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## **Introduction**

In September 2001 we sent a consultation paper to all proprietors of independent schools and other interested bodies outlining our proposals to reform the registration and monitoring arrangements for independent schools in England. The Education Act 2002 provides a framework for the new arrangements, and we are now consulting on regulations which will contain more detail.

The structure of the consultation pack is as follows:

- in part 1 of this document we describe detailed draft regulations which we plan to bring into force on 1 September 2003;
- part 2 contains information about future changes to the regulation of daycare in independent schools;
- part 3 explains the transitional arrangements for independent schools that are provisionally registered on 1 September 2003;
- part 4 contains the framework that Ofsted have prepared. It explains that inspections of independent schools will inform the Secretary of State, parents and others of the extent to which schools meet the new standards.

## **How to Respond to this Consultation**

We welcome your views and enclose two questionnaires, one covering the draft regulations and the other the draft Ofsted inspection framework.

Completed questionnaires and other responses, should be sent to the address shown below by 30 May 2003.

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This document is also available on the Internet at [www.dfes.gov.uk](http://www.dfes.gov.uk)

Responses and comments can be sent via e-mail to [stephanie.lidster@dfes.gsi.gov.uk](mailto:stephanie.lidster@dfes.gsi.gov.uk)

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# PART 1

## REGULATIONS

We anticipate that new regulations, which set out the registration and monitoring arrangements for independent schools\*, will come into force in September 2003.

### Overview

The independent school sector is diverse, with schools that cater for a wide range of faiths, philosophies and family circumstances. A flourishing independent sector provides stimulus and challenge to maintained schools, and we hope that the sector will retain its tradition of providing distinctive education that reflects the unique ethos of individual schools. We expect independent schools, like maintained schools, to educate children in an environment where they can flourish: the curriculum must enable pupils to make progress, and teaching methods should produce knowledgeable and motivated pupils and citizens.

The Education Act 2002 specifies that regulations should set out standards covering:

- the quality of education provided at independent schools;
- the spiritual, moral, social and cultural development of pupils at independent schools;
- the welfare, health, and safety of pupils at independent schools;
- the suitability of proprietors of, and staff at, independent schools;
- the premises of, and accommodation at, independent schools;
- the provision of information by independent schools;
- the manner in which independent schools handle complaints.

Many of these standards already apply to independent schools. We have updated them and extended them to cover further areas where we have in the past lacked the power to take action as a result of critical inspection reports.

Independent schools, like maintained schools, have to adhere to equal opportunities legislation. We expect them to provide a sound education for all their pupils irrespective of gender, ethnicity or disability. In particular, we expect pupils' special educational needs to be met and for pupils and staff, whatever their background, to treat each other with respect and understanding.

Our proposals for implementing the powers contained in the Education Act 2002 are set out in the draft regulations attached as Annexes A, B and C. The following notes offer a brief summary of our overarching objectives, and the way these have been translated into detailed standards.

\* Under the Education Act 1996, as amended by the Education Act 2002, an independent school will be defined as any school that provides full time education for five or more pupils of compulsory school age or one or more pupils with a statement of special educational need or who is in public care and is not a school maintained by a local education authority or a non-maintained special school.

## **Standards – Draft regulations are at Annex A**

### **The quality of education provided in independent schools**

It is impossible to distil the fractions of a quality education, but the minimum standards are those which need to be met in order for independent schools to be, and remain, registered. The standards do not seek to impose the detailed requirements of the maintained sector on independent schools.

We think that the quality of education at an independent school should be judged by examining the curriculum the school offers, and by evaluating the quality of teaching and assessment. Independent schools want the freedom to develop a distinctive curriculum and we recognise that they will want a high degree of flexibility in the teaching strategies they adopt. They must retain their autonomy to appoint, train and employ staff, but we expect independent school teachers to be competent and effective; to cater for the ages, aptitudes and needs of individual pupils; and to allow pupils to fulfil their potential: anything less could jeopardise delivery of an otherwise effective curriculum.

### **The spiritual, moral, social and cultural development of pupils at independent schools**

We recognise that this is a sensitive area for independent schools as many parents choose an independent school for its distinctive ethos. We live in a tolerant, democratic society, which values the wide range of beliefs, philosophies, and attitudes towards education found in our independent schools. The diversity of the independent sector is a strength and we believe it caters well for most shades of opinion and belief.

The spiritual, moral, social and cultural development of children is largely a matter for schools and parents: we need to minimise regulation while ensuring that, on leaving independent schools, pupils are likely to become well adjusted citizens. We expect that independent school pupils should have a reasonable expectation of earning a living once their education is finished; that they will have sufficient understanding of public institutions and services to seek help when their circumstances demand it; that they should be able to distinguish right from wrong so that there is little risk that they will engage in criminal activity; and that they recognise that every citizen in this country must tolerate cultural and philosophical differences between individuals and communities.

### **The welfare, health and safety of pupils at independent schools**

Parents and pupils expect that independent schools will have sound arrangements in place to safeguard the welfare of all pupils. They also expect that schools will provide a safe environment, and that proper precautions are taken both within schools and on school trips. Independent schools should also promote good health amongst their pupils and occupy clean and hygienic premises.

### **The suitability of proprietors of, and staff at, independent schools**

All schools must ensure that all staff, including proprietors, volunteers and students on placement, are suitable to provide education and care for pupils. Most independent school pupils are minors, and some are especially vulnerable due to their special educational needs and/or infrequent contact with parents or guardians.

## **The premises of, and accommodation at, independent schools**

Independent schools occupy a wide variety of premises, which reflect the diversity of the sector. A number operate in historic listed buildings inextricably linked to their foundation: a small number occupy purpose-built, relatively modern premises while others use buildings designed for another purpose or share buildings with other users. In our experience schools with financial difficulties struggle to keep their premises in good order, or to identify and purchase premises that are suitable for education.

The purpose of regulation is to meet parents' and pupils' expectations that premises meet minimum standards of safety and hygiene. We think that all independent schools must have buildings and grounds which are suitable for a school and that the internal fixtures and fittings provide an appropriate environment for educating pupils. Schools also need to comply with relevant legislation such as the disability provisions of the Special Educational Needs and Disability Act 2001, effective from September 2002. The emphasis of this standard is on the provision of facilities that meet minimum standards, rather than on the aesthetic aspects of school premises.

## **The provision of information by independent schools**

We expect independent schools to provide parents with clear and accurate information about the educational philosophy and standards of individual schools, so that they are clear about the character and operation of the school, and about its performance and traditions. We expect schools to report to parents on their child's progress regularly, and to use alternative media if written communication is not appropriate. Schools must provide information to regulatory bodies on request so that they can confirm that they meet the standards for registration.

## **The manner in which independent schools handle complaints**

Many independent schools already have a thorough and robust complaints procedure which provides independent scrutiny of parents' complaints. We think that all parents of children in independent schools should have access to a written description of a transparent 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.

## **Payment of inspection fees – Draft regulations are at Annex B**

The Education Act 2002 allows charges to be made for Ofsted inspections of schools: in practice this will only apply to those schools that do not belong to an association within the Independent Schools Council (ISC). ISC schools already pay for inspections by the Independent Schools Inspectorate. Inspection fees will be levied on independent schools to meet the costs of conducting the six-yearly cycle of Ofsted inspections against the new standards, and to enable publication of reports. However, new schools applying for registration will not be required to pay for inspections undertaken as part of the registration process.

Throughout the passage of the Education Act we have consistently said that we would pay careful attention to the level of charges for small schools, and have indicated that they would pay least. We are introducing a sliding scale of charges, which recognises that small schools on limited budgets will pay least. The effect on schools of different sizes is shown in the table below. We also recognise that independent schools which cater for children with special educational needs may need to be inspected more frequently than the standard six-year

cycle because of the vulnerable nature of the children they accommodate and the nature of their specialist provision. We have decided that those schools that are approved under Section 347 (1) of the Education Act 1996 will be exempt from inspection charges.

Schools will be required to prepare action plans showing how they will implement the recommendations made by Ofsted following inspections. Where there are serious concerns Ofsted will need to re-inspect to assess progress against the plan. There will be no fee for a first follow-up inspection, but if a further follow up inspection is required because a school has failed to implement the inspection recommendations, a charge of 25% of the original fee for the 6-yearly inspection will be levied for each subsequent follow up inspection.

School Size by Number of Pupils	Inspection fee*
1- 49	£50 - £2,450
50-149	£2,500 - £6,460
150+	£6,475 - £10,000

\* The draft regulations at Annex B explain how these costs are determined.

## **Publication of inspection reports – Draft regulations are at Annex B**

Independent school inspections are undertaken by Ofsted, or the Independent Schools Inspectorate (ISI). Inspections normally take place on a six-year cycle, or more frequently where a school is giving cause for concern. At present full inspections undertaken by Ofsted and ISI are published, but other Ofsted inspections do not result in published reports as their scope is limited to determining whether some or all of the existing registration requirements are met. Our consultation found that schools thought that inspection reports ought to be published, and we plan to require Ofsted to publish the findings of independent school inspections in future. We think that this will be welcomed by parents who will then have access to an independent assessment of the standards achieved in their child's school. ISI will continue to publish their reports.

## **Provision of information – Draft regulations are at Annex C**

### **Applications for registration**

The information required in the application to register an independent school is set out in Regulation 3 and at Part II of the Schedule to the draft regulations.

### **Following registration**

Once an independent school is registered there must be a mechanism for keeping its entry on the register up to date and to confirm that any variations to the school's registration details have been approved. Information will be required one month after the admission of pupils and thereafter on an annual basis. Details of the information required are given in Regulations 4 and 5 and in Parts III and IV of the Schedule to the draft regulations.

## **Appeals**

Regulations covering the new appeals system will be made under The Care Standards Act 2001 and a consultation will take place later this year.

## **PART 2**

### **DAYCARE**

In early 2002 we consulted on proposals to regulate early years and childcare provision in schools. Following the consultation we are considering how best to regulate childcare facilities provided by schools to bring them into line with other childcare providers. The main proposal was that childcare provision for children under the age of eight offered by independent schools would be subject to the requirements of the Children Act 1989. Such provision in independent schools would need to be registered with, and inspected by, Ofsted to ensure that it complied with the National Standards \*\*. Educational provision during the normal school day, including nursery classes for three- and four-year olds, would not normally require registration and inspection under the Act.

We envisage that education provision within independent schools will normally be inspected on a six-year cycle and, in the years when this inspection takes place, it would be co-ordinated with the school's more frequent day care inspection if the school so wished.

