



A Single Inspectorate for Children and Learners

The Government's Response to Consultation



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THE GOVERNMENT'S RESPONSE TO CONSULTATION**

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A – Introduction

WHY THE CONSULTATION TOOK PLACE

Public Services Inspection Strategy

The consultation on a Single Inspectorate for Children and Learners formed part of the Government's public-services inspection strategy. Following work in 2004 and 2005 with inspectorates and the Office for Public Services Reform (OPSR), the Chancellor of the Exchequer announced this strategy in his Budget Statement on March 2005. The main elements of the strategy are:

- To refocus inspection on what is relevant to the people who use public services, the way that they use them and the outcomes that they experience;
- To rationalise, in order to simplify and streamline the complex pattern of multiple scrutiny that service providers experience; and,
- To reduce to a minimum the inspection burden and the variety of approaches that is a feature of having many bodies performing similar tasks.

Over time, having fewer inspectorates will enable better co-ordination and reduced duplication; better and wider identification and promulgation of best practice, including taking a risk-based, proportionate approach; a much greater ability to track the experience of users across service and institutional boundaries, and to comment on these pathways; and the ability to reprioritise work within larger bodies to focus on emerging concerns. The strategy builds on previous developments in joint-working across the inspectorates and their recognition of the need for more risk-based approaches.

(Budget 2005, *Investing For Our Future* – March 2005)

That strategy takes forward the principles of inspection set out in *The Government's Policy on Inspection of Public Services* (Cabinet Office, 2003). Increasing realisation of those principles will make inspection more user-focused, proportionate and effective, and will free up resources and increase value for money in the inspection regime.

Specifically, the Government proposed a reduction in public-sector inspectorates from eleven to four, and as part of this the Chancellor announced:

The Secretaries of State for Education and Health will shortly announce plans to bring by 2008 the inspection of children's services, which is currently carried out by the Commission for Social Care Inspection (CSCI), into the Office for Standards in Education (Ofsted). In addition the Government will consult with employers on the future of the Adult Learning Inspectorate (ALI), with the expectation that by 2008 its functions will also be part of this single inspectorate for education, children's services and skills.

(Budget 2005, *Investing For Our Future* – March 2005)

It was also agreed that the Children and Family Court Advisory and Support Service (CAFCASS) inspection elements of Her Majesty's Inspectorate of Court Administration (HMICA) would be brought together into Ofsted.

Other inspectorate reconfigurations announced were: a local services inspectorate bringing together the remits of the Benefit Fraud Inspectorate and the Audit Commission; the bringing together of the Healthcare Commission's remit and the adult social-care remit of CSCI; and the plans for a new criminal-justice and community-safety inspectorate being developed by the Office of Criminal Justice Reform.

The Consultation Process

On 29 July 2005, the Department for Education and Skills (DfES) published the consultation document *A Single Inspectorate for Children and Learners: A Consultation*. The document was available on the DfES consultation website www.dfes.gov.uk/consultations. The consultation ran for 14 weeks, ending on 4 November. During this period, a series of focus groups, facilitated by Tri-Energy Consulting, were held to consider the consultation questions regarding the future of the functions currently carried out by the Adult Learning Inspectorate. The responses to the consultation, including the results of the focus groups, are summarised below. A copy of the Tri-Energy focus-group report is available at www.dfes.gov.uk/consultations. This paper outlines the responses to the consultation, the decisions taken in the light of this and the reasons for these decisions. A regulatory impact assessment is attached.

Next Steps

Having considered these responses, the Government now intends to bring forward the necessary legislation.



B – Questions

In total, 159 responses to the consultation were received, via email, through the consultation website and through correspondence. There was a wide range of respondents: employers, providers of training, schools and sixth forms, local authorities, national organisations, inspectorates and others. In addition, 79 people, including representatives of some national organisations, attended the 7 focus groups run on behalf of the DfES by Tri-Energy Consulting (report available at www.dfes.gov.uk/consultations) to consider in particular the future of the functions currently carried out by ALI.

Question 1 – Through this consultation paper and linked activity we are seeking the views of respondents (including employers) on the proposition that ALI’s existing inspection remit should be brought together into Ofsted to create a single inspectorate for children and learners.

Question 1 generated a very significant response, with widespread appreciation of the work undertaken by ALI in supporting users of services, providers and employers. The number of responses was fairly evenly matched between those supporting the proposal and those rejecting it, with a similar number remaining not sure. Many respondents were prepared to support the proposal if safeguards could be put in place to ensure the best of ALI’s work and the strong links with and understanding of the needs of employers could be retained within the single inspectorate. A large number of respondents stressed the critical importance of retaining existing ALI expertise. The safeguards to be put in place in response to these concerns are explained in more detail below.

The majority of employers and private providers who responded tended to prefer keeping ALI separate but some supported the proposal. Colleges tended to support the proposals. A wide range of national representative organisations responded, many giving support to the proposal provided ALI's experience and understanding of the employment world could be safeguarded, but some not supporting the proposal under any circumstances

Views in support of the proposal

Respondents in favour of the proposal recognised the contribution of ALI, but believed the best practice of ALI and Ofsted combined should lead to an effective organisation.

Those supporting the proposal focused on how a single inspectorate would better reflect the future of learning as outlined in the 14–19 White Paper and also the *Skills: getting on in business, getting on at work* White Paper. These seek to reduce the distinction between academic and vocational learning, with greater opportunities for learners to develop a range of skills. Consequently, many respondents considered it made great sense to bring the academic and vocational inspection remits together into a single inspectorate to reflect the increasingly joined-up nature of services to users. A single inspectorate could help ensure that services to learners reflect the integrated environment for users and are inspected in a consistent manner.

Going further, many respondents agreed that the proposal had the potential to reduce the burden of inspection on education establishments and reduce the potential confusion about the roles of two inspectorates when inspecting FE colleges. Some argued that, from the point of view of those inspected, fewer inspectorates would mean less complex, less duplicatory and therefore less burdensome inspection arrangements. From the perspective of the users of the services inspected (children, learners, parents, employers), a single inspectorate for children and learners would make it easier to present broad and relevant information and to do so in a consistent way.

Finally, at a strategic level, the inclusion of employment-based training alongside the current education remit would mean that for the first time a single inspectorate would be able to speak authoritatively about the relationship between education and employment, with undoubted benefits for the UK economy of taking a holistic and coherent view.

