

Memorandum of understanding: independent schools

The Office for Standards in Education, Children's Services and Skills (Ofsted) and the Department for Education (DfE)

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Introduction

1. This memorandum of understanding (MOU) explains how Ofsted and the Department for Education (DfE) will cooperate with each other in order to exercise their respective functions in the delivery of inspections of independent schools.
2. This MOU provides a framework for Ofsted and the DfE to cooperate and communicate constructively so as to carry out their independent roles and separate functions.
3. This cooperation and communication benefits all children and learners attending independent schools by driving improvement to ensure that schools meet the independent school standards and, where applicable, the national minimum standards for boarding schools or residential special schools.
4. This is the inaugural MOU entered into between Ofsted and the DfE on this aspect of inspection. Ofsted and the DfE will continue to monitor its operation and review it from time to time as necessary, and at least by July 2014.

Role of the Department for Education and Ofsted

5. Ofsted regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Courts Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, work-based further education and skills training, adult and community learning and education and training in prisons and other secure establishments. It assesses local authority children's services and inspects services for looked after children, safeguarding and child protection.
6. The functions in regard to this MOU are in the inspection of:
 - non-association independent day, boarding and residential special schools in England¹
 - boarding and residential provision in independent schools that belong to the Association of Muslim Schools UK and the Christian Schools Trust, whose education provision is inspected by the Bridge Schools Inspectorate, boarding and residential provision in schools of the Focus Learning Trust, that are part of the Cognita Group where they do not belong to an Independent Schools Council association, and the Steiner Waldorf Schools

¹ Residential provision offered by academies, maintained and non-maintained boarding and residential special schools is outside the scope of this MOU.



Fellowship, whose education provision is inspected by the School Inspection Service.²

7. Occasionally, the DfE may commission Ofsted to carry out an inspection of a school that is normally inspected by one of the approved independent inspectorates. This MOU also applies to such inspections.
8. The DfE is a department of the UK government. It is responsible for issues affecting young people in England up to the age of 19, including child protection and education, and, within this, regulates independent schools in England.

Statutory responsibilities

9. Under section 162A of the Education Act 2002, as inserted by schedule 8 of the Education Act 2005, Ofsted has a statutory responsibility for the inspection of independent schools when requested to do so by the DfE, the purpose of which is to advise the Secretary of State for Education about the school's compliance with the independent schools standards and its suitability for continued registration as an independent school.
10. The DfE regulates schools in line with powers set out under Part 10 of the Education Act 2002. These functions are undertaken within the Independent Education and Boarding Team.

Cooperation

11. Ofsted and the DfE agree that they will:
 - endeavour to improve understanding about their different roles
 - work together to ensure a smooth delivery of their respective roles
 - seek to achieve complementary and consistent approaches, so far as they are consistent with their independent roles
 - meet and communicate regularly to discuss matters of mutual interest, including agreeing priorities for future inspections, taking appropriate account of Ofsted's resources

² Ofsted monitors the work of the other inspectorates approved by the Secretary of State to inspect independent schools in England (Independent Schools Inspectorate, School Inspection Service and Bridge Schools Inspectorate), and the approved independent overseas inspection providers for British schools overseas. This monitoring work is outside of the scope of this MOU, and is covered in the following published protocols:

Protocol between Ofsted and the approved independent inspectorates (100019), Ofsted, 2012; www.ofsted.gov.uk/resources/100019.

Protocol between Ofsted and the approved independent overseas inspection providers for British schools overseas (100254), Ofsted, 2012; www.ofsted.gov.uk/resources/100254.



- consult one another at an early stage on any issues that might have significant implications for either organisation
- share (for comment) at an early stage draft documents (such as standards, frameworks, consultation papers and briefings) that affect the other's functions.

Information sharing

12. Ofsted and the DfE (Independent Education and Boarding Team) agree that for matters relating to individual inspections, concerns and complaints they will:
- disclose and share information that would be of assistance in advancing each department's operational objectives³
 - use secure email routes for communicating such information
 - route all information from the DfE through Ofsted's operational administrative team for independent provision, who will confirm receipt of information and pass it to the designated responsible person in a timely manner
 - appropriately protect sensitive information in accordance with the latest central government requirements
 - discuss, where appropriate, the scope of commissioned inspections, to ensure that the most appropriate type of inspection is conducted.

