

# DRAFT CONSULTATION REGULATIONS

## The Approval of Independent Educational Institutions, Independent Schools and Special Post-16 Institutions Regulations

### Clause 41

#### **Citation, commencement and interpretation**

**1.**—(1) These regulations may be cited as the Approval of Independent Educational Institutions, Independent Schools and Special Post-16 Institutions Regulations and come into force on [1st May 2014].

(2) In these regulations—

“the Act” means the Children and Families Act 2014;

“Ofsted” means the Office for Standards in Education, Children’s Services and Skills.

#### **Types of special post-16 institution that may be approved**

**2.**The Secretary of State may approve a special post-16 institution under section 41 of the Act where it is—

- (a) not an institution in the further education sector;
- (b) not a 16-19 Academy;
- (c) not maintained by a local authority.

#### **Matters to be taken into account in deciding to give approval**

**3.** The Secretary of State may take into account the following matters when deciding whether to give approval to a special post 16 institution, an independent educational institution or an independent school—

- (a) evidence relating to the financial viability of the institution;
- (b) the proportion of children and young people attending the institution who have an EHC plan (or a statement of special educational needs or learning difficulty assessment); and
- (c) reports relating to the institution by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, the Care Quality Commission, and any inspectorate which inspects independent schools in accordance with an agreement with the Secretary of State or which is approved by the Secretary of State under section 106 of the Education and Skills Act 2008.

**4.** Where reports referred to in regulation 3(c) are not available, the Secretary of State may consider such other evidence as the Secretary of State considers appropriate in relation to the quality of the educational provision at the institution or school concerned.

#### **Matters to be taken into account in deciding to withdraw approval**

**5.**The Secretary of State may take into account the following matters when deciding whether to withdraw approval—

- (a) whether the institution is financially viable;

- (b) the proportion of children and young people attending the institution who have an EHC plan (or a statement of special educational needs or learning difficulty assessment);
- (c) reports relating to the institution by Her Majesty's Chief Inspector of Education, Children's Services and Skills, the Care Quality Commission and any inspectorate which inspects independent schools in accordance with an agreement with the Secretary of State or which is approved by the Secretary of State under section 106 of the Education and Skills Act 2008; and
- (d) any information received about the institution from a local authority or a young person attending the institution or from any other person.

**Procedure when the Secretary of State decides to withdraw approval**

6.—(1) When the Secretary of State decides to withdraw the approval of an institution, the Secretary of State must notify the proprietor of the institution of that decision.

(2) The Secretary of State must also notify all local authorities in England of that decision.

(3) The decision will take effect 28 days after that notification is given, and shall remove the institution from the list published in accordance with regulation 7 on the date that the decision takes effect.

**Publication of list of approved institutions**

7. The Secretary of State must publish a list of all institutions that have been approved, and have not had that approval withdrawn, on the Internet.