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**Registration of Independent Schools**

**Information Pack**

**March 2012**

**REGISTRATION OF INDEPENDENT SCHOOLS**

**A GUIDE FOR PROPRIETORS ON THE STATUTORY REQUIREMENTS FOR REGISTRATION**

Introduction

Part 10, Chapter 1 of the Education Act 2002 requires all independent schools to be registered with the Department for Education. Applications for registration by new schools must be made before a school begins to operate and admit pupils.

Regulations made under Part 1 Chapter 10 of the Education Act 2002 set out a range of standards that all independent schools in England must satisfy as a condition of registration. The regulations cover:-

* The quality of education provided,
* The spiritual, moral, social and cultural development of pupils
* The welfare, health and safety of pupils
* The suitability of proprietors and staff
* The premises and accommodation
* The provision of information and the way in which complaints are handled.

These standards will be examined by Ofsted before an application for registration is approved and also within the first year of operation. Thereafter, independent schools will continue to be inspected on a regular cycle by Ofsted or one of the three approved independent inspectorates: Independent School Inspectorate (ISI), School Inspection Service (SIS) or the Bridge Schools Inspectorate, to ensure they continue to meet the standards for registration. The 2002 Act provides for action to be taken where schools do not meet the standards. The majority of independent schools will undergo regular three yearly inspections in a six yearly cycle. However from September 2012, those mainstream schools with good or outstanding inspection reports will be inspected at intervals of up to six years. Provision for under-threes and the welfare of boarders will continue to be inspected every three years and the welfare of pupils in special schools will continue to be inspected annually. Further information on the inspection arrangements for independent schools is available within Part E on page 24.

This Guide is intended to set out for proprietors\* the requirements of the legislation and to help those intending to apply for registration to submit the necessary documentation. It attempts to offer advice on those points most commonly raised by independent schools. It cannot attempt to offer an authoritative statement on all matters relating to the regulation of independent schools and given the diversity of the sector schools may wish to request individual advice. Contact details are given below.

Part A sets out the scope of the arrangements and explains which establishments are categorised as independent schools.

Part B explains in detail how you should apply for registration.

Part C sets out the Standards for Registration.

Part D explains the arrangements for catering for pupils with Special Educational Needs.

Part E deals with the arrangements for inspection including the fees payable.

Part F deals with the need to have prior approval for certain changes to a registered school. These relate to:-

* changes to the age range of pupils;
* changes to the maximum number of pupils;
* change of address;
* change of \*proprietor;
* a decision by the school to become fully or partly co-educational;
* a decision by the school to provide or cease to provide boarding accommodation;
* a decision by the school to admit pupils with special educational needs.

Part G sets out the action to be taken where an independent school fails to meet one or more of the required standards.

Part H covers information on a range of other topics of concern to the proprietors of registered independent schools.

\* For the purposes of the Education Act 2002 and regulations made under the Act, proprietor means the person or body of persons responsible for the management of the school and includes individual proprietors and formally constituted boards of governors, directors or trustees.

For further information on any points raised in this pack, please contact the Independent Education and Boarding Team:

**Tel**: 01325 735562

**Fax**: 01325 735324

E-mail: [registration.enquiries@education.gsi.gov.uk](mailto:registration.enquiries@education.gsi.gov.uk)

Or write to:

Independent Education and Boarding Team

GF Area F

DfE

Mowden Hall

DARLINGTON

DL3 9BG

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**Part A: Scope of the Arrangements**

What is the definition of an independent school for registration purposes?

An independent school is defined as any school that provides full time education for five or more pupils of compulsory school age or one or more such pupils with a statement of special educational needs or who is looked after (within the meaning of Section 22 of the Children Act 1989) and is not a school maintained by a Local Authority or a non-maintained special school. Under the Children’s Act 1989, a child is looked after by a local authority if he or she is in their care or is provided with accommodation for more than 24 hours by the authority.

They fall into 4 main groups:

(i) children who are accommodated under a voluntary agreement with their parents

(ii) children who are the subject of a care order or interim care order

(iii) children who are the subject of emergency orders for the protection of the child

(iv) children who are compulsorily accommodated. This includes children remanded to the local authority or subject to a criminal justice supervision order with a residence requirement.

If your establishment falls outside the definition of an independent school given above e.g. it provides full-time education for 4 or fewer pupils of compulsory school age (none of whom have a statement of special needs, or are in public care) your establishment need not be registered with the DfE. However, you should get in touch with the Local Authority for your area, which will need to be satisfied that parents of children attending your establishment are meeting the requirement to ensure that their children receive education suitable to their age, ability and aptitude.

Please note that it is an offence to operate an unregistered school and anyone who does so may be liable to a fine and/or imprisonment.

**When does a child reach compulsory school age?**

A child will reach compulsory school age at one of the following three dates in the year:

1 September, 1 January and 1 April. The determination of which of these compulsory school age dates is to be applied will depend on the date of the child’s fifth birthday as illustrated below:

* If a child’s fifth birthday falls between 1 April and 31 August they will become of compulsory school age on 1 September;
* If a child’s fifth birthday falls between 1 September and 31 December they will become of compulsory school age on 1 January;
* If a child’s fifth birthday falls between 1 January and 31 March they will become of compulsory school age on 1 April.

NB. A child born on 1 January 2005 would have reached their fifth birthday on 1 January 2010 and, therefore, would not be five before the eligibility date of 1 January 2010, but was five before 1 April 2010. They did not, therefore, become of compulsory school age until the summer term.

**When does a child cease to be of compulsory school age?**

A child ceases to be of compulsory school age at the school leaving date (the last Friday in June) of the school year in which he or she attains the age of 16. Until that date:

1. Parents and guardians must ensure their child’s participation in education, at school or otherwise;
2. Local authorities must secure the provision of suitable education;
3. Employers may not employ a child full-time.

What is the position if I intend to provide education for children under 5 years old?

Establishments that cater primarily for children under the age of 5 are required to register as an independent school if they meet the definition of an independent school given in Part A. Schools that meet this definition are required to implement the Early Years Foundation Stage for children aged 3 to 5. More information on this is available at: <http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/education/a0068102/early-years-foundation-stage-eyfs>

If the school does not fall within the definition of an independent school because it caters solely for children under 5 it must be registered with Ofsted Early Years Directorate – tel: 0845 601 4771.

What is the position if I intend to provide education for children over 16 years?

A school that provides solely for students over the age of 16 does not need to register with the Department. This Department does not exercise any direct statutory control over the independent sector of further and higher education, nor is that sector governed by regulations applying to maintained or assisted further and higher education institutions.

Establishments that cater for 5 or more compulsory school age pupils, or 1 or more such pupils with a statement of special educational needs, or who is looked after, as well as those over the age of 16 will be required to register as an independent school.

A number of voluntary accrediting bodies are involved in the inspection and accreditation of private further and higher education institutions. One of these bodies, the British Accreditation Council, is able to provide a benchmark on quality of provision in independent colleges of further and higher education. Their address is:

The British Accreditation Council

44 Bedford Row

London

WC1R 4LL

**Tel**: 020 7447 2584

**Fax**: 020 7447 2585

**E-mail:** [**info@the-bac.org**](mailto:info@the-bac.org)

**Website**: [www.the-bac.org](http://www.the-bac.org)

**…PART B How to Apply for Registration**

**Important: Before you apply to register as an independent school you must read Parts C – G of this guidance so that you are quite clear about the standards you will need to meet and the other legislation governing independent schools.**

You must also check to see that you have received or obtained all of the following documents:

|  |
| --- |
| Registration Form - Application Form for Registration as an Independent School |
| The Education (Independent School Standards) (England) Regulations 2010 |
| The Education (Provision of Information by Independent Schools) (England) Regulations 2010 |
| The Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009 |
| The Education (School Premises) Regulations 1999 |
| Safeguarding Children and Safer Recruitment in Education Guidance 2007 |
| Use of Force Guidance Nov 2007 |

Internet links to the regulations and guidance are provided from page 39 onwards.

