

# Protocol between Ofsted and the approved independent inspectorates

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Protocol for Ofsted's communication and working arrangements with the approved independent inspectorates for independent schools in England.

This protocol has been agreed by Ofsted, the Department for Education, the Independent Schools Inspectorate, the Bridge Schools Inspectorate and the School Inspection Service.

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## Introduction

1. Under section 162A(1)(b) of the Education Act 2002, as inserted, the registration authority for independent schools (the Secretary of State for Education) may arrange for the inspection of any registered independent school by a body approved by the registration authority. The Secretary of State may also, under section 162A(1)(a), ask Her Majesty's Chief Inspector of Education, Children's Services and Skills (HMCI) to arrange inspections of independent schools by Ofsted.<sup>1</sup>
2. The following independent inspectorates have been approved by the Secretary of State to inspect educational provision in independent schools.
  - The **Independent Schools Inspectorate (ISI)** is approved to inspect registered early years provision<sup>2</sup> for children, and education and boarding provision in schools in membership of the Independent Schools Council (ISC) associations, as set out in the agreement between the Department for Education (DfE) and ISI.<sup>3</sup> The list of schools is sent to Ofsted by DfE.
  - The **School Inspection Service (SIS)** is approved to inspect the schools of the Focus Learning Trust, the schools and registered early years provision that are part of the Cognita Group where they do not belong to an ISC association and the Steiner Waldorf Schools Fellowship, as set out in the agreement between DfE and SIS.<sup>4</sup> The list of schools is sent to Ofsted by DfE.
  - The **Bridge Schools Inspectorate (BSI)** is approved to inspect selected schools in the Association of Muslim Schools UK and the Christian Schools' Trust, as set out in the agreement between DfE and BSI.<sup>5</sup> The list of schools is sent to Ofsted by DfE.
3. Under section 87A of the Children's Act 1989, as inserted, the Secretary of State for Education may approve an independent inspectorate to conduct

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<sup>1</sup> Sections 162A and 162B of the Education Act 2002, as inserted by the Education Act 2005, section 54, Schedule 8, paragraphs 1, 2; [www.legislation.gov.uk/ukpga/2005/18/schedule/8](http://www.legislation.gov.uk/ukpga/2005/18/schedule/8).

<sup>2</sup> All provision for children aged birth to three must be registered with Ofsted. Provision at an independent school for children who turn three within the term they start at the school by specified dates (31 December, 31 March and 31 August), which is made by the proprietor of the school and is for at least one registered pupil of the school, does not need to be registered with Ofsted.

<sup>3</sup> The agreement between DfE and ISI is available on the DfE website: [www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration/inspectorates](http://www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration/inspectorates).

<sup>4</sup> The agreement between DfE and SIS is available on the DfE website: [www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration/inspectorates](http://www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration/inspectorates).

<sup>5</sup> The agreement between DfE and BSI is available on the DfE website: [www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration/inspectorates](http://www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration/inspectorates).

welfare inspections of the registered independent schools that provide boarding. ISI is approved to conduct inspections of boarders' welfare in the independent schools in its remit.

4. Ofsted is responsible for registration, regulation and enforcement of all registered early years provision in accordance with the Childcare Act 2006, including registered provision at independent schools. ISI is approved to inspect registered childcare provision in the independent schools in its remit as set out in the agreement between the DfE and ISI.<sup>6</sup> SIS is approved to inspect registered childcare provision in schools that are part of the Steiner Waldorf Schools Fellowship and the Cognita Group where they do not belong to an ISC association. Ofsted inspects registered provision in all other independent schools.
5. Ofsted monitors the work of the independent inspectorates on a non-statutory basis, by agreement between the Department for Education (DfE) and Ofsted. Under this agreement, HMCI is required to prepare an annual report about each independent inspectorate. The annual report summarises the main judgements made by Ofsted as a result of its monitoring of a sample of the inspectorate's inspection work in the academic year preceding the report. The report will provide advice to the Secretary of State about the effectiveness of the inspectorate's arrangements for inspection, and about the quality of its inspections and reports, in relation to the expectations set out and the inspectorate's own framework, as agreed with the DfE. In preparing this report, HMCI must also have regard to matters that the Secretary of State may direct.

## **Purpose of the protocol**

6. The purpose of this protocol is to:
  - set out the strategy for communication between Ofsted and the independent inspectorates
  - set out the types of provision that will be inspected by Ofsted and the independent inspectorates – independent schools, boarding schools and the Early Years Foundation Stage
  - explain how (for the inspection of the registered provision in the Early Years Foundation Stage only) Ofsted, SIS and ISI will work together to ensure that Ofsted is able to fulfil its regulation and enforcement functions effectively to ensure that the welfare of children is safeguarded

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<sup>6</sup> The agreement between DfE and ISI is available on the DfE website:  
[www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration-of-independent-schools/agreements-with-inspectorates](http://www.education.gov.uk/schools/leadership/typesofschools/independent/b009053/registration-of-independent-schools/agreements-with-inspectorates).