Independent schools that receive Government funding for nursery education for three- and four-year olds have a further inspection every two to four years. We are currently considering how nursery education inspections can be co-ordinated with the inspection of schools' education provision.

At present detailed arrangements, and a timetable for implementing them, have yet to be decided. The new arrangements for inspection of day care and nursery education in independent schools will be the subject of further consultation before they are implemented. If you wish to enquire further about future arrangements please contact Bolaji Bakrin on 020 7273 5670.

\*\* The 14 National Standards for under eights Day Care and Childminding are given force through regulations under the Children Act 1989. A review of the National Standards with a public consultation is planned for later this year.

## **PART 3**

### **TRANSITIONAL ARRANGEMENTS FOR SCHOOLS PROVISIONALLY REGISTERED ON 1 SEPTEMBER 2003**

The provisions in the Education Act 2002 will bring provisional registration for new schools to an end on 1 September 2003. From that date all new schools will have to satisfy the Secretary of State that they meet the standards required for registration before they can be entered on the Register of Independent Schools, and admit pupils.

On 1 September 2003 there will be a number of schools provisionally registered under the previous legislation that do not meet the standards for final registration. These schools will have a two-year transition period to allow them sufficient time to meet the standards set out in the new legislation. The two-year transition period will run from 1 September 2003 to 31 August 2005.

This term the Department will write to all schools that are provisionally registered to set out the procedures we will be adopting. HMI from Ofsted are arranging a programme of inspections to check whether their earlier recommendations have been implemented, and decide whether provisionally registered schools are ready for final registration. Those schools that are not yet ready for final registration will be informed about the work that remains outstanding, and the extent to which the school is likely to meet the standards set out in the new legislation. Provisionally registered schools will have a clear idea of the steps they will need to take during the two-year transitional period: we urge them to take steps as soon as possible to gain final registration.

We hope that all provisionally registered schools will be able to meet the new standards by the end of the two-year transitional period. However, schools should be aware that failure to do so will result in the school being removed from the Register of Independent Schools and being forced to close, since it is illegal to operate an unregistered independent school. HMI from Ofsted will ensure that regular monitoring is undertaken during the two-year transition period and will offer advice to provisionally registered schools to help them meet the new standards. We want to work with provisionally registered schools to make sure that they have every possible opportunity to make improvements and gain final registration.

### **SCHOOLS THAT ARE APPROVED UNDER SECTION 347(1) OF THE EDUCATION ACT 1996 TO ADMIT PUPILS WITH SPECIAL EDUCATIONAL NEEDS**

We are considering the impact of these new regulations on the regulations governing the approval of independent schools for pupils with special educational needs (SEN). We aim to streamline the approval regulations and remove any overlap which will come about as a result of the new standards regulations. This will not in any way diminish the quality of provision which approved schools are required to make. We hope that more schools which specialise in SEN provision will seek approval.

## **PART 4**

### **INSPECTION FRAMEWORK**

The Framework for inspecting independent schools in England from September 2003.

#### **Overview**

Annex D of this consultation document sets out the way in which OFSTED proposes to conduct inspections under section 163 (1) (a) of the Education Act 2002 for the purpose of advising the Secretary of State about whether individual schools meet the standards for registration and continued registration as an independent school.



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 STATUTORY INSTRUMENTS
 

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2003 No.

## EDUCATION, ENGLAND

 The Education (Independent School Standards) Regulations  
 2003

*Made* - - - - - [] 2003

*Laid before Parliament* []

*Coming into force* - - - - - 1st September 2003

In exercise of the powers conferred on the Secretary of State by section 157 of the Education Act 2002(a), the Secretary of State for Education and Skills hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Education (Independent School Standards) Regulations 2003 and shall come into force on 1st September 2003.

**Interpretation**

2. In these Regulations—

“the Act” means the Education Act 2002(b).

“Academy” means a school established under section 482 of the Education Act 1996(c);

“boarding accommodation” means 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;

“Chief Inspector” means Her Majesty’s Chief Inspector of Schools in England (d);

“city technology college” or “city college for the technology of the arts” means a school established under section 482 of the Education Act 1996;

“compulsory school age” means the age range defined in section 8 of the Education Act 1996;

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(a) 2002 c.32; see section 212 for the definition of “regulations”; by virtue of that definition these regulations made by the Secretary of State only apply in relation to England. Section 212 also defines “prescribed”.

(b) 2002 c.32

(c) 1996 c.56; section 482 was amended by section 65 of the Education Act 2002

(d) Her Majesty’s Chief Inspector is appointed under section 1 of the School Inspections Act 1996 (c. 57)

“fire authority” means the statutory body defined in section 4 of the Fire Services Act 1947(a), or section 328 of the Greater London Authority Act 1999(b), or section 26 of the Local Government Act 1985(c);

“proprietor” has the same meaning as in section 579 of the Education Act 1996;

“school” means an independent school as defined by section 463 of the Education Act 1996(d);

“secondary aged pupils” means a pupil receiving secondary education as defined by section 2(2) of the Education Act 1996;

“special educational needs” means needs set out in a statement;

“staff” means those people working at the school whether under a contract of employment, a contract for services, or as a volunteer; and

“statement” means a statement of special educational needs under section 324 of the Education Act 1996;

3. The requirements set out in the Schedule are the independent school standards for the purpose of Part 10 of the Act.

4. Paragraphs 1(1), 1(2), 6(3), 6(4) and 6(7) of the Schedule do not apply to an Academy, city technology college or a city college for the technology of the arts.

Date

Minister of State  
Department for Education and Skills

## SCHEDULE

## Regulation 3

### THE INDEPENDENT SCHOOLS STANDARDS

#### Quality of education provided

1.—(1) The quality of education provided by the school meets the standard if the requirements in sub-paragraphs (2) to (5) are met.

(2) The school shall draw-up and implement effectively a written policy on the curriculum, supported by appropriate plans and schemes of work, which provides for—

- (a) full-time supervised education for all pupils of statutory school age, which gives pupils experience in the following areas: linguistic, mathematical, scientific, technological, human and social, physical, and aesthetic and creative education;

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(a) 1947 c.41

(b) 1999 c.29

(c) 1985 c.51

(d) 1996 c.56; section 463 is amended by section 172 of the Education Act 2002

- (b) subject matter appropriate for the ages and aptitudes of pupils, including those pupils with special educational needs;
  - (c) a strategy that enables pupils to acquire skills in speaking and listening, literacy and numeracy skills;
  - (d) where the principal language of instruction is a language other than English, lessons in written and spoken English, except that this requirement shall not apply in respect of a school which provides education for pupils who are temporarily resident in England and which follows the curriculum of another country;
  - (e) where a pupil has special educational needs, education which fulfils the requirements of his statement;
  - (f) personal, social and health education which reflects the school's aims and ethos;
  - (g) appropriate careers guidance for secondary aged pupils;
  - (h) where the school has pupils below compulsory school age, a programme of activities which is appropriate to their needs;
  - (i) the opportunity for all pupils to learn and make progress; and
  - (j) adequate preparation of pupils for the opportunities, responsibilities and experiences of adult life.
- (3) The teaching at a school shall—
- (a) enable pupils to acquire new knowledge, increase understanding and develop their skills in the subjects taught;
  - (b) encourage pupils to apply intellectual, physical or creative effort, to show interest in their work, and to think and learn for themselves;
  - (c) ensure that lessons are well planned, effective teaching methods and suitable activities are used and class time is managed wisely;
  - (d) show a good understanding of the prior attainments, aptitudes and needs of the pupils and that lessons are planned accordingly;
  - (e) demonstrate thorough knowledge and understanding of the subject matter being taught;
  - (f) utilise classroom resources of an adequate quality, quantity and range effectively;
  - (g) demonstrate a framework is in place to assess pupils' work regularly and thoroughly and use information from such assessment to plan teaching so that pupils can progress; and
  - (h) encourage pupils to behave responsibly.
- (4) The school shall have in place a framework for pupil performance to be measured, by reference either to the school's own aims as provided to parents or national norms, or to both.
- (5) The school shall provide effective education for all pupils within a class, including pupils with special educational needs and those for whom English is an additional language.

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

2. The spiritual, moral, social and cultural development of pupils at the school meets the standard if the school promotes principles which—

- (a) enable pupils to develop their self-knowledge, self-esteem and self-confidence;
- (b) enable pupils to distinguish right from wrong and deter them from criminal activity;
- (c) encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute to community life;
- (d) provide pupils with a broad general knowledge of public institutions and services;
- (e) provide pupils with a broad understanding of the diverse way of life in England; and
- (f) assist pupils to acquire an understanding of their own and other cultures in a way that promotes harmony between different cultural traditions.

### **Welfare, health and safety of pupils**

3.—(1) The welfare, health and safety of pupils at the school meets the standard if the requirements in sub-paragraphs (2) to (9) are met.

(2) The school shall draw up and implement effectively a written policy to—

- (a) prevent bullying, which has regard to DfES Guidance “Bullying: don’t suffer in silence<sup>(a)</sup>”;
- (b) safeguard and promote the welfare of children who are pupils at the school and which complies with DfES Circular 10/95 “Protecting Children from Abuse : the Role of the Education Service”;
- (c) safeguard and promote the health and safety of pupils on activities outside the school which has regard to DfES Guidance “Health and Safety of Pupils on Educational Visits<sup>(b)</sup>”; and
- (d) promote good behaviour amongst pupils and set out the sanctions to be adopted in the event of pupil misbehaviour.

(3) Where a school provides boarding accommodation, it shall have regard to the National Minimum Standards for Boarding Schools 2002 <sup>(c)</sup> or where applicable the National Minimum Standards for Residential Special Schools <sup>(d)</sup>.

(4) The school shall have regard to the DfES guidance “Health and Safety: Responsibilities and <sup>(e)</sup>”;

(5) The school shall have a satisfactory level of fire safety, evidenced by the school’s risk assessment under the Fire Precautions (Workplace) Regulations 1997<sup>(f)</sup> and any report from the fire authority.

(6) The school shall have and implement a satisfactory policy on First Aid.

(7) School staff shall be deployed to ensure the proper supervision of pupils.

(8) The school shall keep a record of the sanctions imposed upon pupils for serious disciplinary offences.

(9) The school shall maintain an attendance register in accordance with the Education (Pupil Registration) Regulations 1995<sup>(g)</sup>.