Views against the proposal

Those opposing the proposal argued that ALI was an effective organisation and it was wrong to jeopardise this. Linked to this, there were a number of concerns about how adult learning would feature in a predominantly child-focused inspectorate. Most respondents pointed out that ALI was effective in working with business and employers which could be jeopardised by the proposal to create a single inspectorate, especially since many assumed the inspectorate would have a child-focused outlook. To these respondents, the risks of the proposal outweighed the potential benefits and efficiency savings.

ALI was seen to have many strengths. ALI's strong record as a well-respected organisation was emphasised, and was felt to understand well the needs of the business community. ALI was valued for providing "a vigorous and demanding inspection of provision that has brought about positive change within work-based learning". It was felt that this specialised approach, including support and advice, was key to further development within the sector. Conversely, respondents feared that in a single inspectorate it would almost be inevitable that the current focus on adult skills would be diminished and, consequently, policy and practice of future inspections would reflect a school mindset, with adult inspection left as an "also-ran" within the single inspectorate. Linked to this was the fear of a loss of focus and expert knowledge currently utilised by two separate organisations. There was unease on the part of some at whether providers would feel comfortable being inspected by an organisation perceived as a children's inspectorate.

Some concluded that the proposal would put the successful delivery of the national skills strategy at risk. A few respondents believed the quality of delivery would suffer, especially in adult provision, as a result of the merger.

Many respondents felt the sectors currently inspected by ALI and Ofsted – academic and vocational education – were very different, perhaps even fundamentally so and therefore should not be brought together into a single inspectorate.

Report of the focus groups

Tri-Energy Consulting found three main "typologies" within the focus groups, based around two factors – their level of "on the ground" experience, and the solutions they favoured. These were:

- a. "Rejectors" who were strongly opposed to the Government's proposals for merging ALI with an enlarged Ofsted. Their views can be summarised by an attitude of "If it ain't broke, don't fix it". People in this group tended to have a great deal of operational experience;
- b. "Ring-fencers" who held broadly the same opinions as "rejectors", but were more open to the idea of a merger (possibly because they saw it as inevitable) providing the adult-learning section of an enlarged Ofsted was protected by some kind of internal ring-fencing; and
- c. "Visionaries" who saw the proposed merger as providing an opportunity to move forward the wider debate over the purpose of inspections. Their idea was to create an integrated "new" Inspectorate, drawing on the best of ALI and the best of Ofsted, and providing for specialisation across the gamut of provision. Interestingly, respondents in this group tended to have less operational experience on the ground, but a better overview.

Tri-Energy found that, “ultimately, respondents were not attached to ALI per se, but to what they felt ALI offered. If this could be offered in a different way – improved upon, even – they would generally be happy.” It is clearly important for the proposal to be implemented carefully, and this is discussed below.

Response

We are aware of the strength of feeling from those who wish to see ALI continue as a separate organisation, but remain convinced there are many benefits from creating a single inspectorate to include the current inspection remit of ALI. We believe the benefits outweigh the potential costs.

The 14–19 White Paper of spring 2005 looked to bring together academic and vocational learning, for example in developing vocational diplomas which would require core levels of literacy and numeracy. In particular, the White Paper was clear that “The idea that there is, or should be, a clear dividing line between the academic and the vocational does not stand up to scrutiny.” The 14–19 White Paper and, linked to this, the *Skills: getting on in business, getting on at work* White Paper, were clear that we need to offer a greater range of opportunities to young people to ensure they have the skills needed by employers to drive the economy. Increasingly, and as part of this, the dividing line between vocational and academic learning will be blurred and we believe a single organisation able to inspect and speak for both is necessary.

In his report *Realising the Potential: A Review of the Future Role of FE Colleges*, Sir Andrew Foster noted that “Whilst Ofsted and ALI have made considerable efforts to coordinate their on-site visits to colleges, the overall burden is unnecessarily high. The proposal to create a single post-compulsory education Inspectorate would bring coherence, economies of scale and reduce some of the inherent bureaucracy felt by colleges... the integration of Ofsted and ALI into a single Inspectorate would clarify and simplify the inspection landscape and combine their different strengths. It would also improve information about the performance of providers for users.” Sir Andrew was clear, however, and we agree, that “the ALI corporate knowledge and experience is celebrated and embedded in the new organisation.”

However, we recognise there are a number of risks with the proposal and will take action to mitigate these. In particular, we want to ensure adult learners do not lose out, and want to preserve the adult learning and employer focus. We are sensitive to the concerns that the focus ALI has rightly placed on meeting the needs of employers and business and focusing on work-based learning should not be lost, and plan to put in place a number of safeguards to ensure this does not happen. In particular, we will change Ofsted’s governance to introduce a non-executive board with appropriate membership (for more detail see question 10) and a place a number of statutory, strategic functions on the board, including the need to have regard to the views of users such as employers (for more detail see question 3).

A range of other activities and safeguards were suggested by respondents to help deliver a successful implementation. They can broadly be described as safeguards to ensure the organisation is not less than the sum of its parts, and can demonstrate a strong focus on adult learning. These include:

- The need to ensure the retention of specialist expertise and credibility in vocational and work-based learning that ALI inspectors currently possess was seen as critical. We are clear that the organisation would need to make full use of the expertise of ALI inspectors. These staff would form the bulk of the relevant workforce at Ofsted, as they do at ALI: there would be no intention to engage the majority of HMI in inspection of adult and skills provision.
- Strongly linked to this was the concern that inspection criteria/frameworks would be reduced to a generalised norm that would not serve the specific needs of any sector inspected or user group. We are clear that this will not be the case. Different sectors will rightly continue to have different inspection frameworks, based on the specific needs of the sector. Moreover, an important part of this is that the organisation is fully responsive to the different ways in which high-quality provision is secured. And, as already noted, the successful delivery of these frameworks will depend on knowledgeable, expert and credible inspectors for individual sectors, including inspectors skilled and knowledgeable about the needs of employers, the self-employed and workforce development in general.
- A thorough understanding of the needs of business and employers will be important to the success of the single inspectorate. It will be important for the organisation to have a detailed understanding of how privately funded training contributes to skills development in the UK and pays corresponding attention to supporting the improvement agenda of private companies. Ofsted has strong existing links with all its main stakeholder groups, including colleges and employers. Through the transfer of staff from ALI we would expect these links to be further strengthened. Linked to this are the strategic functions we propose to place on the body corporate, especially the need to have regard to the views of children, young people, other learners, parents of children in education and employers in delivering their functions. These are set out in more detail under question 3.

