



Department  
for Education

# **The Independent School Standards**

**Guidance for independent schools**

**April 2019**

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## Summary

This is guidance from the Department for Education (DfE). This guidance is non-statutory. It has been produced to help proprietors and others understand the obligations under the independent school standards contained in the Schedule to the Education (Independent School Standards) Regulations 2014<sup>1</sup> (referred to in this document as ‘the Regulations’). Inspectors will take this guidance into account when reporting to the Secretary of State on the extent to which the independent school standards are being met, or are likely to be met, in relation to an independent school. The department would also take it into account when taking decisions about regulatory or enforcement action on individual schools. The aim of this document is to provide supplementary guidance on best practice in complying with the standards and sets out the department’s understanding of them. It does not purport to be definitive guidance on the meaning of the standards themselves, which only a court can give.

A number of the obligations under the independent school standards require a proprietor to ‘have regard to’ guidance or standards. This requirement does not mean that the guidance or standards must always be followed to the letter but any departure from the requirements set out in the guidance or standards must be considered and based on appropriate reasons, and proprietors will therefore need to record the justification behind any departure.

This guidance should be read alongside the standards themselves. It is not intended to be a full explanation of every area of the standards’ requirements: rather it seeks to give some helpful additional detail in some areas for which questions are sometimes raised by schools.

## Expiry or review date

This guidance will be reviewed before December 2020.

## Who is this publication for?

This guidance is for school proprietors, school staff and governing bodies of independent schools. It is proprietors who have an obligation to ensure that a school meets the standards, but in this document, the word ‘school’ is often used for the sake of clarity (for example ‘the school should have in place’).

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<sup>1</sup> S.I. 2014/3283, available at <http://www.legislation.gov.uk/ukSI/2014/3283/contents/made>

## Main points

From 5 January 2015 a new set of independent school standards came into force. Inspection experience since then suggests that a detailed advice document would be useful for schools. A consultation on draft guidance was held from 14 March to 5 June 2018. A government response document setting out an analysis of consultation responses is being published separately.

The content of the department's November 2014 advice published in November 2013 and November 2014 on Spiritual, Moral, Social and Cultural (SMSC) development of pupils in independent schools has been subsumed into this document, but in revised form. Therefore, those two advice documents have been withdrawn.

The guidance is set out for individual standards but where there are links to other standards, these are cross-referenced.

This document does not cover in significant detail the requirements in Part 5 of the independent school standards (which relate to premises of and accommodation at school). This is because there is already separate departmental advice on those requirements so far as they relate to premises and that advice has not been revised. Therefore, that advice should still be referred to, since it supplements what is said here on the Part 5 requirements. A link to it can be found at the end of this publication.

## Enquiries

Any enquiries about this guidance can be made by email to:

[registration.enquiries@education.gsi.gov.uk](mailto:registration.enquiries@education.gsi.gov.uk)

## Introduction

1.1 On 5 January 2015 the current set of independent school standards, contained in regulations made under section 94 of the Education and Skills Act 2008, came into force. The original text of the Education (Independent School Standards) Regulations 2014 ('the Regulations') is available at the link shown in the footnote.

1.2 DfE believes that the great majority of schools are already meeting the standards through good practice. However, results of school inspections undertaken at schools since January 2015 suggest that compliance would be improved if schools had access to detailed guidance on the department's understanding of the meaning of the standards.

1.3 The standards are contained in the Schedule to the Regulations. That Schedule is divided into eight different Parts, with each Part covering a different subject-matter of standard. The format of this guidance is that for each Part (except Part 5, the subject-matter of which is school premises and accommodation), the requirements are explained in lay terms, following an introductory section which sets out the department's aims of that Part as a whole.

1.4 At the same time that the current standards came into force, most of the provisions in Chapter 1 of Part 4 of the Education and Skills Act 2008 relating to the regulation of independent schools in England which had not already been commenced, were brought into force. Consequently, independent schools in England are now (mostly) regulated under Chapter 1. A notable exception to this are the provisions relating to the approval of material changes to registered details (contained in sections 101-105 of the 2008 Act). These have not yet been brought into force and instead section 162 of the Education Act 2002 continues to apply. A number of the 2008 Act provisions are explained in the department's registration guidance, which is available from a link shown at the end of this document.

1.5 The revised standards should be seen in the context of successive policy statements by DfE ministers that education standards must be raised across the board in all schools. Ministers are now intervening in a greater number of state funded schools, to ensure that the educational provision is good and, in parallel, these strengthened standards have raised the bar for the independent sector. The Secretary of State has also signalled that he will be taking a firmer approach to enforce the standards when there is evidence of non-compliance. This is reflected in the policy statement on regulatory and enforcement action which is published alongside this guidance. All of the standards are mandatory and should be met by independent schools at all times except where they do not apply to particular types of school.

1.6 DfE anticipates that schools will have copies of all policy documents (or schemes of works and plans) which are required by the independent school standards available in English, to facilitate any inspection. This will assist inspectors in collating the evidence about compliance with the relevant standards.

## **Part 1: Quality of Education**

2.1 The overall purpose of Part 1 is to ensure that a school has a curriculum which covers a broad range of subject disciplines, delivered through teaching that will enable all

pupils to make good progress according to their abilities, and that such progress is properly assessed as part of a continuous process which feeds back into lessons.<sup>2</sup>

Detailed commentary on the standards (paragraph references below and in following pages are to those contained in the Schedule to the Education (Independent School Standards) Regulations 2014 (“the Regulations”))

2.—(1) The standard in this paragraph is met if—

(a) the proprietor ensures that a written policy on the curriculum, supported by appropriate plans and schemes of work, which provides for the matters specified in sub-paragraph (2) is drawn up and implemented effectively; and

(b) the written policy, plans and schemes of work—

(i) take into account the ages, aptitudes and needs of all pupils, including those pupils with an EHC plan; and

(ii) do not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.

2.2 The basic requirement in paragraph 2(1) is that a proprietor ensures that a school has documentation which covers three areas: (a) the school’s overall approach to its curriculum (ie the subjects it teaches), and this written policy must cover each of the matters in paragraph 2(2); (b) proposals for how that written policy on curriculum will be implemented (‘plans’) and (c) detailed specifications for each subject of what is to be taught throughout the year for each year group taking that subject (‘schemes of work’). Schools are advised to have a copy of these documents available in English, to facilitate any inspection. If the school takes a holistic approach to curriculum, for example teaching geography, language and history through a project-based approach, then the documentation must reflect this but it will also need to provide for how each of the matters specified in sub-paragraph (2) of this standard will be covered through that approach. There is a link between the overarching requirements in paragraph 2(1)(a) and paragraph 3(a), which requires that pupils make good progress in the subjects taught. These are supported by paragraph 2(2) which specifies the areas to be covered in the written policy. Paragraph 2(1)(a) also requires that the written policies for these areas of study are to be effectively implemented, and this will be a key point for inspectors.

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<sup>2</sup> Whilst the duty to produce an accessibility plan is a separate duty, outside the independent schools standards (see para 112d below), a school’s plan is likely to be relevant to how it plans and deliver its curriculum.

2.3 In addition, proper consideration should be given to ensuring that the written policy, plans and schemes of work meet the needs of all individual pupils in terms of their ages, needs and aptitudes, including those with special educational needs.

2.4 So far as fundamental British values are concerned, the aim is to ensure that the education which it is planned to offer to pupils is in all aspects not in conflict with, or inconsistent with, any of them. A school is unlikely to meet the requirement in paragraph 2(b)(ii) if its policy on curriculum or the supporting plans and schemes of works, for example:

- a. include material in history lessons which promotes non-democratic political systems rather than those based on democracy, whether for reasons of faith or otherwise;
- b. teach that the requirements of religious law permit the requirements of English civil or criminal law to be disregarded;
- c. are designed to suggest to pupils that some or all religions are wrong and that therefore those who follow them are not worthy of respect. For the avoidance of doubt, teaching that some religions, all religions, or atheism/agnosticism are wrong does not conflict with fundamental British values, so long as it is made clear that adherents of those belief systems should be treated with respect.

2. (2) For the purposes of paragraph (2)(1)(a), the matters are—

- (a) full-time supervised education for pupils of compulsory school age (construed in accordance with section 8 of the Education Act 1996), which gives pupils experience in linguistic, mathematical, scientific, technological, human and social, physical and aesthetic and creative education;

2.5 This paragraph sets out the requirements for the range of curriculum areas that must be covered in a school's curriculum policy and taught to pupils – given the obligation to effectively implement. A school must be able to show that each specified area is covered, for each stage of study by pupils who are of compulsory school age. However, there is wide discretion for schools as to how each one is covered. For example, schools which discourage or ban the use of IT/electronic media, or whose pupils cannot use them due to disability, may legitimately reflect this in their approach to technological education, but should still ensure that pupils have conceptual familiarity with digital skills and technology which will be encountered in everyday life, e.g. cars, cash machines and mobile phones. Similarly, if there is no practical element in the teaching of science or aesthetic and creative education, for example, the school should be able to show how it compensates for this in a way which allows pupils to reach an appropriate overall level of understanding of the subject in question. There is no requirement for aesthetic and creative education to cover any specific art form, eg music. See also paragraph 3.15 in relation to cultural matters.

2.6 PE should be a timetabled lesson, not just an extended break. Clothing requirements are not a good reason for limiting the amount of pupils' participation in PE although they can legitimately influence which activities are undertaken. Although not stated specifically in Part 1, the requirement in Part 5 for outdoor space for PE strongly implies that at least some PE should take place outdoors rather than just using school halls. In addition, schools should be aware that if they take advantage of the exception in section 195 of the Equality Act 2010 which permits single sex sports in mixed sex schools under certain circumstances, a school still has to allow girls, or boys as the case may be, equal opportunities to participate in comparable sporting activities. Guidance on gender separation in mixed schools has been published by the department (*link at end of document*).

2.7. It should be noted that there is no requirement in the independent school standards for religious education *per se*. But effectively, there are requirements elsewhere in the standards for pupils to be taught about religions and belief systems in order to engender respect for other people. If religious education is used as the medium for some teaching about the secular subjects mentioned in paragraph 2(a), then the school's curriculum documents referred to above must set out how each of those secular subjects is covered through that religious teaching and elsewhere.

2.8 Independent schools may teach creationism as part of a belief system but it should not be presented as having a similar or superior evidence base to scientific theories. On the other hand, schools should not suggest that those who hold creationist beliefs are not worthy of respect.

2 (2) (b) that pupils acquire speaking, listening, literacy and numeracy skills;

2.9 The written policy on curriculum, and supporting documents as appropriate, should include provision for this range of skills to be gained by pupils in an age-appropriate way. Therefore, schools which use workbooks or rote learning as significant elements of instruction must also address how lessons make provision which will encourage proper speaking and listening. If the principal medium of instruction is in a language other than English, then the required skills can be in the main language used, but the school will still need to meet the separate standard relating to the provision of English lessons.

