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Guidance

Inspecting teaching of the protected characteristics in schools

Updated 27 September 2021

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Background

No matter what type of school they attend, it is important that all children gain an understanding of the world they are growing up in, and learn how to live alongside, and show respect for, a diverse range of people. When we inspect schools, we assess how well they equip children to do this.

Some schools have raised questions about what they should teach in relation to the ['protected characteristics' in the Equality Act 2010](#), particularly the sexual

orientation and gender reassignment characteristics.

This guidance explains Ofsted's approach on inspection to evaluating how schools go about meeting their duties. It applies to all types of academy, maintained, non-maintained special and non-association independent schools, except that part 5 below on the independent school standards (ISS) is only relevant to non-association independent schools. Any reference to 'teaching' in this guidance includes providing pupils with opportunities to learn.

The [Public Sector Equality Duty](#) in section 149 of the Equality Act 2010 requires Ofsted, when exercising all our functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

We have taken this into account in this guidance.

How we inspect teaching of the protected characteristics in schools

Inspectors will gather evidence on how schools promote equality and pupils' understanding of the protected characteristics. They will use this evidence as part of evaluating and coming to judgements on 3 main areas:

- the personal development of pupils
- the effectiveness of leadership and management; from the summer term 2021, how the school meets the requirements of the Department for Education (DfE)'s [statutory guidance on relationships education, relationships and sex education and health education](#) ('the DfE's statutory guidance') will contribute to this
- for non-association independent schools, whether the school meets the independent school standards (ISS); this also informs the judgement about the effectiveness of its leadership and management

If inspectors identify at inspection that a school is not teaching about all the protected characteristics, they will always report on this and will explain how (if at all) it has affected the school's inspection judgements.

Personal development

The [education inspection framework](#) (EIF) and the [school inspection handbook](#) and [independent school inspection handbook](#) explain that pupils' understanding of the protected characteristics and how equality and diversity are promoted form part of the evidence that inspectors use to evaluate the school's personal development of pupils.

All primary and secondary schools, whether state-funded or independent, should be able to demonstrate that no form of discrimination is tolerated and that pupils show respect for those who share the protected characteristics. Schools will not be able to demonstrate this by pointing to a general policy of encouraging respect for all people.

Schools are not required to teach about all the protected characteristics in every year group; that is a matter for the school to decide, and how it plans its curriculum. However, the curriculum should be planned and delivered so that children develop age-appropriate knowledge and understanding during their time at the school. In secondary schools, this includes age-appropriate knowledge of the protected characteristics of sexual orientation and gender reassignment.

There are a range of ways schools can choose to teach about these issues in an age-appropriate way. Primary schools could, for example, teach pupils about the different types of family groups that exist within society. Secondary schools could, for example, teach pupils in more detail about sexuality and gender identity as well as the legal rights afforded to LGBT people. As stated in the [DfE's statutory guidance](#), teaching on these matters should be integrated appropriately into the curriculum, rather than addressed separately or in one-off lessons.

If a school does not promote pupils' awareness and understanding of all the protected characteristics effectively, this may result in a 'requires improvement' judgement for personal development, particularly if inspectors identify one or more other weaknesses in the school's promotion of and provision for pupils' personal development. For state-funded schools, this only applies to section 5 inspections. For independent schools, this only applies to standard inspections. This is regardless of any consultation that the school may have carried out to meet the requirements in the DfE's statutory guidance.

Inspections where there is no personal development judgement

On a [section 8 inspection](#) of a state-funded school, inspectors do not give a judgement for personal development. If they find evidence that the school does not promote pupils' awareness and understanding of all the protected characteristics effectively, they may recommend that the school's next inspection be a section 5 inspection.

On an [additional inspection of a non-association independent school](#), inspectors also do not give a judgement for personal development. When it is in scope of the DfE's commission for that inspection and inspectors find evidence that the school does not promote pupils' awareness and understanding of all the protected characteristics effectively, they will take account of this in their judgements about whether the ISS are met. When it is out of scope of the DfE's commission, inspectors will follow the guidance set out in the [handbook](#) on checking standards beyond the scope of the DfE's commission.

