

## **Coronavirus Act 2020 Disapplication of sections 5(1), 48(3) and 49(1) and (2) of the Education Act 2005 (England) (No. 2) 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 2020<sup>1</sup>, 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 2005<sup>2</sup> (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) High rates of coronavirus have made it necessary to take appropriate measures to reduce transmission. On 4th January 2021, the Prime Minister announced a national lockdown in England to begin on 5th January 2021. In light of the level and seriousness of risk and having considered advice and information from the Scientific Advisory Group on Emergencies, the Chief Medical Officer, the Joint Biosecurity Committee and Public Health England, the Secretary of State has decided that it is appropriate for most pupils to temporarily cease to attend school until after the half-term holidays. The purpose of this measure is to reduce rates of transmission by reducing the number of contacts among pupils and between pupils and staff at school, and between pupils and others while travelling to and from school and while at home and in the community.
  - (b) In the government's guidance, Restricting attendance during the national lockdown: schools<sup>3</sup>, published on 7th January 2021, the government asked schools, alternative provision, special schools, colleges and wraparound childcare and other out-of-school activities for children to limit attendance to vulnerable children and children of critical workers. All other children should not attend, and all other pupils and students should learn remotely until February half-term.
  - (c) The Secretary of State for Education has previously issued nine notices

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<sup>1</sup> 2020 c.7.

<sup>2</sup> 2005 c.18.

<sup>3</sup> The guidance can be viewed at this link: [Actions for schools during the coronavirus outbreak - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/actions-for-schools-during-the-coronavirus-outbreak)

disapplying the provisions specified in paragraph 1<sup>4</sup>. The most recent notice was issued on 12th December 2020. The specified time period of that notice was 1st January 2021 to 31st January 2021.

- (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, which includes providing on-site education and support for vulnerable children and children of critical workers and remote education for all other pupils.
- (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 providing on-site education and support for vulnerable children and children of critical workers and remote education for all other pupils.
- (f) The continued suspension of routine inspections is a 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.
- (g) As set out in the government's guidance Restricting attendance during the national lockdown: 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. Ofsted will also retain its power to inspect individual schools, under section 8 of the 2005 Act, if any significant concerns arise including concerns about safeguarding or remote education.
- (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 schools are fully engaged in responding to the coronavirus outbreak, which includes providing on-site education and support for vulnerable children and children of critical workers and remote education for all other

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

pupils. 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 February 2021 and finishes at the end of 28th February 2021.

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

A handwritten signature in black ink, appearing to read 'Nick Gill', written in a cursive style.

Date of signature: 23 January 2021