



Department
for Education

Independent schools: inspection fees, and school standards

Government consultation response

February 2018

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Introduction

The consultation was published on 12 October 2017 and closed on 6 December. Its main purpose was to consult schools and other interested parties on proposed new fee rates and fee categories, for inspections of independent schools conducted by Ofsted, as commissioned by the Department for Education under the Education and Skills Act 2008.

The consultation also covered a proposed technical amendment to the independent school standards, designed to bring up to date references in those standards to the National Minimum Standards for Boarding.

The consultation was conducted via the online CitizenSpace platform; all registered independent schools and applicants for registration were alerted by email to the consultation, as well as relevant associations and inspectorates. There was also an email box for enquiries. No events were held in connection with the consultation, or other online platforms used.

Documents pertaining to the consultation can be found at:

<https://consult.education.gov.uk/school-frameworks/independent-school-inspection-fees-and-standards/>

Summary of responses received and the government's response

A total of 60 responses was received. Fifty eight of these were from schools (a list of respondents is at the Annex); responses were also received from Ofsted and from one independent school association.

Following the consultation, the government is proceeding to lay regulations which except for one change relating to the frequency with which invoices may be issued by Ofsted, will embody the proposals set out in the consultation.

Main findings from the consultation

Given that the proposals involved higher costs for the schools which formed most of the respondents, it was unsurprising that a majority were not in favour of higher fees for standard inspections. But the picture was in fact a mixed one, with a substantial minority recognising that the proposed increases were reasonable. There was also a substantial body of support for introduction of new fee categories. The issue on which the balance of opinion was clearest was the possibility of charges being made in future for emergency inspections, and the evaluation of schools' action plans, both of which were strongly opposed. Views on the possibility of future charges for another category, material change inspections, were more mixed.

Not all respondents answered the consultation question relating to the National Minimum Standards for Boarding, but of those that did, most were in favour making the change.

Question analysis

Question 4 (first question on on-line form)

Do you agree that the proposed increase in fees chargeable by Ofsted for standard inspections is reasonable, in the circumstances outlined in the consultation document?

Response	Total	Percent
Yes	24	40%
No	36	60%

Amongst the comments made by respondents in response to the associated Question 5, the principal concern was the impact of the proposals on small schools (especially as the proposed increase is substantial in percentage terms). There were also some adverse comments on the inspection process itself.

Government response

The government is pleased that there was substantial recognition by many respondents that the proposed increase in the fee instalments for standard inspections was reasonable. It accepts that for many smaller schools the increase is high in percentage terms, but the fee structure continues to give more protection to smaller schools relative to actual costs, than for larger schools. Furthermore, the increase is the first since 2009 even though inspection costs have risen every year since then. The government intends to incorporate the proposed fee structure unchanged into the new Regulations when laid.

Question 6

Should fees at the new level be chargeable in respect of all inspections that are invoiced after the regulations come into force, notwithstanding where in the 3-year inspection cycle period an inspection falls?

Response	Total	Percent
Yes	26	43%
No	33	55%
No response	1	2%

This question related to the proposal that instead of a transitional period whereby inspections would be charged at the 'old' rate until the end of a particular school's 3-year fee instalment cycle, the new fee would be charged immediately once the new regulations came into force. The effect on individual schools will vary depending on when the school's last inspection was; some schools would have gained more from retention of a transitional period than others.

Government response

The government believes that an immediate move to the higher fee levels for standard inspection is an integral part of implementing a policy of movement towards full cost recovery, and intends to proceed on the basis set out in the consultation.

Question 7

Do you agree with the inclusion of two-year-olds in the determination of the number of pupils for the purposes of calculation of inspection fees to be charged by Ofsted?

Response	Total	Percent
Yes	25	42%
No	34	57%
No response	1	2%

The proposed inclusion of pupils aged two in the calculation of fees for standard inspections arose from the change made by the Small Business, Enterprise and Employment Act 2015, following which provision for two year olds in independent schools no longer requires separate Ofsted registration. Because of this there was no justification for continuing with the existing exclusion of pupils aged two from fee calculations for inspection of school provision.