Question 2 – We would welcome views on whether there should be, in legislation, a single overarching statement to capture the core purpose of the inspectorate and characterise its overall ethos.

The response to this question was generally positive, with respondents agreeing that a single over-arching statement would be beneficial. Points made included:

- A statement would avoid ambiguity and make clear the expectations on the inspectorate.

- It would allow the inspectorate, providers and customers to understand better the nature and purpose of inspection.
- Such a statement would be important in helping to establish a common ethos.
- All learners are entitled to the same approach and care, but how this is to be assured was an issue. An overarching statement would underpin such an approach.
- The statement should be based firmly on the Government's ten principles of inspection. (These were included in *An Inspectorate for Children and Learners: A Consultation*.)

In particular, a significant number of people across the whole range of respondents believed that the overarching statement must make explicit the inspectorate's role in quality improvement and raising standards.

A small number of views opposing the single statement were expressed:

- The relationship between organisations and their clients changes and develops so inspection services need to be fluid and should not have their "response patterns" set in concrete by legislation.
- Having a single statement presupposes that the purpose of all elements of the proposed new body is the same. This should not be the case if the best all existing practices are to be preserved.
- It was considered unlikely that a single statement could be drawn up.

The responses predominantly endorsed the value of a clear statement setting out the overarching purpose. We support this and intend to set out, in legislation, that the overarching purpose of the board is to encourage improvement, user-focus and efficient and effective use of resources in the services inspected and regulated. We do not believe that such a statement will unnecessarily constrain the freedom of the organisation to operate or to adjust to the changing environment of services to children and learners. We believe that, above all, and regardless of what service is inspected, inspection should help encourage improvement of services to users, and this guiding principle should be set out in legislation. A number of respondents wanted to see reference to particular sectors – for example adult learners, children, families – in any statement, but we think this is unnecessary.

To ensure independence and credibility of inspection, the Government's ten principles of inspection state that the role of public-sector inspection is to encourage improvement through clear and effective reporting, with recommendations for action and the dissemination of best practice, but not to engage in active improvement activity with individual services. This is the model we intend to adopt.

Question 3 – Paragraph 29 of the consultation document lists other possible high-level duties of an enlarged Ofsted. Do you think the list is a fair representation of the duties of a new enlarged inspectorate? We would welcome views on their relative merits as general duties beneath the single, core statutory purpose.

Respondents generally supported having a series of high-level duties, although some concerns were voiced over how they would be framed. Again, there was no real distinction between type of respondent and response.

Many respondents welcomed having a list, believing it would help improve the accountability of the inspectorate. A number felt it would be useful to include a reference to keeping Ministers informed about the views of service users, and some wished to see encouraging improvement through inspection included (this has been addressed at question 2).

Others were not convinced by the list of duties, considering it too broad and fearing it would distract from a single core statutory purpose. Some respondents believed the list was not focused enough on the roles and responsibilities of a modern inspectorate and was too traditional in composition.

As with question 2, individual sectors, especially adult and work-based learning, wanted to see their particular sector represented in the list, but we believe that the value in a list is that it guides the work of the inspectorate across its whole remit and is not fragmented.

We have decided to set out in legislation a set of strategic functions for the new board, and a list of behaviours they should have regard to in undertaking their functions. This is in addition to generic functions, such as duties for the Chief Inspector to produce an annual report, to keep the Secretary of State informed about services and to respond to any request for advice or information from the Secretary of State. The strategic functions and behaviours, based on the Government's ten principles of public-services inspection, are set out below.

The board is to be under the following duties:

- To establish the strategic direction of the inspectorate;
- To establish objectives and targets for the inspectorate;
- To ensure the efficiency and effectiveness of the inspectorate; and
- To ensure the work of the inspectorate reflects the needs of those receiving the services (including children, young people, other learners, parents of children in education and employers).

In carrying out the duties described above the board is to have regard to:

- The need to safeguard and promote the rights and welfare of children;
- The views of children, young people, other learners, parents of children in education and employers about the services that the Chief Inspector inspects or in relation to which he is the registration authority;
- The level of satisfaction with the inspected/regulated services of those receiving the services;
- The need to support the efficient and effective use of resources in the inspected/regulated services;
- The need to ensure the Chief Inspector's inspection/regulatory activities are proportionate to risk; and
- Developments in thinking on inspection and regulatory activities, and best practice amongst persons performing comparable functions to those of the inspectorate and Chief Inspector (which might include, e.g. keeping up to date with research by academics and learning from the practices of persons or bodies outside the United Kingdom).

As a member of the Board, Her Majesty's Chief Inspector (HMCI) will be bound by the overarching purpose and the strategic duties when undertaking inspection and regulation activity.

We also intend to take specific measures to promote co-operation between public-sector inspectorates. Specifically, we will provide for an explicit power for inspectorates to delegate functions to other scrutiny bodies so as to maximise the effectiveness and efficiency of joint inspection; a requirement that inspectorates will co-operate to ensure that where a matter to be inspected spans the remit of more than one such body, the impact of inspection is managed sensibly and, linked to this, a requirement that inspectorates draw up a programme of inspections in consultation with Ministers and other inspectorates.

Question 4 – We would welcome views on any opportunities for the rationalisation of inspection legislation which respondents think it would be sensible to take at this stage.

There were considerably fewer responses to this question than to many others, with no clear view expressed apart from the desire to retain specialist inspection legislation and consequent frameworks for individual service sectors. Others sought reassurance that any rationalisation would not lead to a lowering of quality or loss of focus.

The principle of rationalisation was generally accepted, and responses included the following points:

- It would be sensible to look at inconsistencies and disjunctions which may need scrutiny and rationalisation.

- Government should rationalise to prevent overlap or conflict, and experience of joint inspections to date should provide the steer for how to do this.
- Rationalisation would be desirable to significantly reduce the resource burden (both financial and in terms of staff time) of regulation on small or non-statutory providers.