**How do I register an independent school?**

Independent schools must be registered before they start to operate and admit pupils. An application form is enclosed with this guide for you to complete and return to the Department **as soon as you have assembled all the information needed.**

The form may be downloaded from: <http://www.education.gov.uk/schools/leadership/typesofschools/independent>

and on completion either e-mailed to: [registration.enquiries@education.gsi.gov.uk](mailto:registration.enquiries@education.gsi.gov.uk%20)  or posted to the address below. You may also obtain a hard copy of the form from the address below:

Independent Education and Boarding Team

GF Area F

DfE

Mowden Hall

DARLINGTON

DL3 9BG

Tel: 01325 735562  
Fax: 01325 735324   
E-mail: [registration.enquiries@education.gsi.gov.uk](mailto:registration.enquiries@education.gsi.gov.uk)

Alternatively, the registration application form may be completed and submitted on-line by registering with businesslink at: <https://online.ukwelcomes.businesslink.gov.uk/etm/action/search?classification=3>

Once registered the application form may be accessed on: <https://online.ukwelcomes.businesslink.gov.uk/bdotg/action/piplink?agency_id=132041&service_id=7700010001&site2000>

The following information should be provided with your completed application:

* A plan, drawn to scale in square metres, showing the layout of the premises and accommodation of all buildings;
* Detailed curriculum plans, schemes of work (for the subjects taught) and the procedures by which pupils’ work and progress will be assessed;

A copy of the school’s policy on:

* Preventing and Tackling Bullying: Advice for school leaders and governors: <http://www.education.gov.uk/schools/pupilsupport/behaviour/bullying/f0076899/preventing-and-tackling-bullying>
* Safeguarding Children and Safer Recruitment in Education: <http://publications.education.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DFES-04217-2006&> . Associated guidance to replace chapter 5 of SCSRE: Dealing with Allegations of Abuse against Teachers and Other Staff" link: <http://www.education.gov.uk/aboutdfe/statutory/g0076914/dealing-with-allegations-of-abuse-against-teachers-and-other-staff>
* Safeguarding and promoting the health and safety of pupils on activities outside the school which has regard to DfE Guidance “Health and Safety of Pupils on Educational Visits”. Now replaced by: Health & safety: Department for education advice on legal duties and powers for local authorities, head teachers, staff and governing bodies: <http://www.education.gov.uk/schools/adminandfinance/healthandsafety/f00191759/departmental-health-and-safety-advice-on-legal-duties-and-powers-for-local-authorities-headteachers-staff-and-governing-bodies>
* Promoting good behaviour amongst pupils including setting out the sanctions to be adopted in the event of pupil misbehaviour;
* A copy of the school complaints procedures, as outlined in paragraph 7 of Schedule 1 to The Education (Independent Schools Standards) Regulations 2010.
* A completed Criminal Records Bureau Disclosure Form (obtainable from the Criminal Records Bureau) in respect of each sole or joint proprietor of the school or, where the proprietor is a formally constituted body, the Chair of the body.

All independent schools must satisfy the Secretary of State of the suitability of the proprietor. The proprietor must, therefore, be subject to criminal background checks undertaken by the Criminal Records Bureau. For instructions on how to apply for proprietor checks see Part C. These procedures must also be followed where there are changes to the proprietor.

For the purposes of the Education Act 2002, the Education and Skills Act 2008 and regulations made under the Acts, proprietor means the person or body of persons responsible for the management of the school and includes individual proprietors or formally constituted boards of governors, directors or trustees.

**Are there any restrictions about the name of the school?**

If the name you are proposing for your school may be construed as implying a Royal connection, e.g. Queen’s, King’s, Prince’s etc, the adoption of that name requires prior approval from the Cabinet Office

The Constitutional Policy Team  
Cabinet Office

4th Floor

1 Horseguards Road

London

SW1A 2HQ

Tel: 0207 2712692  
Email: Noelle.O’Connor@cabinet-office.gsi.gov.uk

Applications for use of the word ‘University’ in a school title or business title should be made to the:

Privy Council Office

2 Carlton Gardens

London

SW1Y 5AA

Tel: 0207 747 5310

The Privy Council Office in turn seeks the advice of the Secretary of State for Education on these applications. In the absence of approval from either the Cabinet Office or the Privy Council Office, schools will not be admitted to the Register of Independent Schools under such titles.

**What happens once the initial application form is received in the Department?**

Once the Department receives all the relevant documents, copies are sent to Ofsted who will consider the documents carefully and report their views to the Department. These will be taken into account in determining whether your school can be registered. However, before offering final views Ofsted will need to visit the school in order to advise the Department on whether the school meets the prescribed standards for registration. They will make arrangements direct with you. There is currently no fee for this inspection and at present the report is not publicly available.

In addition, you must contact the local fire service to advise them of your proposed new school and request that they inspect the premises. Registration will not be agreed until confirmation of satisfactory fire precautions is received. The local fire and rescue authority will update their database and will carry out fire safety audits of school premises in accordance with their risk based inspection regimes. If the Fire & Rescue Service decide not to immediately inspect the premises, we will consider evidence such as:

* Written confirmation from the Fire & Rescue Service that they have approved your Fire Risk Assessment in principle.
* documentation/certificate issued by an independent fire safety advisor.
* confirmation that you have a Fire Risk Assessment and are complying with the Regulatory Reform (Fire Safety) Order 2005.

It should be noted that any school, which accommodates one or more children for more than 295 days a year in a two year period, falls within the definition of a Children’s Home under section 1(6) of the Care Standards Act 2000. More information is given on page 33.

**What will the registration inspection look for?**

The purpose of this inspection is to confirm that proposed premises are safe and suitable, the proposed curriculum is satisfactory and policies are in place to protect pupils’ welfare, health and safety. This can be judged prior to the school opening. Should registration be approved these aspects, and all other aspects relating to the standards e.g. teaching, will be assessed by a full inspection during the first year of operation.

**How long will the process take?**

Provided everything is in order and the standards are met, the application process is expected to take no more than six months from receipt of all the necessary information. Applications to register should therefore be made well in advance of the proposed admission of pupils. It is important that you send all the information that has been requested.

Once registered school details are entered on a publicly available register which may be accessed at: <http://www.edubase.gov.uk/home.xhtml>

**Tacit consent**

Directive 2006/123/EC of the European Parliament and Council became law on 28 December 2009. The directive requires all licensing and registration authorities to set out timescales within which applications for business licenses and registrations must be processed. Where the authority fails to meet a timescale the license or registration is deemed to be granted unless there is an overriding reason relating to the public interest (ORPI). This is called tacit consent. However, it is not in the public interest for the registration of an independent school to be granted in this way as there is a risk to the welfare, health and safety of children. Consequently, if an application to register an independent school is not processed within six months tacit consent will not apply.

**Will I be notified once my school has been included on the register of independent schools?**

Yes. A formal letter will be sent to you from the Department confirming that your school has been entered on the Register of Independent Schools and informing you of your registration number. You must not admit any pupils before you receive this letter.

What happens after my school is registered?

* By the end of the third month of operation you must submit a second form, which will be enclosed with your confirmation of registration. This requests details of pupil numbers, employee details (both teachers and other employees) and fees. In addition to being sent with confirmation of your registration this form is also available to complete on businesslink at: <https://online.ukwelcomes.businesslink.gov.uk/bdotg/action/piplink?agency_id=132041&service_id=7700013201&site=2000>
* Once you have submitted this form, we will arrange for your school to be inspected by Ofsted during the first year of operation. Ofsted inspection procedures are fully explained in the booklet Inspection Framework, which is enclosed with the Information Pack. This second inspection will be to confirm that you continue to meet the standards for registration once pupils have been admitted and the school is operational. The report of this inspection will be published on the Ofsted website. There is no fee for this inspection.

**What happens if my application is unsuccessful?**

The letter you receive from the Department will set out the precise grounds for rejecting your application. It is open to you to resubmit your application once these issues have been addressed, but under no circumstances should you admit pupils as it is illegal to operate an unregistered independent school. Please note that it is an offence to operate an independent school which is not a registered school and anyone who does so is liable to be prosecuted. On conviction the proprietor may be subject to a fine and/or imprisonment.

**PART C: Standards for Registration**

# What are the standards that independent schools will be required to satisfy in order to be registered?

The standards are set out in the Education (Independent Schools Standards) Regulations 2010 which may be viewed at: <http://www.legislation.gov.uk/uksi/2010/1997/contents/made>

Schools must offer full-time supervised education for pupils of compulsory school age which includes subject matter appropriate to the ages and aptitude of the pupils including those with special educational needs. The school must draw up a written curriculum policy setting out the school’s approach to teaching*,* which is supported by schemes of work (for each subject taught)*.* The regulations are not intended to be prescriptive about the way a school organises its curriculum, and they do not require the school to follow the National Curriculum. However the school should give experience in the following areas:

* Linguistic: this area is concerned with developing pupils’ communication skills and increasing their command of language through listening, speaking, reading and writing. In all schools, except for foreign national schools whose pupils are all temporarily resident in this country, there must be lessons in written and spoken English. Many schools will also teach other languages and some will use a language other than English as the main medium of instruction.
* Mathematical: this area helps pupils to make calculations, to understand and appreciate relationships and patterns in number and space and to develop their capacity to think logically and express themselves clearly. Their knowledge and understanding of mathematics should be developed in a variety of ways, including practical activity, exploration and discussion.
* Scientific: this area is concerned with increasing pupils’ knowledge and understanding of nature, materials and forces and with developing the skills associated with science as a process of enquiry: for example, observing, forming hypotheses, conducting experiments and recording their findings.
* Technological: we do not wish to be prescriptive about how schools develop a curriculum to teach technological skills and we recognise some schools would not wish to teach some of the aspects below e.g. ICT. We hope a wide enough range of examples is quoted to enable schools to meet the regulations. Technological skills, can include the use of information and communication technology (ICT); developing, planning and communicating ideas; working with tools, equipment, materials and components to produce good quality products; and evaluating processes and products.
* Human and social: this area is concerned with people and with their environment, and how human action, now and in the past, has influenced events and conditions. In most schools the subjects of history and geography make a strong contribution to this area.
* Physical: this area aims to develop the pupils’ physical control and co-ordination as well as their tactical skills and imaginative responses, and to help them to evaluate and improve their performance. Pupils should also acquire knowledge and understanding of the basic principles of fitness and health.
* Aesthetic and creative: this area is concerned with the processes of making, composing and inventing. There are aesthetic and creative aspects of all subjects, but some make a particularly strong contribution including art, music, dance, drama and the study of literature because they call for personal, imaginative, and often practical, responses.

