

Coronavirus Act 2020 Disapplication of sections 5(1), 48(3) and 49(1) and (2) of the Education Act 2005 (England) Notice 2021

The Secretary of State for Education, in the exercise of 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), 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), 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 and registered childcare settings in England limited attendance to certain children and young people in order to reduce the spread of coronavirus. Over the course of the summer term they welcomed back more children and young people in stages. In the government's Guidance for opening: schools, published on 2nd July 2020 (updated 3rd December 2020)³, 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 indicated that they should remain at home).
 - (b) Since the start of the 2020 autumn term, education institutions, including primary and secondary schools and further education settings, alternative provision settings and special schools, and registered childcare settings have been asked to remain open during term time for all year groups/children. Government intends for this to remain the case in January.
 - (c) The Secretary of State for Education has previously issued eight notices disapplying the provisions specified in paragraph 1⁴. The most recent notice was issued on 26th November 2020. The specified time period of that notice was 1st December 2020 to 31st December 2020.

¹ 2020 c.7.

² 2005 c.18.

³ The guidance can be viewed at this link: <https://www.gov.uk/government/publications/actions-for-schools-during-the-coronavirus-outbreak/guidance-for-full-opening-schools>

⁴ The notices can be viewed at this link: <https://www.gov.uk/government/publications/disapplication-notice-school-inspections-legislation-changes>

- (d) The suspension of routine Ofsted inspections was announced on 17th March 2020. Routine inspections continue to be inappropriate at this time while schools are fully engaged in responding to the coronavirus outbreak and are focussed on providing full-time education for all pupils, which includes implementing and maintaining protective measures for pupils and staff.
- (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). In relation to state-funded schools, temporarily lifting the duty on Ofsted to routinely inspect and report remains necessary to alleviate pressure on school leaders and their staff. This will enable them to focus on continuing to provide full-time education for all pupils.
- (f) The continued suspension of routine inspections is a short-term, temporary measure. The government remains committed to Ofsted inspection. The disapplication of the duty to conduct routine inspections will remain under review and routine inspections will be reintroduced at the appropriate time. As set out in the government's guidance for opening schools, it is intended that Ofsted will: i) conduct monitoring inspections of inadequate schools and some schools that require improvement during the spring term; and ii) resume routine, graded inspections in the summer term.
- (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) 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 providing full-time education for all pupils which includes implementing and maintaining 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.
- (i) The matters above are relevant to all of England.

Specified period

3. The specified period in this notice starts at the beginning of 1st January 2021 and finishes at the end of 31st January 2021.

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

A handwritten signature in black ink, appearing to read "Neil Giles". The signature is written in a cursive style with a large initial 'N' and 'G'.

Date of signature: 12 December 2020