Specialist inspection legislation and frameworks will of course continue, with no move to a one-size-fits-all approach. We will, however, continue to look to rationalise inspection where possible, and ensure that inspection activity is increasingly undertaken in proportion to risk. The most obvious example, and one we will legislate to achieve, is to put inspection and assessment of local-authority children’s services on a single footing, combining Ofsted’s education and CSCI’s children’s social-care legislation. This will mean a single inspection function with single reporting arrangements and rights of entry. There are also clear synergies in the FE sector and we will look to rationalise and place on a common footing the relevant inspection legislation.

We believe that the move to a single organisation would enable Ofsted to continue the work already started to rationalise the frameworks for inspection across all types of inspection, to integrate more effectively the inspection of local services for children with the inspection of institutions and to make better use of the expertise of the inspection workforce. We also believe it would help the drive to make all inspection proportionate to risk and to provide better value.

Question 5 – If ALI’s statutory post-16 learning and skills inspection functions were to be brought within a single inspectorate, how might its quality-improvement and commissioned support and advice roles best be handled in the future?

Question 5 generated a good response, with three main options emerging: transfer the quality improvement work to another body, probably the new Quality Improvement Agency (QIA); the status quo (i.e. the quality improvement role remaining part of a separate ALI); and transfer it to the inspectorate. Most national bodies, schools/colleges and voluntary and community providers preferred the option of transferring the quality-improvement work to another body. Private providers tended to prefer keeping ALI separate, though there was also support – if this were not to happen – for transferring the quality-improvement work to another body.

Responses made very clear that the quality-improvement role undertaken by ALI, and especially Excalibur, was very well-regarded and the link between inspection and quality improvement was important to maintain. There was some support for keeping quality improvement and inspection in one body.

Those in favour of asking the QIA to take on the function believed one body should objectively inspect and report on performance, and one separate body should offer support, quality-improvement advice and research. These respondents generally believed that it would be sensible for a well-resourced and effective QIA, operating as a strategic agency in this key policy area, to commission these services. This would simplify the responsibilities for quality improvement by placing them within a single organisation – these respondents did not want to see several agencies offering quality improvement.

However, concerns about transferring the quality improvement role to the QIA were raised. It would be important to ensure that the transfer was undertaken in a way that did not lose expertise and experience. But, even so, some feared that separating inspection and improvement and transferring ALI's quality-improvement work to another body would weaken its effectiveness and jeopardise its credibility with providers.

Those supporting the status quo pointed to the benefit brought by the development of support tools such as Excalibur, and said that any disruption of these arrangements would be unwelcome. In contrast to those believing inspection and improvement should be kept separate, those who supported the status quo believed that the quality improvement role was one of key strengths of ALI, and felt that the lack of such a role within Ofsted is one of its weaknesses. Others felt that ALI's quality-improvement resources were unique: delivered by practising inspectors who have first-hand, current experience of the issues affecting quality in the sector.

Those supporting the status quo, and those supporting the transfer of the quality-improvement role to the inspectorate, both stressed that the credibility and value of this support came from the "umbilical link" between improvement and practising inspectors. If the quality-improvement role were not to be a function of either ALI or the inspectorate there would need to be a strong link between the inspectorate and the agencies charged with responsibility to ensure flows of information and best practice emerging from inspections.

Those who believed the role should transfer to the inspectorate shared many of the same concerns – that a valued service supported by experienced inspectors could be lost if inspection and improvement were separated. Some argued that, with "Chinese walls", inspection and improvement can operate within the same inspectorate without the feared conflicts of interest or judgement. Some felt that the quality-improvement role could be split, with the inspectorate retaining the good-practice dissemination database, and commissioned support passing to another body, for example the QIA or the private sector.

We recognise the value associated with the quality-improvement work currently undertaken by ALI and want to ensure that this support continues to be available. At the same time, we want to ensure that the ten principles of public-sector inspection are adhered to, and that the value of rigorous inspection is not brought into question by close links to improvement activity. Specifically, we intend to transfer the good-practice information collection and dissemination that ALI carry out now as part of Excalibur to the enlarged Ofsted, with the other wider-ranging quality-improvement advice and support activities currently under the banner of Excalibur being commissioned in future by the QIA. We are clear about the strong role data and best-practice information gathered through the inspection process plays in improvement activity and will want to ensure this relationship remains. As part of this, we will need to consider how best to guarantee the release of inspection data to the QIA in order to facilitate the advisory work.

Question 6 – How might the needs of the organisations currently served by ALI best be met in the future?

This question was answered by relatively few respondents – less than a third – although there was general agreement that it was important this important work should not be lost. A significant number argued for the retention of ALI as a separate inspectorate, with fears raised that the inspectorate would be unlikely to see commissioned work as a priority. Moreover, offering the opportunity to the market more widely would run the risk of losing the level of consistency and quality of service which ALI currently offers.

The remaining respondents argued for this role to be within the single inspectorate or a separate body. The inspectorate would have to be able to supply specialist inspectors to institutions to understand and judge their type of provision, whether for children or for adults, in a wide range of settings and contexts. If this work were divorced from the remit of an enlarged inspectorate it would needlessly dilute the effectiveness and influence of the new organisation. A small number of respondents believed that if a similar function as that operated by ALI could not be continued, then it should be undertaken by an independent “arm” of the new organisation. Above all, the value of using current inspection staff should not be lost.

We are clear from the consultation response that the availability of commissioned inspection should continue, and that there were very real benefits from having current inspectors deliver this. We therefore plan to give Ofsted a statutory power, as ALI have, to undertake commissioned inspections on a charged-for basis. It must however need to ensure that commissioned inspections are relevant to its primary functions and do not undermine or create conflicts of interest with its other statutory functions.

Question 7 – Should the separate functions of the Children’s Rights Director be retained under the new arrangements, and if so, should they be given to the single inspectorate for children and learners, to the Children’s Commissioner or split between the two?

Three options were presented in question 7: all three received a level of support from respondents, but there was no clear favoured option. All respondents were keen to ensure that the rights and welfare of the most vulnerable children were upheld and their views heard in the inspection and regulation of services which they rely on.

Those advocating the splitting of the current Children’s Rights Director (CRD) functions between the inspectorate and the Children’s Commissioner argued this was the right division of responsibilities, with the CRD located in the inspectorate retaining the monitoring and advisory functions, and the Children’s Commissioner concerned with listening to the views of all children.