Operational delivery

13. In respect of operational delivery, Ofsted's regional directors are responsible for inspection within their own regions⁴ and will deploy those with responsibility for education provision or for boarding/residential provision to:
- liaise with the DfE about all complaints and concerns about, and inspections of, independent schools (including boarding/residential provision of schools) through the DfE (Independent Education and Boarding Team)
 - scope all commissions for routine and additional inspections in their region.
14. As such, each region will have responsibility for ensuring that:
- all routine and additional inspections in their region are delivered on time to the high standards expected
 - all routine and additional inspections in their region are reported accurately

³ Ofsted will share such information with the DfE under section 118(2) of Education and Inspections Act 2006. This gives Ofsted the power to: 'provide the Secretary of State with information or advice on such matters relating to activities within the Chief Inspector's remit as are specified in the request'.

⁴ Although quality assurance processes will be passed to regions on 1 April 2014.



- provision judged as adequate (or, from April 2014, requires improvement) or inadequate is monitored and supported by the regions in order to secure improvement
- inspectors are provided to give evidence at tribunals in their region
- specialist inspectors are deployed to specified inspections when requested by the DfE (Independent Education and Boarding Team).

15. The DfE agrees that:

- the Independent Education and Boarding Team is to be organised on a regional basis and contact details will be shared with Ofsted
- all inspections will be commissioned via Independent Education and Boarding Team
- all commissioning of inspections will be clear about the purpose and focus of the inspection and specify where the DfE would like specialist inspectors to be deployed.

Handling concerns/complaints received by Ofsted

16. Ofsted agrees that:

- any complaint received by Ofsted that gives rise to a concern that the school may be failing to meet the independent school standards will be referred to the DfE in a timely manner
- any complaint received by Ofsted that gives rise to a concern about a school that is normally inspected by one of the independent inspectorates will be passed to the DfE in a timely manner
- any complaint received by Ofsted that gives rise to a concern about the welfare of a child or children will be prioritised for referral to the DfE and will also be referred to the relevant local authority and/or the police as appropriate
- where the DfE commissions an inspection by way of an agreed commissioning form as a result of a concern, this will be scheduled as a priority. In the case of such emergency inspections, Ofsted and the DfE will discuss and agree the scope of the inspections. If they cannot agree the scope, Ofsted will advise the DfE accordingly in writing, and conduct the inspection within the scope determined by the DfE. In such circumstances the advice note and/or report will be passed to the DfE (Independent Education and Boarding Team) in the timescales set out in Ofsted's published guidance.

17. The DfE agrees that:

- the DfE (Independent Education and Boarding Team) will acknowledge, in writing and in a timely manner, all complaints referred by Ofsted



- the DfE (Independent Education and Boarding Team) will set out to Ofsted in writing in a timely manner any (or no) action that DfE requires Ofsted to take in response to a complaint
- complaints will be handled and accelerated in a timely manner; decisions about subsequent actions will be based on the seriousness of the complaint, the standards that the school may be failing to meet, and the school's inspection history.

Unregistered schools

18. Ofsted and the DfE will work together to ensure that any investigations into possible unregistered schools are undertaken safely, in a timely manner and with the interests of the children at the centre of any investigation.
19. Ofsted agrees that:
 - any visit under section 159 of the Education Act 2002 is carried out in a timely manner and with accurate information recorded
 - any relevant information taken under s159(4) is stored securely and shared with the DfE and the police in a secure and timely manner
 - where appropriate, the DfE will be consulted before Ofsted carries out any visits under s159(4).
20. The DfE agrees that:
 - any consultation about a potential s159(4) visit will be dealt with urgently and timely advice will be given to Ofsted
 - it will share any intelligence about potential unregistered schools, particularly where a setting may pose a threat to the safety of Ofsted inspectors. The Independent Education and Boarding Team will consult with Due Diligence and Counter Extremism Unit colleagues where necessary
 - it will provide Ofsted with such information as it has to enable Ofsted to consider whether there is reasonable cause to believe that an offence is being committed.

Freedom of Information requests, press and correspondence

21. Where Ofsted and the DfE receive correspondence, press interest or requests made under the Freedom of Information Act 2000 concerning independent schools, both parties agree to consult each other about the approach to the response to ensure that responses given to external parties are consistent and do not conflict, even where they may differ slightly.