2 (2) (c) where the principal language of instruction is a language other than English, lessons in written and spoken English, except that this matter does not apply in respect of a school which provides education for pupils who are all temporarily resident in England and which follows the curriculum of another country;

2.10 This is the standard relating to English lessons. It applies to all pupils within a school, not simply those at the upper end of the school's age-range, although of course the lessons should be age-appropriate. The curriculum should be designed on the basis of an expectation that children will be able to read, speak and write English with adequate fluency for everyday life in England by the time they reach school leaving age,



and that their fluency in English during their time at school should similarly match age expectations for children generally. However, if the school's main language of instruction is not English, pupils may not be expected to have the same facility in discussing and writing in English about detailed issues in other curriculum subjects (such as history or biology for example) as they have in the language of instruction.

2.11 The exemption from this standard for schools providing education for pupils who are all temporarily resident in England and following the curriculum of another country is unlikely to apply to many schools. The proprietor will need to ensure that properly maintained and complete records are available to demonstrate that this exemption applies.

2. 2(d) personal, social, health and economic education which–

(i) reflects the school's aim and ethos; and

(ii) encourages respect for other people, paying particular regard to the protected characteristics set out in the 2010 [Equality] Act

2.12 This standard requires that some form of PSHE is provided for all pupils at a school. Because the school's approach to PSHE should reflect its aims and ethos, there is wide discretion to adjust its content, and this includes provisions for the requirements of a specific faith ethos or the school's aims. It should be noted that there is currently no requirement for sex education to be provided in independent schools. However, this will change when the requirements in the Children and Social Work Act 2017 are implemented, and this guidance will then be updated accordingly (although there will in any case be statutory guidance published on those requirements).<sup>3</sup>

2.13 The requirement is that the PSHE curriculum must be designed to encourage respect for other people, with particular regard to the protected characteristics set out in the Equality Act 2010. It is not sufficient for a school to say that it meets this standard because its curriculum encourages respect for all people in a general way; that is not paying particular regard to protected characteristics, of which pupils must be made aware (although only to the extent that it is considered age appropriate). However, a school

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<sup>3</sup> In September 2020 Relationships Education is to become a requirement for primary pupils, and Relationships and Sex Education is to become a requirement for secondary pupils, under the independent school standards, although schools are encouraged to begin teaching from September 2019. This guidance is consistent with that now issued in connection with Sex Education (which is commonly referred to as Sex and Relationship Education or "SRE").

does not necessarily have to address all of the characteristics in every year group because in drawing up its policy, plans and schemes of works relating to the PSHE curriculum, a school is to take account of (amongst other things) the ages of pupils and their learning abilities and deliver the curriculum appropriately. Also, if there were some occurrence or event involving one or more of the protected characteristics which became an issue amongst the pupils, the school should help the children understand the issues, and ensure the children respect all those with those characteristics. See also paragraph 3.17.

2.14 The protected characteristics as listed in section 4 of the Equality Act 2010 are as follows:

- a. age
- b. disability
- c. gender reassignment
- d. marriage and civil partnership
- e. pregnancy and maternity
- f. race
- g. religion or belief
- h. sex
- i. sexual orientation

The protected characteristics should be referenced in curriculum documentation, because the requirement in the independent school standards is, in effect, to ensure that such documentation provides for the matters specified in, amongst other things - paragraph 2(2)(d)

2.15 Everyone has at least some characteristics which are included in this list (for example, age and sex). The standard will not be met if, for example, the PSHE curriculum:

- a. encourages pupils to see those of particular races or religions as being inferior in any way
- b. suggests to male pupils that women and girls should be treated with less respect than males or that a woman's role is subservient to that of a man - or vice versa
- c. were to facilitate debate on same-sex marriage, but teaches pupils that the parties to such a marriage do not merit the protection which the legal status of marriage or civil partnership affords in law - although teaching that the faith position of the school is that marriage is only between a man and a woman is acceptable

- d. teaches that disabled people deserve less equal treatment, for example because of sins they are said to have committed in previous lives
- e. encourages pupils to believe that women who are pregnant without being married should be punished or not respected. Teaching that the faith position of the school is that sexual activity involving members of that faith should be kept within the bounds of marriage is acceptable

2.16 A school can teach that its particular faith has teachings relevant to these matters, and explain to pupils what those teachings are. However, this does not mean that a curriculum, including that for religious education, can be planned or teaching provided which advocates or otherwise encourages pupils not to respect other people on the basis of a protected characteristic. In that case the standard will not be met and there may also, depending on the exact facts, be a breach of other standards, for example, paragraph 3(i) or 5(b)(vi).

2. (2)(e) for pupils receiving secondary education, access to accurate, up-to-date careers guidance that–

- (i) is presented in an impartial manner;
- (ii) enables them to make informed choices about a broad range of career options; and
- (iii) helps to encourage them to fulfil their potential;

2.17 This standard applies to pupils aged at least 12 years (or at least 10 and a half if being educated with senior pupils). The standard requires a written policy and other materials to be produced; however, it is unlikely that there will be effective implementation if curriculum materials, library reference books and other learning materials carry messages which suggest that particular roles are more suited than others for pupils of a particular sex. In the delivery of actual careers guidance, pupils of both sexes should be encouraged to consider options for their future working lives which are not stereotyped. Schools should not limit children's horizons but rather expand them, making sure that pupils have a broad view of the careers options open to them rather than the options being restricted to those that are available within a certain faith community. Careers guidance should therefore cover a broad range of the opportunities which are available in wider society, not just those of a type considered particularly appropriate to the school's pupils, and it is good practice to encourage work experience and similar initiatives. The school should be able to demonstrate that its approach to careers guidance is likely to have the effect of enabling pupils to make informed choices from amongst the different sorts of careers that can be available to school leavers generally. Evidence relevant to complying with this standard includes pupils being able to demonstrate an understanding of the career options available to enable them to succeed in adult life. Schools should not be suggesting that pupils do not enter further or higher education simply on the grounds that these forms of education are not favoured within a faith community.

2. (2)(f) where the school has pupils below compulsory school age, a programme of activities which is appropriate to their educational needs in relation to personal, social, emotional and physical development and communication and language skills;

2.18 When a school has obtained a dispensation from the learning and development requirements of the Early Years Foundation Stage (EYFS), it must still comply with the requirements of this standard. This includes drawing up the required curriculum policy and other documents and effectively implementing them, if it has pupils below compulsory school age. By virtue of s.94 of the Education and Skills Act 2008 the early years framework requirements are themselves part of the 'independent educational institution standards'. Failure to meet them can result in regulatory action.

2. (2)(g) where the school has pupils above compulsory school age, a programme of activities which is appropriate to their needs;

2.19 Again, this is a very generalised requirement, and because of the greater specialisation normal amongst pupils at Key Stage 5, there is no need for a broad subject range. However, it should be noted that there should be an element of enrichment available for pupils which goes beyond specific subjects being learnt.

2.(2)(h) that all pupils have the opportunity to learn and make progress

2.20 This is a general requirement that the curriculum content is designed so that all pupils at the school can make progress. Schools will fail this standard if the curriculum is not demanding enough given the ability and aptitude of pupils at the school, or on the other hand is too demanding. A key word in this standard is 'all'; a school should not be seeking to cater only for the majority of pupils – if there are pupils of exceptional ability they should be enabled to make progress, and if there are pupils with special needs or who come from a disadvantaged background and in consequence have delayed attainment, inspectors will wish to see that the needs of these pupils are appropriately taken into account in the policy on curriculum and in supporting documents. In addition, as is the case with the other requirements in this sub-paragraph, there needs to be effective implementation.

2. (2)(i) effective preparation of pupils for the opportunities, responsibilities and experiences of life in British society.

2.21 This is closely linked to the standard for careers guidance but has a more general application, with the aim of ensuring that all pupils can function properly as adult citizens. A properly designed curriculum policy will need to take into account that pupils will inevitably have some contact with wider society - even if they choose to continue life in a particular community - and need to be equipped for that contact; and also that some pupils may choose to leave their home or faith communities. Therefore, schools should be preparing pupils for engagement with public institutions and society at both national and local level; and for civic responsibilities, and contact with a wide range of members of

society in England.

2.22 Some mixed sex schools have operated practices of separating either pupils or staff, or both, by sex at times. Schools will need to ensure that any such practices are compliant with their duties under the Equality Act 2010 - and if needs be, should take legal advice on this for themselves (see also paragraph 2.35 below). The law affords limited opportunities for gender separation in mixed sex schools. An example of where separation of pupils in mixed schools by sex is acceptable, could be during sex education. Other examples are given in 'Gender separation in mixed schools', the non-statutory guidance published by DfE in June 2018 (link at end of document). Schools will also have to be able to show that the children are being prepared for engagement with communities where gender mixing is common and understand and respect that any gender can fulfil almost any role in society, with very few exceptions (such as ministers in some religions).

2.23 Part 1 of the Standards contains in addition a number of requirements which relate to the delivery of teaching in the school. These are set out in the standard in paragraph 3. Independent schools are not required to employ teachers with Qualified Teacher status. However, Part 2 of the published Teachers' Standards<sup>4</sup> are used by the Teaching Regulation Agency when assessing cases of serious misconduct relating to teachers in independent schools, and proprietors will want as a matter of good practice to ensure that teachers are aware of the professional standards applying to them.

3. The standard in this paragraph is met if the proprietor ensures that the teaching at the school—

(a) enables pupils to acquire new knowledge and make good progress according to their ability so that they increase their understanding and develop their skills in the subjects taught;

2.24 This is one of the requirements which was revised from 2015, so that teaching must, amongst other things, enable pupils to make good progress. This is part of a general attempt to 'raise the bar' towards a situation whereby although there is still a set of minimum standards, those standards deliver a situation in which all schools aim to be at least good, and not simply adequate or 'coasting'. A child making good progress is not one who is just 'getting by' but is being actively pushed towards increased achievement by the teaching he or she receives. Meeting this standard therefore requires that teaching does this for pupils in general, according to their ability. This also means that schools which have pupils with special educational needs can meet this standard if their teaching produces progress which is good taking into account the nature of those special needs.

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<sup>4</sup> Teacher Standards <https://www.gov.uk/government/publications/teachers-standards>

An effective system to track pupil progress will help provide evidence for meeting this standard.

3. (b) fosters in pupils self-motivation, the application of intellectual, physical and creative effort, interest in their work and the ability to think and learn for themselves;

2.25 As well as the basic requirement to encourage pupils to work hard and achieve, and take a positive attitude towards learning, schools should also feel able to encourage open discussion by pupils and staff of problems and themes which arise from the curriculum or everyday life. Schools which suppress debate and do not encourage questioning and individual opinion are not likely to meet this standard.