Those who supported the passing of the CRD functions to the Children’s Commissioner pointed to the independence of the Children’s Commissioner. Some believed the focus of inspection and review should be kept separate from the role of the CRD. Others favouring this option believed shifting the role to the Children’s Commissioner would be advantageous as it would give greater prestige to that role. These respondents felt the Commissioner could hold the inspectorate to account for listening and responding to the views of vulnerable children and for securing effective safeguarding with its regulation and inspection activity.

The transfer of the CRD role to the new inspectorate was supported by many, chiefly maintaining that it was essential for the role of the CRD be retained in the inspectorate to protect the interests of the most vulnerable children. There was a suggestion that the remit should be extended to include those excluded from school as well as those in receipt of social services. It was felt that the specific needs of children living away from home, for example, could easily be lost within the Children’s Commissioner’s broader remit. Indeed, the effective working relations between the current CRD and Children’s Commissioner were pointed to as evidence the two roles were complementary (though a number did call for a duty to cooperate between the two roles). A number of respondents suggested that the CRD should have a specified role within the new governance arrangements.

We intend to transfer to the organisation the post of the CRD as the person responsible for listening to and finding out from the most vulnerable children what they think about the care services and support they receive, and using this information to advise the inspectorate on their inspection, regulation and other activity. The role of the CRD will fit well with the other strategic statutory duties we intend to create, in particular the duty to have regard to the views of users, to the need to safeguard and promote the rights and welfare of children, and to the level of satisfaction with the inspected/regulated services of those receiving the services (see question 3).

Question 8 – The enlarged Ofsted would probably need a new statutory title to match and reflect its wider remit. One idea is the Inspectorate for Children and Learners. We would welcome views on this name.

Across all categories of respondents there was general support for a new statutory name for the inspectorate to reflect the widened remit and the full range of services inspected. However, there was no clear consensus about what this name should be, with a number of alternatives being offered. The most frequently suggested, the Inspectorate for Children and Learners, received a significant level of support.

Here too, respondents often pressed for specific reference to individual sectors to capture the full range of inspection activity. A number of respondents did not consider that the Inspectorate for Children and Learners reflected sufficiently the adult-learning ethos, whilst a number of others were very keen to ensure children should be in the title. Other suggested additions included families, care, training, education, lifelong learning and skills, with some feeling the title suggested that children weren't learners.

In the light of this feedback, we intend to introduce a new statutory title: The Office for Standards in Education, Children's Services and Skills. This was the wording used by the Chancellor in his March 2005 Budget Statement, and we consider this best captures the range of users and services to be inspected by the new inspectorate, yet still retains sufficient clarity and brevity.

Question 9 – The question of how it is generally known is also important, but not for statute. Ofsted started as a compression of a longer name – the Office for Standards in Education – but the latter title is no longer in common usage. We would welcome views on how an enlarged Ofsted might be generally known.

Responses to question 9 closely matched those of question 8, with many seeking to ensure particular users, especially adult learners, were represented in the title. In terms of branding, some respondents saw a strong case for retaining the Ofsted brand as it is well known and respected.

Others saw advantages in adopting a new brand to demonstrate a change of culture, and because of fears that Ofsted was too associated with education – retaining the Ofsted brand could work against the intention of broadening the inspection remit. Some respondents, especially some national organisations, raised the possibility of sub-branding for specific sectors and user groups, building on their powerful associations with specific aspects of the enlarged inspectorate's work and defined groups of customers. It was pointed out the notion of multiple brands under the umbrella of an overall organisation name is commonplace in industry.

Branding will be the responsibility of the enlarged organisation and we intend to leave this issue to be considered as part of their preparations for taking on their new remit. In doing so, Ofsted will take on board the points made during consultation as well as wider engagement with a range of stakeholders.

Question 10 – Do you support the suggested change in Ofsted’s governance to reflect its enlarged remit?

There was widespread support across all categories for changing Ofsted’s governance as outlined in the consultation document. Respondents considered the proposal to be appropriate, combining the best aspects of an executive/non-executive board split with ensuring autonomy and ministerial access for the Chief Inspector. Some argued the present concentration of powers in the office of HMCI left too little room for checks and balances and was potentially open to abuse. Consequently the proposed non-executive chair and board was felt to be a sensible development in good governance and a useful way to ensure that HMCI was held to account. The role of the board in helping set the overall strategic direction of the inspectorate was also welcomed.

Whilst agreeing with the proposals, a number of respondents emphasised that it was important not to diminish the stature and independence of HMCI, especially his ability to report independently.

A small minority did not support the governance changes on the grounds that they did not support question 1.

We intend to proceed as outlined in the consultation document, namely to create a statutory body corporate, which will be called the Office for Standards in Education, Children’s Services and Skills. The enlarged Ofsted will continue as a Non-ministerial Government Department. The body corporate will take the form of a non-executive board of members, including an independent chair and HMCI. All statutory inspection and regulation functions will be the responsibility of HMCI, as will functions such as producing an annual report and keeping the Secretary of State informed about services he inspects. The role of the board will be to set the strategic direction of the organisation and to hold HMCI to account in exercising his functions, but not to operate these functions themselves. In holding HMCI to account, the board will have regard to the overarching purpose to encourage improvement, user-focus and efficient and effective use of resources in the services inspected and regulated (question 2) and the high-level duties set out above in the response to question 3.

The membership of the board is clearly important, and a range of respondents looked for sector representation on the board in order to give assurances that the individual needs of different groups of users were taken into account and not 'lost' within a large inspectorate. This was especially a concern for adult and work-based learning. We are determined to ensure that the views and needs of all users are fully taken into account by the enlarged organisation. This is why we intend to create a specific duty to have regard to the views of users.

We do not believe that sector representation on the board is the best way to secure effective corporate governance of the inspectorate, and this should not be the criterion for appointments. We certainly agree, however, that board members should have a good understanding of specific services and user needs and will be looking for this in potential board members. But Ministers would also want to be satisfied that members collectively have the skills and experience to provide effective corporate governance for a large organisation. Legislation would therefore require the Secretary of State to have regard to the need to appoint members with suitable skills, experience and understanding of the sectors which form the organisation's remit, including the needs of education, children's services and employers.

Children's Social-Care Complaints

A technical annex on children's social-care complaints was also published during the consultation. The annex set out the intention not to commence the function for CSCI to consider children's social-services complaints that had been allowed for in the Health and Social Care Act 2003.

