

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.5) 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 2020,¹ 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) in relation to England 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) From 20th March 2020 until the end of the summer term, educational institutions, including schools and further education colleges, and registered childcare settings in England remained open for vulnerable children and young people and for children of critical workers in order to reduce the spread of coronavirus.
 - (b) From 1st June 2020 until the end of the summer term, primary schools and registered childcare settings in England welcomed back certain groups of children. From 15th June 2020 until the end of the summer term, secondary schools, 16 to 19 and further education settings provided some face-to-face support to certain other groups. On 2nd July 2020 the government asked schools to prepare for all pupils to return to school from the beginning of the autumn term (except where public health advice indicates that certain pupils should remain at home).
 - (c) The Secretary of State for Education has previously issued four notices disapplying the provisions specified in paragraph 1.³ The most recent notice was issued on 31st July 2020. The specified time period of that notice was 1st August 2020 to 31st August 2020.
 - (d) The suspension of routine Ofsted inspections was announced on 17th March 2020. Routine inspections are not appropriate at this time while schools are fully engaged in responding to the coronavirus outbreak and are focussed on the return of all pupils to full-time education from the beginning of the autumn term, which includes implementing and maintaining the protective measures for pupils and staff.

¹ 2020 c.7.

² 2005 c. 18.

³ The notices can be viewed at this link: <https://www.gov.uk/government/publications/disapplication-notice-school-inspections-legislation-changes>.

- (e) 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).
- (f) In relation to state-funded schools, temporarily lifting the duty on Ofsted to routinely inspect and report is necessary to alleviate pressure on school leaders and their staff. This will enable them to focus on the significant task of returning all pupils back into full-time education from the beginning of the autumn term, which includes implementing and maintaining the protective measures for pupils and staff, in order for state-funded schools to continue to deliver an appropriate response to the coronavirus outbreak, following the publication on 2 July of the Government's [Guidance for full opening: schools](#).
- (g) While routine Ofsted inspections are 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.
- (h) 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. It is currently planned that routine inspections will be re-introduced in January 2021, although this will remain under review. During the autumn term, inspectors will visit a sample of schools, under section 8 of the 2005 Act, to discuss how they are managing the return to education of all their pupils.
- (i) 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 need to focus on the significant task of supporting the return of all pupils from the beginning of the autumn term, which includes implementing and maintaining the protective measures for pupils and staff, in order for state-funded schools to continue to deliver an appropriate response to the coronavirus outbreak, following the publication on 2 July of the Government's [Guidance for full opening: schools](#). We expect to follow up with local authorities and proprietors on the need for action plans, sensitively and proportionately, as and when circumstances allow.
- (j) 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.
- (k) Sections 48(3) and 49(1) and (2) of the 2005 Act place duties 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 of state-funded schools are not appropriate while they are focussing on the significant task of returning all pupils back into full-time education from the beginning of the autumn term, which includes implementing and maintaining the protective measures for pupils and staff. If these sections are not disapplied, some schools designated as having a religious character may fall foul of their duty to arrange these inspections within the prescribed period (around every 5 years) and to carry out the inspections and prepare a report within the prescribed period.

(l) The matters above are relevant to all of England.

Specified period

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

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

Date of signature:



27 August 2020