3. (c) involves well planned lessons and effective teaching methods, activities and management of class time;

2.26 The importance of these requirements for good teaching should be self-evident. However, it is whether the school can demonstrate that its particular approach is based on sound principles and an orderly approach, rather than following particular pedagogic methods, which will determine whether the standard is met. The overall quality of teaching is what matters and a single poor lesson observed during an inspection would not constitute a failure against this standard.. More information on this is available in the relevant inspection handbook.<sup>5</sup>

3. (d) shows a good understanding of the aptitudes, needs and prior attainments of the pupils, and ensures that these are taken into account in the planning of lessons;

2.27 This is another very basic requirement, that teachers should know their pupils and plan their lessons accordingly. The school should have, and use, data or other information to track pupil progress. This provides evidence that this requirement is being met through the use of appropriate attainment data.

3. (e) demonstrates good knowledge and understanding of the subject matter being taught;

2.28 Although teachers in independent schools are not required to have Qualified Teacher Status (QTS) or any particular subject qualifications, this standard will not be met if members of the school's teaching force do not have a good understanding and knowledge of the subject(s) which they teach.

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<sup>5</sup> The latest version is at <https://www.gov.uk/government/publications/non-association-independent-school-inspection-handbook-from-september-2015>

3. (f) utilises effectively classroom resources of a good quality, quantity and range;

2.29 This standard is designed to ensure that there are enough books and other teaching resources in the school and that they are of good quality. The requirement for range is also important; while there is nothing to stop a school basing its teaching on particular types of resource (e.g. workbooks) or those from only one supplier, it should consider whether or not this means that pupils are exposed to a sufficiently wide variety of stimulating material. See also paragraphs 3.31 to 3.33 below about interaction between Part 2 and this standard.

2.30 Inspectors will also examine school libraries and book holdings and if books are found which espouse values which conflict with any of the standards, schools will be asked why they are there, and whether - and if so how - they are used in teaching. They will also be asked how pupil access to them outside lessons is monitored and controlled. If the school uses online resources for teaching, the school should be able to explain to inspectors how it uses filters to manage lesson usage and monitors pupil access to material which may breach the standards.

2.31 All schools select their book and video holdings to some extent in terms of suitability, and the practice in some schools, of carrying out editing of texts and films to remove material which other schools might regard as harmless is not in itself unacceptable. However, what is left after such restrictions should be adequate for the range of teaching and curriculum needed to meet other standards. In addition, it will be important for the school to ensure that any redactions or editing, including such alteration of past external examination papers, does not call into question its ability to meet standard 2(2)(d)(ii) or whether this lessens the ability of pupils to pass exams through restricting question choice.

3. (g) demonstrates that a framework is in place to assess pupils' work regularly and thoroughly and use information from that assessment to plan teaching so that pupils can progress;

2.32 This requirement is designed to ensure that schools use pupil assessment actively to inform the planning of teaching, rather than simply as an end in itself or simply to demonstrate progress – important though the latter is. Teaching achieves more where it takes full account of individual pupils' real progress to date, for instance by being flexible enough to undertake more work on areas where progress has been poor. A written record of the assessment of pupils' progress will help demonstrate that the standard is met.

3. (h) utilises effective strategies for managing behaviour and encouraging pupils to act responsibly;

2.33 Although there is a requirement elsewhere in the standards (paragraph 9) in relation to the promotion of good behaviour through producing a suitable policy and implementing

it, this is a linked standard which requires that class teaching in particular is delivered in a way which ensures good behaviour. There is also a link here to paragraph 3(b), fostering pupils' self-motivation, as pupils' behaviour will be assisted where they are interested in their work and encouraged to think and learn for themselves. Teaching which is otherwise good is unlikely to be effective if delivered in an environment in which pupil behaviour is poor, so teachers should actively think about and do their best to secure proper management of pupil behaviour, and that includes putting the school's behaviour management policy into operation from day to day.

3. (i) does not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs;

2.34 Even if the school's curriculum documents are acceptable in relation to the fundamental British values, it is possible for teachers to convey in their teaching that either the values are wrong, or that they do not apply to the community served by the school. Evidence of such teaching would lead to this standard not being met. In order to assess compliance with the standard inspectors will check pupils' understanding, in an age-appropriate way, of the concepts listed.

3. (j) does not discriminate against pupils contrary to Part 6 of the 2010 Equality Act.

2.35 This standard is designed to allow regulatory action to be taken against a school which unlawfully discriminates in its teaching, in relation to the protected characteristics listed above. Without this standard, the only way of taking action, for such discrimination, would be court or Tribunal action in relation to the Equality Act 2010, or a referral to the Equality and Human Rights Commission. Examples of teaching which are unlikely to meet this standard include separation of boys and girls in mixed schools which disadvantages one sex, or both. In this respect, schools should refer to the DfE guidance document 'Gender separation in mixed schools' (link included at the end of this document) for forms of separation likely or unlikely to comply with the requirements under the Equality Act 2010. In a mixed school, any separation of pupils of either sex that denies them the choice or opportunity to interact socially, or to interact in an educational setting, with pupils of the other sex is likely to involve subjecting the pupils to a detriment because of their sex. This will be direct discrimination and will be unlawful unless it falls within one of the statutory exceptions contained within the Equality Act 2010 even if done for religious or other bona fide reasons and even if the quality of the education provided to boys and girls is the same.

2.36 Apart from separation (segregation) of pupils, other practices such as making girls sit at the back of a classroom will result in failing this standard unless an exception under the Equality Act 2010 applies or there is no detriment because its effect is negligible. Teaching which allows pupils of one race or religion greater opportunities than another is also unlikely to meet the standards.

2.37 Schools teaching pupils with a disability will also want to take account of the obligation to make reasonable adjustments, which ideally would be agreed with the



pupil's parents.

4. The standard in this paragraph is met where the proprietor ensures that a framework for pupil performance to be evaluated, by reference to the school's own aims as provided to parents or national norms, or to both, is in place.

2.38 This standard is designed to ensure that the school not only assesses individual pupil progress for the purpose of lesson planning, but is also in a position to give parents a detailed and clear assessment of the performance of their child. No particular system or way of doing this is specified, but in choosing the method the school should be aware of the requirement at paragraph 32(1)(f) of the standards for an annual written report on each pupil's progress and attainment in each main subject area. In addition, whatever framework is adopted, it should be implemented in a way which enables the parent to judge the child's performance in the context of the school's aims, or national norms, or both – to ensure a standardised or common approach.

## Part 2: Spiritual, Moral, Social and Cultural development of pupils (SMSC)

3.1. The purpose of this Part is to ensure that pupils' development in non-academic terms will enable them to play a confident, informed role in society, have a fully developed value system, and be able to interact with other people in a positive way. The contents of this section supercede previously published DfE guidance documents on ways in which the standard in Part 2 can be met.

3.2 This guidance is intended to help schools understand the SMSC standard and to give examples of ways in which schools can meet the standard and continue to do so. SMSC can be developed through virtually all parts of the curriculum by being infused within the day to day operation of a school, e.g. in its behaviours and ethos, although some subjects and activities are likely to be more relevant than others. The school's approach should be adjusted for the age and ability of pupils, including those with special needs.

5(a) [the proprietor]—

actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs;

3.3 The above paragraph is one of a number of changes that was first introduced in 2014 and carried through into the current standards which strengthen the requirements relating to SMSC. In addition to a requirement to ensure that principles are actively promoted for particular purposes, a proprietor must 'actively promote' the specified fundamental British values. Schools will best demonstrate compliance with this standard by having a clear strategy for embedding the fundamental British values, and through being able to show how their work with pupils is effective in doing so. Actively promoting the values also means challenging opinions or behaviours in school that are contrary to these fundamental British values. Promoting views that undermine those values would be at odds with this standard. However, that does not mean that schools should avoid debate on the issues involved.

3.4 The list below gives examples of the understanding and knowledge that may be expected of pupils where this part of the standard is being met:

- An understanding of how citizens can influence decision-making through the democratic process
- An appreciation that living under the rule of law protects individual citizens and is essential for their wellbeing and safety
- An understanding that there is a separation of power between the executive and the judiciary, and that while some public bodies such as the police and the army

can be held to account through Parliament, others such as the courts maintain independence

- An understanding that the freedom to hold other faiths and beliefs is protected in law
- An acceptance that people having different faiths or beliefs to oneself (including those people who leave their faith or those who hold no faith) should be accepted and respected, and should not be the cause of prejudicial or discriminatory behaviour
- An understanding of the importance of identifying and combatting unfair or illegal discrimination

3.5 The duty to actively promote mutual respect and tolerance of those with different faiths and beliefs does not require schools to 'promote' teachings, beliefs or opinions that conflict with their own, but nor is it acceptable for schools to promote discrimination against or a lack of respect for other people or groups on the basis of their belief, opinion or background. As noted in paragraph 2.13, in relation to the requirement covered there about encouraging respect for others,, teaching generalised 'respect' without any regard to any of the protected characteristics is not sufficient to meet that requirement. It should be noted that the requirement that the proprietor actively promotes the fundamental British values is separate from the requirement that the proprietor ensures that principles are actively promoted which encourage respect for other people, paying particular regard to the protected characteristics set out in the Equality Act 2010 (see also paragraphs 3.16-3.18 below).

3.6 The following is not designed to be exhaustive, but provides some examples of different actions that schools could take, such as:

- including in suitable parts of the curriculum, as appropriate for the age of pupils, material on the strengths, advantages and disadvantages of democracy, and how democracy and the law works in the UK and other democracies, in contrast to other forms of government
- ensuring that all pupils within the school have a voice that is listened to, and demonstrate how democracy works by actively promoting democratic processes such as a school council whose members are voted for by pupils
- using opportunities such as general or local elections to hold mock elections to promote the fundamental British values, and provide pupils with the opportunity to learn how to argue and defend points of view
- enabling pupils to encounter people of different faith backgrounds
- using teaching resources from a wide variety of sources to help pupils understand a range of faiths

- considering the role of extra-curricular activity, including any organised directly by pupils, in promoting the fundamental British values

Schools catering especially for pupils with special needs can address these matters through arrangements to give pupils a voice in school matters, establishing codes of behaviour and encouraging responsibility, promoting work and interactions within the school which respects individuals and difference, and ensuring that pupils become familiar with different approaches to religion and culture.