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

4. The suitability of proprietors and staff at the school meets the standard if—

- (a) the proprietor is subject to a check with the Criminal Records Bureau made by the Secretary of State to confirm his suitability to work with children, that check to be at an enhanced level if his duties involve regularly caring for, training, supervising or being in sole charge of persons aged under 18;
- (b) prior to confirmation of their appointment, members of staff at the school are subject to a check with the Criminal Records Bureau which confirms suitability to work with children, that check to be at an enhanced level if the member of staff’s duties involve regularly caring for, training, supervising or being in sole charge of persons aged under 18;
- (c) prior to confirmation of their appointment, checks are carried out on staff to confirm their identity, medical fitness, previous employment history, character references, and

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<sup>(a)</sup> DfES publication number 0064/2000

<sup>(b)</sup> PP3 D14/44686/0901/24

<sup>(c)</sup> ISBN 0113225415 available at [www.doh.gov.uk/npsc](http://www.doh.gov.uk/npsc)

<sup>(d)</sup> ISBN 011322544X available at [www.doh.gov.uk/npsc](http://www.doh.gov.uk/npsc)

<sup>(e)</sup> DfES publication 0803/2001

<sup>(f)</sup> S.I. 1997/1840

<sup>(g)</sup> S.I. 1995/2089 as amended by Education (Pupil Registration)(Amendment) Regulations 1997; S.I. 1997/2624

- where appropriate, qualifications and professional references, and that information is taken into account in determining whether an appointment is confirmed;
- (d) where staff will care for, train, supervise or be in charge of children in boarding accommodation, they also comply with Standard 38 of the National Minimum Standards for Boarding Schools or where applicable Standard 27 of the National Minimum Standards for Residential Special Schools;
  - (e) neither the proprietor nor any member of staff carries out work, or intends to carry out work, in contravention of a direction under section 142(1) of the Education Act 2002.

#### **Premises of and accommodation at schools**

5. The premises and accommodation at the school meet the standard if —
- (a) the water supply meets the requirements of the Education (School Premises) Regulations 1999(a);
  - (b) there is an adequate drainage system for hygienic purposes and the disposal of waste water and surface water;
  - (c) each load bearing structure complies with the Education (School Premises) Regulations 1999;
  - (d) the school has adequate security arrangements for the grounds and buildings;
  - (e) premises which are used for a purpose other than conducting the school are organised to ensure that the health, safety and welfare of pupils is safeguarded and their education is not interrupted by other users;
  - (f) the school buildings provide reasonable resistance to penetration by rain, snow, wind and moisture from the ground;
  - (g) there is sufficient access so that emergency evacuations can be accomplished safely for all pupils, including those with special needs;
  - (h) access to the school allows all pupils, including those with special needs, to enter and leave the school in safety and comfort;
  - (i) the premises have not been condemned by the Environmental Health Authority;
  - (j) classrooms are appropriate in size for the number, age and needs of pupils and take account of DfES Building Bulletin number 82(b) and, in the case of a school with pupils with special needs, DfES Building Bulletins numbers 77(c) and 94(d);
  - (k) there are sufficient washrooms for staff and pupils, including facilities for pupils with special needs, which take account of the Education (School Premises) Regulations 1999;
  - (l) there is appropriate accommodation for pupils who are ill in accordance with the Education (School Premises) Regulations 1999;
  - (m) where food is served, there are adequate facilities for its hygienic preparation, serving and consumption;
  - (n) classrooms and other school accommodation are maintained in a tidy, clean and hygienic state;
  - (o) sound insulation and acoustics allow effective teaching and communication;
  - (p) lighting, heating and ventilation in classrooms and other parts of the school are satisfactory in accordance with the Education (School Premises) Regulations 1999;
  - (q) there is a satisfactory standard and adequate maintenance of decoration;
  - (r) the furniture and fittings are appropriately designed for the age and needs of all pupils registered at the school;

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(a) S.I. 999/02  
 (b) ISBN 0112709214  
 (c) ISBN 0112707963  
 (d) ISBN 011271109-X

- (s) there is appropriate flooring in good condition;
- (t) there are appropriate arrangements for providing outside space for pupils to play safely; and
- (u) where the school provides boarding accommodation, it has regard to Standards 40-52 of the National Minimum Standards for Boarding Schools (a) or, where applicable, Standards 23-26 of the National Minimum Standards for Residential Special Schools (b).

### **The provision of information**

6.—(1) The provision of information by a school meets the standard if the requirements in subparagraphs (2) to (8) are met.

(2) The school shall provide to parents of pupils and of prospective pupils and on request to the Chief Inspector, the Secretary of State, or a body approved under section 163(1)(b) of the Education Act 2002—

- (a) the school's address and telephone number, and name of the head teacher;
- (b) the name, address and telephone number of the proprietor;
- (c) where there is a board of governors, the name and address of the Chair;
- (d) a statement of the school's ethos and aims;
- (e) particulars of the school's policy on and arrangements for admissions, discipline and exclusions;
- (f) particulars of educational and welfare provision for pupils with special educational needs and for pupils for whom English is an additional language;
- (g) particulars of the policy prepared under paragraph 1(2) of this Schedule;
- (h) particulars of the policy prepared under paragraph 3(2) of this Schedule;
- (i) particulars of academic performance, including the results of any public examinations;
- (j) details of the complaints procedure set out in accordance with paragraph 7 of this Schedule, and the number of complaints registered under the formal procedure during the preceding school year; and
- (k) the number of staff employed at the school, including temporary staff, and a summary of their qualifications.

(3) Following an inspection under section 163(1) of the Act, the school shall send to the parents of every registered pupil, by a date to be specified by the body who conducted the inspection:

- (a) a summary report; or
- (b) if no summary has been prepared, a copy of the full report.

(4) Where a summary report has been sent in accordance with paragraph 3(a), the school shall make arrangements for parents to have access to the full report on request.

(5) An annual written report of the progress of each registered child and his attainment in the main subject areas taught must be provided to parents by the school.

(6) The school shall provide any body conducting an inspection under section 163 of the Act with—

- (a) any information reasonably requested in connection with an inspection that is necessary for the purposes of the inspection;
- (b) access to the admission and attendance registers, maintained in accordance with the Education (Pupil Registration) Regulations 1995(c).

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(a) ISBN 0113225415

(b) ISBN 011322544X

(c) S.I. 1995/2089 as amended by Education (Pupil Registration)(Amendment) Regulations 1997; S.I. 1997/2624

(7) Where a pupil wholly or partly funded by a local authority is registered at the school, an annual audited account of income received and expenditure incurred by the school shall be submitted to the local education authority and on request to the Secretary of State.

(8) Where a pupil with a statement of special educational needs is registered at the school, the school shall supply such information to the responsible local education authority as may reasonably be required for the purpose of the annual review of the statement.

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

7.—(1) The manner in which a school handles complaints meets the standard if the requirements in sub-paragraphs (2) to (4) are met.

(2) The complaints procedure shall be available to the parents of pupils and prospective pupils at the school.

(3) The complaints procedure shall—

- (a) allow for a complaint to be made and considered initially on an informal basis;
- (b) where the parents are not satisfied with the response to the complaint made in accordance with paragraph 3(a), establish a procedure for the complaint to be made in writing;
- (c) where the parents are not satisfied with the response to the complaint made in accordance with paragraph 3(b), make provision for a hearing before a panel of at least three people who were not directly involved in the matters detailed in the complaint;
- (d) stipulate that, where there is a panel hearing of a complaint, one person will be independent of the management and running of the school; the proprietor will be responsible for the appointment of the panel and the complaints procedure will set out clear time scales for the management of the complaint;
- (e) allow for parents to attend and be accompanied at a panel hearing if they wish; and
- (f) provide for the panel to make findings and recommendations and shall stipulate that the complainant, proprietors and head teachers, and where relevant the person complained about, are given a copy of any findings and recommendations.

(4) The complaints procedure shall—

- (a) provide for written records to be kept of all complaints, including whether they are resolved at the preliminary stage or whether they proceed to a panel hearing;
- (b) provide that correspondence, statements and records of complaints are to be kept confidential except in so far as provided in paragraph 6(2)(j) of this Schedule and except where a body conducting an inspection under section 163 of the Education Act 2002, or the Secretary of State, requests access to the records or other documents involved in the complaint.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations set out the Independent School Standards (“the standards”) to which an independent school will be inspected under sections 160(4) and 163(2) of the Education Act 2002 (“the Act”). The person who conducts the inspection will make a report under section 163(3) of the Act with regard to the extent to which the standards are met.

The registration authority will consider the inspection report and any other evidence in determining whether a school should be registered or continue to be registered under section 161 (1) of the Act.

The Schedule sets out the detail of the standards.



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 STATUTORY INSTRUMENTS
 

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2003 No. []

## EDUCATION, ENGLAND

## The Education (Independent School Inspection Fees and Publication) Regulations 2003

*Made* - - - - - []

*Laid before Parliament* []

*Coming into force* - - - - - 1st September 2003

In exercise of the powers conferred on the Secretary of State by sections 163(3)(b) and 164(9) of the Education Act 2002(a), the Secretary of State for Education and Skills hereby makes the following Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Education (Independent School Inspection Fees and Publication) Regulations 2003 and shall come into force on 1st September 2003.

**Interpretation**

2.— In these Regulations—

“Academy” means a school established under section 482 of the Education Act 1996 (b);

“the 1996 Act” means the Education Act 1996

“the 2002 Act” means the Education Act 2002(c)

“approved body” means a body approved by the registration authority under section 163(1) (b) of the 2002 Act to conduct an inspection;

“Chief Inspector” means Her Majesty’s Chief Inspector of Schools for England;

“city technology college” or “city college for the technology of the arts” means a school established under section 482 of the Education Act 1996;

“follow-up inspection” means a limited inspection of one or more aspects of the school’s operation specified under section 163(2)(b) of the 2002 Act which follows a full inspection, but does not include a limited inspection under section 163(2)(b) which is not prompted by concerns arising from the most recent full inspection; and

“full inspection” means an inspection of the matters specified under section 163(2)(a) of the 2002 Act;

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(a) 2002 c.32; see section 212 for the definition of “regulations”; by virtue of that definition these regulations made by the Secretary of State only apply in relation to England. Section 212 also defines “prescribed”.

(b) 1996 c.56; section 482 was amended by section 65 of the Education Act 2002

(c) 2002 c.32

“proprietor” has the same meaning as in section 579 of the Education Act 1996;  
“school” means an independent school as defined by section 463 of the Education Act 1996.

3. These Regulations do not apply to any academy or city technology college, or, except for regulation 7, to a school approved under section 347(1) of the 1996 Act.