Government response

The government recognises that some schools with two year old pupils will be differentially affected by this proposal. However, it does not believe that there is any justification for not including these pupils in the calculation of inspection fees. Provision for them has to be included in the Ofsted standard inspection of the school, the costs of which relate to the size of the school, and in this respect they are no longer any different from pupils in older year groups.

Question 8

Do you agree with the abolition of the ‘reduced tariff’?

Response	Total	Percent
Yes	24	40%
No	36	60%

The current (2009) regulations include a reduced tariff for the short ‘light-touch’ inspections which used to be conducted by Ofsted in specified circumstances. However, such inspections have not been conducted for a number of years, and there are no plans for their re-introduction.

Government response

The government believes that schools opposing abolition of the reduced tariff might be signalling support for the reintroduction of such inspections. However, it does not accept that such a move would be appropriate at the present time. Since the independent school standards were strengthened in 2015, the proportion of schools not meeting at least some standards has increased. While it is accepted that many schools have continued to meet the standards, the government does not believe that pupils’ interests would be best served by having a more light-touch regime for any inspections. Ofsted has already taken steps to bring the ‘tariff’ for inspector time as close as possible to the minimum needed to fully examine compliance with the standards.

Question 9

Do you agree with proposed changes in the regulations designed to make clearer the times at which fees may be charged?

Response	Total	Percent
Yes	49	82%
No	11	18%

The current (2009) regulations include provisions stipulating that only one fee for standard inspection may be charged every calendar year. The consultation version of the replacement regulations changes this to every twelve months and also seek to make it clearer when a three-year period begins.

Government response

The government notes the widespread support for the changes, although a minority wanted no change and amongst the comments made by respondents there were a few suggestions for other changes such as bringing fees in line with the academic year. However, having considered Ofsted's response to the consultation the government intends that the Regulations laid before Parliament will contain a further change, which is to abolish the limitation of one invoice every year/twelve months. This does not mean that schools would normally receive an instalment invoice more than once a year, but there are some circumstances (for example if a school is closing) when there needs to be an interval of less than twelve months between Ofsted invoices.

Question 11

Do you agree with the introduction of a fee for pre-registration inspections?

Response	Total	Percent
Yes	34	57%
No	26	43%

At present no charge is made for these inspections, which are part of the process for registering a new independent school. The proposal was that a fee representing around 65% of the actual cost should be charged. If a second inspection proved necessary and the proposer wanted to continue the application, the same fee would be payable again.

Government response

The government was pleased to note that a majority of respondents supported the introduction of this fee. Although the government wishes to see a diverse and flourishing independent school sector, it also believes that those wishing to establish new schools should do so from a realistic position, and that if proposers need to bear part of the inspection cost, they are more likely to ensure that they can demonstrate that the school will be able to meet the independent school standards when registered. It is also fairer that if costs are incurred by Ofsted as a result of an initiative by an individual or organisation to set up a school, a contribution is made to those costs. The government intends to include the proposals unchanged in the Regulations to be laid before Parliament.

Question 12

Do you agree with the introduction of a fee for first standard inspections?

Response	Total	Percent
Yes	33	55%
No	27	45%

At present no charge is made for these inspections, even though they are identical to the standard inspections held of longer standing schools, and incur the same costs for Ofsted. The proposal was that a fee at the same level as for other standard inspections should be charged; in effect this would mean that schools would start paying for inspections immediately rather than after a grace period.

Government response

The government notes that there was a very small majority opinion in favour of this proposals. It appreciates that imposing the standard inspection fee may represent a significant burden for schools which may still be building up pupil numbers when in the first year or so of operation. However, inspections are particularly vital at this point because some schools which are not established on a firm basis can be found to be failing badly in their first year. Again, it is desirable that only schools which have been properly planned and have a clear demand for their services should be registered, and the government believes that it is now appropriate to begin the full inspection and charging regime from the outset. As with pre-registration inspection fees, it is also fairer that if costs are incurred by Ofsted as a result of an initiative by an individual or organisation to set up a school, a contribution is made to those costs. The government intends to include the proposals unchanged in the Regulations to be laid before Parliament.