Plans and schemes of work must illustrate how each area is to be woven into the school curriculum.

There is no requirement that all teachers in independent schools must be qualified teachers but those who are not should have relevant expertise or experience. Residential schools will also be expected to employ adequate ancillary staff and childcare staff with appropriate qualifications and experience. Schools are also expected to have adequate regard for their pupils’ health, safety and welfare by ensuring that a member of staff has either the appropriate training in basic First Aid or holds a suitable nursing qualification. Please see also the section on the suitability of proprietors and staff on page 16.

**Spiritual, moral, social, and cultural development of pupils**

The regulations are not prescriptive, but the school is expected to ensure that it plans and provides effectively in order to develop pupils’ spiritual, moral, social and cultural awareness. Subject areas such as personal, social and health education (PSHE) and religious education may make strong contributions, but work within all other subjects may also contribute.

Pupils should be led towards distinguishing right from wrong and towards acting consistently with their beliefs and with a view to the consequences of their own and others’ actions. In addition school should:

* lead pupils towards becoming confident and positive contributors to their community and effective users of its services and facilities according to their maturity;
* enable pupils to gain insights into the origins and practices of their own cultures, and into those of the wider community;
* take steps to ensure that pupils appreciate racial and cultural diversity and avoid and resist racism.

**Welfare, health and safety of pupils**

The provision for the welfare, health and safety of pupils at the school will meet the standard where the school has a policy to:

* prevent bullying, which has regard to DfE guidance Safe to Learn: Embedding Anti-bullying Work in Schools;
* safeguard and promote the welfare of children who are pupils at the

school, which has regard to DfE guidance Safeguarding Children and Safer Recruitment in Education;

* safeguard and promote the health and safety of pupils on activities

outside the school, which has regard to DfE guidance Health and Safety

of Pupils on Educational Visits; and

* promote good behaviour amongst pupils including setting out the sanctions to be adopted in the event of pupil misbehaviour.

All schools must have satisfactory arrangements for First Aid, ensure pupils are properly supervised and keep a written record of sanctions for serious pupil disciplinary offences.

**Useful links:**

Preventing and Tackling Bullying: Advice for school leaders and governors: <http://www.education.gov.uk/schools/pupilsupport/behaviour/bullying/f0076899/preventing-and-tackling-bullying>

Health and Safety: <http://www.education.gov.uk/schools/adminandfinance/healthandsafety/f00191759/departmental-health-and-safety-advice-on-legal-duties-and-powers-for-local-authorities-headteachers-staff-and-governing-bodies>

***Boarding Schools***

Boarding schools are those that provide overnight accommodation arranged or provided by the school, at the school or elsewhere, but excluding accommodation for pupils being accommodated away from the school premises during a brief school trip. This includes pupils who are accommodated elsewhere under arrangements made by the school, whether or not the accommodation is in fact provided off site by a third party, e.g. a host family or landlord. Unless the accommodation arrangements are made entirely by the child’s parent(s), the welfare responsibility rests with the school.

Independent Boarding Schools are inspected by Ofsted who assess the boarding provision against the National Minimum Standards for Boarding Schools or Residential Special Schools. These cover five broad areas as follows:

* Welfare Policies and Procedures
* Organisation and Management
* Welfare Support to Boarders
* Staffing
* Premises

The National Minimum Standards for Boarding Schools may be viewed at:

<http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools>

Boarding schools, which cater wholly or mainly for pupils with special educational needs, will need to refer to the **National Minimum Standards for Residential Special Schools.** Any boarding school that falls within the definition of a Children’s Home must refer to the **National Minimum Standards for Children’s Homes,** as appropriate.

The National Minimum Standards for Residential Special Schools may be viewed at: <http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools>

The National Minimum Standards for Children’s Homes may be viewed at: <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00030-2011>

Both can be obtained from The Stationery Office (see page 39 for contact details).

***Fire Precautions***

The Regulatory Reform (Fire Safety) Order 2005 (RRFSO): <http://www.legislation.gov.uk/uksi/2005/1541/contents/made> was introduced on 1 October 2006. The order places responsibility on a ‘responsible person’, which in the case of an independent school is the proprietor. Under the order the ‘responsible person’ has a duty to:

* carry out a fire risk assessment (formally recorded and regularly reviewed so as to keep it up to date);
* produce a fire risk policy which includes the elimination or reduction of risks from dangerous substances;
* develop fire procedures and provide staff training (repeated periodically where appropriate);
* ensure the safety of staff or anyone else legally on the school premises;
* carry out fire drills and contact emergency services when necessary;
* appoint one or more competent persons (with sufficient training, experience and knowledge) to assist in taking preventive and protective measures (including fire fighting and evacuation);
* have a suitable system for the maintenance of: clear emergency routes and exits (with doors opening in the direction of escape), signs, notices, emergency lighting where required, fire detectors, alarms and extinguishers (the maintenance should be by a ‘competent person’ (for example, ISO9001 certified or BAFE approved);
* provide staff and any others working on the school site with fire safety information.

Additionally, staff are required to take reasonable care.

The Fire Risk Assessment should be reviewed regularly and revised in light of any changes that occur at the school. Local Fire Services will inspect independent schools in the same way as any other business i.e. on a risk basis. Further advice about risk assessments can be found in the booklets/guides listed on Page 41 obtainable from The Stationery Office.

***Registers***

Independent school proprietors are required to keep registers of both admissions and attendance and proprietors should acquaint themselves with the Education (Pupil Registration) Regulations 2006 which govern this. They may be found on the following link: <http://www.legislation.gov.uk/uksi/2006/1751/contents/made>

Guidance may be viewed at: <http://www.education.gov.uk/schools/pupilsupport/behaviour/attendance/schoolattendancedata/a0010008/pupil-registration-regulations-and-guidance>

These regulations specify the detail required in the registers and the manner of their completion. Proprietors of independent schools must make the registers available for inspection. Proprietors are also liable, under the Regulations, to make returns to the local education authority detailing the names of any children who fail to attend school regularly. The duty to keep attendance (as distinct from admissions registers) does not apply where all the children in an independent school are boarders, but their maintenance in this eventuality is, nevertheless, desirable.

***The suitability of proprietors and staff***

*Suitability of proprietors*

The regulations require the Secretary of State to make checks on any individual or individuals responsible for the management of an independent school. The checks cover the person’s identity, right to work in the UK and an enhanced CRB disclosure check which must be submitted via the Department for countersigning. If the proprietor has lived abroad checks must also be made with the relevant overseas authorities or embassy. Where the proprietor is a formally constituted Board of Governors, Directors or Trustees, a Trust or Company Ltd, only the Chair or equivalent will be required to submit a CRB Disclosure form via the Department for Education. The Chair or equivalent will be responsible for ensuring that CRB, identity and right to work in the UK checks, plus overseas checks where relevant, are undertaken by the school on the remaining governors, trustees or directors. When the school is inspected a check will be made that those CRB checks have been undertaken.

It must be understood by the person or company named as the proprietor that they will be held responsible by the Department for the running and management of the school. If the school is found to be operating illegally it is the proprietor who is liable for prosecution.

**You are not required to undergo a CRB check in respect of every school for which you are the proprietor. If you have already had a CRB check countersigned by this Department, or are in the process of applying for one, please let us know.**

Proprietors for whom a CRB check must be countersigned by the Department should contact the Criminal Records Bureau (CRB) requesting an application form for an enhanced disclosure check. A disclosure is a document containing information held by the police and the Department for Education. Disclosures provide details of a person’s criminal record including convictions, cautions, reprimands and warnings held on the Police National Computer. An enhanced disclosure may also contain details of information held on local police records which the police consider to be relevant to the person’s post or position, also details from lists held by the Department for Education of those considered unsuitable to work with children and young persons or vulnerable adults.