**Fees payable on inspection by the Chief Inspector or a registered inspector**

4. Where a school is inspected under section 163(1)(a) of the 2002 Act, except in the case of a follow-up inspection, the proprietor shall pay to the Chief Inspector in respect of that inspection—

<i>School size by number of registered pupils at the date of last annual return</i> (1)	<i>Amount of Fee</i> (2)
Less than 50	£50 per pupil
50-149	£500 + £40 per pupil
150+	£500 + £40 per pupil up to 149 pupils + thereafter £15 per pupil between 150 and 385 pupils

5. A fee payable under regulation 4 is to be paid—
- (a) in a single payment within 28 days of the last day on which the inspection is conducted, or
  - (b) a fee payable under regulation 4 may be paid in two equal instalments, the first to be paid within 28 days of the last day on which the inspection is conducted, the second instalment to be paid within 28 days of the first anniversary of that date, except that any outstanding fee must be paid in full prior to the closure of any school.

- 6.—(1) No fee is payable in respect of a first follow-up inspection.
- (2) The proprietor of a school shall pay to the Chief Inspector in respect of a subsequent follow-up inspection a fee equal to 25% of the fee payable in respect of the most recent full inspection.
- (3) A fee payable under paragraph (2) is to be paid in a single payment within 28 days of the date on which payment is requested by the Chief Inspector.

**Publication of Inspection Reports**

7. Where the registration authority requires publication of a report made under section 163(3)(a) of the 2002 Act the person who conducted the inspection shall—
- (a) send a copy of the inspection report and any summary of that report to the proprietor, and
  - (b) place a copy of the inspection report and any summary of that report on their internet website.

*Minister of State*

Date

Department for Education and Skills

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify the fees which an independent school is to pay where it is inspected by the Chief Inspector or one or more registered inspectors under section 163(1)(a) of the Education Act 2002. By Schedule 1 paragraph 5(1) of the School Inspection Act 1996 an inspection by the Chief Inspector may be undertaken by an authorised Her Majesty's Inspector of Schools, any other member of the Chief Inspector's staff or any additional inspector.

These Regulations set out the structure of payments of the inspection fees.

Regulation 7 provides for the publication of inspection reports.



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 STATUTORY INSTRUMENTS
 

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2003 No.

## EDUCATION, ENGLAND

 The Education (Provision of Information by Independent  
 Schools) Regulations 2003

<i>Made</i>	- - - -	∏
<i>Laid before Parliament</i>		∏
<i>Coming into force</i>	- -	<i>1st September 2003</i>

In exercise of the powers conferred on the Secretary of State by sections 160(1) and 168(1) of the Education Act 2002(a), the Secretary of State for Education and Skills hereby makes the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Education (Provision of Information by Independent Schools) Regulations 2003 and shall come into force on 1st September 2003.

**Interpretation**

2.—(1) In these Regulations —

“application” means an application to the registration authority for the registration of an independent school made by the proprietor pursuant to section 160(1)(b) of the Education Act 2002;

“city technology college” means a school established under section 482 of the Education Act 1996(b);

“name” and “address” in relation to a person mean respectively—

- (i) his forenames in full, surname, usual residential address and telephone number, and
- (ii) in the case of a corporation, a Scottish firm or a body of persons, its corporate or firm name and the address of its registered or principal office;

“proprietor” has the same meaning as in section 579 of the Education Act 1996;

“the register” means the register of independent schools kept by the registration authority under section 158(2) of the Education Act 2002; and

“registered school” means a school whose name is entered in the register

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(a) 2002 c.32; see section 212 for the definition of “regulations”; by virtue of that definition these regulations made by the Secretary of State only apply in relation to England. Section 212 also defines “prescribed”.

(b) 1996 c.56; section 482 was amended by section 65 of the Education Act 2002

“school” means an independent school as defined by section 463 of the Education Act 1996(a).

(2) Any reference in these Regulations to a person employed at a school is a reference to a person carrying out work to which section 142 of the Education Act 2002 applies.

### **Application for registration of an independent school**

3. Every application shall—

- (a) be made in writing;
- (b) state the first date on which the school intends to admit pupils;
- (c) contain the information specified in Part II of the Schedule; and
- (d) contain a certificate signed by the proprietor that, to the best of his knowledge and belief, the statements made in the application are accurate.

### **Return after the first month of operation**

4. The proprietor of a registered school shall deliver to the registration authority within one month of admission of pupils, or one pupil if that pupil is within section 463(1)(b) of the Education Act 1996, a return in writing which shall contain—

- (a) the information specified in Part III of the Schedule; and
- (b) a certificate signed by the proprietor or by a person authorised by him to give the certificate on his behalf that, to the best of his knowledge and belief, the statements made in the return are accurate.

### **Annual return**

5.—(1) The proprietor of a registered school shall deliver to the registration authority an annual return for that school within one month of being requested to do so by the registration authority.

(2) Each return shall—

- (a) be provided in writing;
- (b) be accurate on the date specified by the registration authority;
- (c) contain the information specified in Part IV of the Schedule, except in the case of a city technology college which must only submit the information required in paragraph 12 of Part IV; and
- (d) contain a certificate signed by the proprietor or by a person authorised by him to give the certificate on his behalf that, to the best of his knowledge and belief, the statements made in the annual return are accurate.

### **Misconduct reports**

6.—(1) Where a person employed at a registered school ceases to be so employed by reason of his misconduct, the proprietor shall report the facts of the case to the registration authority in writing within one month following the date on which that person ceases to be employed at the school.

(2) Paragraph (1) applies whether or not that person—

- (a) is convicted of a criminal offence in relation to the misconduct concerned, or
- (b) where he has a contract of employment is dismissed by his employer, or may have been so dismissed or considered for dismissal, but for his resignation.

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(a) 1996 c.56; section 463 is amended by section 172 of the Education Act 2002

### **Deletion of a school from the register**

7.—(1) If the Secretary of State is satisfied that the proprietor of a school has failed to comply with any requirement specified in regulation 4, 5 or 6 he may order the deletion of that school from the register, or initiate a prosecution, or both.

### **Offence**

8. If the proprietor of a school fails to comply with any or all of the requirements specified in regulations 4, 5 or 6 he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Revocation**

9. The Education (Particulars of Independent Schools) Regulations 1997(a) are hereby revoked.

## **SCHEDULE                      Regulations 3, 4 and 5**

### **PART I INTRODUCTORY**

1. In this Schedule—

“boarding accommodation” means 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;

“charity” has the meaning specified in section 96(1) of the Charities Act 1993(b); and

“year group” means a group of pupils attending the school who attain the same age in years during the period of twelve months beginning with 1st September in the school year in which the application is made (or, as the case may be, during the period of twelve months beginning with the 1st September immediately preceding the date on which the annual return is made).

### **PART II INFORMATION REQUIRED IN AN APPLICATION**

2.—(1) The name of the proprietor, and any previous names by which he has been known.  
(2) The proprietor’s address, telephone number, his date of birth and National Insurance number.  
(3) The name and address of the school, its telephone number and any e-mail address.  
(4) Where the school has a governing body, the name and address of the Chairman of that body and his telephone number.

3.—(1) The proposed age range of pupils.  
(2) The proposed maximum number of pupils.  
(3) Whether the school is for male pupils or female pupils or both.  
(4) Whether the school provides boarding accommodation for pupils.

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(a) S.I. 1997/2918  
(b) 1993 c.10

- (5) Whether the school admits pupils with special educational needs.
- (6) Whether the school will cater wholly or mainly for pupils with special educational needs and the type of learning difficulty catered for.
- (7) A plan showing the layout of the premises and accommodation.
- (8) Detailed curriculum plans, schemes of work and pupil assessment procedures.
- (9) The written policies required by regulation 3(2) of the Education (Independent School Standards) Regulations 2003(a).
- (10) The complaints procedure required by regulation 7(2) of the Education (Independent Schools Standards) Regulations 2003.
- (11) Whether the proprietor intends to provide any child with boarding accommodation at the school (or elsewhere pursuant to arrangements made by him) for more than 295 days in any year.
- (12) Where the school intends to be designated as an independent school with a religious character under section 60(8)(a)(iii) of the School Standards and Framework Act 1998(b), notice of that intention.
- (13) Whether the premises of the school, including boarding accommodation, are at two or more separate locations, and if so, the address of each such location.
- (14) Where the school is, or is conducted by, a charity, the name of that charity and the number under which it is registered.

### PART III

#### INFORMATION REQUIRED IN THE RETURN SUBMITTED AFTER THE FIRST MONTH OF ADMISSION OF PUPILS

- 4.—(1) The number of pupils in each relevant year group.
  - (2) In the case of a co-educational school, numbers required by this paragraph shall be stated separately for boys and for girls.
  - (3) In the case of a school also providing part-time education, the numbers required by this paragraph shall be stated separately in respect of pupils receiving part-time education and those receiving full-time education.
  - (4) In the case of a school with boarding accommodation the number of boarding pupils.
- 5.—(1) The number of pupils at the school in respect of whom a local education authority maintain a statement of special educational needs pursuant to section 324 of the Education Act 1996; and in respect of each such pupil—
- (a) his name;
  - (b) the date on which he became a pupil at the school; and
  - (c) the name of the local education authority maintaining the statement.
- (2) The number of pupils at the school who have been identified as having special educational needs but in respect of whom no statement of such needs is maintained pursuant to that section.
6. The following information relating to teachers employed at the school (with numbers given separately for men and for women teachers)—
- (a) the number of full-time teachers;
  - (b) the number of part-time teachers; and
  - (c) the aggregate number of hours a week normally worked by part-time teachers in term time.

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(a) 2003 SI

(b) 1998 c.31. Section 60(8) was amended by the Employment of Teachers in Independent Schools with a Religious Character Regulations 2003. SI 2003/xxxx

7. The following information relating to every person employed at the school—
- (a) his name and any previous names by which he was known;
  - (b) his sex, date of birth, National Insurance number and the capacity in which he is employed; and
  - (c) in the case of each teacher, his qualifications and a statement as to whether he is the head teacher, a full-time teacher or a part-time teacher.

8.—(1) The amount of annual tuition and other fees the payment of which is a condition of attendance at the school, excluding boarding fees, payable in respect of a pupil at the school.

(2) In the case of a school taking boarding pupils, the amount of annual boarding fees payable in respect of a boarding pupil.

## PART IV

### INFORMATION REQUIRED IN AN ANNUAL RETURN

9. All the information specified by Parts II and III of this Schedule with the exception of that required by paragraphs (3)(1) to 3(11) and 7.

