

Coronavirus Act 2020 Disapplication of sections 5(1), 15(3), 17(2), 48(3) and 49(1) and (2) of the Education Act 2005 (England) (No. 2) Notice 2020

The Secretary of State for Education, in exercise of the powers conferred by section 38(1) of, and paragraph 5 of Schedule 17 to, the Coronavirus Act 2020¹, issues the following notice.

Disapplication of sections 5(1), 15(3), 17(2), 48(3) and 49(1) and (2) of the Education Act 2005

1. The Secretary of State for Education by this notice disapplies:
 - a) sections 5(1), 15(3), 17(2), 48(3) and 49(1) and (2) (provisions relating to inspections) of the Education Act 2005² (the 2005 Act) during the period specified in this notice;
 - b) any similar Academy arrangement provisions to sections 48(3) and 49(1) and (2) of the 2005 Act during the period specified in this notice.

2. The Secretary of State for Education considers that the issuing of this notice is an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus for the following reasons:
 - (a) Since 20th March 2020 educational institutions, including schools and further education colleges, and registered childcare settings in England have remained open for vulnerable children and young people, and for children of critical workers in order to reduce the spread of coronavirus.
 - (b) On 28th April 2020, the Secretary of State for Education issued a notice disapplying the same provisions of the Education Act 2005 (and any similar Academy arrangement provisions) specified in paragraph 1³. The specified time period of that notice was 1st May 2020 to 31st May 2020.

¹ 2020 c. 7.

² 2005 c. 18.

³ The notice can be viewed at this link:

<https://www.gov.uk/government/publications/disapplication-notice-school-inspections-legislation-changes>.

- (c) On 10th May 2020 the government announced that certain education and childcare settings in England are being asked to plan for the possibility of phased wider opening if the government's tests are met.
- (d) The suspension of routine Ofsted inspections was announced on 17 March 2020. Routine inspections are not appropriate while schools are responding to the coronavirus outbreak. Section 5(1) of the 2005 Act puts a duty on Ofsted's Chief Inspector to undertake regular inspections of state-funded schools within prescribed intervals and to report on the result of such inspections. If this section is not disapplied, Ofsted will fall foul of its duty to inspect within the prescribed period (around every 5 years).
- (e) In relation to schools, lifting the duty on Ofsted to inspect is necessary to alleviate pressure on school leaders and their staff, and enable them to focus entirely on delivering appropriate on-site provision for pupils attending schools; and developing and implementing appropriate approaches to enable pupils not attending school to receive as much good quality education as is possible in the circumstances.
- (f) While routine Ofsted inspection is not appropriate at this time, Ofsted will retain its power to inspect individual schools, under section 8 of the 2005 Act, if any significant concerns arise.
- (g) The suspension of routine inspection is a temporary measure. The government remains committed to Ofsted inspection. The disapplication of the duty to conduct routine inspection will remain under review and routine inspection will be re-introduced at the appropriate time.
- (h) Sections 15(3) and 17(2) of the 2005 Act put a duty on the local authority (section 15(3)) or, in the case of an Academy, the proprietor (section 17(2)), to prepare a statement of action within a prescribed period following an Ofsted inspection which finds that the school requires special measures or significant improvement. By disapplying the requirements to produce a statement of action, as a temporary measure, we are recognising that local authorities, trusts and schools are currently focussed on developing and delivering an appropriate response to the coronavirus outbreak to ensure that their pupils are being appropriately and safely educated. We expect to follow up with local authorities and proprietors on the need for action plans, sensitively and proportionately, as and when circumstances allow.
- (i) Regional Schools Commissioners (RSCs) will also work with schools, including academies, to put in place suitable support arrangements. RSCs will consider on a case-by-case basis when steps may be taken to implement existing Academy orders issued in

relation to inadequate schools.

- (j) Sections 48(3) and 49(1) and (2) of the 2005 Act put a duty on the governing bodies of voluntary or foundation schools which have been designated as having a religious character, and (through Academy funding arrangements) the proprietors of academies designated as having a religious character, to arrange inspections covering collective worship at the school and denominational education provided by the school within prescribed intervals and for the person conducting such an inspection to inspect and produce a report within prescribed periods. As set out above, routine inspections are not appropriate while schools are responding to the coronavirus outbreak. If these sections are not disapplied, some faith schools may fall foul of their duty to arrange these inspections within the prescribed period (around every 5 years).

Specified period

- 3. The specified period in this notice starts at the beginning of 1st June 2020 and finishes at the end of 30th June 2020.

Signed by or on behalf of the Secretary of State for Education:

Date of signature:

28th May 2020