5(b) [the proprietor] ensures that principles are actively promoted which –

- i. enable pupils to develop their self-knowledge, self-esteem and self-confidence;
- ii. enable pupils to distinguish right from wrong and to respect the civil and criminal law of England;
- iii. encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute positively to the lives of those living and working in the locality in which the school is situated and to society more widely;
- iv. enable pupils to acquire a broad general knowledge of and respect for public institutions and services in England;
- v. further tolerance and harmony between different cultural traditions by enabling pupils to acquire an appreciation of and respect for their own and other cultures;
- vi. encourage respect for other people, paying particular regard to the protected characteristics set out in the Equality Act 2010; and
- vii. encourage respect for democracy and support for participation in the democratic processes, including respect for the basis on which the law is made and applied in England

3.7 This series of provisions in Part 2 was also changed in 2014 to refer to principles having to be ‘actively promoted’ rather than simply promoted. This raised the level of expectations on schools, and should be noted in deciding how to meet this part of the SMSC standard.

5(b)(i). enable pupils to develop their self-knowledge, self-esteem and self-confidence;

3.8 The purpose of this paragraph of the standard is to ensure that schools actively help their pupils develop into self-assured, confident, happy, positive young people. Schools should help pupils to learn to articulate their feelings and justify them in both informal and formal settings and be given responsibility and trust to develop their confidence. Schools can develop the traits listed in the standard by celebrating achievement and encouraging pupils to have the confidence to undertake difficult tasks and have a wide range of experiences. Pupils should also be encouraged to question things which prevent them developing into confident adults – for example, lack of aspiration and unfair

discrimination. Pupils are likely to be helped in their development if adults and older pupils in the school act as appropriate role models for younger pupils.

5(b)(ii) enable pupils to distinguish right from wrong and to respect the civil and criminal law of England;

3.9 This paragraph of the standard was made more focussed in 2014 so that instead of just referring to respect for law as a concept, it refers to the civil and criminal law of England. The intention is to ensure pupils are encouraged to value the English legal system, and not simply law generally or some other type of law.

3.10 It is expected that pupils should understand that while different people may hold different views about what is 'right' and 'wrong', all people living in England are subject to its law. The school's ethos and teaching should encourage respect for English civil and criminal law, and schools should not teach in a way which would undermine this. If schools teach about religious law, particular care should be taken to explore the relationship between English civil and criminal law, and religious requirements. Pupils should be made aware of the differences between the law of the land and religious law. This is not incompatible with encouraging pupils to respect religious law if the school's ethos is faith-based; and the school should not avoid discussion, of an age-appropriate nature, of potential conflicts between state law and religious law, and the implications for an individual living in England.

5(b)(iii) encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute positively to the lives of those living and working in the locality in which the school is situated and to society more widely;

3.11 The wording reaches beyond the school itself or any particular faith community; it expressly refers to those living and working in the locality - and to wider society, which may include national and global society as appropriate. For interactions which are outside the school but organised by the school (for example voluntary work) the need to include contact with communities other than the school's own should be taken into account.

3.12 Schools should seek to develop pupils into individuals who know how to act responsibly, and who are capable of becoming more independent as they grow older while knowing the value and importance of making a positive impact on the lives of other people. Schools can meet this requirement in many different ways, including group activities that teach co-operation and initiative, giving pupils responsibility within the school setting, and enabling pupils to serve other people in the wider community.

5(b)(iv) enable pupils to acquire a broad general knowledge of and respect for public institutions and services in England;

3.13 This part of the standard is designed to ensure that children grow up knowing how public institutions (e.g. Parliament, the police force, the Civil Service) and services (e.g. healthcare, welfare services and education) operate, and also respect and understand their importance to life in a modern, civilised society. The intention is that pupils should be equipped to understand how public services have evolved - especially if their role is best understood in a historical context - and how they relate to the daily lives of pupils and their families. Activities such as educational visits, and work-shadowing or work experience in relevant organisations, can enhance pupils' understanding in this area.

5(b)(v) further tolerance and harmony between different cultural traditions by enabling pupils to acquire an appreciation of and respect for their own and other cultures;

3.14 This provision in the standard was also revised in 2014 to emphasise the need to actively promote principles that develop tolerance and harmony between different cultural traditions. Enabling pupils to gain knowledge and respect for their own culture is an essential part of the requirement here and schools should ensure that pupils' work on other cultures takes place on a secure foundation of knowledge about their own culture. Culture is about the factors that are common to communities, such as custom, traditions, dress, food, and so on. Different cultures will however have differences in the way all of these particular aspects have evolved. Culture can be examined from both a historical and a contemporary perspective. While culture is different to faith, the two can be interlinked, and influence each other. Pupils should be encouraged to regard all cultures with respect and this cannot be achieved properly without reference to the influence of faith. Teaching should aim to prepare pupils to interact positively with people of different cultures and faiths. Schools should develop opportunities for pupils through links with other schools and organisations, as well as the content of curriculum. Schools that serve specific communities may adopt certain dress codes, congruent with those of the community. But the children must not be taught that those who do not adopt those dress codes, including those from different communities, are in any way inferior or impure. Equally, pupils should not be taught that the use of music by other cultures should be held in contempt or scorn, even if the school does not itself cater for the performance of music.

3.15 Meeting the requirement here is likely to be jeopardised by offering a curriculum which is significantly unbalanced in terms of the information presented about the achievements of other cultures. It is not unreasonable for schools in England to have a curriculum which particularly emphasises culture and achievements of England and its people, but it must also allow for pupils to learn about the achievements of other cultures, including those outside Europe.

5(b)(vi) encourage respect for other people, paying particular regard to the protected characteristics set out in the Equality Act 2010

3.16 Schools already have obligations under Chapter 1 of Part 6 of the Equality Act 2010, which this requirement complements.

3.17 It is not sufficient for a school to say that it meets this standard because its teaching and other activities encourages respect for all people in a general way; that is not paying particular regard to protected characteristics, of which pupils must be made aware (although only to the extent that it is considered age appropriate). However, a school does not necessarily have to address all of the characteristics in every year group in its teaching and other activities. If there were some occurrence or event involving one or more of the protected characteristics which became an issue amongst the pupils, the school should help the children understand the issues, and ensure the children respect all those with those characteristics.

3.18 Schools should take steps to ensure that the children do not form a negative or restrictive view of the role of the opposite sex.

5(b)(vii) encourage respect for democracy and support for participation in the democratic processes, including respect for the basis on which the law is made and applied in England

3.19 This provision is connected to paragraph 5(a), relating to fundamental British values, which relates to democracy as a concept. Paragraph 5(b)(vii) expands on this. To meet this standard, schools should be actively encouraging pupils to:

- understand why democracy is perceived within the UK as the fairest form of political organisation
- understand why taking part in democracy is a good thing and
- understand why law-making on the basis of representation in Parliament is seen as better than alternatives

5(c) [the proprietor] precludes the promotion of partisan political views in the teaching of any subject in the school

3.20 The aim of this provision is to prevent the political indoctrination of pupils through the curriculum. The wording is based on section 406(1)(b) of the Education Act 1996, which applies to maintained schools. As explained below, the aim is not to prevent pupils from being exposed to political views or from discussing political issues in school. Pupils should not, however, be actively encouraged by teachers or others to support particular political viewpoints. This provision should be read in conjunction with paragraph 5(d).

3.21 The following is how the department interprets the following two key terms in the provision.

‘Partisan’ - in a case<sup>6</sup> relating to the alleged promotion of partisan political views in maintained schools<sup>1</sup> the judge considered that the best synonym for ‘partisan’ is "one-sided". Drawing from the judgment in the case, in deciding whether the promotion of a political view is partisan, the factors that could be taken into account include:

- a. superficial treatment of the subject matter, typified by portraying factual or philosophical premises as being self-evident, with insufficient explanation and without any indication that they may be the subject of legitimate controversy
- b. the misleading use of data; misrepresentations and half-truths
- c. deployment of material in such a way as to prevent pupils meaningfully testing its veracity and forming an independent understanding as to how reliable it is
- d. the exaltation of protagonists and their motives coupled with the demonisation of opponents and their motives
- e. whether a particular view is advocated as being the ‘right’ view which must be adopted because otherwise certain presupposed consequences follow

‘Political views’ – views expressed with a political purpose. A political purpose includes actions taken either directly or indirectly:

- to further the interests of a particular political party
- to procure changes to the laws of this or another country
- to procure the reversal of government policy or of particular decisions of governmental authorities in this or another country

3.22 Unlike other provisions in the SMSC standard, this provision does not require the proprietor to actively promote positive outcomes. It is about preventing a negative outcome.

3.23 Concepts such as democracy and the historical development of the political process in society cannot be meaningfully taught without reference to political belief and practice, and the use of concrete examples is normally helpful in promoting understanding. Furthermore, the part of the standard at paragraph 5(c) envisages that political issues may be discussed in schools; it does not prevent the presentation of political views. In the case referred to above the judgement also suggested that if, for example, a history class is shown Nazi propaganda, or a citizenship class is shown a racist film, this is not ‘promoting’ the views shown, but merely presenting them.

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<sup>6</sup> Dimmock v Secretary of State for Education and Skills [2007] EWHC 2288 (Admin)



3.24 However, teaching staff should not exploit pupils' vulnerability by seeking to convince them that a particular political position is necessarily correct, or by trying to impose their own views on pupils. Such action may also amount to a breach of Part 2 of the Teachers' Standards (*link at end of this document*) on personal and professional conduct, which apply to teachers in independent schools. As a matter of good practice, schools should ensure that teachers are aware of the professional standards applying to them and the requirements of this standard.

5(d) takes such steps as are reasonably practicable to ensure that where political issues are brought to the attention of pupils—

(i) while they are in attendance at the school,

(ii) while they are taking part in extra-curricular activities which are provided or organised by or on behalf of the school, or

(iii) in the promotion at the school, including through the distribution of promotional material, of extra-curricular activities taking place at the school or elsewhere,

they are offered a balanced presentation of opposing views.

3.25 This provision is modelled on section 407 of the Education Act 1996, which applies to maintained schools. The underlying aim of this standard is to ensure that proprietors take steps to ensure that when political issues are discussed or arise, pupils are made aware that there are normally countervailing views and a balance is struck between the opinions and beliefs discussed. This may be during lessons, or when extra-curricular activities within the school such as debates take place, or through the use of external speakers. In the case referred to above, the judge considered that "the word 'balanced' in s.407 means nothing more than 'fair and dispassionate'."

3.26 Schools should take a common-sense approach to securing balance. This provision of the standard does not require the closely matched presentation of the opposite view where a partisan political view has been expressed. Schools need not take a mechanistic approach to securing balance, and it would be acceptable for a school to demonstrate that it had taken steps, over a period of time, to ensure a balance.

3.27 One step which could be taken is to create and implement a clear school policy that sets out how visiting speakers are chosen and how a balance of opposing views is to be achieved over a period. There is no reason why speakers should not include representatives of political parties or campaigning organisations. Schools should consider having a policy for vetting all speakers and also ensure that the content of presentations is agreed beforehand.