10. For every person who has commenced employment or ceased employment at the school since the date of the last return to the Secretary of State—

- (a) his name and any previous names by which he was known;
- (b) his sex, date of birth, National Insurance number and the capacity in which he is employed; and
- (c) where he is a teacher, his qualifications and a statement as to whether he is the head teacher, a full-time teacher, or a part-time teacher.

11. In the two years preceding the date of the return, except in the case of a first annual return, the number of children attending the school for whom boarding accommodation was provided there (or elsewhere pursuant to arrangements made by the proprietor) for more than 295 days in that year.

12.—(1) The number of pupils in each year group of pupils aged 15, 16, 17 and 18 years who are pursuing courses for examinations.

(2) The number of pupils in each year group of pupils aged 15, 16, 17 and 18 years who have completed courses for an examination in the General Certificate of Education (Advanced or Advanced Subsidiary level), or the Advanced Vocational Certificate of Education (AVCE), but remain at the school for a purpose other than for pursuing any further course of that nature.

(3) The number of pupils in each year group of pupils aged 15, 16, 17 and 18 years (except for those who fall into the category of pupils referred to in sub-paragraph (2)) who attend the school for a purpose other than for pursuing courses for a relevant examination.

(4) The number specified in the annual return under sub-paragraph (1) and (2) shall be stated separately for—

- (a) courses exclusively in mathematical or scientific subjects;
- (b) courses exclusively in other subjects;
- (c) courses partly in mathematical or scientific subjects and partly in other subjects; and
- (d) boys and girls.

Date

Parliamentary Under Secretary of State  
Department for Education and Skills

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations revoke and replace the Education (Particulars of Independent Schools) Regulations 1997. They relate to applications for registration of independent schools under section 160(1) of the Education Act 2002 and information to be provided periodically by the proprietors of independent schools under section 168 of that Act.



# **Inspecting Independent Schools**

## **The Framework for Inspecting Independent Schools in England from September 2003**

Draft for consultation

The Office of Her Majesty's Chief Inspector of Schools

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# INTRODUCTION

## *The implications of the Education Act 2002*

1. The Education Act 2002 makes substantial changes to the registration and inspection of independent schools. From September 2003 new schools will have to meet the standards set out in regulations before they are allowed to open. All independent schools will be inspected on a regular cycle and these inspections will lead to a published report. The Act allows the Secretary of State to decide what fees (if any) are to be charged for the inspection of independent schools.
2. This consultation document sets out the way in which Ofsted proposes to conduct these inspections under section 163(1)(a) of the Act.

**Section 1** of this document sets out the basis for inspections.

**Section 2** is the evaluation schedule, which specifies what inspectors must consider in order to judge how well the school is doing and to explain why.

**Section 3** describes how inspections are conducted.

## **Definitions of terms**

*Independent school:* from September 2003 an independent school will be defined as any school that provides full-time education for five or more pupils of compulsory school age, or one or more pupils with a statement of special educational need, or who is in public care, and is not a school maintained by a local education authority or a non-maintained special school.

*Appropriate authority:* the proprietor, governing body or trustees.

*Parents:* the term 'parents' always includes carers who have parental responsibility.

*Pupils:* references to pupils apply also to children under statutory school age and to students over 16.

*HMCI:* Her Majesty's Chief Inspector of Schools in England.

*HMI:* Her Majesty's Inspector(s) of Schools in England.

*Additional Inspectors (AI):* Additional Inspectors appointed by HMCI.

*Registered Inspector (RgI):* an independent inspector who has been trained and accredited to conduct inspections on Ofsted's behalf.

*Registered Nursery Inspector (RgNI):* an independent inspector who has been trained and registered to conduct inspections on Ofsted's behalf of publicly funded nursery provision for three- and four-year-olds under section 122 of the School Standards and Framework Act 1998.

*Secretary of State:* the Secretary of State for Education and Skills.

*DfES:* the Department for Education and Skills.

*NCSC:* the National Care Standards Commission.

## **SECTION 1: THE BASIS FOR INSPECTIONS**

### ***The legal requirements for registration***

3. Section 157 of the Education Act 2002 specifies that regulations setting the standards that independent schools must meet shall be made on the following matters:
  - the quality of education provided by the school;
  - the spiritual, moral, social and cultural development of pupils;
  - the welfare, health and safety of pupils;
  - the suitability of proprietor and staff;
  - the school's premises and accommodation;
  - the provision of information;
  - the procedures for handling complaints.
4. Draft regulations about these standards are the subject of a simultaneous consultation by the DfES.
5. The inspection of publicly funded nursery education in independent schools will continue to be conducted by Ofsted, but may now be undertaken as part of the full school inspection (see paragraph 17).

### ***The purpose of inspections***

6. The main purpose of an inspection will be to advise the DfES as to whether independent schools meet the prescribed standards for registration. Under Section 2 (2) (b) of the School Inspections Act 1996 the Secretary of State may request Ofsted to inspect and report on other matters in independent schools, as for example, a schools' compliance with the Disability Discrimination Act 1995. Such additional matters will be incorporated into these inspections.
7. Where relevant, an inspection will also report (in accordance with section 122 School Standards and Framework Act 1998) on the provision of publicly funded nursery education.
8. The inspection will result in a published report. This will tell the school, parents and wider community whether the requirements for registration are met, and provide the school with an independent, external view of its strengths and weaknesses. Inspectors tell the school what it does well and what it needs to do in order to improve, making clear why they have come to their conclusions.

### ***The principles governing inspections***

9. All Ofsted inspections are based on these principles:
- inspection acts in the interests of children, young people and adult learners and, where relevant, their parents to encourage high quality provision that meets diverse needs and promotes equality;
  - inspection is evaluative and diagnostic, assessing quality and compliance and providing a clear basis for improvement;
  - the purpose of inspection and the procedures to be used are communicated clearly to those involved;
  - inspection invites and takes account of any self-evaluation by those inspected;
  - inspection informs those responsible for taking decisions about provision;
  - inspection is carried out by those who have sufficient and relevant professional expertise and training;
  - evidence is recorded, and is of sufficient range and quality to secure and justify judgements;
  - judgements are based on systematic evaluation requirements and criteria, are reached corporately where more than one inspector is involved, and reflect a common understanding in Ofsted about quality;
  - effectiveness is central to judging the quality of provision and processes;
  - inspection includes clear and helpful oral feedback and leads to written reporting that evaluates performance and quality and identifies strengths and areas for improvement;
  - the work of all inspectors reflects Ofsted's stated values and Code of Conduct;
  - quality assurance is built into all inspection activities to ensure that these principles are met and inspection is improved.

Ofsted also has a general duty, under s.71 of the Race Relations Act 1976, to have due regard, in carrying out its functions, to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

10. The inspection of independent schools will take into account the aims and the distinctive character of the school and report on the extent to which the school achieves its aims, in the context of the requirements for registration. Inspection will not be based on a single model of provision and effectiveness. In inspecting religious education in schools that provide it, inspectors will consider the contribution of such teaching to the pupils' overall development.

### ***Which schools will be inspected?***

11. For the purposes of registration, most independent schools will be inspected under either section 163(1)(a) or section 163(1)(b) of the Education Act 2002. Under section 163(1)(a) Ofsted will arrange the inspections. Inspections will normally be conducted

by HMI or Additional Inspectors. Section 163(1)(b) allows the Secretary of State to approve another organisation to carry out the inspections. For example, the Independent Schools' Inspectorate (ISI) is approved to carry out inspections of schools in membership of the Independent Schools' Council (ISC).

12. Independent schools catering wholly or mainly for pupils with special educational needs and which are approved under section 347 of the Education Act 1996 are currently inspected under section 10 of the School Inspections Act 1996, but from September 2003 they will be inspected under the new arrangements outlined in this document. Non-maintained special schools will continue to be inspected under section 10.
13. The following types of independent school are subject to independent school regulations and inspection, but are already inspected under section 10 of the School Inspections Act 1996:
  - city technology colleges;
  - city colleges for the technology of the arts;
  - academies.

In practice, there will be a single inspection of these schools, which will encompass both systems.

#### ***How often will schools be inspected?***

14. The Secretary of State for Education and Skills will notify Ofsted about the timing of school inspections. It is envisaged that all schools will be inspected at least once in a six-year period. The selection of schools for inspection each year will take into account the type, size and location of the school and the timing and outcome of its previous inspection.
15. The DfES may ask Ofsted to undertake further inspections of a school during the six-year period in order to follow up a school's progress against an action plan if the first inspection has shown that it has not met the requirements of the regulations. (See paragraphs 34-40).
16. The DfES may also request Ofsted to undertake further inspections of a school where a material change is proposed. Material changes are a change in proprietor, a change of school address, a change in the age range of pupils, a change in the maximum number of pupils, a change in the gender of pupils, a change to boarding, or a change in the admission of pupils with special educational needs.

#### ***Co-ordination with other inspections***

17. It will not always be possible for Ofsted inspections to coincide with those carried out by other bodies, such as the National Care Standards Commission (NCSC), but where these inspections fall in the same year, and a school expresses a preference for the inspections to take place at the same time, every effort will be made to co-ordinate the timing in this way. In all cases, Ofsted inspectors will take account of any other reports about the school, including those provided by the Fire Officer, health and safety inspectors or environmental health officers, or, in the case of foreign schools, the national inspectorates of their countries of origin.

18. In those independent schools which are not members of ISC, Ofsted will inspect under Section 122 of the School Standards and Framework Act 1998 the provision of publicly funded nursery education for three- and four-year olds, if applicable.<sup>1</sup> Every effort will be made to co-ordinate the timing of inspections, taking account of the wishes of the school.

***What will happen to new schools?***

19. Proprietors wishing to open a new school from September 2003 must apply to the DfES for registration. The simultaneous consultation document from DfES gives details about the information the school must supply.
20. Proprietors must also provide evidence of the school's ability to meet the standards required by the regulations. This evidence will be considered by the DfES, who will ask Ofsted to make an initial visit before the school starts to operate, in order to advise the Secretary of State about the school's readiness for registration. Once the school has been registered it will be inspected during its first year under the arrangements set out in this document.

***Who are the inspectors?***

21. The inspectors will normally be HMI and/or Additional Inspectors. HMCI may also request a Registered Inspector to conduct an inspection on his behalf. The inspectors' experience and expertise will be matched to the type of school. In most cases the inspection team will consist of two inspectors, but other inspectors may augment the team in the case of large schools, those on split sites, where there are a substantial number of boarders, or where particular expertise, for example in ballet or a foreign language is needed. Inspection teams will not normally include a lay inspector.