Question 13

Do you agree with the introduction of a fee for a third and any subsequent progress monitoring inspections?

Response	Total	Percent
Yes	33	55%
No	27	45%

At present no charge is made for these inspections, even though charges are made for first and second progress monitoring inspections (PMIs). There are only a handful of

schools each year which undergo more than two PMIs. The fee to be charged would be the same as that for other PMIs, which is unaltered under the proposals.

Government response

The government notes that there was again a very small majority opinion in favour of this proposals. Only a very small number of school are likely to be affected by the proposal; and if they are it is because they have made very slow progress towards meeting the independent school standards failed at an earlier inspection. Although financial leverage is not intended to be a school improvement mechanism, the fact that a fee would need to be paid for every PMI should act as an additional inducement to make more rapid progress. The government intends to include the proposals unchanged in the Regulations to be laid before Parliament.

Question 14

Do you agree that there should continue to be no fee payable for emergency inspections?

Response	Total	Percent
Yes	54	90%
No	4	7%
No response	2	3%

At present no charge is made for these inspections, which are normally commissioned by the Department for Education as a result of a specific complaint or allegation about a school which suggests that the independent school standards are not being met. The inspections are not investigations into specific incidents, which depending on the circumstances may be matters for the local authority or police.

Government response

The government notes the very strong agreement amongst respondents that there should continue to be no fee for emergency inspections, as proposed in the consultation. There are arguments both for and against the charging of a fee, depending on whether a school is found to be not meeting the standards. Although the department attempts to identify malicious or unfounded allegations at the outset, it also remains a possibility that an inspection takes place with insufficient justification as this may not be evident until the inspection is completed, and the department often has to err on the side of caution in the interests of pupil well-being. However, the government accepts that there should be no fee, and as set out in the consultation proposals, the Regulations to be laid before Parliament will exempt these inspections.

Question 15

Do you believe that a charge should be made for material change inspections if a legal power to do so were to be created?

Response	Total	Percent
Yes	23	38%
No	36	60%
No response	1	2%

At present no charge is made for these inspections, and there is no power to make a charge. This is because applications for approval of material changes to schools (such as a change in age range) are dealt with under the Education Act 2002 rather than the Education and Skills Act 2008 (because a wider range of changes is covered by the 2002 Act), and the power to charge inspection fees contained in the latter Act cannot be used, even if it were government policy that Ofsted should charge a fee. Inspections are held if the department considers that a school's application for approval requires inspection evidence.

Government response

The government notes that the majority view was against a charge, although this was by no means the universal opinion. The argument for charging a fee is that schools take the initiative to make a material change, and should bear the financial consequences. However, at present the government has no plans to amend the primary legislation relating to approval of material changes and consequently these inspections will continue to be free of charge to schools. The department will continue to consider in each case whether an inspection is actually required and will take a decision on that based on the circumstances of the school and the actual change envisaged, with a view to ensuring that pupil well-being is prioritised.

Question 16

Do you believe that a charge should be made for evaluation of schools' action plans if a legal power to do so were to be created?

Response	Total	Percent
Yes	10	17%
No	50	83%

If a school does not meet the independent school standards, it is normally required to produce an action plan showing how it will meet the standards, and by when. Such action plans are evaluated by the relevant inspectorate. When Ofsted is the inspectorate involved, the evaluation process is termed an 'inspection event' - although no actual inspection is held - because inspector time is taken up with the evaluation. There is no current legal power to charge for evaluations.

Government response

The government notes that the strong view of respondents was against a charge being made for evaluations. The argument for charging a fee is that schools which have to produce an action plan are in that position because of their failure to meet the independent school standards, and should bear the consequent costs, just as they do with progress monitoring inspections. However, at present the government does not plan to amend primary legislation to create a charging power.

Question 17

Do you believe that the proposals would have a particular impact on certain types of school, and do you wish to comment on that?