We do not intend to provide for the enlarged Ofsted to have this function either as it would be inconsistent with the inspectorate's wider remit and the services it inspects. The enlarged Ofsted will not have an "appeals" function. However, we do intend to consider how the enlarged Ofsted might respond in its role as a regulator and inspectorate to complaints brought to their attention which raise wider, generic issues about children's social services. We would expect these complaints to have already been through the local complaints procedures, which are currently being strengthened.



C – Full Regulatory Impact Assessment

1. TITLE OF PROPOSAL

Public service inspection for children and learners – reconfiguration of inspectorates.

2. PURPOSE AND INTENDED EFFECT

Objective

The Government's aim is to simplify and streamline the process of inspection, relating it more closely to the needs of users and reducing to a minimum the burden on those inspected. To help achieve this the Government is reducing the number of inspection bodies from eleven to four.

As part of this, the Government will create a single inspectorate for children and learners, an organisation that can look across a wide range of services as they affect children, young people and families.

With one small minor exception, this objective relates solely to inspectorates for services in England. HMICA currently inspects CAF/CASS services in Wales at the request of the Welsh Assembly, and we anticipate this would continue with the transfer of CAF/CASS inspection to Ofsted.

Background

The Budget announcement

Following work in 2004 and 2005 with inspectorates and departments, the Chancellor announced in his Budget Statement in March that:

The Secretaries of State for Education and Health will shortly announce plans to bring by 2008 the inspection of children's services, which is currently carried out by the Commission for Social Care Inspection (CSCI), into the Office for Standards in Education (Ofsted). In addition the Government will consult with employers on the future of the Adult Learning Inspectorate (ALI), with the expectation that by 2008 its functions will also be part of this single inspectorate for education, children's services and skills.

It was also agreed that the CAF/CASS inspection elements of Her Majesty's Inspectorate of Court Administration (HMICA) will also be brought together into Ofsted.

Other inspectorate reconfigurations were announced as part of this: a local services inspectorate bringing together the remit of the Audit Commission and the Benefit Fraud Inspectorate; the bringing together of the Healthcare Commission's remit and the adult social care remit of CSCI, and plans for a new criminal-justice and community safety inspectorate.

Delivering this commitment

The DfES is responsible for services for children and learners. These services are currently delivered by a range of providers and inspected and regulated by a number of inspectorates. The main examples of this activity are set out below:

Functions	
OFSTED	<ul style="list-style-type: none"> ● Lead inspectorate for Joint Area Reviews (JARs) ● Schools inspection functions, including Independent schools ● Inspection of nursery education ● Regulation of day-care and child minding ● Inspection of FE establishments (with ALI), FE and teacher training, and Independent Specialist Colleges ● Prison inspections work with juvenile estates at request of HMCI prisons, jointly undertaken with ALI
CSCI	<ul style="list-style-type: none"> ● Regulation of children's homes, independent fostering and adoption services and residential family centres, and inspection of residential education services ● Inspection of local-authority social-care provision including JARs, youth offending teams, secure units and local-authority fostering and adoption services ● Assessment, monitoring and annual "star rating" of local-authority social services for children

Functions

- ALI** ALL inspects and reports on the quality of education and training for adults and young people funded by public money, including:
- FE establishments and Independent Specialist Colleges (with Ofsted)
 - Prison inspections work with juvenile estates at request of HMCI prisons, jointly undertaken with Ofsted
 - Inspection of work-based learning, adult and community learning, Ufi-, **learnirect**- and Jobcentre Plus-funded training
- Inspection of training in other Government departments e.g. the Department of Health and Ministry of Defence.
-
- HMICA** Her Majesty's Inspectorate of Court Administration inspects CAFCASS functions in relation to family proceedings affecting children. These functions are:
- To safeguard and promote the welfare of the child
 - To give advice to the court about any application made to it in such proceedings
 - To make provision for children to be represented in such proceedings
 - To provide information, advice and support for children and their families
-

The Government's policy on inspection of public services

The Government is committed to independent inspection, placing great value on the independent judgements of inspectorates and the way these help service providers in their drive to improve performance.

Inspection has a key role to play in the reform and improvement of public services. It provides assurance to the public, holds organisations to account for their performance and helps to drive up standards. However, the last few years have seen a marked expansion in the depth and scope of inspection and we need to ensure that the effort put into it both by inspectorates and those inspected is focused in a way that will have the maximum impact on service improvement and deliver real value for money.

The Government has published its policy for inspection of public services (*The Government's Policy on Inspection of Public Services*, Cabinet Office, 2003), which supports inspection where it can be demonstrated that the benefit outweighs the cost. The policy calls for a clear user-focus for inspection, as well as a proportionate and strategic approach that differentiates between good and poor performers. Included in this consultation document are the ten principles of inspection. These cover purpose (focusing on users and improving the outcomes they experience), processes and value for money. The Government is committed to ensuring that independent inspection across the public sector places a focus on customers, service users and outcomes, is cost-effective and is effectively planned, organised and managed. The purpose of inspection is to assure the public and Ministers of the safe and proper delivery of the services provided, to help improve these services, and to inform national and local policy formulation in respect of these services.

Rationale for Government Intervention

Why reform the number of inspectorates?

The Government has developed a strategy for reform of the inspection and regulation landscape based on the ten principles of inspection. This strategy will be implemented consistently across all public services to reduce the burdens and inefficiencies of the current arrangements. This strategy reflects two key objectives of public service reform: to put people at the heart of the services that are there to serve them, and – by reducing bureaucracy – to free up resources for the front line in order to do so. The strategy is to streamline, rationalise and reduce the volume of inspection in order to make it more effective at achieving better service outcomes.

Independent inspection has played an important role in driving up public-service standards. However, in recent years, its costs both to central Government and to those being inspected have also increased very significantly. In addition, there is an increasing risk that the gains to users of better regulation may be offset by the diversion of effort on the part of service providers towards meeting the perceived demands of inspectorates rather than offering better services.

Why an inspectorate for children and learners?

The Government believes the case for a single inspectorate for children and learners is strong. It would provide a single inspectorate voice across the range of policies dealt with by DfES. This would achieve the balance of a remit with coherence and relevance, covering the range of services for children and young people as well as lifelong learning for all.