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<sup>1</sup> Ofsted will also inspect the funded nursery provision of those independent schools whose educational provision may be inspected by another body under section 163(1)(b) of the Education Act 2002. Such inspections will be carried out by Registered Nursery Inspectors.

## SECTION 2: EVALUATION SCHEDULE

### *Information about the school*

The characteristics of the school and its pupils, what the school is aiming to achieve, and what provision it makes.

### *Summary*

Inspectors will state their judgements about:

- the school's overall effectiveness in meeting its declared aims;
- what the school does well;
- what needs to be improved.

Inspectors will analyse the factors that account for the school's strengths and weaknesses.

### *Compliance with the regulations for registration*

Inspectors must state whether the school meets the standards<sup>2</sup> for registration, as set out in the regulations, in relation to:

- 1) The quality of education provided by the school;
- 2) The spiritual, moral, social and cultural development of pupils;
- 3) The welfare, health and safety of the pupils<sup>3</sup>;
- 4) The suitability of proprietor and staff;
- 5) The school's premises and accommodation;
- 6) The provision of information;
- 7) The procedures for handling complaints.

In each of these sub-sections inspectors will make clear whether the school meets the standards required, and where it does not, what action is needed. In such cases the management of the school will be required to produce an action plan covering these points. Inspectors must explain how they have come to their conclusions.

Where the school's provision meets the standards, inspectors will say so clearly, but they may also make recommendations for the school's further development. Schools will not be required to address these points in an action plan.

**Note:** Inspectors will make reference in appropriate sections of the report to:

- the findings of any self-evaluation undertaken by the school;
- evidence of the views of parents, pupils, placing authorities and other significant partners;
- reports of the inspection of childcare;

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<sup>2</sup> The criteria for judgements in relation to the standards will be finalised in the light of the separate consultation on the standards.

<sup>3</sup> Where required to do so by the Secretary of State under the School Inspections Act 1996, this section will cover the school's provision and planning for accessibility as set out in s. 28D of the Disability Discrimination Act 1995.

- reports on the school's compliance with National Minimum Standards for Boarding Schools or Residential Special Schools;
- reports on compliance with environmental health and fire regulations;
- and, where appropriate, inspections undertaken by accrediting bodies or, in the case of schools following the curriculum of another country, by other national inspectorates.

## **SECTION 3: THE CONDUCT OF INSPECTIONS**

### ***What happens before an inspection?***

22. In the term before an inspection, Ofsted will contact the school to ask about the dates of holidays and any other times when an inspection would be impossible. Information about any special features of the school will also be sought. This is to enable Ofsted to match the experience and expertise of inspectors to the school.
23. Six to eight weeks before the inspection, the headteacher will be given formal notification of the date of the inspection and the names of the inspectors. The school will be asked to send some information before the inspection and to make further information available during the inspection itself. Inspectors will keep requests for advance information to a minimum, in order to reduce the demands on schools, but they will need some basic information about pupils' achievements and the curriculum, staffing, and organisation of the school so that the inspection can be conducted efficiently. They will also take account of any evaluation the school provides of its own performance.
24. At the same time questionnaires will be sent to the school for distribution to parents, and to pupils of secondary age, in order to seek their views. A stamped addressed envelope will be provided for each family so that they can send their response directly to Ofsted.
25. The school will be asked to return the information that has been requested before the inspection within four weeks of receiving the formal notification. Inspectors will use this to help them prepare for and plan the inspection, so that they make the best use of their time in school.
26. In the week before the inspection, the lead inspector will contact the headteacher to discuss arrangements for the inspection. This may include making appointments for inspectors to talk to key members of staff, meet pupils, and look at a sample of their work. The school should ensure that pupils' exercise books and other evidence of their work are available for scrutiny on the first day of the inspection.

### ***What happens during an inspection?***

27. Inspectors will arrive by midday of the first day of the inspection. The organisation of this day will vary to suit each school, but it will include an opportunity for the proprietor, headteacher and staff to meet the inspectors. During the afternoon inspectors will read through the additional information provided by the school. This may include details of policy documents and schemes of work, in whatever form the school holds the information. Schools are not expected to prepare extra documents for the inspection nor to produce lesson plans to a particular format. The inspectors will also look at a sample of pupils' work, and talk to the headteacher and key members of staff about their responsibilities.
28. Inspectors will spend the next two days in the school inspecting teaching and learning and evaluating pupils' achievements, observing and talking to the pupils, and following up inspection issues. They will look at a range of lessons. Because inspectors focus on the quality of teaching and its impact on pupils' learning, rather than on the performance of individual teachers, they may not, particularly in larger schools or where there is a high proportion of part-time staff, see all staff teaching. The work of unqualified, as well as qualified teachers, and the work of teaching

assistants, may be observed. Teachers whose lessons have been observed will be offered brief feedback, immediately after the lesson or at a mutually convenient time. In addition to observing lessons, inspectors may wish to see evidence of lesson and curriculum planning, marking, assessments and records that are kept of pupils' progress.

29. The inspectors will make judgements about pupils' achievements based on the evidence they gather both during lessons and from talking to the pupils and looking at their work. They will take account of the school's results in any public examinations taken and any other relevant measure of its performance. They will take account of any value-added data available. They will make judgements on pupils' skills in speaking and listening, literacy and numeracy, but will not necessarily cover standards in other areas of the curriculum unless they are of particular relevance to the nature of the school. There will be no feedback to individual subject departments, or separate subject reports.
30. During their time in the school inspectors will talk to the pupils and observe them at breaks and lunchtimes in social areas of the school. Where appropriate, they will attend assemblies, tutorial sessions and a range of other activities. Schools should make no special arrangements to put on extra activities. In boarding schools inspectors will look at the arrangements made for prep and consider how the boarding experience affects pupils' personal and educational development. They will talk to boarders and to the staff who care for them.
31. The formal part of the inspection will generally be over by the evening of the third day. On the fourth day the inspectors will normally use the time to agree and record their judgements. At a mutually convenient time, the inspectors will be available to meet the headteacher to feed back the main inspection findings. The headteacher may wish to invite the proprietor, governors or senior staff to attend this meeting. In some cases this meeting may be held in the week following the inspection.

### ***What happens after an inspection?***

32. Around four working weeks after the inspection the school will be sent a draft of the report and will be given five working days in which to comment on any factual errors. The final report will normally be published about eight working weeks after the end of the inspection. A copy will be sent to the appropriate authority, to the school and to local authorities which fund places for pupils who have statements of special educational needs or who are in public care. The school will be responsible for sending copies to the parents. Shortly afterwards, the report will be placed on the Ofsted website.

### ***Use of inspection data***

33. Ofsted holds data in electronic form from all the inspections it conducts. It regularly analyses the information to contribute to HMCI's Annual Report to Parliament and to advise the Secretary of State.

### ***Failure to meet the requirements of registration***

34. If the inspection report notes that the school does not meet one or more of the standards required for registration, then the DfES 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.
35. Following submission of the action plan, the DfES may:
  - reject it, or
  - approve it, with or without modifications.
36. Where an action plan is not submitted, or is submitted but rejected, the DfES 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.
37. Where an action plan has been approved but the steps identified have not been taken by the required date, the DfES 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.
38. At the request of the DfES, Ofsted will visit schools to check the suitability and follow up the progress of the action plan.
39. If the DfES considers that there is a risk of serious harm to the welfare of the pupils, it may remove the school from the register of independent schools.
40. Under the provisions of section 166 of the Education 2002 Act, the proprietor of a school has a right of appeal to the Care Standards Tribunal against any Order made by the Secretary of State affecting the registration of the school following the inspection.

### ***The quality of inspection***

41. To satisfy Ofsted's quality standards, inspectors must ensure that:
  - **judgements** about the school and what it needs to do to improve are fair and accurate;
  - **communication** of inspection findings is clear and helpful to the school;
  - **evidence** is secure and substantiates all inspection judgements; and
  - the **conduct of the inspection** is to a high professional standard.

42. Ofsted's Code of Conduct specifies that inspectors are expected to:
- evaluate objectively, be impartial and have no previous connection which could undermine their objectivity;
  - report honestly and fairly, ensuring that judgements are accurate and reliable;
  - carry out their work with integrity, treating all those they meet with courtesy and sensitivity;
  - do all they can to minimise stress for those involved in the inspection, and act with their best interests and well-being as priorities;
  - maintain purposeful and productive dialogue with those being inspected, and communicate judgements clearly and frankly; and
  - respect the confidentiality of information, particularly about individuals and their work.
43. After each inspection a questionnaire will be sent to the school inviting comment on the conduct of the inspection.

### **Complaining about an inspection**

44. The vast majority of inspections are carried out successfully and without incident. The headteacher should raise any concerns with the lead inspector as soon as possible, preferably while the inspection is taking place. The lead inspector will then try to resolve the problem.
45. Where the inspection has been conducted by HMI and/or Additional Inspectors, and these concerns cannot be resolved in the course of the inspection, the school may wish to make a formal complaint. This should be made to: The Compliance Section, Corporate Management Division, Ofsted, Alexandra House, 33 Kingsway, London WC2B 6SE.
46. The complaint will then be considered under Ofsted's published complaints procedure. Further guidance is given in *Guidance on queries, concerns and complaints: conduct of Ofsted staff and maladministration*.
47. Where a Registered Inspector on behalf of an inspection contractor has conducted the inspection, the contractor's own complaints procedure will apply. Guidance is given in the leaflet *Making Complaints to Ofsted*.
48. Complaints should normally be made no later than three months after the school receives its inspection report.
49. If Ofsted's procedures have been exhausted and the complainant remains dissatisfied with the way Ofsted has handled a complaint the matter may be considered by the Independent Complaints Adjudicator (ICA). A request for adjudication on the handling of a complaint must normally be made within three months of Ofsted's final response. The request should be made to the ICA, Elizabeth Derrington, 9 Millfield Terrace, Hexham, Northumberland, NE46 3EH.
50. If the inspection has been conducted by a body approved by the Secretary of State under section 163(1)(b) of the Education Act 2002, the complaint should be made to that body, in accordance with its complaints procedure.

## REGULATORY IMPACT ASSESSMENT FOR THE REFORM OF THE REGULATION AND MONITORING OF INDEPENDENT SCHOOLS

### 1. INTRODUCTION

1.1 This Regulatory Impact Assessment (RIA) sets out the likely costs and benefits of reform of the regulation and monitoring of independent schools. The reforms are outlined in the Education Act 2002 and will be effective from 1 September 2003. The proposed reforms apply to England only.