There are three steps you must follow to obtain the CRB check as a proprietor.

* Firstly, an application form for an enhanced disclosure must be obtained by telephoning the Bureau on 0870 9090844. You must quote our CRB registered Organisation Name: Department for Education and Registered Body Number: 20881800002. **It is important that you inform the CRB whether or not you are a volunteer so that they can determine whether the enhanced disclosure fee is payable in your case.** The CRB will tell you how much the fee is.
* Secondly, you will need to contact this Department by telephoning us on 01325 735304 to obtain a Veri-fy form. This form will enable you to take your proof of identity documents to the Post Office to have them authenticated without having to send them to the Department using the postal service.
* It is important to note that there is an administrative charge levied by the Post Office for carrying out Veri-fy checks. Proprietors will be responsible for paying the £5.11 Post Office charge. However, if you are a volunteer then this charge will not apply. When you ring the Department for a Veri-fy form it is therefore important that you inform us whether or not you are a volunteer so that the appropriate form can be sent to you.The Department will issue a Veri-fy form which requires you to produce some form of photo identification at the Post Office. **If you are unable to supply photo identification please inform us when you ring for a Veri-fy form.**
* Thirdly, once you have the Veri-fy form you should take it along with your original proof of identity documentation and application for CRB disclosure to your local Post Office. Even if you do not need to pay anything it is very important that you ask the Post Office for a receipt for the Veri-fy form in order that the Department can ensure the form has been correctly scanned.The Post Office will then complete the Veri-fy form which they will return, along with the receipt, your CRB application for disclosure form and the enhanced disclosure fee if applicable, in the envelope provided to the address below:-

Independent Education and Boarding Team

Department for Education

Ground Floor Area F

Mowden Hall

Staindrop Road

Darlington DL3 9BG

The Department will then countersign the CRB application and send both forms to the CRB. Once the CRB have processed the application a copy of a disclosure is sent to the applicant in the post direct from the CRB and a copy to this Department. The Department has undertaken to comply with the CRB Code of Practice. Under the provisions of the Code, sensitive personal information must be handled and stored appropriately and must be kept for only as long as it is necessary. The Code is published on the Disclosure website [www.disclosures.co.uk](http://www.disclosures.co.uk)

The disclosure of a criminal record, or other information, will not bar a person from becoming a proprietor of an independent school unless the Secretary of State considers that the conviction renders them unsuitable. In making this decision the Secretary of State will consider the nature of the offence, how long ago the offence was committed, the person’s age when the offence was committed and other factors which may be relevant.

In any case where the information supplied by the CRB differs from that provided by the applicant, and is of significance, applicants will be given the opportunity to explain the position. Anyone who believes that the information given in the CRB Disclosure is inaccurate, or relates to someone else with the same name, is able to appeal to the CRB who will investigate the position.

In the case of a proposed independent school registration will not be granted until receipt of a satisfactory disclosure from the CRB and the completion of all other pre-registration checks on standards at the school.

*Checks on staff* **– all schools**

All proprietors will be responsible for ensuring that any person working at the school, whether under a contract of employment, under a contract for services or other than under a contract, has been subject to criminal background checks before or as soon as practicable after their appointment. To do this, proprietors must register direct with the Criminal Records Bureau or use the services of a third party (umbrella body) to enable checks to be undertaken. To apply for direct registration you should contact the CRB on 0870 9090844, however, direct registration can only apply in certain circumstances.

Further information about umbrella bodies can be obtained at:

<http://www.crb.homeoffice.gov.uk/guidance/ub_guidance.aspx>

* You should note that enhanced disclosures will be required for all staff working at the school whether under a contract of employment, under a contract for services or other than under a contract.
* Checks on volunteers should be carried out with regard to the guidance in “Safeguarding Children and Safer Recruitment in Education”.
* ***Inspectorates will expect to see evidence that CRB checks have been conducted.***
* In addition to criminal record information, disclosures obtained on people who have been selected for appointment to a post which involves contact with children will contain information about whether the person is included on the Department’s List 99 (persons barred from teaching) or Protection of Children Act List (people considered unsuitable to work in child care organisations). Any school who appoints a person whose name appears on List 99 in contravention of the Direction prohibiting or restricting that person’s employment may be struck off the register of independent schools. It is an offence to operate an unregistered independent school and anyone who does so is liable for prosecution.
* Individuals will be charged for an enhanced disclosure; volunteers will not be charged.
* Copies of enhanced disclosures will be provided simultaneously to the applicant and the prospective employer.

Information on the Disclosure Service and registering with the Criminal Records Bureau can be found on the Bureau’s website at: <http://www.crb.homeoffice.gov.uk/using_the_website/new_organisation.aspx>

Inspectorates will also expect to see evidence that the appropriate additional checks have been carried out on any person who has lived outside the UK.

**Medical Fitness**

It is important that employers satisfy themselves of the physical and mental fitness of their employees to carry out the duties of the post applied for. It would normally be expected that employers would ask prospective employees to complete a medical questionnaire. This should not be done until after the offer of an appointment. The questionnaire should only ask for information relevant to the post applied for and this does not include previous sickness absences. Independent schools will then have to decide whether, based on the information provided in the questionnaire, they need to seek further medical advice, with the written consent of the prospective employee.

Disabled staff make an important contribution to the overall school curriculum, both as effective employees and in raising the aspirations of disabled pupils and educating non disabled people about the reality of disability. Many disabled people will be medically fit to teach, though employers may have to make reasonable adjustments under the Equality Act 2010 to enable disabled people to carry out their duties effectively.

**Other Checks**

Schools must also make appropriate checks to satisfy themselves of the identity of prospective employees, their qualifications (where appropriate) and their right to work in the United Kingdom. They should also take up character and professional references and check previous employment history. Further information is given in DfE guidance Safeguarding Children and Safer Recruitment in Education.

The rules for employing migrant workers changed from February 2008 so that any employer who employs someone who is subject to immigration control, aged over 15, who is not entitled to undertake the work, could face a fine of up to £10,000 per illegal worker. The UK Borders Agency has produced a booklet “Prevention of Illegal Working – Summary Guidance for Employers”. You can obtain a copy of this by downloading it from: <http://www.bia.homeoffice.gov.uk/employers/>

Schools should also check the suitability of any “supply staff”, prior to them beginning work in the school. The proprietor must be satisfied of their identity, irrespective of any checks that have been carried out previously by the employment business that employs them. The proprietor should also be in receipt of written notification from the employment business, confirming that they have checked a person’s identity, their right to work in the United Kingdom, previous employment history, character references, where appropriate professional references and relevant qualifications and also that an enhanced criminal record certificate has been applied for or obtained in respect of them.

Proprietors will also be required to keep a single, central record to show that all the above checks have been implemented.

***Premises of and Accommodation at schools***

The regulations set out what is required but where they refer to the Education (School Premises) Regulations 1999 you will need to refer to those regulations to establish the precise requirements. There is, however, one area where we believe schools will find it helpful to have further clarification which is not covered by the Education (School Premises) Regulations 1999. This relates to classroom sizes.

The size of the classrooms must ensure both the health and safety of pupils and the effective delivery of the curriculum. Overcrowding in classrooms would contravene these requirements. Teachers must be able to move around the classroom easily and be able to give advice to each pupil and be able to reach pupils in the event of an emergency. Pupils must be able to evacuate the classroom safely

Classrooms will vary according to the type of provision and numbers of pupils on roll but even schools with very limited space will need to ensure they have sufficient space to accommodate the curriculum even if specialised classrooms are not provided.

Commonly **primary** schools will include a variety of types of space to accommodate the wide range of activities required by the curriculum:-

* general teaching areas – these will include individual class bases which provide the registration and ‘home base’ for each class, where most of the curriculum will be taught;
* halls - these will include the main hall for assembly and activities such as PE and some music;
* learning resource areas – these should include the library or any specialist teaching area.

In terms of accommodation for **secondary** age pupils, the overall teaching area will commonly include a variety of types of space to accommodate the wide range of activities required by the curriculum. These spaces can be divided into three main categories:-

* timetabled teaching rooms - these will include general teaching classrooms, practical areas such as science laboratories, music and drama spaces;
* halls - these will include assembly halls, sports halls and activity halls;
* learning resource areas - these will include independent study and reference areas such as the library resources centre, local information and communications technology resource areas and study areas, small group rooms for non-timetabled groups and other ad-hoc uses, and specialist resource rooms.