An enlarged Ofsted with that wide remit will be a powerful driver for improvement and integration, for example as partners work to deliver the Every Child Matters agenda, helping to secure higher standards for all while safeguarding and promoting the achievements of our most vulnerable children. It would permit a single inspectorate for FE colleges, and for the increasing number of schools which also offer family learning, and also support moves to bring work-based learning for 14–19 year-olds into the mainstream.

The 14–19 White Paper of spring 2005 looked to bring together academic and vocational learning, for example in developing vocational diplomas which would require core levels of literacy and numeracy. In particular, the White Paper was clear that “The idea that there is, or should be, a clear dividing line between the academic and the vocational does not stand up to scrutiny.” The 14–19 White Paper and, linked to this, the *Skills: Getting on in Business, Getting on at Work* White Paper, were clear that we needed to offer a greater range of opportunities to young people to ensure they have the skills needed by employers to drive the economy. Increasingly, and as part of this, the dividing line between vocational and academic learning will be blurred and we believe a single inspectorate able to inspect and speak for both is necessary.

The strongest driver for change is the benefit to those inspected or regulated, and thus to the users of those services, of a more streamlined and joined-up system. Both reducing the costs of inspection and securing the clear messages to service providers and to central government which will drive improvements in delivery and in policy require organisational reform. An enlarged Ofsted as a single inspectorate for children and learners would remove complexity and the risk of mixed messages for, in particular:

- Extended schools – across early years, school education, day care, social services and adult education, including family literacy;
- Boarding and residential schools – across education and care;
- Schools, colleges and employers in 14–19 partnership – across the full range of their work including work-based elements;
- FE colleges – across their academic and vocational training work for those pre- and post-19;
- Employers – across work-based learning for those pre- and post-19;
- Local authority Directors of Children’s Services – across their statutory remit and matching the children’s block of the Comprehensive Performance Assessment.

The boundaries between the remits of the inspectorates do not now match the current pattern of provision and (given the pace of change) even in areas where there has been recent reform they are already becoming out of date. This has already led to a number of separate statutory arrangements for joint working:

- College inspection – joint Ofsted/ALI, led by Ofsted;
- 14–19 area wide reviews – joint Ofsted/ALI, to be subsumed in Joint Area Reviews (JARs); and
- JARs of children’s services – led by Ofsted, involving CSCI and ALI as well as six other inspectorates.

Joint working has been a valuable and effective means of both dealing with the issue of overlap and mismatch between inspection regimes and, more positively, of ensuring a whole-system approach for the benefit of users. However, joint working is not always the ideal way to pursue the principles of inspection reform. Where the organisation, planning, commissioning and delivery of services for children and learners is being fundamentally changed to focus explicitly on the outcomes for users, unconstrained by organisational boundaries, existing joint working does not go far enough.

Inevitably, separate organisations retain their own approaches and cultures, and their own ways of relating to service-users and policy-makers. This brings costs both centrally and locally. Centrally, each inspectorate has to pay for an infrastructure and senior-management overhead. Each wants to know the views of children and learners on the services they are receiving. This would not be the case with a single inspectorate. Locally, whilst every effort is taken to rationalise information collection and co-ordinate inspection, unnecessary burdens and duplication remain. A single inspectorate would enable more fully integrated inspection and information-gathering systems to be developed, further reducing burdens on the front line.

In the long term, the scope for the most significant savings in the cost of inspection will come from even more proportionate, targeted and focused inspection programmes, becoming more cost-effective both to the inspectorate and to those being inspected. Work on restructuring inspection programmes is continuing alongside, but separate to, work on restructuring inspectorate remits.

3. CONSULTATION

Inside Government

DfES has consulted other government departments, inspectorates and other key stakeholders to ensure co-ordination with other changes being taken forward in inspectorate reconfiguration such as bringing together the adult social-care remit of CSCI and the Healthcare Commission.

The Partial RIA on which this full RIA is based was referred to the Local Impact Review Group for their comments.

Public Consultation

In addition to the Government's public commitment to consult on the integration of ALL into Ofsted (see above), there is a wider commitment from the Budget Statement with respect to the overall commitment to reduce the number of public service inspectorates from eleven to four.

As part of the implementation of these proposals, stakeholders will be fully consulted on the arrangements for and governance of the new bodies, including the co-ordination of inspection work within and across their jurisdictions. (Budget 2005, Investing for our future – March 2005)

The DfES issued *A Single Inspectorate for Children and Learners – A Consultation* on 29 July, to which the Partial RIA was appended. This consultation ran for 14 weeks and closed on 4 November. During the consultation period, the DfES met with a number of key stakeholders as well as commissioning seven focus groups for employers, providers and others regarding the future of ALL's inspection and improvement services. This report of the focus groups and a summary of the consultation responses is available at www.dfes.gov.uk/consultations.

The DfES will continue to work closely with inspectorates and other stakeholders in implementing the proposal.

4. OPTIONS

Option 1 – Maintain existing arrangements.

Under option 1 a number of different inspectorates would continue to exist with no single inspectorate established. This option has been discounted as it would not achieve the objectives for reform, though it would avoid disruption to the existing inspectorates.

Option 2 – Merge inspection activity into a single inspectorate for children and learners.

The preferred option of bringing together the inspection remit for services for children and learners best fulfils the strategic objective set out above. This option enables the greatest efficiency savings over time, the fullest coherence of remit and, as a single inspectorate, the greatest organisational simplicity and accountability to the Government and the front line. It also brings the risk of short-term disruption as it involves moving a significant cross-sector inspection remit into Ofsted.

5. COSTS AND BENEFITS

The projected cost and savings in this section are early assumptions based on necessarily incomplete information. They will be refined as the detail of the policy is developed.

Sectors Involved

The remit of the new inspectorate will cover a number of sectors, including:

- Schools, including boarding, special and independent
- FE and sixth-form colleges
- Local authority children's services
- Employers and work-based learning settings
- Social-care providers, including the private, voluntary and community sectors
- CAFCASS services
- Day-care and nursery education
- Childminding

Benefits

The creation of a single inspectorate to cover children and learners will impact positively on a range of different sectors currently inspected by ALI, CSCI and HMICA by reducing bureaucracy, duplication and confusion about remits. The Government expects the inspection methodology to remain the same at this stage, but with benefits for users through simplified arrangements – for example, for a boarding school which is currently inspected by CSCI for care provided and Ofsted for education provision. We do not therefore expect there to be any negative impact on the inspectorate's ability to satisfy its obligations under the Race Relations Amendment Act. Should the inspectorate seek to change inspection methodologies over time, a full analysis of the impacts of this would be undertaken.