#### Background to the independent sector

1.2 The sector is diverse. For example, some schools offer an educational ethos to take account of a particular cultural or religious background (e.g. Jewish, Muslim), or philosophy (e.g. Steiner, Montessori). Others cater for special educational needs. Some schools take a limited age range e.g. 1–6 years, others, a broad age range eg. 0–18 years.

1.3 Each year, the number of new schools is balanced by the number that either close, amalgamate or join the state sector. About half have charitable status, and around 1,200 of the total (2,200) are members of professional associations constituting the Independent Schools Council (ISC).

1.4 Approximately 80% of pupils in the independent sector in England are in ISC schools. The larger the school, the more likely it is to belong to the ISC. So, whilst only 8% of schools with less than 100 pupils are ISC members, 57 % with 100 – 299 pupils, 87% with 300 – 599 pupils, and 93% with 600+ pupils are ISC members.

#### Current Registration Arrangements

1.5 Registration is a two-stage process. Provisional registration is automatic once DfES has been notified that the school exists. Final registration is granted once inspection confirms that the premises, accommodation, teaching, staffing and, in the case of boarding schools, welfare, are satisfactory.

1.6 Schools are encouraged to achieve final registration within two years. Yet some remain provisionally registered for extended periods. In such circumstances, pupils may be in unsatisfactory premises or accommodation, and unable to get the best from the available education provision.

1.7 Presently, around 70 schools (20 catering for special educational needs) have been provisionally registered for more than two years. This is a cause for concern.

1.8 Some 200 finally registered schools are inspected more frequently than the normal inspection cycle. This may be due to a change of ownership, head teacher or premises. But in around 75 cases this is to implement recommendations to ensure that provision is at an acceptable level. These schools are inspected at least annually until the issues causing concern have been addressed.

#### Current Monitoring Arrangements

1.9 Inspections for all provisionally registered schools are undertaken by Ofsted. Upon final registration, schools may choose to join one of the professional associations

constituting the ISC. ISC schools are inspected by the Independent Schools Inspectorate (ISI) and are charged for inspection. The reports are published. Non-ISC schools continue to be inspected by Ofsted but at no charge. Generally, the reports are not published.

1.10 Parents of pupils at non-ISC schools are at a disadvantage compared with parents of pupils at ISC schools or maintained schools, as they are unable to obtain copies of the school's inspection report.

## **2. THE PURPOSE AND INTENDED EFFECT OF THE MEASURE**

### Proposed Registration Arrangements

2.1 From 1 September 2003 all independent schools in England will be inspected before they are registered and start operating, and at six-yearly intervals thereafter, in order to confirm they satisfy minimum standards in the following areas:

- a. quality of education provided;
- b. spiritual, moral, social and cultural development of pupils;
- c. welfare, health and safety of pupils;
- d. suitability of proprietors and staff;
- e. premises and accommodation;
- f. provision of information;
- g. handling complaints.

2.2 Prior inspection will confirm that prospective premises are safe and suitable, proposed curricula are satisfactory, and policies are in place to protect pupils' welfare, health and safety. Follow up inspections during the first year of operation will examine other areas, e.g. teaching quality etc.

2.3 The application process is expected to take about three months. Delays in opening a new school will only occur if an application to register is not made well in advance, or, pending any action necessary to ensure standards are met. The latter is necessary to ensure pupils' welfare, health and safety. To minimise loss of income to the school's proprietors it is in their interests to apply early and to ensure standards are met as soon as possible.

2.4 Where a school wishes to make a material change, it will be required to seek prior approval. Material changes are: change of proprietor; change of school address; change in the pupil age range; change in the maximum number of pupils; change of gender admitted; change to boarding; and change in the admission of pupils with special needs.

2.5 In most cases schools will apply for approval for a material change well in advance and approval will be granted (after any necessary inspection) in good time for the change to take effect as planned. However, the Government recognises that there will be instances e.g. the death of a proprietor when advance approval is not possible. A common sense approach will need to be taken in such cases. At all times the aim will be to ensure that standards continue to be maintained once changes have been made.

2.6 The Government respects the right of parents to choose a distinctive education which may not be readily available elsewhere. But parents need to have sufficient information in order to make informed decisions. There is no intention to be prescriptive about what schools teach, provided they ensure that: pupils are literate and numerate; pupils are provided with a broad range of worthwhile opportunities; and they take account of any special educational needs.

## Proposed Monitoring Arrangements

2.7 From 1 September 2003 all Ofsted inspection reports of independent schools will be published. Parents and prospective parents of pupils at non-ISC schools will have access to these reports, which will include information about the education delivered and standards achieved.

2.8 It is proposed that Ofsted will charge schools for inspections that lead to published reports. Extra inspectors will be required to undertake these more detailed reports and this will incur additional costs. In determining the level of charges, careful consideration has been given to the needs of schools operating on limited budgets. It is proposed that charges will be based on a sliding scale, depending on the number of pupils at the school, with small schools paying least.

2.9 A summary of responses to the previous consultation is available on the DfES website at [www.dfes.gov.uk/consultations/sor/sor.cfm?CONID=111](http://www.dfes.gov.uk/consultations/sor/sor.cfm?CONID=111). Responses to the Government's proposals were generally supportive. However, a decision was taken in the light of certain comments not to require independent schools to have Governing Bodies. Also, taking account of consultation responses and representations from small schools, the Government has decided that there will be no charges for inspections of new schools as part of the registration process, or any inspection required for the approval of material changes. Otherwise charges will be made for the six-yearly cycle of inspection which will apply to all independent schools.

2.10 Where Ofsted identifies problems, further follow-up visits may be required to ensure that inspection findings have been acted on. There will be no charge for a first follow-up inspection. After that, if further inspections are required because the school has failed to implement recommendations, then a charge of 25% of the original fee for the six-yearly inspection will be made.

2.11 Independent schools 'approved' to cater for children with special educational needs may need to be inspected more frequently because of the vulnerable nature of the children and the very particular nature of the specialist provision they provide. Those that are 'approved' will be exempt from inspection charges.

2.12 Where an inspection finds that a school is not meeting the new standards, the school will be required to produce and implement an action plan within a specified timescale. If the plan is not completed successfully, the school could be deleted from the register. If there is evidence that pupils could suffer serious harm, the Education Act 2002 provides a fast track system for deleting the school from the register. The Act also provides for an appeal to be made to a standing body, the Care Standards Tribunal.

## **3. RISK ASSESSMENT**

3.1 The regulations made under the Education Act 2002 are intended to secure pupils' health, safety and welfare for their period of education in independent schools. The Government accepted the recommendations of the Utting report (The Review of the Safeguards for Children Living Away From Home) and the Waterhouse enquiry into child abuse in North Wales. The recommendations that relate to independent schools are included in the proposed regulations.

3.2 The risks relate to schools being allowed to open without prior inspection; the vulnerability of pupils with special educational needs, or, in public care; the lack of welfare information about boarding for parents and pupils; the criticism that parents do not have access to Ofsted inspection reports; and, concern that schools do not know the standards

they must meet in order to be registered. The regulations will provide transparency, so that all parents of pupils in independent education will have access to published reports and schools will know the standards they must meet.

#### **4. OPTIONS**

4.1 There are three options available to the Government:

- a. maintain the status quo;
- b. voluntary compliance with guidance; or,
- c. implement statutory provisions.

4.2 As the Government accepted the Utting and Waterhouse recommendations, maintaining the status quo is not an option. Voluntary compliance with guidance cannot be guaranteed, particularly in schools where problems are most likely to occur since there is no system of self regulation. Experience has shown that where schools have been encouraged to voluntarily comply with Ofsted recommendations they have frequently failed to make the necessary improvements. The only reliable option is to regulate through statutory provisions.

#### **5. ISSUES OF EQUITY OR FAIRNESS**

5.1 The following issues of fairness arise:

- a. is the option consistent with reducing the burden of bureaucracy on schools?
- b. will costs be borne fairly across all businesses?
- c. will children's welfare be safeguarded?
- d. is the system transparent?

5.2 The Government considers that:

- a. there is no more bureaucracy on schools which already meet the standards as inspections are already part of the system;
- b. at present costs are not evenly spread: ISC schools bear inspection costs whereas non-ISC schools do not. These measures will bring in a more uniform charging regime and remove one of the financial disincentives for schools wishing to join the ISC;
- c. the measures will provide a much greater degree of protection to children by introducing inspection of welfare in day schools and requiring schools to comply with standards set out in regulations; and,
- d. the publication of all reports will increase the information available to parents.

#### **6. BENEFITS**

6.1 The reform of the registration and monitoring of independent schools is intended to:

- a. safeguard the health, safety and welfare of pupils in independent schools;
- b. improve education provision in weaker schools; and,
- c. provide greater transparency, through publishing Ofsted reports.

6.2 This will be achieved by:

- a. preventing new schools registering and admitting pupils until they supply evidence to DfES that their premises and accommodation are safe;
- b. requiring all schools to put policies in place to safeguard the welfare of all pupils (e.g. anti-bullying policy, child protection policy, complaints policy) and that satisfactory

- plans have been made for appropriate staffing, curriculum and, in the case of boarding schools, satisfactory boarding accommodation. Schools will be responsible for charges incurred to provide the necessary evidence; and,
- c. publishing all inspection reports on independent schools: schools will be required to pay for these inspections.

## **7. COMPLIANCE COSTS FOR PRIVATE AND VOLUNTARY SECTOR PROVIDERS**

7.1 The measures outlined above will ensure that children are not educated in schools which do not meet minimum standards e.g. unsafe buildings and that any recommendations made by inspectors are implemented before the school opens. Some independent schools take several years to implement recommendations and achieve satisfactory standards. During that time, pupils' health, safety and welfare may be put at risk and their chance of receiving an adequate education may be reduced. The monetary cost of these failings to pupils and their parents is unquantifiable.

7.2 A new school applying to register will be inspected by Ofsted and no charge will be levied for the pre-registration inspection. After registration, a new school will be inspected on a six-year cycle, the same as existing independent schools.

7.3 There are approximately 1,000 non-ISC schools: these will incur costs for Ofsted inspections leading to published reports. These costs will be based upon a sliding scale depending upon the size of the school. Many schools with under 50 pupils, and a limited number of staff, operate as small businesses. Often these schools are most in need of inspection, but least able to afford it. These schools will pay least, with costs increasing for schools with 50 pupils or more as shown in the draft regulations.