Further guidance is available in Building Bulletin 98 “Briefing Framework for Secondary School Projects”, Building Bulletin 99 (2nd Edition) “Briefing Framework for Primary School Projects” and Building Bulletins 102 “Designing for disabled children and children with special educational needs. Further information is available at: <http://www.education.gov.uk/schools/adminandfinance/schoolscapital/buildingsanddesign/a0010896/area-guidelines-for-schools-building-bulletin-82>

***The provision of information***

Independent schools must provide all parents and prospective parents with the following information:

* the school’s address and telephone number, and the name of the head teacher;
* the full name of the proprietor and an address for correspondence during both term-time and holidays and a telephone number or numbers on which he may be contacted at all times;
* where there is a board of governors, the name and address of its Chair;
* a statement of the school’s ethos (including its religious ethos) and aims;
* Parents must also have the opportunity to be provided with an annual report on their child’s progress.

Schools must also ensure that parents are aware of the other information to be made available under Standard 6 of the regulations and either place the information on the school’s website, if there is one, or provide this information direct to parents on request. Particulars of the school’s safeguarding arrangements must be placed on the school website where there is one and where there is not, provided on request. In addition they must provide information to regulatory bodies on request so that they can confirm that they meet the standards for registration.

***The manner in which complaints are to be handled***

All parents of children in independent schools must have access to a written complaints procedure. Complaints should be investigated, properly considered, and the findings should be made known to the proprietor, head teacher, complainant and others about whom a complaint has been made. Independent boarding schools must also comply with the Complaints Procedure required under Standard 5 of the National Minimum Standards for Boarding Schools or, if appropriate, Standards 4 and 5 of the National Minimum Standards for Residential Special Schools, or Standard 16 of the National Minimum Standards for Children’s Homes.

All independent schools must have a written complaints procedure which is available to parents of pupils and of prospective parents at the school. Some schools may include this information in the School Prospectus.

The required provisions of the complaints procedure are as follows:-

(a) it must set out clear timescales for every stage

(b) it must allow for a complaint initially to be made and considered on an informal basis;

(c) if the complainants are not satisfied with the informal approach the school should make provision for the complaint to be made in writing.

(d) if the complainants wish the matter to be considered further the procedure should make provision for a hearing before a panel of at least 3 people who were not directly involved in previous consideration of the complaint.

(e) where a panel hearing is convened, one person on the panel must be independent of the management and running of the school. The proprietor is responsible for the appointment of the panel. The procedure must set out clear timescales for the management of the complaint i.e. providing adequate notice of the hearing etc.

(f) parents must be allowed to attend and be accompanied to a panel hearing if they wish.

(g) it must provide for the panel to make findings and recommendations, and ensure that the complainant, proprietors, head teachers, and, where relevant, the person complained about, are informed of any findings and recommendations.

(h) written records must be kept of all complaints and their outcomes, whether they were resolved at the preliminary stage, when a complaint is submitted in writing or whether they proceeded to a panel hearing.

(i) all correspondence, statements and records of complaints must be kept confidential but must be shown to HMI/ISI when they inspect. Copies must also be made available to the Registration Authority on request.

Whilst we do not wish to be prescriptive about who schools should appoint as an independent person our general view is that people who have held a position of responsibility and who are used to analysing evidence and putting forward balanced arguments would be suitable. Examples of persons likely to be suitable are serving or retired business people, civil servants, heads or senior members of staff at other schools, people with a legal background and retired members of the Police Force might be considered by schools. Schools will of course have their own views.

**PART D: Independent Schools Catering for Pupils with Special Educational Needs**

**What if my school caters for pupils with special educational needs?**

Around 500 independent schools are designated as catering ‘wholly or mainly’ for children with SEN; that is, where the school’s sole or main purpose is the provision of places for pupils with SEN.

Where a local authority concludes that a child with a statement of special educational needs should be placed in an independent school they retain responsibility for ensuring provision specified in the child's statement is provided. The authority is also responsible for paying fees charged by the school.

This does not prevent parents from making their own arrangements to pay for a place at an independent school of their choice, so long as the authority maintaining the statement is satisfied that the arrangements are suitable.

Further information is available on:

<http://www.education.gov.uk/schools/pupilsupport/sen>

**Can I seek Non-Maintained Special School Status? What does that mean?**

Non-maintained special schools are approved by the Secretary of State under section 342 of the Education Act 1996.  They are run by charities or charitable trusts and operate on a not-for-profit basis catering for children with special educational needs, generally those children with the most complex and severe needs.

It is open to any school in the independent sector that is specially organised to make special educational provision for students with special educational needs to become a non-maintained special school by applying for approval under section 342.

Non-maintained special schools are inspected by Ofsted under the same arrangements as those that apply to maintained special schools, that is; they are inspected under the arrangements set out in section 5 of the Education Act 2005. They are also required to have similar governance arrangements as maintained special schools.

Non-maintained special schools are their own admissions authority. All pupils will have statements of SEN, unless placed in the school for the purpose of assessing their special educational needs or if the cost of the placement is met otherwise than by a local authority. The vast majority of children are placed by local authorities. For further information about NMSS schools and an application pack you should contact:

IEBT

GF Area F

Mowden Hall

Staindrop Road

Darlington

DL3 9BG

**PART E: Arrangements for inspection of Registered Independent Schools including the fees payable by independent schools**

**What arrangements apply to the inspection of independent schools?**

Following registration schools can expect to be inspected either by OFSTED, the Independent Schools Inspectorate (ISI), the School Inspection Service (SIS) or the Bridge Schools’ Inspectorate (BSI) to confirm that standards for registration continue to be met.

The OFSTED framework for inspecting independent schools under section 162A of the Education Act 2002 can be obtained from

<http://www.ofsted.gov.uk/resources/framework-for-inspecting-education-non-association-independent-schools>

The ISI, SIS and BSI are approved bodies for the purposes of inspecting registered independent schools and operate an inspection framework which is broadly comparable to the inspection framework operated by Ofsted. ISI inspects independent schools which are members of an association affiliated to the Independent Schools Council, SIS inspects those affiliated to Focus Learning Trust and the Steiner Waldorf Schools’ Fellowship and BSI inspects schools which are members of the Christian Schools Trust or the Association of Muslim Schools. Ofsted maintain a careful scrutiny of the ISI, SIS and BSI inspection systems. The Department has reserved the right to request Ofsted to inspect any school at any time. In addition inspections by Ofsted, ISI, SIS or BSI may be more frequent where there are causes for concern.

Independent boarding schools are inspected by Ofsted at least every 3 years against the National Minimum Standards (NMS). Residential special schools are inspected annually and Children’s Homes twice a year. Ofsted are responsible for determining whether the school is adequately safeguarding and promoting the welfare of children it accommodates, and for notifying the Secretary of State for Education if they are of the opinion that the school has failed in its duty to safeguard and promote welfare. Ofsted may visit any boarding or residential special, and any Children’s Home at any time, announced or unannounced and make inspection charges for these inspections.

**Are inspection reports published?**

The week following an Ofsted inspection the school will be sent a draft of the report and given the opportunity to comment on any factual errors before the final report is published around three working weeks after the inspection. The school will be responsible for sending copies to parents. Shortly afterwards a copy will be placed on the Ofsted website. Inspections by ISI, SIS and BSI also result in published reports which must also be sent to parents and placed on the ISI, SIS and BSI website; reports on welfare provision in boarding schools are published on the Ofsted website.

**What level of inspection fees is charged by OFSTED?**

Where a school is inspected by Ofsted under section 162A of the Education Act 2002 it will be charged a fee for the Ofsted inspection. Costs are based on a sliding scale and fees will be collected annually. Ofsted will invoice and collect payment. Schools will be able to plan for and to build inspection costs into their budget process.

The annual inspection fee, which is set out in regulations, may be derived from the tables below. These charges are based on the current inspection cycle of two inspections in a 6 years period. Fee arrangements are in the process of being changed to cater for the new six year cycle.

**Standard annual inspection fee rate:**

|  |  |
| --- | --- |
| Number of registered pupils aged 3 years or over on the date to which the last annual return was made up | Amount of fee |
| Small school (150 pupils or less) | £200 + £9 per pupil |
| Large school (151 pupils or more) | £1666 |

**Reduced tariff annual inspection fee rate**

|  |  |
| --- | --- |
| Number of registered pupils aged 3 years or over on the date to which the last annual return was made up | Amount of fee |
| Small school (150 pupils or less) | £200 + £7.50 per pupil |
| Large school (151 pupils or more) | £1333 |

Eligibility for a reduced tariff inspection will be determined by reference to whether a school met, at the last inspection, 90% or more of the regulatory standards overall and all the regulatory standards relating to the quality of the education and the welfare, health and safety of pupils.