Around half of the total number of respondents made comments for this question. Most of those comments reiterated concerns about the impact of the increase in fees for standard inspections, particularly on small schools and those run by charities or other not-for-profit organisations, as well as special schools.

Government response

As noted in the response above on Question 4, the government accepts that the percentage increase in fees for small schools is significant, but for the reasons stated there, believes that the proposals are justified.

Question 18

Do you have any further comment on the proposed changes to fee levels or categories, particularly in relation to the likely financial impact on schools?

Around a third of respondents made further comments for this question. Apart from further points about the financial burden on small schools, some of these comments made suggestions for alternative approaches such as different charging bands, or charges based on whether the school was run for profit. One suggested that all schools in England should be inspected free of charge regardless of type of school. Some respondents commented on the need for appropriate expertise amongst inspectors.

Government response

The government has noted the responses made, and is grateful to those who have spent time taking part in the exercise. However, it does not propose to make any change to the consultation proposals as a result of the further comments received.

Question 19

Do you agree that the proposed technical amendments to the independent school standards regulations relating to the various sets of National Minimum Standards should be made?

Response	Total	Percent
Yes	39	65%
No	11	18%
No response	10	17%

The current independent school standards contained in regulations¹ require that schools with boarding accommodation should have regard to various sets of National Minimum Standards (NMS) for boarding made by the Secretary of State. The NMS in turn set out more detailed requirements for boarding provision; and if not met by a school, may be the basis of regulatory action undertaken by the department. The independent school standards reference three sets of National Minimum Standards: those made in 2012 for boarding schools, those made in 2012 for residential special schools, and those made in 2002 relating to accommodation or students aged under 18 in further education colleges. Until recently, the last-named of these applied to boarding pupils aged 16+ in a school with no boarding provision for pupils aged under 16. The proposals in the consultation exercise were to substitute in the independent school standards references to the NMS for boarding schools and for residential special schools made in 2015, which are the current NMS; and to delete the reference to the further education NMS, as pupils aged 16+ are from 2015 covered by the main boarding school NMS.

Government response

The government notes that there is substantial support for making the change, although some respondents thought otherwise. In the government's view the change needs to be made so that regulatory action can when necessary be taken on the basis of the most up to date set of standards. This is in the interests both of pupils and good administration. The government will therefore be including the proposed changes in the Regulations to be laid before Parliament.

¹ SI 2014/3283

Next steps

The government will lay Regulations before Parliament on the basis described in this document. Subject to Parliamentary approval (these are negative resolution regulations), they will come into force from 1 April 2018.

Annex A: List of organisations which responded to the consultation (names are reproduced as given by respondents)

Abbsolut Ltd
Active Support Education
Al Islah Girls High School
Al Noor
Alamiyah School
Beech Lodge School
Brentwood School
Care4Children
Charity running an Independent School
Charlotte House Prep School
Dawatul Islam UK & Eire
EIFA International School
Firwood Manor Prep School
Five rivers childcare L+A1:A52td.
Frewen College
Gloverspiece School Ltd
Halcyon London International School
Head teacher of a school
Hope View School
Independent preparatory school
Independent School
Independent School
Instituto Espanol "Canada Blanch"
JAMES
Jus'T'Learn Independent School
Kensington Park School
La Petite Ecole Bilingue
La Petite Ecole Bilingue Kentish Town
Learn 4 Life school
Longwood School and Nursery
Lyonsdown School
Maeda Gakuen Finchley and Acton Yochien
Meredale Independent School
National Institute of Conductive Education
Ofsted
Outcomes First, Hillingdon Manor School

Owlswick School and Home
Park School
Penarth Group School
Pierview Academy
Re-Entry
Rossendale School
School
School
SENAD
Snowflake School
Switched On Christian School
Talmud Torah Chinuch Norim
TASIS England
Tawhid Educational Trust
The Independent Schools Association
The Jam Academy
The Lioncare Group
The Oratory School
The Pace Centre
The Royal Grammar School Worcester
The Royal Hospital School
The WASP Centre
Twyford School
Underley Garden School



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