Leadership and management and the DfE's statutory guidance

From 1 September 2020, relationships education is compulsory for all primary school pupils and relationships and sex education (RSE) is compulsory for all secondary school pupils.

In 2020, [the DfE published a statement](#) that schools should begin teaching RSE and health education by summer term 2021. This requirement has not changed. However, in light of the disruption to and partial closure of schools caused by the COVID-19 (coronavirus) pandemic, the DfE has provided further clarification of the legal requirements, and where schools have flexibility, in the '[Schools coronavirus operational guidance](#)'.

The DfE is aware that the partial closure of schools during the COVID-19 pandemic will impact on the extent to which some schools can meet all of the expectations in the DfE's statutory guidance, which go beyond the statutory requirements (see the '[Requirements and expectations in the DfE's statutory guidance](#)' section).

All schools are required to have taught some of the new curriculum, and to have published a policy and consulted parents on this, during the academic year 2020/21.

Inspectors will be sympathetic to schools that, as a result of the pandemic, have not been able to fully implement the new curriculum, provided that they:

- have had regard to the statutory guidance
- have a good rationale for prioritising what they have implemented
- have clear and effective plans to address any gaps before the end of the 2021/22 academic year

The DfE's statutory guidance contains information on what schools should do and sets out the requirements they must comply with when teaching relationships education, RSE and health education. If schools do not follow parts of the DfE's statutory guidance that state they should (or should not) do something, they will need to have good reasons for this.

Requirements and expectations in the DfE's statutory guidance

The DfE's statutory guidance requires that all schools must:

- have an up-to-date policy, which is made available to parents and others and consult parents in developing and reviewing that policy in all cases
- take into account the age and religious background of all pupils and ensure that their teaching is appropriate to their age and religious background, to ensure that the topics outlined in the statutory guidance are appropriately handled
- comply with the [relevant provisions of the Equality Act 2010](#), including that they:
 - must not unlawfully discriminate against pupils by treating them less favourably because they have one or more of the protected characteristics
 - must make reasonable adjustments to alleviate disadvantage, for example by taking positive action to deal with particular disadvantages affecting a group because of a protected characteristic. The statutory guidance gives the example of taking positive action to support girls if there is evidence that they are being subjected to sexual harassment
- make relationships education and/or RSE accessible for all pupils, including those with special educational needs and disabilities
- ensure that teaching reflects the law (including the Equality Act 2010) as it applies to relationships, so that young people clearly understand what the law allows and does not allow, and the wider implications of decisions they may make
- ensure that the materials used to support teaching are appropriate for the age and maturity of pupils and sensitive to their needs
- ensure that the needs of all pupils are appropriately met, and all pupils understand the importance of equality and respect
- ensure that teaching is sensitive and age-appropriate in approach and content
- work closely with parents in all cases when planning and delivering the subjects, ensuring that parents know what will be taught and when, and clearly communicate the fact that parents have the right to request that the child be withdrawn from some or all of sex education delivered as part of statutory RSE

The DfE expects secondary schools, state-funded or independent, to deliver teaching on LGBT relationships and encourages primary schools to do so.

How this applies to inspection

We intend to [resume routine inspections](#) in the 2021 to 2022 academic year, but are keeping the timing under review.

In summer term 2021, we will continue to carry out monitoring inspections of state-funded schools, some of which we may deem as full, graded inspections

under [section 9 of the Education Act 2005](#). This means that inspectors carrying out a monitoring inspection, for example, can apply the whole framework and give a judgement about the school, as they would on a section 5 inspection, without having to start a new inspection.

We will also continue to carry out additional inspections of independent schools and, when commissioned by the DfE, some full 'standard' inspections, including to schools that have been newly registered by the DfE.

