inspection under section 5 of the Education Act 2005.
37. The *Pre-registration regulatory check sheet for an academy/free school/studio school/university technical college (UTC)* differs in a few respects from a standard one. There is no requirement to inspect the curriculum or teaching and learning, so these sections are omitted. Also, a small number of regulations do not apply to academies/free schools/studio schools/UTCs.
38. Following the inspection, the inspector must also complete the *Advice note for a pre-registration inspection of an academy/free school/studio school/university technical college (UTC)*, which should give brief details about the school and the context of the inspection. Inspectors should complete the advice note in accordance with the instructions in the guidance document above.²⁰

¹⁸ *Completing the record of inspection evidence and judgements* (090051), Ofsted, 2014; www.ofsted.gov.uk/resources/090051.

¹⁹ *Conducting additional inspections of independent schools* (090060), Ofsted, 2014; www.ofsted.gov.uk/resources/090060.

²⁰ *Advice note for a pre-registration inspection of an academy/free school/studio school/university technical college (UTC)* (090080), Ofsted, 2013; www.ofsted.gov.uk/resources/090080.

Annex A. Pre-registration inspection of alternative provision academies and free schools

Alternative provision academies and free schools that provide part-time education do not meet the definition of an independent school. Therefore, in order to ensure that all alternative provision academies and free schools are registered and inspected in the same way as independent schools, the Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012 has amended relevant legislation, as set out below.

Chapter 1 of Part 10 of the Education Act 2002 provides for the registration and inspection of independent schools. These provisions are, at the date of issue of this guidance, in force in relation to independent schools in England only in relation to the inspection of independent schools. The maintenance of a register of independent schools and the application process to be an independent school is governed by the Education and Skills Act 2008. However, section 156A of the 2002 Act would, if and when brought into force, limit application of the whole of Chapter 10 to schools in Wales only. Until that section 156A is brought into force, the registration process and pre-registration inspections of independent schools are governed by the Education and Skills Act 2008 and the inspection of existing independent schools are governed by the Education Act 2002.

Chapter 1 of Part 4 of the Education and Skills Act 2008 sets out broadly equivalent provisions for the registration and inspection of independent educational institutions in England, although at the date of issue of this guidance, it has not been brought into force in its entirety and at the time of writing this guidance the only provisions in force relate to the maintenance of the register of independent schools and the application process.

In order to ensure that alternative provision academies and free schools are registered and inspected in the same way as independent schools under the Education Act 2002 and in the same way as independent educational institutions under the Education and Skills Act 2008, the following amendments have been made by the Alternative Provision Academies (Consequential Amendments to Acts) (England) Order 2012.

- Paragraph 13 of the Schedule to the 2012 Order provides for Chapter 1 of Part 10 of the Education Act 2002 to apply to alternative provision academies that are not independent schools.
- Paragraph 22 of the Schedule to the 2012 Order provides for Chapter 1 of Part 4 of the Education and Skills Act 2008 to apply to alternative provision academies that are not independent educational institutions.

As mentioned above, not all alternative provision academies and free schools are full time, so they will not meet the definition of an independent school or independent educational institution.

The two amendments above ensure that alternative provision academies and free schools are registered and inspected in the same way as independent schools under the 2008 Act and 2002 Act respectively.