The fee for a first follow up inspection required to confirm that serious weaknesses have been corrected is two thirds of the annual fee. Fees for any subsequent follow up inspections are 1.5 times the annual fee. Fees in respect of follow up inspections must be paid in a single payment within 28 days of the date of request by Ofsted. Reports of these inspections will be published.

Where the proprietor fails to pay any inspection fee the registration authority may remove the school from the register. If a school is sold the liability for any outstanding inspection fees transfers to the new proprietor. If the school closes any outstanding fees have to be paid in full prior to closure.

Schools that are members of an association that provides inspection reports for the Department will be notified of any inspection charges by the association.

Boarding schools, residential special schools and Children’s Homes will be charged separate fees for inspections against the National Minimum Standards.

Local Children’s Services Teams may become involved with independent schools in the course of child protection enquiries and in this respect schools should familiarise themselves with the information and requirements explained in DfE guidance Safeguarding Children and Safer Recruitment in Education.

**Fire safety inspections**

Local fire services may also inspect independent schools and the Regulatory Reform (Fire Safety) Order 2005 covers 'general fire precautions' and other fire safety duties which are needed to protect 'relevant persons' in case of fire in and around most 'premises', including educational premises. The Order requires fire precautions to be put in place "where necessary" and to the extent that it is reasonable and practicable in the circumstances of the case.

Responsibility for complying with the Fire Safety Order will rest with the 'responsible person' in the organisation using the premises. The responsible person at a school must carry out a fire risk assessment which must focus on the safety in case of fire of all 'relevant persons'. It should pay particular attention to those at special risk, such as the disabled and those with special needs, and must include consideration of any dangerous substance likely to be on the premises. The fire risk assessment will help identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions needed to protect people against the fire risks that remain. Further information on the obligations placed on schools by the Fire Safety Order can be found at: <http://www.communities.gov.uk/fire/firesafety/firesafetylaw/>

**PART F: Making changes to a Registered School**

**What changes need to be referred to the Secretary of State?**

Section 162 of the Education Act 2002 requires all independent schools to gain approval from the Secretary of State before making certain specified changes. These are known as material changes and are explained below together with details of the supporting information which schools will need to provide to the Department when making an application to have a change approved. Whilst the majority of changes will be approved quickly some may take up to six months.

**Tacit consent**

Tacit consent **does not apply** to an application to make these changes to the registration of an independent school as there is a legitimate public interest in the outcome of these applications.  If an application is not processed within six months it will not be deemed granted. This is to prevent changes to the registration of an independent school being approved inadvertently and subsequently resulting in a risk to the welfare, health and safety of children.

A material change is:

* **a change of proprietor** - the Secretary of State will require a CRB check to be made on any change of proprietor except where changes are made to members of a formally constituted governing body, trustees of a trust or directors of a limited company as named in the school’s registration. In these cases only a change in the Chair or equivalent will require a CRB check to be made via the Department. Please see pages 16 and 17 which explain the procedure for checks on proprietors. The Chair or equivalent will be responsible for ensuring that CRB checks on the remaining, governors, trustees or directors are undertaken by the school.
* **a change of school address** – in the case of new building work, copies of local authority planning permission and confirmation the construction is in accordance with Building Control Regulations. Information about these regulations can be found at: <http://www.planningportal.gov.uk/>
* in the case of a move to existing premises, where planning permission is not required, two copies of the new school plans - drawn to scale in square metres - must be sent to the Department. In addition the DfE will require details of the number of pupils and age range to be accommodated in the new premises.
* **a change in the age range of pupils** – the DfE should be informed of the number of children in the new age group, number of additional teachers employed to teach the new age group and their qualifications and details of changes in classroom accommodation in the school. If this involves building work to the existing premises please confirm planning permission has been obtained and that the work is subject to Building Control Regulations.
* In addition the DfE will require confirmation that the following documents have been drawn up: schemes of work, assessment plans and the curriculum policy for the new age range (not appropriate for 0-2 year old children). You do not need to send these documents to the DfE at this stage but they may be requested at a later stage. In any event they will be looked at when you are next inspected. Please note that if a school extends its age range to include provision for 0 to 2 year olds the school will need to register with Ofsted Early Years, further details can be found on page 5 of this guidance pack.
* **a change to the maximum number of pupils** - any school wishing to increase its pupil numbers should submit details of the increased pupil numbers, the number of additional teachers (and their qualifications) employed to teach the additional pupils and details of any changes in classroom accommodation in the school. If this involves building work to the existing premises please confirm planning permission has been obtained and that the work is subject to Building Control Regulations.
* **a change to admit boys only or girls only or become co-educational** – the DfE will require details of how the new pupils will be accommodated within the school. If this involves building work to the existing premises please confirm planning permission has been obtained and that the work is subject to Building Control Regulations. We will also require details of the numbers of pupils (by gender) you intend to admit; whether this will increase overall numbers of pupils in the school, and if so, by how many; details of any additional staff you intend to employ and their qualifications; confirmation that you have prepared detailed changes to the curriculum including any pastoral and Personal Health and Social Education matters. You do not need to send these to the DfE at this stage but they may be requested at a later stage. In any event they will be looked at when you are next inspected.
* **a change to provide boarding accommodation** - we will also require details of the numbers of proposed boarders, age range and gender. Please advise whether you anticipate pupil numbers in the school as a whole to increase, and if so, by how many. You should also indicate how the additional pupils would be catered for within the school. If this involves building work to the existing premises please confirm planning permission has been obtained and that the work is subject to Building Control Regulations. Details of any proposed new staff employed and their qualifications should also be submitted. The school will have to meet the relevant National Minimum Standards. Please note that the Department should also be notified if a school ceases to provide boarding accommodation.
* **a change to admit pupils with special educational needs** – the Department will require details of the numbers, gender and age range and whether the proposed pupils will be day or boarding together with information about the type(s) of special educational needs to be catered for. Depending on the numbers of pupils to be catered for we may also require curriculum details, schemes of work and, where alterations have been made to the school premises, 2 copies of the school plans drawn to scale in square metres.

An application for approval for any material change outlined above must be made by the proprietor or in the case of approval of a change of proprietor by the proposed new proprietor. Applications may be made by posting or e-mailing the information to the address on page 2 or an application form may be completed on-line on businesslink:

<https://online.ukwelcomes.businesslink.gov.uk/bdotg/action/piplink?agency_id=132041&service_id=7700011101&site2000>

The Secretary of State has the right to remove a school from the register if it has not obtained approval prior to making material changes.

On receipt of a request for a material change (other than a change of proprietor) the Department may seek views from the relevant inspection authorities including the local Fire and Rescue Authority. In some cases an inspection of the school will be required before they can offer a firm view. It is therefore important to apply at least six months in advance.**PART G: Failure by an Independent School to meet the Required Standards**

**What happens if a school fails to meet the required standards?**

If the DfE considers that there is a risk of serious harm to the welfare of the pupils, it may order that the school be removed from the register of independent schools subject to 28 days’ right of appeal.

In all other cases if the inspection report notes that the school does not meet one or more of the standards required for registration, then the DfE will:

* identify the standard or standards in question, and
* require the proprietor to submit an action plan within a specified period of time.

This plan must set out the steps that the school will take to meet the standard(s), and the time by which each step will be taken.

Following submission of the action plan, the DfE may:

* reject it, or
* approve it, with or without modifications.

At the request of the DfE, the relevant inspectorate will visit the school to check the suitability of the progress of an approved action plan. If the inspection is carried out by Ofsted the report of this visit will be published on the Ofsted website and a fee will be charged.

Where an action plan is not submitted, or is submitted but rejected, the DfE may:

* determine that the school is to be removed from the register of

independent schools, or

* make an Order requiring the proprietor to cease using any specified part of the school premises, close any part of the school's operation, or cease to admit any new pupils as specified by the Order.

Where an action plan has been approved but the steps identified have not been taken by the required date, the DfE may:

* substitute a later date;
* make an Order as above, or
* determine that the school is to be removed from the register of independent schools.

Under the provisions of section 166 of the Education Act 2002, the proprietor of a school has a right of appeal to the First Tier Tribunal against any Order made by the Secretary of State affecting the registration of the school. The appeal must be lodged within 28 days.

NB. It is illegal to operate an unregistered school and the proprietor may be prosecuted.

**What happens if the Secretary of State is satisfied that any person involved in the management of the school is unsuitable to take part in the management of the school?**

Section 142 of the Education Act 2002 provides that any person involved in the management of an independent school may be prohibited from acting in that capacity on a ground that the person is unsuitable to work with children.

Section 7 of the Safeguarding Vulnerable Groups Act 2006 makes it an offence for any person to take part in regulated activity from which he is barred. The definition of regulated activity includes the management of an independent school.