3.28 Where a speaker has expressed partisan political views on a subject, the school should make an assessment as to whether it is appropriate to challenge the speaker's

views without delay, arrange for a speaker with opposing views to address pupils at a later date, or present opposing views on the subject to pupils in the course of subsequent class teaching. However, the school would need to be able to demonstrate what steps it took to offer pupils a fair and dispassionate opportunity to learn about alternative viewpoints.

3.29 It should be noted that the standard also relates to the use of promotional literature in the school for events which are not part of the curriculum, which pupils might see and as a result wish to attend the events in question. Although such material can be political in nature, proprietors will need to consider both the content and quantity of promotional material which addresses political issues. Irrespective of whether or not it relates to events outside the school, proprietors should then take steps to address any imbalance that might arise from its terms or the predominance of material reflecting a particular view on a political issue.

### Relevance of other standards to the SMSC standard

3.30 The standards in Part 1 (Quality of Education) are also relevant, since curriculum and teaching in subjects such as history and personal, social and health education are likely to touch upon the principles and political issues in the SMSC standard.

3.31 However, it should be particularly noted that issues have arisen in relation to its interplay with standard 3(f) which requires the proprietor to ensure that teaching at the school—

- utilises effectively classroom resources of a good quality, quantity and range;

3.32 Amongst other expectations, when the teaching of subjects touches on matters covered by the SMSC standard, such as forms of government or political ideologies, the resources (books, films etc.) used for teaching should be of a range which fulfil the requirements of the SMSC standard, for example, by representing a range of views.

3.33 This does not mean that individual items should all reflect the principles referred to in the SMSC standard. Confident teaching about potentially controversial or difficult subjects is likely to use some material which presents opinions which are not compatible with the principles referred to in the SMSC standard but are useful to illustrate the full range of opinion on a matter.

## Part 3: Welfare, health and safety of pupils

4.1 The standards in Part 3 cover a wide range of subjects but in general are designed to ensure that so far as possible, pupils are safe and their well-being is promoted. Some of the standards incorporate requirements or guidance from elsewhere, for which details are given below; other standards give schools more discretion but in some cases there are still relevant advice documents which schools may find useful to refer to in drawing up their own policies for the relevant areas.

4.2 Having proper policies is still the starting point for good practice in protecting the health safety and welfare of pupils, and it is recommended that a proprietor ensures that these are drawn up to reflect the requirements here, and that they are regularly reviewed and adjusted in the light of experience. Even if such written policies or arrangements are not specifically required by a standard in Part 3, it is likely to be helpful to a school in meeting the standard in question to have a document setting out its policy or arrangements on the issue, not least so that staff are aware of what is expected of them. What is seen 'on the ground' or in practice during the inspection will also determine whether a standard is met. These should always be available in English so they can be checked properly, even if the school uses versions in another language for normal purposes because the teaching is in that other language.

4.3 Proprietors will, therefore, want to treat their policies and arrangements as 'living documents', to be consulted and used as the foundation of good practice and appropriately tailored to the context of the school. Proprietors should consider how strong the links are between their policies and practice, and if appropriate take steps to ensure that regular review, staff training, and consideration of the implications of events in the school (for example, accidents or serious bullying) are all part of the culture of the school. A school which sees these matters as part of its everyday concerns rather than an unwelcome bureaucratic requirement will be safer for all its pupils.

4.4 It is also recommended that proprietors ensure that their policy and practice is based on a wide view of what may happen to pupils, not only in schools and but also beyond it. Although schools are not responsible for the welfare of pupils when they are not in school or on school visits, schools can still play a significant role in ensuring that the vulnerability of pupils in other parts of their lives is reduced. For example, an effective anti-bullying strategy will ensure that pupils are taught about the dangers of cyber-bullying and sexting - even if pupils in a particular faith community are not meant to use mobile phones, or have limited access to the internet.

7. The standard in this paragraph is met if the proprietor ensures that—

- (a) arrangements are made to safeguard and promote the welfare of pupils at the school; and
- (b) such arrangements have regard to any guidance issued by the Secretary of State.

4.5 This is the basic ‘safeguarding’ provision and covers a very wide range of situations and potential problems. To meet the standard, a proprietor must have a comprehensive safeguarding policy drawn up with reference to their particular school, which is reviewed regularly (eg an annual review by governors), and ensure that staff are fully aware of its contents so that they can implement it effectively. There must also be effective oversight of safeguarding by a governing body if one exists. The policy should include measures for internet safety (where the school allows access to the internet on site) including a description of the use of filters and monitoring of usage.

4.6 The safeguarding policy and any supporting documents must contain appropriate contacts for external referrals, and inspectors will discuss with staff what their actual practice is in relation to the handling of allegations.

4.7 The documentation should record safer recruitment procedures and the school should ensure that these are followed, even when a prospective member of staff is well-known to the school. There are separate requirements in Part 4 in relation to checks and the recording of checks.

4.8 Proprietors will want to consider having a written and effective policy on restraint, for the protection of both pupils and staff. Locking pupils in rooms for any reason (including pupil or staff safety) is potentially illegal except in those few schools where a pupil is subject to a detention and training order issued by a court: it is not just a breach of the standards. Inspectors will in any case be alert to the way in which ‘cooling-off’ rooms (also known as calm rooms, seclusion rooms, chill-out rooms or low arousal rooms) are actually used, in order to assess whether a breach of the standard has occurred.

4.9 The use of corporal punishment on children in schools will ordinarily result in a criminal offence being committed: a threat to use corporal punishment may constitute an assault and the defence of reasonable chastisement is not available to members of staff at schools to a charge of common assault (or other offences) committed in relation to a child being educated at a school. Corporal punishment will automatically give rise to serious safeguarding concerns about a school. However, staff can use physical restraint in certain rare circumstances.<sup>7</sup>

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<sup>7</sup> <https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>

4.10 A policy of encouraging parents to use corporal punishment on their children for misbehaviour occurring in school will be considered a breach of this standard.

4.11 Some faith communities use forms of ostracism of families as a way of registering disapproval for the actions of community members. The school should endeavour to minimise the impact of this upon children when they are at school, in terms of their treatment by the school or fellow pupils. The standard on bullying (see below) is also relevant to this.

4.12 The requirement that safeguarding arrangements 'have regard to any guidance issued by the Secretary of State' relates to two sets of safeguarding guidance:

- a. Keeping Children Safe in Education
- b. Working Together to Safeguard Children

as well as the two sets of guidance referred to below about the Prevent duty (see paragraph 4.15), links for which are given at the end of this publication.

4.13 Both these documents are revised from time to time, and the school's own documentation and safeguarding arrangements should reflect those revisions as soon as reasonably practicable.

4.14 The phrase 'have regard to' does not mean that the statutory guidance must always be followed to the letter but any departure from the requirements set out in the documents must be considered and based on appropriate reasons, and proprietors will therefore want to record the justification behind any departure. Schools should ensure that all staff have read and understood at least Part 1 and Annex A of KCSIE, and staff must have received training appropriate to their responsibilities.

4.15 The Prevent duty under section 26 of the Counter-Terrorism and Security Act 2015, to have due regard to the need to prevent people from being drawn into terrorism, applies to the proprietors of registered independent schools. Guidance has been issued to proprietors to which they must have regard in carrying out that prevent duty. This guidance is *Revised Prevent Duty Guidance: for England and Wales* (Home Office). In addition, DfE has issued general advice relating to the Prevent duty which covers, amongst others, independent schools. This guidance is *The Prevent Duty: Departmental Advice for Schools and Childcare Providers*. Links to these are at the end of this document.

8. Where section 87(1) of the 1989 Act applies in relation to a school the standard in this paragraph is met if the proprietor ensures that—

- (a) arrangements are made to safeguard and promote the welfare of boarders while they are accommodated at the school; and

(b) such arrangements have regard to the National Minimum Standards for Boarding Schools or, where applicable, the National Minimum Standards for Residential Special Schools<sup>8</sup>

4.16 This standard applies to boarding schools, including residential special schools. If a boarding school accommodates pupils on its own premises from another school, its arrangements must cover these pupils. If a school makes arrangements to accommodate pupils off-site, the standard also relates to these pupils. If an accommodation agency is involved, inspectors will consider whether the agency is acting for the parents or for the school. Boarding pupils are particularly vulnerable, and there are separate requirements, the National Minimum Standards (NMS) made under the Children Act 1989 for these schools. Links to the NMS for boarding schools and to the NMS for residential special schools are at the end of this document. In addition, however, this standard requires proprietors of schools with boarders (and whether or not the boarders are pupils at the school) to make arrangements to safeguard and promote boarders' welfare while they are accommodated at the school and in doing so do so having regard to the applicable NMS. In other words, the arrangements must meet all the relevant parts of an NMS or if they do not, it will be necessary to demonstrate, having considered the NMS, good reasons for any departure.

4.17 Amongst issues likely to be of particular concern in considering boarding welfare are: excessive isolation from families and other external influences; gender imbalance amongst pupils; and whether pupils have sufficient free time apart from teaching, preparation and any other school requirements such as prayer.

9. The standard in this paragraph is met if the proprietor promotes good behaviour amongst pupils by ensuring that—

- (a) a written behaviour policy is drawn up that, amongst other matters, sets out the sanctions to be adopted in the event of pupil misbehaviour;
- (b) the policy is implemented effectively; and
- (c) a record is kept of the sanctions imposed upon pupils for serious misbehaviour.

4.18 The written policy should be available in English even if it is also available in another language. In addition, there is DfE advice available (link at end of this document) to help schools formulate an effective behaviour policy and implement it well – but the standard here does not require that advice to be followed.

4.19 Having a written behaviour policy is of no use if in practice, teachers follow widely

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<sup>8</sup> This is the text from the Regulations, as amended by regulation 9 of The Independent Educational Provision in England (Inspection Fees) and Independent School Standards (Amendment) Regulations 2018. The same regulation updates the appropriate definition in the Regulations to cover the 2015 NMS for boarding schools and for residential schools (rather than the older 2012 version).

varying approaches to managing behaviour. This causes mistrust amongst pupils and increases the likelihood of unfairness in applying sanctions. The sanctions administered should reflect the school's policy.

10. The standard in this paragraph is met if the proprietor ensures that bullying at the school is prevented in so far as reasonably practicable, by the drawing up and implementation of an effective anti-bullying strategy.

4.20 DfE advice on this issue is also available (*link at end of document*) to assist proprietors in drawing up a strategy – though again there is no connected duty to have regard to it. In the department's view, to be effective, a written policy will need to cover cyber-bullying, and prejudice-based bullying because of a protected characteristic. A failure to include references to these forms of bullying is unlikely to be acceptable under the standard, even if the school claims that such things cannot occur due to the nature of its pupil body or the rules applied to pupils. These forms or ways of bullying can take place at any school, if left unaddressed. A school's policy, to be effective, should also be able to demonstrate how it teaches pupils to deal with bullying if it occurs, using age-appropriate concepts.