We also expect a single inspectorate as set out in option 2 to deliver efficiencies and cost savings, although there will also be associated start-up costs. These estimates are set out in the table below. They are based on financial analysis undertaken by Ofsted following discussion with CSCI and ALI.

These remain interim estimates and will be further refined as proposals are developed and implemented. In particular, final decisions have not been taken on the operational model for the inspectorate, including use and location of inherited assets. As such, these are based on a number of assumptions which will be tested during implementation. These estimates will be subject to change and be finalised as the implementation process continues and decisions are taken. In addition, they will continue to be subject to external review and challenge.

Transfer	Transition Costs (estimate as of November 2005)	Annual savings (estimate as of November 2005)
CSCI	£5.9m – £10.6m	£3.7m
ALI	£7.6m – £9.1m	£2.7m
CAFCASS*	–	–
Total	£13.5m – £19.7m	£6.4m

* Given the small scale of CAFCASS inspection activity inside HMICA it is believed the transfer will be cost neutral.

This implies a payback period (once cumulative savings have covered any transitional costs) between 2 years 9 months and 3 years 8 months.

Costs

The costs above comprise: data migration; IT investment and harmonisation; staff relocation; and estates vacation.

The savings above comprise: reduction in business-support staff; reduction in services staff – (legal, HR, IT, finance, estates); estates savings; internal staff and external communications; and consultancy.

As indicated above, there are significant one-off start-up costs for option 2. We anticipate these can be recovered quickly by significant efficiency savings as outlined above.

These transition costs would be funded by Ofsted and Government.

6. SMALL FIRMS IMPACT TEST

It is not envisaged that this proposal will have a significant impact on small firms. The proposals will not impose any regulation or extra costs on businesses. Where small firms are currently inspected (ALI and work-based learning, Ofsted and early-years settings, CSCI and social-care providers), we do not expect the proposal to have any impact as we expect the inspection methodology and related arrangements to remain.

7. COMPETITION ASSESSMENT

A simple competition assessment has been carried out and no significant competition implications have been identified.

8. ENFORCEMENT, SANCTIONS AND MONITORING

The proposal requires primary legislation, which will be subject to scrutiny and debate by Parliament during its passage. Full implementation is intended from April 2007. There may be scope for harmonisation and shadow operations prior to legislation. Ofsted will be required, as now, to report annually to Parliament on its performance.

9. IMPLEMENTATION AND DELIVERY PLAN

The proposed legislation will commence in April 2007, and it is from this point that Ofsted's remit will expand to include the children's remit of CSCI, the CAFCASS inspection remit of HMICA and ALI's inspection remit. It will be important to keep under review the effectiveness of Ofsted in delivering its new remit. In addition, continuity of high-quality service to the front line is paramount in implementation. It is of course critical that inspection across both Ofsted's existing and new areas of responsibility continue to drive up standards of service provision and offer reassurance and protection to users. The DfES is leading project-management arrangements, involving Ofsted, CSCI, HMICA, ALI and the Department of Health, to ensure that these objectives are delivered. Work on implementation-planning and delivery is being led by Ofsted, working closely with inspectorates and the DfES, as part of these project arrangements, and will be closely reviewed by DfES and others.

We are expecting the creation of a transition board for Ofsted to help oversee the transition; this is in advance of the appointment of the new, formal board, which we anticipate will be appointed in shadow form after Royal Assent. Once the Bill has received Royal Assent, proposals will also be put into action to cover key transitional areas, such as staff transfer, contractual liability, and IT and premises issues, as well as staff and inspector training.

Based on current plans, the following are broad timings and milestones for implementation. Please note these are provisional and may therefore be subject to change.

Key Milestone	Date
Transition board appointed	January 2006
Bill introduced	Spring 2006
Royal Assent	Autumn 2006
Transitional provisions commenced	Autumn 2006
Legislation commenced	April 2007
Inspectorate for Children and Learners operational	April 2007

10. POST-IMPLEMENTATION REVIEW

Given such a wide remit covering services to children and learners, Ofsted will be a key partner in the successful delivery of these services, and the DfES will want to ensure that:

- Quality of service remains or is improved;
- Opportunity for greater coherence in working with a range of front-line partners is achieved; and
- Operational synergies to deliver more efficient inspection and regulation are realised.

Once the transfer is delivered the project arrangements will review implementation to ensure key deliverables were met. Subsequent to this, Ofsted will continue to report on its performance to the DfES and to the Education Select Committee, and, in addition, the new executive board would hold the Chief Inspector to account for delivery of his statutory inspection and regulation remit.

11. SUMMARY AND RECOMMENDATION

The proposed measures above are designed to deliver the best outcomes for children, learners and other users of services. The options have been considered following the responses to consultation and with regard to the costs and benefits of each.

Summary costs and benefits table

Option	Benefits	Costs
1 – Do nothing	<ul style="list-style-type: none">• No clear benefits, but would not bring any of the risks of transfer.• Would not require transitional funding.	<ul style="list-style-type: none">• Inspection would not reflect changes to services to children and learners or the needs of users.• Would not bring about efficiency savings.
2 – Create a single inspectorate	<ul style="list-style-type: none">• Inspection activity would be better aligned to changes in services.• Would reflect more accurately the needs of users.• Would bring efficiency gains.• Would bring better organisational simplicity and accountability.	<ul style="list-style-type: none">• Risk of short-term disruption and continuity of service.• Risk of loss of focus on individual sectors.• Requires transitional funding.

Based on this analysis the Government intends to proceed with the proposal to create a single inspectorate for children and learners, bringing the inspection remit of ALI, the CAFCASS inspection remit of HMICA and the children’s remit of CSCI into Ofsted. The Government will put in place a number of legislative safeguards to ensure the risks associated with the creation of a single inspectorate are minimised. These will include changing Ofsted’s governance to bring about greater accountability through a new non-executive board and new statutory duties to underpin the full range of the inspectorate’s remits, including listening to users of services.

12. DECLARATION AND PUBLICATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed:

Date:

Minister’s name, title, department:

You can access this consultation online at
www.dfes.gov.uk/consultations/

Or contact:

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