In full inspections of state-funded and independent schools, inspectors will assess whether the school complies with the DfE's statutory guidance, and may comment on this in the inspection report.

Primary schools

From the summer term 2021, if a primary school does not teach about LGBT relationships, this will not have an impact on the leadership and management judgement as long as the school can satisfy inspectors that it has still fulfilled [the requirements of the DfE's statutory guidance](#). If it cannot do this, for example if it has failed to consult with parents, inspectors will consider this when making the leadership and management judgement. For state-funded schools, this only applies to section 5 inspections. For independent schools, this only applies to standard inspections. The school will not ordinarily receive a judgement for this better than requires improvement.

Secondary schools

From the summer term 2021, if a secondary school does not teach about LGBT relationships, it will not be meeting the expectations of the DfE's statutory guidance. Inspectors will consider this when making the leadership and management judgement. Similarly, if a secondary school has not fulfilled the requirements of the DfE's statutory guidance, for example, if it has failed to consult with parents, inspectors will also consider this when making the leadership and management judgement. For state-funded schools, this only applies to section 5 inspections. For independent schools, this only applies to standard inspections. The school will not ordinarily receive a judgement for this better than requires improvement.

Section 8 inspections

On a [section 8 inspection](#) of a state-funded school, inspectors do not give a judgement for leadership and management. From the summer term 2021, if a

school cannot provide evidence that it has had regard to the statutory guidance, a good rationale for prioritising what it has implemented, and clear and effective plans to address any gaps before the end of the 2021/22 academic year, inspectors may recommend that the school's next inspection be a section 5 inspection.

Additional inspections

On an additional inspection of an independent school, from the summer term 2021, if it is in scope of the DfE's commission for the inspection, and inspectors find evidence that a school is not meeting the requirements of the DfE's statutory guidance, they will take this into account in their judgements about whether the ISS are met.

Inspectors will be sympathetic to schools that, as a result of the pandemic, have not been able to fully implement the new curriculum, provided that they:

- have a good rationale for prioritising what they have implemented
- have clear and effective plans to address any gaps before the end of the 2021/22 academic year

If it is out of scope of the commission, inspectors will follow the guidance set out in the [handbook](#) on checking standards beyond the scope of the DfE's commission.

Independent school standards

There are 2 paragraphs in the ISS that expressly require independent schools to encourage respect for the protected characteristics:

- Paragraph 2(2)(d)(ii) requires proprietors to provide a: 'personal, social, health and economic education which... encourages respect for other people, paying particular regard to the protected characteristics set out in the 2010 [Equality] Act.'
- Paragraph 5(b)(vi) requires proprietors to 'ensure that principles are actively promoted which... encourage respect for other people, paying particular regard to the protected characteristics set out in the 2010 [Equality] Act'

The DfE's [non-statutory guidance on the ISS](#) contains further information for schools on meeting the requirements in paragraphs 2(2)(d)(ii) and 5(b)(vi) of the standards. It sets out that schools must make pupils aware of the protected characteristics to the extent that it is considered age-appropriate to do so.

If an independent secondary school does not teach about LGBT relationships, it

will fail to meet the ISS listed above. This failure means the school will not ordinarily receive a leadership and management judgement better than requires improvement.

From the summer term 2021, if an independent primary school does not teach about LGBT relationships, it will not automatically be judged to fail the ISS listed above, provided that it can satisfy inspectors that it has still [fulfilled the requirements of the DfE's statutory guidance](#). If it cannot do this, for example, if it has failed to consult with parents, inspectors will normally judge that the school has failed to meet the ISS above. Under the EIF, this non-compliance consequently means it will not ordinarily receive a leadership and management judgement better than requires improvement.

Faith teachings on protected characteristics

Schools are at liberty to teach the tenets of any faith on the protected characteristics. For example, they may explain that same-sex relationships and gender reassignment are not permitted by a particular religion. However, if they do so, they must also explain the legal rights LGBT people have under UK law, and that this and LGBT people must be respected.

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