11. The standard in this paragraph is met if the proprietor ensures that relevant health and safety laws are complied with by the drawing up and effective implementation of a written health and safety policy.

4.21 Effective implementation of a health and safety policy means being vigilant as to actual health and safety risks which may arise, including during off-site activities, and taking prompt action to deal with them in accordance with that policy. There is a related standard in Part 5 requiring that premises are maintained with a view to ensuring the health, safety and welfare of pupils. The Health and Safety Executive has a web resource for schools, and the link for this is shown at the end of this document.

12. The standard in this paragraph is met if the proprietor ensures compliance with the Regulatory Reform (Fire Safety) Order 2005

4.22 The 2005 Order (*link at end of document*) sets out requirements as to the taking of fire precautions, the provision of equipment, training and information and so on, as applicable to schools and other establishments. A school may be inspected in detail by the local Fire and Rescue Service and evidence from this or from work done by external contractors can be taken into account in deciding whether the standard here is met. During education or boarding welfare inspections, defects which are immediately apparent, e.g. lack of equipment, blocked fire escapes or hazardous substances not stored properly, will be reported on, and may on their own constitute a breach of the standard because they consist of a breach of the 2005 Order. There is government guidance on fire safety in schools; a link to this is at the end of this document.

13. The standard in this paragraph is met if the proprietor ensures that first aid is administered in a timely and competent manner by the drawing up and effective implementation of a written first aid policy.

4.23 Advice to assist proprietors on a first aid policy is available from the department; a link to this is shown at the end of this document – again, though, there is no express duty to have regard to it. Effective implementation of a policy will require adequate numbers of appropriately trained staff, and the provision of proper equipment, for off-site activities as well as in the school itself.

14. The standard in this paragraph is met if the proprietor ensures that pupils are properly supervised through the appropriate deployment of school staff.

4.24 This standard is linked to that on the management of behaviour and is intended to ensure that staffing levels devoted to supervision, including supervision during breaks from lessons and - in boarding schools - during pupils' leisure time, are sufficient to ensure that pupils are safe, that the school is reasonably orderly, and that emergencies can be dealt with promptly while still leaving adequate staffing to supervise unaffected children. In addition to the requirement in the standard, every school has a duty of care towards its pupils and this involves, amongst other things, staff with suitable training or experience supervising pupils, including those taking part in off-site activities. There are specific additional requirements in the EYFS on the supervision of children in early years.

15. The standard in this paragraph is met if the proprietor ensures that an admission and attendance register is maintained in accordance with the Education (Pupil Registration) (England) Regulations 2006

4.25 The regulations in question (*link to guidance at the end of this document*) set out various requirements relating to the keeping of admissions and attendance registers and also related duties such as informing the local authority when pupils are added to and removed from the roll. Failure to abide by the requirements of the regulations or contravening them is a criminal offence under s.434(6) of the Education Act 1996. It is also a serious safeguarding issue. Commercial registration systems for use by schools are widely available, based on either manual or digital input – but a proprietor will need to assure themselves that any system they use is fit for purpose.

16. The standard in this paragraph is met if the proprietor ensures that—

(a) the welfare of pupils at the school is safeguarded and promoted by the drawing up and effective implementation of a written risk assessment policy; and

(b) appropriate action is taken to reduce risks that are identified.

4.26 Well-run schools have proper risk assessment across the whole range of their activities affecting pupils. Risk assessment should not be an afterthought or confined to



the most obvious dangers for pupils. This standard requires schools to consider risk in relation to all activities which could place pupils in serious jeopardy, and during inspections evidence will be sought that this has been done systematically in order to inform the written risk assessment policy required by this standard, and that appropriate action has been taken to reduce any risks that are identified. Just a few examples of matters for which schools have sometimes failed to consider risk adequately are:

- a. public access to the school and its pupils when the school occupies shared premises, including premises which incorporate places of worship
- b. safeguarding risks posed during educational visits, either from staff or from members of the public
- c. safeguarding risks arising from the presence of non-staff adults (e.g. adult children of boarding staff) in boarding premises
- d. risks arising from pupil access to roofs, poorly secured windows and so on
- e. safeguarding risks posed by inadequate staffing cover at weekends in boarding schools
- f. failure to consider dangers from traffic when large numbers of pupils leave a school building immediately adjacent to a road, e.g. between lessons and at the end of the school day
- g. failure to consider dangers posed by other pupils and the risk of pupil-on-pupil abuse, including 'sexting'

4.27 Schools should therefore consider how comprehensive their approach is to risk management, and what more needs to be done to ensure that risk is properly assessed, and that the results of assessment are carried through by reducing risk so far as reasonably practicable. Risk assessment should be a constant process, with input encouraged from all staff and pupils, and based on a school's particular circumstances. The Health and Safety Executive website referred to earlier has a section on risk assessment.

4.28 The aim of this standard is not to make schools totally risk-averse. Learning about risk, meeting challenges and having new experiences are an important part of growing up. However, it is important that schools take an active approach to managing risk, and thereby reduce the likelihood that pupils will be harmed through negligence and a lack of foresight or proper planning.

## Part 4: Suitability of staff, supply staff and proprietors

5.1 This Part of the standards sets out, in detail, the checks which schools (and in some cases the Secretary of State) have to make to ensure that staff, supply staff and proprietors or members of proprietor bodies are suitable for the posts they occupy. Because of the need for precision the standards are worded in ways which are not always easy for schools to interpret. Schools may therefore find it useful to refer to those parts of the statutory guidance ‘Keeping Children Safe in Education’ which set out procedures for checks on staff and other people such as members of proprietor bodies; the relevant sections include lists of the checks to be made:

89. In line with Part three of this guidance, governing bodies and proprietors should prevent people who pose a risk of harm from working with children by adhering to statutory responsibilities to check staff who work with children, taking proportionate decisions on whether to ask for any checks beyond what is required and ensuring volunteers are appropriately supervised. The school or college should have written recruitment and selection policies and procedures in place.

5.2 Because of the length of the relevant standards, they are not reproduced in this document. Instead, summarised below are the requirements which arise from each paragraph.

### Paragraph 18 (members of staff, excluding supply staff and proprietors)

5.3 This paragraph sets out the requirements for checks on members of staff at a school (for who is a member of staff – see the definition of “staff” in regulation 2(1)) The basic requirements are:

- a. first, for a barred list check if the person is or will be engaged in regulated activity. Under the Protection of Freedoms Act 2012, it is generally not permissible to obtain information through a DBS barred list check for any person not involved in ‘regulated activity’. It should be noted, however, that any member of staff who works on school premises at times when children are present is likely to be engaged in regulated activity. For example, broadly speaking, regulated activity includes the teaching, training or instruction of children, if carried out by the same person frequently or on 4 or more days in a 30-day period. ‘Regulated activity’ also includes (subject to certain exemptions), any activity in a school which is carried out by a person frequently or on 4 or more days in a 30-day period and which consists of work for or in connection with any of the purposes of the school and gives that person the opportunity to have contact with children. This will include virtually all non-teaching staff at a school.
- b. the proprietor must also carry out an enhanced criminal record check, checks on identity, medical fitness, right to work in the UK and if

appropriate the person's qualifications. By virtue of paragraph 18(2)(d) (read in conjunction with regulation 2(5)(b)), members of school staff who will not be engaging in regulated activity but work regularly at the school remain to be the subject of an enhanced criminal record check, and schools must obtain one together with the required certificate for such staff.

5.4 Further, the standard will not be met if any member of staff at the school works in contravention of a teaching prohibition order (or an interim prohibition order or a direction made under section 142 of the Education Act 2002).<sup>9</sup> The same applies if a person works at a school in contravention of a direction (or any equivalent disqualification, prohibition or restriction) barring them from participating in the management of an independent school. So if the person concerned occupies a teaching role or a management role, then as a matter of good practice, checks relating to these matters should also be carried out as necessary. For the purposes of barring from participation in the management of an independent school, there is no precise definition of what posts constitute 'management' because this will be a factual question in each case; but the following are regarded by the department as definitely falling within scope: head teacher, any teaching positions on the senior leadership team, and any teaching positions which carry a department headship. Other teaching posts with additional responsibilities do not count as 'taking part in management'. For non-teaching staff, only posts which are part of the senior leadership team or staff who otherwise occupy roles as a 'governor', member of a proprietorship Board, or equivalent oversight or management grouping, by whatever title, should be regarded as 'management' for the purposes of checking for the existence of a barring direction. There are additional requirements in respect of staff who have lived abroad and/or work in boarding provision. In some circumstances set out in the standard, some the checks are not required because they have been done for a recent previous post (see regulation 18(4)) – checks relating to criminal records, where someone has lived abroad and where someone will work in boarding provision; Apart from this limited exception, all the other checks or restriction always apply. If part of a school's operations are carried out by a company under contract (eg catering) then that company should carry out the requisite checks on its employees who work at the school, and provide the school with confirmation in writing that they have been done.

#### Paragraph 19 (supply staff – staff supplied by employment businesses)

5.5 This paragraph sets out, amongst other things, information which must be supplied by an employment business which provides supply staff, (including supply staff who work in the boarding or residential provision), who replace school staff and are under the direction of the school's management. The proprietor must obtain evidence that the employment business has undertaken the necessary checks on each named individual.

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<sup>9</sup> Teaching prohibition orders are not restricted to those teachers with qualified teaching status (QTS) and they can, therefore, prohibit someone from teaching whether or not they have QTS.

The evidence must be specific to each individual, not simply a general statement that checks have been carried out on staff supplied by the employment business. Until such time as this information is received by the proprietor and any required DBS certificate, then the relevant person must not be allowed to start work. The requirements here mean that any enhanced criminal record certificate which is supplied must (subject to certain exceptions), when a person starts work, be no more than 3 months old. Paragraph 19 was amended in 2018 to require that staff (teaching or non-teaching staff) supplied by employment businesses to independent schools have additional checks undertaken if they are living or have lived outside the UK. Such staff that are employed directly by schools were already required to have further checks if the independent school standards are to be met. Now, when supply staff are living or have lived abroad, if an enhanced criminal record certificate is not sufficient to establish a person's suitability, that person cannot start work at a school unless the proprietor has received written notification from the employment business that appropriate checks have been made, having regard to any guidance on such checks issued by the Secretary of State (that guidance being 'Keeping Children Safe in Education').

5.6 These requirements in respect of supply staff connected with an employment business are separate from those for staff who work at the school but are employed by a third party contractor (see text relating to paragraph 18 of the standards) which is paid by the school to provide a service using its employees.