**PART H: Other Information**

**Schools with a religious character**

The Employment Equality (Religion and Belief) Regulations 2003 make it illegal for employers to recruit staff, or treat them differently on religious grounds, unless they can demonstrate they have a genuine occupational requirement to do so. However, the regulations provide an exception, with regard to teaching staff only, for schools designated as having a religious character by the Secretary of State.

The proprietor of a registered independent school, or a person or body of persons planning to open an independent school, can apply for designation of the school as a school with a religious character so that they can employ teaching staff of the same religion as the school, should they wish to do so. Full details plus an application form will be sent on request or at the time of registration.

**Am I required to teach the National Curriculum?**

The National Curriculum is not mandatory for independent schools. However schools may obtain current information about the National Curriculum from: <http://www.education.gov.uk/schools/teachingandlearning/curriculum>

**Are there Regulations governing the teaching hours for independent schools?**

There are no mandatory regulations for independent schools. However, they are expected to follow the guidelines for maintained schools. DfE Circular 7/90 sets out the following suggested minimum weekly teaching times as a guide for schools:

|  |  |
| --- | --- |
| Age 5 – 7 | 21 hours |
| Age 8 – 11 | 23.5 hours |
| Age 12 -16 | 24 hours |

As a general guide pupils would normally be expected to attend school for a similar period as that specified for maintained schools i.e. at least 190 days a year (38 weeks).

**When does a school become a Children’s Home?**

Under the Care Standards Act 2000 an independent school with boarders is defined as a Children's Home if the proprietor intends it to be or accommodates one child or more for over 295 days per year for 2 years. The number of pupils accommodated for shorter periods (e.g. the length of 3 normal terms) is immaterial.

An independent school which meets the definition of a Children’s Home requires registration with Ofsted. Please note that this is in addition to registration as an independent school with DfE. It is anticipated that this will mainly apply to the small number of schools within the independent sector which provide for pupils with very severe and complex special educational needs but there could be other circumstances when pupils are accommodated for more than 295 days per year e.g. in the case of pupils from overseas.

**What information is required in Annual Schools Census of Independent Schools?**

An annual return of particulars relevant to the registration of the school must be made to the Department. The Annual Schools Census is sent to every registered independent school for completion each January.

What are the requirements for reporting individuals to the Independent Safeguarding Authority (ISA)?

Section 35 of the Safeguarding Vulnerable Groups Act 2006 requires a report to be made to the ISA in respect of anyone who has ceased to provide their services to a school as a teacher, or in a role involving regular contact with children, because of harm, or a risk of harm, to a child or vulnerable adult. This requirement applies to:

* persons employed by the school as teachers, teaching assistants, caretakers and any other staff whose work involves regular contact with children (persons under the age of 18);
* student teachers, and other trainees;
* persons not employed by the school but employed by a third party such as supply teachers provided by employment agencies and other staff provided by contractors whose work involves regular contact with children;
* volunteers, including parents, who have regular contact with children at the school.

In this context, ceasing to use a person’s services includes:

* dismissal;
* non-renewal of a fixed term contract;
* no longer engaging/refusing to engage a supply teacher provided by an employment agency;
* terminating the placement of a student teacher or other trainee;
* no longer using staff employed by contractors;
* no longer using volunteers;
* the person’s resignation, and
* voluntary withdrawal from supply teaching, contract working, a course of Initial Teacher Training, or volunteering.

Reports should be made as soon as possible and the Safeguarding Vulnerable Groups Act 2006 (Prescribed Information) Regulations 2008 set out the information that must be provided. It is important that reports include as much evidence about the circumstances of the case as possible. The ISA can only consider a case on the basis of the evidence and information supplied. They must have sufficient evidence to support taking action against an individual in order to bar the person. It is important to note that the fact that a person resigns or ceases to provide services of his or her own volition does not prevent an employer or agent making enquiries, investigating allegations, or collecting evidence. Similarly the fact that a person may secure a “compromise agreement” to ensure that the circumstances in which they will cease to provide their services will be kept confidential cannot override the legal duty to report the matter to the ISA, and to provide the required information.

A proprietor who fails to make a report will be committing an offence and the school may be removed from the register.

**What is the position with regard toplanning permission?**

Anyone intending to open a new school, or move to new premises, should apply, before moving in, to the local planning authority for planning permission to use the premises for school purposes.

The building control authority should also be informed of any change of use; this will apply whether it is proposed to use or alter existing premises or to provide new buildings on the site.

**Is any financial help available to independent schools?**

The costs of either setting up an independent school or school fees cannot be subsidised from public funds. However, the Directory of Grant Making Trusts provides details of UK trusts and should be available from local libraries. If not, the Charities Aid Foundation (CAF) publishes it. Their address is:

|  |  |
| --- | --- |
| 25 Kings Hill Avenue  Kings Hill  West Malling  Kent ME19 4TA Tel: 03000 123 000 Fax: 03000 123 001 E-mail: [enquiries@cafonline.org](mailto:enquiries@cafonline.org)  **Website:** <http://www.cafonline.org/> | You may also wish to consult the Education Grants Directory, published by the Directory of Social Change:  **Tel**: 0207 3914800  **Website**: <http://www.dsc.org.uk/> |

Additionally the Independent Schools Council (ISC) can provide general information about independent schools and can advise on ways of raising funds in order to finance payment of school fees. Their address is:

St Vincent House

30 Orange Street

London

WC2H 7HH

**Tel**: 0207 766 7070

**Website:**  <http://www.isc.co.uk/>

What are the requirements on Disability Discrimination in Schools?

The Equality Act 2010 covers every aspect of education. The duties make it unlawful to discriminate, without justification, against disabled pupils and prospective pupils, in all aspects of school life. The principle behind this legislation is that, wherever possible, disabled people should have the same opportunities as non-disabled people in their access to education.

# *What provision is covered?*

Education provided at all schools in Scotland, England and Wales is covered by the Act. This includes all independent schools including nursery classes and nursery provision at independent settings.

*Who is responsible for the schools’ duties?*

The Responsible Body (those responsible for the duty not to discriminate) within independent schools and non-maintained special schools is the proprietor.

The Education Act 1996 says that the proprietor is the person or the group of people responsible for the management of the school. This will vary according to the type of school but would include the trustees, the governing body, the private owner or the management group of the school.

*What activities are covered by the schools’ duties?*

Responsible bodies must not discriminate against a disabled person in relation to admissions to and exclusions from school. This applies to both fixed term and permanent exclusions. Every aspect of education and associated services such as timetabling, homework, school trips, clubs and activities is covered by the Act.

*Definition of Disability*

“A person has a disability if he or she has a physical or mental impairment that has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities.”

*Special Educational Needs and Disability Tribunal (SENDIST)*

SENDIST considers most claims of unlawful discrimination in admissions, exclusions, education and associated services in schools.

SENDIST is able to order remedies and set deadlines when directing action by schools and LAs. If a responsible body fails to comply within the prescribed time limits, or if it has acted or is proposing to act unreasonably in complying with a SENDIST order, the Secretary of State can make a direction to require compliance.

*Planning Duties: Preparing Accessibility Plans*

Independent schools are obliged to prepare accessibility plans to:

* Increase the extent to which disabled pupils can participate in the school’s curriculum;
* Improve the physical environment of the school in order to increase the extent to which disabled pupils are able to take advantage of education and associated services offered by the school; and
* Improve the delivery to disabled pupils of information, which is already provided in writing to non-disabled pupils.

Accessibility plans must:

* be in writing;
* be within the resources that schools can afford;
* be subject to inspection by HMI/ISI; and
* cover a period of 3 years

Further information to help schools to understand how the Equality Act affects them and how to fulfil their duties under the Act is available from:

<http://www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0064570/the-equality-act-2010>

**What Information is required from independent schools for publication?**

The Education (School Performance Information) (England) Regulations 2007 provide for the supply of information to parents which will assist them in choosing schools for their children and which will increase public awareness of the quality of education provided by schools. Information is required from independent schools on examination results. The information will be published alongside comparable information about maintained schools. The regulations may be viewed at: <http://www.legislation.gov.uk/uksi/2007/2324/contents/made>

**What other legislation do I need to bear in mind?**

It should be noted that independent schools are bound by the relevant provisions of the Health and Safety at Work Act 1974, the Equality Act2010 and the Food Hygiene (England) Regulations 2006, as well as the relevant provisions of business/charity and employment law.

**Can I apply for my school to participate in the Teachers’ Pension Scheme?**

Once an independent school has achieved registration, it may apply to participate in the Teachers’ Pension Scheme. Enquiries should be made in writing to:

Capita Management Services

Mowden Hall

Staindrop Road

Darlington

DL3 9EE

**Information sharing**

If you apply to open an independent school in another European Economic Area (EU member states plus Norway, Iceland and Lichtenstein) there is a legal requirement for the Department to exchange your personal data if it is requested by the relevant authority in that country via the Internal Marketing Information System (IMI).