7.4 All schools that have the Secretary of State's approval to cater for children with special educational needs will be exempt from charges. Schools with less than 50 pupils will only be charged £50 per pupil. For all other schools there will be a flat rate of £500 plus a charge per pupil of £40 per pupil for the first 149 pupils and £15 per pupil for 150+pupils, with charges capped at £10,000. The Government considers that this model best meets the concerns of small schools and schools approved for the purpose of educating pupils with special educational needs as well as most schools catering for particular religions or philosophies.

7.5 Whilst full details of the fees levied by independent schools are not collected, information is held about the lowest and highest fees charged and the number of pupils at each school. Based on the information held on fees for day schools, a sample has been taken of a number of schools charging low, medium and high fees and a determination made of the percentage of fee income which they will be required to pay annually to Ofsted for inspection charges.

7.6 Generally, schools will pay less than 2% of annual fee income by way of inspection charges. A school charging an average fee of £562.50 per annum would need to allocate approximately 1.01% of the annual fee income for inspection charges. A school charging an average fee of £2947.50 per annum would need to allocate approximately 0.23% of the annual fee income for inspection charges. A school charging an average fee of £9750.00 per annum would need to allocate approximately 0.08% of the annual fee income for inspection charges.

7.7 The proposed charges will recoup only approximately 25% of the full cost to Ofsted. The Government recognises that full cost recovery would be too great a burden on small schools.

7.8 Inspections will usually be on a six-yearly cycle, unless the school gives cause for concern, or has serious failings. It is anticipated that Ofsted will undertake approximately 167 inspections of existing independent schools each year. The Government is proposing charges for follow-up visits. The proposal is that the first visit will be free. Subsequent visits, though, would only take place because a school's action plan had not been discharged, or where further problems were found on re-inspection.

7.9 All independent schools are currently inspected to confirm satisfactory standards of premises, accommodation, staffing, instruction and, in the case of boarding schools, welfare. Inspections of all schools will continue under the new system. The current inspection system already confirms that most independent schools do meet the standards. These proposals will not impose any new financial burden on the majority of schools in relation to compliance costs as a result of inspection under the new regime.

7.10 The purpose of setting out standards, against which schools will be inspected, does no more than detail explicitly what is expected. It will maintain the status quo for all existing schools where standards are satisfactory. Those that fail to meet the standards already incur the costs necessary to bring them up to the required standard and these proposals will not increase the compliance costs. Schools which are not meeting the standards are those where children's welfare and future prospects are at risk.

7.11 The proposals do however impose costs on schools because of the increased expenses of the new inspections essential to allow publication of reports. Inspectors will need to ensure that the published reports contain the necessary level of detail for parents. The table below shows how the fees, in respect of the inspection costs, will be determined. They are set at 25% of the total inspection costs and will be required once every six years.

<b>Number of registered pupils</b>	<b>Amount of fee</b>
Less than 50 pupils	£50 per pupil. E.g. A school with 32 pupils would pay $32 \times £50 = £1600$ over six years.
50 to 149 pupils	£500 + £40 per pupil. E.g. A school with 132 pupils would pay $£500 + (132 \times £40) = £5780$ over six years.
150 or more pupils	£500 + £40 per pupil up to 149 pupils and £15 per pupil thereafter between 150 and 385 pupils. E.g. A school with 380 pupils would pay $£500 + (149 \times £40) + (231 \times £15) = £9925$ over six years.

There will be a cap of £10,000 (which equates to the fee for 385 pupils) and inspection fees will not be payable in respect of a school approved under section 347(1) of the Education Act 1996.

Schools wishing to budget for these costs annually would need to set aside 1/6 of the costs determined above each year.

### In Perspective

7.12 In all the above examples the cost per pupil per annum would be under £10. The standards do impose a limited number of new requirements e.g. provision of information

about the school for parents, a complaints procedure and an annual report to parents on their child's attainment. Most schools already have these in place but those that do not will be required to put them in place.

7.13 The Department will seek more information about implications during the consultation. It is anticipated that any costs will be such that they can be easily absorbed. Those schools already implementing the new requirements have not indicated difficulties in doing so. Should a school have particularly high costs of implementation, it would be a sign that their practice was considerably different from that required from the standards, which are fairly minimum, and this in itself might raise questions as to the provision they are currently providing for pupils.

7.14 227 of the 2,200 independent schools are special schools catering for pupils with SEN. The majority of places at these schools are publicly funded. Other placements partly or fully publicly funded include:

- some talented pupils on the Music and Dance Scheme and Dance and Drama Awards Scheme (DfES);
- some choristers at independent choir schools through the Choir Schools Association Bursary Trust (DfES);
- most pupils remaining on the Assisted Places Scheme (DfES);
- children of military personnel (Boarding Schools Allowance) to ensure uninterrupted schooling when their parents are stationed abroad (MOD);
- children of diplomats (FCO); and,
- pupils attending suitable independent schools where local provision relating to single sex education, religious education and special education is not available (LAs).

7.15 The availability of published inspection reports will allow parents to be better informed about the standard of provision at non-ISC schools. Parents will have an independent report about schools they are considering for their children which should reduce the complaints, disappointment, and possible disruption to pupils' education, when a school fails to provide the provision that parents thought they were purchasing. It is impossible to estimate the financial effect, although parents may save some money if they do not need to move their children between schools.

## **8. COMPETITION FILTER**

8.1 A competition filter has been undertaken. In the independent schools sector there are no firms that have more than 10% market share, nor do the largest three firms have 50% market share. The Government accepts that some costs of the regulation will affect some schools substantially more than others, and these relate to:

- a. size;
- b. type of provision;
- c. existing standards;
- d. financial viability;
- e. the date of school inspections;
- f. location;
- g. staffing levels.

8.2 The Government does not expect the market structure to change radically or for there to be a marked change in the number or size of schools. Although new schools will have to meet the standards immediately, any existing schools, which are inspected as soon as the new legislation takes effect, will also have to meet those standards and associated costs. The regulation will bring parity with existing schools that meet minimum standards.

Ongoing costs will not be higher for new schools than for existing schools. It is not envisaged that the regulation will restrict schools in providing services.

8.3 There is not likely to be a detrimental effect on competition. The change in the definition of an independent school will increase the number of registered schools. The pattern of independent schools opening, amalgamating, joining the state sector and closing is not expected to be significantly different from that occurring over the last ten years. Whilst costs to individual schools will vary, depending upon the factors listed above, as most schools already meet the new standards, including the associated administration and record keeping, and as ISC schools already pay charges for inspections, the regulation will bring parity.

## **9. SMALL FIRMS IMPACT TEST**

9.1 635 independent schools have less than 100 pupils (i.e. 29% of the sector). Of these 417 do not have charitable status and are therefore operating as small businesses (i.e. 19% of the sector). During the previous consultation all these establishments were asked whether schools should be charged a fee for inspections supporting registration and re-registration and whether they thought there would be other significant costs surrounding the implementation of the proposals.

9.2 48 responses were received i.e. 12% of schools operating as small businesses. 34 responses (71%) indicated that schools should not be charged for inspections for registration and re-registration since this would place an additional financial burden upon them which small schools on limited budgets would find difficult to bear. This could result in increased fees and/or prevent new schools opening or registering. Some responses suggested that the Department bear some of this cost as parents are already paying taxes towards state education from which their children are not benefiting and that since the Government required the inspections be undertaken the Government should assist with payment. Some responses thought that it was acceptable provided that: the cost was related to the number of pupils (rather than a set fee for all schools); and inspectors produced honest, helpful, constructive reports.

9.3 Consequently there will be no charges for registration and variations to the registration. Charges will be restricted to those for the six-yearly cycle of inspections by Ofsted. In addition the costs for the six-yearly inspection will not be full cost, and will take pupil numbers into account.

9.4 20 responses (42%) considered that there would be other significant costs and these were identified as relating to administration costs and investment to achieve new standards with suggestions that the Government should bear at least part of these costs. Whilst some schools may have to invest in order to comply with the new standards the majority already meet them and will not face additional administrative costs. Those that do not will need to meet the costs necessary to enable them to provide the minimum standards which all children and parents have a right to expect. These costs cannot be realistically quantified. However other responses balanced those with concerns by indicating that benefits such as improving the quality of education, raising standards, stricter requirements for welfare and care of pupils and a clear framework for inspections were necessary and welcomed.

## **10. SUMMARY AND RECOMMENDATIONS**

10.1 The Government has to ensure that the recommendations of the Utting and Waterhouse reports are implemented, and has concluded that the proposals to reform the registration and monitoring of independent schools must be statutory.

10.2 The Government has no wish to interfere with the autonomy of the independent sector. These proposals will have very little impact on successful independent schools but will, as intended, raise standards in weaker schools. During the passage of the Education Act 2002, the proposals received broad support from the sector, and regulations now need to be made to put the detailed arrangements in place. It will be necessary to have a transitional period of two years to enable provisionally registered schools to improve sufficiently to be granted final registration, or, to be deleted from the register as failing schools.

10.3 The issue of a consultation document is essential to obtain views from the sector on:

- a. the regulations detailing the standards in independent schools;
- b. the information independent schools must provide on application to register and subsequently; and,
- c. the level of fees to be charged for Ofsted inspections, and the publication of inspection reports.

## **11. ENFORCEMENT, SANCTIONS, MONITORING AND REVIEW**

11.1 There must be a system for dealing with proprietors who refuse to register, or who fail to notify DfES of significant changes to provision which affect the health, safety and welfare of pupils. A system must also be in place to deal with those registered schools which fail to meet or maintain the standards required to safeguard pupils' health, safety or welfare. The Government's view is that this is reasonable, in the interests of children, and that the Education Act 2002 and draft regulations comply with the Enforcement Concordat.

11.2 Under the Education Act 2002, a proprietor of an independent school operating illegally can face a fine and/or imprisonment. The current penalties of a fine of £2,500 and/or 3 months imprisonment are not an effective deterrent. Therefore, the Act has doubled the penalties to a fine of £5,000 and/or 6 months imprisonment but, in common with other 6-month terms, the imprisonment aspect is likely to be increased to 51 weeks under the Criminal Justice Bill currently before Parliament.

11.3 A registered school found to be failing may be deleted from the register, or prevented from admitting more pupils, or pupils of a certain type such as boarding or early years, until specified weaknesses have been addressed. An independent school where pupils are at immediate risk will be de-registered as soon as the 28-day appeal period ceases.

11.4 The new arrangements, contained in the Education Act 2002 and regulations, will be evaluated. Once they take effect, there will be a two-year transitional period to run from 1<sup>st</sup> September 2003 to enable provisionally registered schools to achieve final registration. After a further year, there will be an evaluation of the new system for all schools. Provided that the evaluation is fully satisfactory, further reviews at three-yearly intervals will follow.