#### Paragraph 20 (proprietors)

5.7 This paragraph sets out, amongst other things, checks which DfE, acting on behalf of the Secretary of State, carries out in relation to a proprietor before registering a school, when the registered proprietor changes (which is a material change), or the chair of the proprietor body changes. A school may have an individual proprietor, or it may have a proprietor body, which is most commonly a charitable trust or a limited company, but can take other forms. If there is a proprietor body then the department will need to record as chair of that body the appropriate person (eg the chair of trustees, or chair of the company board). The DfE checks are carried out for individual proprietors and chairs of proprietor bodies, and guidance on these together with details of the way in which application should be made, is available at the email address given at the end of this document which relates to registration enquiries. The department can also advise who should be regarded as chair of the proprietor body in the case of unusual or complicated governance structures. It should be noted that as well as the checks specifically listed as carried out by the Secretary of State, the department will also check whether the person is barred from regulated activity if the person concerned has declared that they will be engaging in regulated activity; and will also check if the proprietor is prohibited from participating in management of an independent school. However, the onus is then on the

proprietor or chair to ensure that he or she does not contravene or breach any such bar or prohibition which is in place.

5.8 The paragraph also sets out the analogous checks which chairs of proprietor bodies themselves should arrange to have made when new members are being appointed to that body; the department does not make checks on them. The requirements are essentially the same as for individual proprietors and chairs of proprietor bodies.

5.9 The paragraph also sets out some circumstances in which new checks are not needed because they were done for a previous post, and some requirements relating to the timeliness of checks

#### Paragraph 21 (single central register)

5.10 Every school is required to collate into a register information recording the checks made on staff, supply staff, and members of proprietor bodies as listed in paragraph 21. Some of the requirements only apply to persons appointed or in post on or after specified dates. Again, guidance on detailed requirements is available from the enquiry email address given at the end of this document, and 'Keeping Children Safe in Education' contains a section on the keeping of the single central register.

#### Barring by association

5.11. The 'Disqualification by Association' element of the childcare disqualification checks has been removed for individuals working in non-domestic settings such as schools and nurseries. Disqualification by association now only applies to individuals providing/working in childcare in domestic settings (e.g. where childcare is provided in a childminder's home). The arrangements continue to disqualify individuals working in domestic and nondomestic settings if they themselves have been found to have committed a relevant offence. Schools will need to retain sufficient information to prove that they complied with the previous legislation.<sup>10</sup>

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<sup>10</sup> See *Keeping Children Safe in Education* 2018, p.132 for guidance on this.

## Part 5: Premises of and accommodation at schools

6.1 A detailed commentary on these provisions (except the standard relating to accommodation) is already given in pre-existing non-statutory guidance on premises standards, a link for which is given at the end of this document. Proprietors and others should, therefore, familiarise themselves with that. However, it may be useful to note that:

- a. the fact that a school's premises at present cannot physically meet a requirement of the standards does not exempt the proprietor from meeting the requirement, if necessary by adaptation of the premises. In some cases (e.g. space for physical education) it may be possible to make the necessary arrangements through off-site facilities. But if, for example, a school building even when adapted cannot provide the facilities needed for the number of pupils who attend, it would be necessary for a school to either find other suitable premises or apply for approval of a material change to reduce the registered number of pupils, so that the premises are compliant;
- b. a judgement as to whether a standard is met will often be a matter for the professional expertise of a school inspector, having regard to what would normally be regarded as suitable for the pupils concerned;
- c. paragraph 25 of the standards is a general provision relating to the maintenance of premises, accommodation and facilities to ensure the health, safety and welfare of pupils. This includes maintenance to ensure premises are secure. If a school is unsafe for reasons not specifically covered by other paragraphs in Part 5 (for example, unsafe wiring or an unsafe roof) then this standard could potentially be breached;
- d. although the production of an accessibility plan is not part of the requirements of the independent school standards, it should be noted that there is a requirement for such a plan to be prepared, published, reviewed, revised and implemented by the proprietor of an independent school under paragraph 3 of Schedule 10 to the Equality Act 2010 and inspections may report on the performance of the duties here. Accessibility plans should include intentions for improving the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education, benefits, facilities and services provided or offered by a school. Plans must also cover matters other than premises relating to participation in curriculum by, and delivery of information to, disabled pupils, for instance by appropriate provision of equipment;
- e. paragraph 30 simply refers to the relevant National Minimum Standards for boarding and applies only for schools with boarding accommodation. If a school fails to meet the relevant NMS, then it will also fail to meet the

standard in paragraph 30, and this will provide the basis for regulatory action by DfE.

## Part 6: Provision of Information

7.1 This Part sets out what information must be provided or made available to parents of pupils and parents of prospective pupils, and to certain other people or agencies. It also contains requirements about the publication of information. It is intended to encapsulate the minimum which parents and others need to form a proper picture of the school. Nothing in this Part stops a school providing whatever further information it wishes to.

32(1)(a) the information specified in sub-paragraph (2) is provided to parents of pupils and parents of prospective pupils and, on request, to the Chief Inspector, the Secretary of State or an independent inspectorate;

7.2 The word ‘provided’ in this requirement and the rest of Part 6 is defined elsewhere in the Regulations (see regulation 2(4)). It means that if the recipient has provided an email address, then the information required may be sent to that address either in electronic form or with a link to a website containing the information and from which it can be downloaded (provided that in either case the information is available for inspection at the school’s premises during the school day); or alternatively in any case, by sending or giving the person a hard copy. The information specified in this requirement as having to be automatically provided to parents is:

- a. the school’s address and telephone number
- b. name of head teacher
- c. certain information relating to the proprietor
- d. if there is a governing body, contact details of the Chair
- e. a statement of the school’s aims and ethos

The same information is to be provided on request to the Chief Inspector (ie, Her Majesty’s Chief Inspector (HMCI) of Education, Children’s Services and Skills at Ofsted), the Secretary of State (i.e., DfE) or an independent inspectorate (ie, the Independent Schools Inspectorate, ISI).

32(1)(b) the information specified in sub-paragraph (3) is made available to parents of pupils and parents of prospective pupils and, on request, to the Chief Inspector, the Secretary of State or an independent inspectorate;

7.3 This requirement relates to information which should be ‘made available’ to parents of pupils and parents of prospective pupils, and on request made available to the other persons and agencies referred to above. The term ‘made available’ is defined elsewhere in the 2014 Regulations (regulation 2(3)). A document or information will be ‘made

available' when it is accessible on the school website to the parents concerned and it is also available for inspection at the school during the school day (but provided reasonable steps are also taken to ensure that the parents are aware that it is available by both these means and in what form). If a document or information is not available on the school website – or there is no such website – it is 'made available' by taking reasonable steps to ensure that the parents are made aware that it can be requested, and by sending or giving it to any such parent, free of charge, when requested. The information specified as having to be made available is set out in paragraph 32(3) as follows:

- (a) particulars of the school's policy on and arrangements for admissions, misbehaviour and exclusions;
- (b) particulars of educational and welfare provision for pupils with EHC plans and pupils for whom English is an additional language;
- (c) particulars of the policy referred to in paragraph 2 [*ie, the curriculum policy*];
- (d) particulars of arrangements for meeting the standards contained in paragraphs 9, 10, 11 and 13 [*i.e. arrangements for behaviour, anti-bullying, health and safety, and first aid*];
- (e) particulars of the school's academic performance during the preceding school year, including the results of any public examinations [*it is for the school to decide what details to include*];
- (f) details of the complaints procedure referred to in paragraph 33 [*i.e., Part 7 of the Standards*], and the number of complaints registered under the formal procedure during the preceding school year; and
- (g) a copy of the report of any inspection carried out under sections 108 or 109 of the 2008 Act or section 87(1) of the 1989 Act [*this is any inspection report except a pre-registration inspection or a material change inspection. The department or an inspectorate will check compliance with this if the report shows unmet standards*].

#### 7.4 There is a separate requirement in relation to a school's safeguarding arrangements:

32(1)(c) particulars of the arrangements for meeting the standard contained in paragraph 7 are published on the school's internet website or, where no such website exists, are provided to parents on request;

and compliance with it will normally be checked during all inspections even if there are no concerns about compliance with the standards in Part 3. It should be noted that the requirements for a satisfactory arrangement in accordance with paragraph 7 of Part 3, and the requirement here for publication or providing the details to parents on request, are separate; in other words, it is possible to meet one standard while failing the other.

32(1)(d) following an inspection under section 108 or 109 of the 2008 Act, a copy of the report of the inspection (if it has been sent to the proprietor) is published and maintained on the school's internet website, and provided to the parents of each registered pupil, by any date specified by the body who conducted the inspection;



32(1)(e) following an inspection under section 87(1) of the 1989 Act, a copy of the report of the inspection (if it has been sent to the proprietor) is published and maintained on the school's internet website, and provided to the parents of each boarder;

7.5 These are specific requirements relating to education and boarding inspection reports (except pre-registration or material change inspections) in addition to the requirement at paragraph 32(1)(b) for such reports to be made available, they must also be published on the school website if there is one (and within the required timeframe); and in any event must be provided to the parents of each registered pupil/boarder. Schools should continue to display previous reports – because the obligation is not just simply to publish – but to “publish and maintain”. Again, ‘provided’ is to be interpreted in accordance with regulation 2(4). The purpose of this requirement is to ensure that parents are aware of any unmet standards. It should be noted that from 2018 the department has published on the GOV.UK website statutory notices served on schools in respect of unmet standards.

32(1)(f) an annual written report of each registered pupil's progress and attainment in the main subject areas taught is provided to the parents of that registered pupil except that no report need be provided where the parent has agreed otherwise;

7.6 This is a basic requirement for an annual report to be provided in writing about each registered pupil to their parents, except that no report need to be provided to a parent who has opted out. One parent cannot opt out for another unless the other parent agrees to this, and so if parents are separated, reports should go to both. This is linked with the requirement in paragraph 4 of the standards for a system of pupil evaluation.

32(1)(g) any information reasonably requested in connection with an inspection under section 109 of the 2008 Act which is required for the purposes of the inspection is provided to the body conducting the inspection and that body is given access to the school's admission and attendance registers;

7.7 This standard is intended to facilitate inspection of a school so that inspectors can reach a proper conclusion as to whether the standards are met. There are a number of things to note about this obligation. ‘Information’ is not narrowly defined. Therefore, requests can cover different types of information such as information recorded or held in different ways. In addition, the obligation under para 32(1)(g) is for the proprietor to ensure that all information reasonably requested is provided and therefore, the obligation here may in practice involve making arrangements with third parties, such as staff, pupils or parent, to provide the information. For instance, something may be asserted in the course of an inspection by a proprietor or member of staff which raises an issue that it is appropriate to investigate further, or which it is appropriate to corroborate, through someone else providing additional information. A proprietor's obligations will extend to ensuring that this additional information, where it is reasonably requested, is provided.