* The IMI is a web-based portal developed by the European Commission. It enables messages and information to be exchanged between authorities in a secure environment and complies with data protection rules.
* Authorities will use IMI to exchange information on service providers who are in scope of the European Services Directive on reducing barriers to trade. Independent schools are in scope of the directive.
* Authorities must have good reason to request information and provide justification when submitting a request.
* Only competent authorities involved in a request for information can see the personal details of a service provider.
* All personal data is automatically deleted from the system six months after the closure of a request.
* UK authorities are obliged to notify service providers if they supply sensitive data about them, such as that relating to disciplinary action or criminal sanctions, to other authorities.

**Access to and correction of personal information**

We will take all reasonable steps to update or correct personal data in our possession that you submit. You have a right to ask to see details of any information that we hold about you. If you wish to do so please use the contact details shown above.

The Department’s privacy statement may be viewed at:

<http://www.education.gov.uk/help/legalinformation/a005240/privacy-statement>

**List of Relevant Documents and Publications**

The Stationery Office publishes most of the documents mentioned in this guide. Their address is:

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| --- | --- |
| PO Box 29 St Crispins House Duke Street NORWICH NR3 1GN | **Tel:** 0870 600 5522 **Fax:** 0870 600 5533 **E-mail:** [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)  **Website:** [**http://www.tso.co.uk/**](http://www.tso.co.uk/) |

***Education Regulations***

The Education (Independent Schools Standards) (England) Regulations 2010 (SI 2010/1997) ISBN: 0111501108

<http://www.legislation.gov.uk/uksi/2010/1997/contents/made>

The Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009

(SI 2009/1607) ISBN: 0111481899

<http://www.legislation.gov.uk/uksi/2009/1607/contents/made>

The Education (Provision of Information by Independent Schools) (England) Regulations 2010

(SI 2010/2919) ISBN: 0111504550

<http://www.legislation.gov.uk/uksi/2010/2919/contents/made>

The Education (School Premises) Regulations 1999

(SI 1999/2) ISBN: 0110803310

<http://www.legislation.gov.uk/uksi/1999/2/contents/made>

The Education (Pupil Registration) Regulations 2006

(SI 2006/1751 ISBN: 011 0747984

<http://www.legislation.gov.uk/uksi/2006/1751/contents/made>

The Education (Schools and Further Education) (Amendment) Regulations 1998

(SI 1998/2792)

<http://www.legislation.gov.uk/uksi/1998/2792/made>

The Education (School Performance Information) (England) Regulations 2001

(SI 2001/3446) ISBN0110387597

<http://www.legislation.gov.uk/uksi/2001/3446/contents/made>

The Education (School Performance Information) (England) (Amendment) Regulations 2006

(SI 2006/2896) ISBN 011075252X

<http://www.legislation.gov.uk/uksi/2006/2896/contents/made>

The Education (Prohibition from Teaching or Working with Children) (Amendment) Regulations 2007

(SI2007/195) ISBN 9780110757793

<http://www.legislation.gov.uk/uksi/2007/195/contents/made>

The Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003

(SI 2003/2314) ISBN: 0110475038

<http://www.legislation.gov.uk/uksi/2003/2314/contents/made>

The Religious Character of Schools (Designation Procedure) (Independent Schools)(England) (Amendment) Regulations 2004

(SI 2004 /2262) ISBN: 0110497740

<http://www.legislation.gov.uk/uksi/2004/2262/contents/made>

The Day Care (Application to Schools) (England) Regulations 2003

<http://www.legislation.hmso.gov.uk/si/si2003/20031992.htm>

***Education Acts***

Education and Skills Act 2008 ISBN: 0105425083

<http://www.legislation.gov.uk/ukpga/2008/25/contents>

Education and Inspections Act 2006 ISBN: 010544006X

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

Education Act 2005 ISBN: 0105418056

<http://www.legislation.gov.uk/ukpga/2005/18/contents>

Education Act 2002 ISBN: 0105432024

<http://www.legislation.gov.uk/ukpga/2002/32/contents>

Education Act 1996 ISBN: 0105456969

<http://www.legislation.gov.uk/ukpga/1996/56/contents>

School Standards and Framework Act 1998 Chapter 31

ISBN: 0105431982

<http://www.legislation.gov.uk/ukpga/1998/31/contents>

**Booklets/Guides**

Fire Safety Risk Assessment - Educational Premises

ISBN: 9781851128198

<http://www.communities.gov.uk/publications/fire/firesafetyrisk6>

Fire Safety Risk Assessment – Sleeping Accommodation

ISBN: 9781851128174

<http://www.communities.gov.uk/publications/fire/firesafetyrisk4>

Safeguarding Children and Safer Recruitment in Education:

<http://publications.education.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DFES-04217-2006&>

Dealing with Allegations of Abuse against Teachers and Other Staff:

<http://www.education.gov.uk/aboutdfe/statutory/g0076914/dealing-with-allegations-of-abuse-against-teachers-and-other-staff>

The Framework for Inspecting Independent Schools in England is available from Office for Standards in Education, Alexandra House, 33 Kingsway London WC2B 6SE tel: 0207 4216680

<http://www.ofsted.gov.uk/resources/framework-for-inspecting-education-non-association-independent-schools>

Health and Safety: <http://www.education.gov.uk/schools/adminandfinance/healthandsafety/f00191759/departmental-health-and-safety-advice-on-legal-duties-and-powers-for-local-authorities-headteachers-staff-and-governing-bodies>

Preventing and Tackling Bullying: Advice for School Leaders and Governing Bodies:

<http://www.education.gov.uk/schools/pupilsupport/behaviour/bullying/f0076899/preventing-and-tackling-bullying>

Use of reasonable force Guidance July 2011: <http://www.education.gov.uk/schools/pupilsupport/behaviour/f0077153/use-of-reasonable-force-advice-for-school-leaders-staff-and-governing-bodies>

Prevention of Illegal Working – Summary Guidance for Employers:

<http://www.bia.homeoffice.gov.uk/employers/>

**Other relevant Acts and Regulations**

The Equality Act 2010 - (SI 2010 No 15)

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

The Regulatory Reform (Fire Safety) Order 2005

<http://www.legislation.gov.uk/uksi/2005/1541/contents/made>

Health and Safety at Work Act 1974 ISBN: 0105437743

<http://www.legislation.gov.uk/ukpga/1974/37/contents>

Food Hygiene (England) Regulations 2006 (SI 2006/14)

<http://www.legislation.gov.uk/uksi/2006/14/contents/made>

**Children Act 1989 and associated publications**

Children Act 1989 ISBN: 0105441899

<http://www.legislation.gov.uk/ukpga/1989/41/contents>

Care Standards Act 2000

<http://www.legislation.gov.uk/ukpga/2000/14/contents>

Early Years Foundation Stage

<http://www.education.gov.uk/childrenandyoungpeople/earlylearningandchildcare/delivery/education/a0068102/early-years-foundation-stage-eyfs>

National Minimum Standards for Boarding Schools:

<http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools>

National Minimum Standards for Residential Special Schools:

<http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools>

National Minimum Standards for Children’s Homes:

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00030-2011>

***Equality Act 2010***

Code of Practice for Schools published by the Equality and Human Rights Commission:

<http://www.equalityhumanrights.com/advice-and-guidance/your-rights/disability/disability-in-education/disability-discrimination-in-schools/>

### EHRC Helpline

### England: **0845 604 6610** Textphone 0845 604 6620

Website: <http://www.equalityhumanrights.com/>

**Special Educational Needs and Disability Tribunal**

SENDIST Tel: 020 7925 5750

7th Floor Fax: 020 7925 6926

Windsor House Email:tribunalqueries@sendist.gsi.gov.uk

50 Victoria Street website: [www.sendist.gov.uk](http://www.sendist.gov.uk)

London

SW1H 0NW

**Other relevant Acts and Regulations**

The Equality Act 2010 - (SI 2010 No 15)

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

The Special Educational Needs Tribunal Regulations 2001

(SI 2001 No 600) ISBN 0110288920 <http://www.opsi.gov.uk/si/si2001/20010600.htm>

The Special Educational Needs and Disability Tribunal (General Provisions and Disability Claims Procedure) Regulations 2002

(SI 2002 No 1985) ISBN 0110425987

<http://www.opsi.gov.uk/si/si2002/20021985.htm>

The Department’s Privacy Statement may be viewed at: <http://www.education.gov.uk/help/legalinformation/a005240/privacy-statement>

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