7.8 The information must be reasonably requested, so the standard would not be failed if a school refused to provide information which had no connection with to compliance with

the standards. Examples of this might be contracts with suppliers, payroll details, or personal data relating to admissions examinations. Information in scope would however include information relating to staff suitability checks, and personal safeguarding data on pupils. It should be noted that if an inspection is carried out by an Ofsted inspector, provisions in section 110 of the 2008 Act give inspectors the right to inspect and copy relevant records and other documents. The requirement to give inspectors access to the admission and attendance registers is a separate one and does not need to be reasonably requested, because of the separate standard on registers in paragraph 15. It is an offence, under section 110, to obstruct an Ofsted inspector exercising HMCI's powers during an inspection.

32(1)(h) where a pupil wholly or partly funded by a local authority (except where funding is solely for free of charge early years provision in accordance with the duty contained in section 7 of the Childcare Act 2006) is registered at the school, an annual account of income received and expenditure incurred by the school in respect of that pupil is provided to the local authority and, on request, to the Secretary of State;

7.9 This standard requires the proprietor to provide an annual account of income and expenditure in respect of LA-funded pupils registered at the school, except those for whom early years' grant is paid (there are usually separate arrangements for early years grant). Pupils covered by this standard will normally, but not always, have special needs. The standard obliges the school to supply the information without the local authority having to request it first. Although the standard requires that such details are also provided to the Secretary of State on request, it would be unusual for such a request to be made.

32(1)(i) where a pupil with an EHC plan wholly or partly funded by a local authority or other body through public funds is registered at the school, such information as may reasonably be required for the purpose of the annual review of the EHC plan is provided to the responsible local authority

7.10 This is a standard which specifically applies in relation to pupils registered at a school who have either an EHC plan or a statement of SEN, and where that plan or statement is wholly or partly publicly funded. Here the proprietor must provide to the responsible local authority, where requested such information (such as education, safeguarding and other pupil-centred information) that may reasonably be required for the annual review of any pupil's EHC plan. Although the regulations do not specifically mention statements of SEN, which some pupils will continue to have rather than an EHC plan, schools should regard themselves as having the same obligations in respect of statements.

7.11 If a local authority finds that a school does not supply the information required under either of these two standards it is likely to complain to the department and if appropriate an inspection will be carried out.

32(1)(j) particulars of any action specified in sub-paragraph (4) are published and maintained on the school's website or, where no such website exists, are provided to parents.

7.12 Schools must publish and maintain this information on their website if there is one, and if there is no website, the parents of pupils must be provided with the relevant information. The aim of this is to ensure that parents are aware that regulatory action is being taken, so that they can obtain further details as necessary and consider the implications for their child. The school is entitled to accompany the information with a statement setting out its own position and/or actions taken, for example, relating to any appeal which the school is making to the First-Tier Tribunal against a decision by the Secretary of State to de-register the school or impose a 'relevant restriction'; or against a magistrate's order made under s.120 of the Act to remove the school from the register of independent schools or to impose a 'relevant restriction'. A 'relevant restriction' in this context means a requirement that the proprietor of the school stops using any part of the school's premises for all purposes or specified purposes, or closes any part of its operation (its sixth form, for example) or stops admitting new pupils.

## Part 7: Manner in which complaints are handled

8.1 This Part of the standards sets out requirements about a complaints procedure to deal with complaints from parents of pupils which, amongst other things, needs to provide for three stages: informal, formal and a hearing before a panel which is to include an independent member. A school can have a complaints process which has a wider scope or more facilities for complaint than the standards require, but to meet Part 7 a proprietor must ensure that a procedure is drawn up and effectively implemented and which is:

- (a) is in writing;
- (b) is made available to parents of pupils;
- (c) sets out clear time scales for the management of a complaint;
- (d) allows for a complaint to be made and considered initially on an informal basis;
- (e) where the parent is not satisfied with the response to the complaint made in accordance with sub-paragraph (d), establishes a formal procedure for the complaint to be made in writing;
- (f) where the parent is not satisfied with the response to the complaint made in accordance with sub-paragraph (e), makes provision for a hearing before a panel appointed by or on behalf of the proprietor and consisting of at least three people who were not directly involved in the matters detailed in the complaint;
- (g) ensures that, where there is a panel hearing of a complaint, one panel member is independent of the management and running of the school;
- (h) allows for a parent to attend and be accompanied at a panel hearing if they wish;
- (i) provides for the panel to make findings and recommendations and stipulates that a copy of those findings and recommendations is—
  - (i) provided to the complainant and, where relevant, the person complained about; and
  - (ii) available for inspection on the school premises by the proprietor and the head teacher;
- (j) provides for a written record to be kept of all complaints that are made in accordance with sub-paragraph (e) and—
  - (i) whether they are resolved following a formal procedure, or proceed to a panel hearing; and
  - (ii) action taken by the school as a result of those complaints (regardless of whether they are upheld);and
- (k) provides that correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them.

8.2 It may be useful to note the following points:

- a. the complaints procedure need not apply to prospective pupils, and therefore, it does not have to cover failure to admit such pupils;
- b. the procedure only needs to apply to relation to complaints from parents<sup>11</sup> of pupils, i.e. persons for whom education is being provided at the school. Therefore, the process does not need to cover complaints from parents of pupils who have left voluntarily or as a result of being excluded (except in cases where the complaints process was started when the pupil was still being educated at the school);
- c. there is no provision in the standard for complaints by pupils, even those who are adults, although a school may choose to have such a process;
- d. the requirement for a panel member who is independent of the management and running of the school means that the independent member should not only be outside the school's workforce, and not a member of governing body/proprietary body, but also should not be otherwise involved with the management of the school - for example, this might well be the case with a solicitor who regularly acts for a school;
- e. the provision requiring a complaints procedure to allow a parent to be accompanied at a panel hearing does not confer a right on a parent to have a legal representative to make representations on their behalf at the hearing, although the school can allow this if it wishes;
- f. if a parent does not exercise the right to attend a panel hearing, this does not remove the school's obligation to hold the hearing in conformity with its complaints policy. The school's arrangements for the panel hearing should be reasonable in order to facilitate the parent(s) exercising the right of attendance

8.3 It should also be noted that if it is found that this standard has not been met because of the way a particular complaint has been handled, the Secretary of State has no power to compel the school to alter its decision on that complaint, only to take regulatory action designed to address the failure to meet the complaints standard, so that future complaints are dealt with properly.

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<sup>11</sup> "Parent" includes a person who has parental responsibility or who has care of a child – see section 576 of the Education Act 1996.

## Part 8: Quality of leadership in and management of schools

9.1 Section 94 of the Education and Skills Act 2008 requires that in addition to those matters covered by the standards described above, the Secretary of State must prescribe standards relating to the quality of leadership in and management of independent schools. As is the case with the other standards, the approach behind this standard is to focus on required outcomes. It is not the intention to tell schools how to govern or manage themselves – i.e. about how they are to go about achieving the required outcomes. But recent experience has shown that repeated, multiple and/or serious failures to meet the independent school standards are often the result of a failure in the school's management structure or processes, and an inability or unwillingness to take appropriate corrective action. If any other standard is not met, then this is evidence pointing to the leadership and management standard not being met.

9.2 The standard is:

34. (1) The standard about the quality of leadership and management is met if the proprietor ensures that persons with leadership and management responsibilities at the school—

(a) demonstrate good skills and knowledge appropriate to their role so that the independent school standards are met consistently;

(b) fulfil their responsibilities effectively so that the independent school standards are met consistently; and

(c) actively promote the well-being of pupils.

9.3 It will be noted that there is emphasis in this standard related to meeting the independent school standards consistently. The standards are not intended as something to be met every few years when an inspection takes place; the standards should be met continually, and this standard is intended to ensure that the quality of leadership and management at a school is sufficient for that purpose. If it appears that a failure to meet other independent school standards is attributable to a lack of skill or knowledge in those responsible for leading or managing a school or the way in which such people discharge their responsibilities, or a failure by school leaders to correct a lack of capacity by the school to meet other standards consistently, then this standard is likely not to be met (in addition to those other, more specific standards). The last limb of the leadership and management standard is intended to ensure that the underlying ethos of any independent school should be to develop and nurture the well-being of its pupils, and that therefore, the well-being of pupils should be actively promoted by those who are leading or managing it. It is possible to fail this last limb of the leadership and management standard even though the other standards are being met.

9.4 The inclusion of a standard relating to leadership and management means that appropriate regulatory action can be taken by the Secretary of State to address certain failures relating to the quality of leadership in or management of school. The necessary

skills and knowledge will not be ascribed (imputed) to external providers and it is possible to be failing the standard, despite recent improvements, unless arrangements are in place to sustain that improvement through the work of the school leadership itself. Specifically, this means that if a notice is served on the proprietor of a school requiring the production of an action plan setting out what steps will be taken to meet standards, that notice can include a requirement relating to what action the proprietor intends to take to improve leadership and management so as to ensure that other standards are consistently met. Steps that a proprietor might propose to take, for example, include further training or new appointments to strengthen leadership and management, or restructuring existing arrangements and senior staff. If it appears to the Secretary of State that the steps proposed would not achieve the requisite improvements, then an action plan is likely to be rejected.

9.5 The scope of the standard is capable of covering members of governing and proprietorial bodies as well as employees in management positions. It relates to anyone with leadership or management responsibilities at a school (and therefore, regardless of the title of their position). When a school is run by a trust then ordinarily each of the trustees will be considered to have leadership and management responsibilities in relation to the school; the Charity Commission also has separate and relevant powers which bear on the governance of schools run by charities. Action plans may, therefore, need to address what steps are to be taken in relation to members of these bodies. This might, for example, be the case when it appears that a governing body has not exercised proper oversight of safeguarding, or has allowed the senior management of a school too much freedom to pursue its own aims and objectives for the school without consideration for the standards.

# Annex

## Useful resources and external organisations

- [Regulations \(SI 2014 No. 3283\) containing the standards](#)
- [Ofsted inspection of independent schools - resources](#)
- [Independent Schools Inspectorate](#)
- [School Inspection Service \(now closed but website has reports\)](#)
- [Bridge Schools Inspectorate \(now closed but website has reports\)](#)
- [Government Equalities Office](#)
- [Health and Safety Executive](#)

## Other relevant departmental advice and statutory guidance

- [Keeping Children Safe in Education](#)
- [DfE advice on preventing bullying](#)
- [First Aid in schools](#)
- [Ensuring good behaviour in schools](#)
- [Standards for School Premises](#)
- [Equality Act 2010](#)
- [Teachers' Standards](#)
- [Fire safety in new and existing school buildings](#)

## Other departmental resources

- [DfE advice on independent school registration](#)
- [Online application form for registering an independent school](#)
- [Gender separation in mixed schools](#)
- [Working together to safeguard children 2018](#)





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