- explain the process by which Ofsted will monitor the work of the independent inspectorates
  - describe the volume of monitoring Ofsted will undertake
  - describe the process by which the annual report on the inspectorates' work will be prepared
  - explain the process by which independent inspectorates may make complaints about Ofsted's monitoring of their work or appeal against the content of the report
  - describe the handling of complaints about inspections carried out by the independent inspectorates, complaints about registered early years settings, and complaints about schools inspected by the independent inspectorates.
7. This protocol and related guidance and criteria for Her Majesty's Inspectors of Education, Children's Services and Skills (HMI) will be updated as required with the agreement of all parties and will be formally reviewed on an annual basis.
  8. This protocol is published on the Ofsted website:  
[www.ofsted.gov.uk/resources/protocol-between-ofsted-and-approved-independent-inspectorates](http://www.ofsted.gov.uk/resources/protocol-between-ofsted-and-approved-independent-inspectorates).

## **Communication strategy**

9. Ofsted will arrange a formal meeting with the chief inspectors of the independent inspectorates on a termly basis. These meetings will either be held as a joint 'keep in touch' meeting with all chief inspectors (or their representatives) present, or could on occasion be replaced by an individual meeting with the chief inspector of each independent inspectorate where this is more appropriate.
10. Meetings where the chief inspector of each independent inspectorate is present will be to discuss matters of mutual interest and concern. These meetings will normally be led by Ofsted's HMI national lead for monitoring the independent inspectorates and may involve other senior HMI from schools, boarding and childcare, as required. An officer of the DfE will also be invited to these meetings.
11. An individual meeting with the chief inspector or a representative will be held with the HMI national lead for monitoring the independent inspectorates so that individual issues of concern to the inspectorate may be discussed.
12. These formal meetings do not preclude other contact between Ofsted and the independent inspectorates by email, telephone or in person, as needed. Informal communication is welcomed and any discussions which have

implications for the protocol and thus for all inspectorates, will be followed up formally.

## Scheduling and conducting inspections

13. At the end of each term, the independent inspectorates will each supply Ofsted with an updated list of schools by email to [ind.sch@ofsted.gov.uk](mailto:ind.sch@ofsted.gov.uk). Each list will contain the following details.
  - Schools that have merged or closed.
  - Schools that have been added to the inspectorate's list through consultation with DfE.
  - The list provided by SIS and ISI will include these additional details.
    - Schools that have left the relevant association.
    - Schools that have been inspected and accredited for association membership.
    - Schools that have applied for membership of the relevant association and the date of the planned accreditation inspection by SIS and ISI. Once on this list, these schools will not require an Ofsted inspection unless, as a result of that inspection, they were not admitted into membership. In such a case, Ofsted will inspect the school at a time requested by the DfE.
    - Any registered early years settings that have closed or left the ISC associations.
14. DfE will send to Ofsted the agreed list of schools which are to be inspected by BSI and SIS. Officers of the DfE will inform Ofsted on a termly basis of any changes to the schools within the remit of the BSI or SIS which they have agreed with the independent inspectorate concerned. Ofsted will check this against the lists supplied by BSI and SIS to ensure that any misunderstandings are avoided. In the event of a discrepancy, the HMI national lead for monitoring the independent inspectorates will liaise with all interested parties to clarify the remit for inspection.
15. Ofsted will update its information systems from the details in these lists and ensure that the scheduling team and the data and insight team are advised accordingly. Ofsted will ensure that any information held pertaining to concerns about a provider or school is shared with the inspectorate in advance of the inspection. This will ensure that all schools receive a timely inspection, and that Ofsted does not inspect a school which is in another inspectorate's remit. Ofsted will always conduct the first inspection of a newly registered school.
16. The independent inspectorates will send a draft inspection programme for the forthcoming year to Ofsted by the start of the summer term of the preceding academic year, in order to enable Ofsted to plan its monitoring and inspection

work.<sup>7</sup> This information should be sent to [ind.sch@ofsted.gov.uk](mailto:ind.sch@ofsted.gov.uk) for the attention of the HMI national lead for monitoring the independent inspectorates and others as required. Named post-holders are supplied separately.

17. This information is particularly important in the context of boarding schools, so that Ofsted can schedule its welfare inspections to run concurrently with the inspections of boarding schools' educational provision conducted by SIS or BSI, where this is possible. These inspections will be known as '**aligned inspections**'. Thus, early notification of specific dates as soon as they are known is particularly appreciated, and the dates of boarding school inspections should be given to Ofsted at least six months in advance.
18. The independent inspectorates will update their draft inspection programmes on a termly basis, and provide them to DfE and Ofsted by the end of the preceding term. The updated inspection programmes will show specific details of the schools to be inspected, the precise dates when the school and Early Years Foundation Stage and boarding-only inspections will take place (if these are different), the name of the reporting/lead inspector and (where relevant) the lead inspector for the Early Years Foundation Stage and/or for the boarding inspection.<sup>8</sup> The information will be sent electronically to [ind.sch@ofsted.gov.uk](mailto:ind.sch@ofsted.gov.uk) and copied to [EY-Childcare@ofsted.gov.uk](mailto:EY-Childcare@ofsted.gov.uk) marked for the attention of the HMI national lead for monitoring the independent inspectorates.
19. Where an inspection of registered early years provision does not take place at the same time as the school inspection, SIS and ISI will provide Ofsted with details of the timing and leadership of the inspection.
20. During all inspections, including aligned inspections, Ofsted and the independent inspectorates will follow their own frameworks and procedures.

## **Inspections of new schools**

21. Ofsted will conduct all pre-registration inspections of schools. The first inspection of a newly registered school will also always be conducted by Ofsted, and the inspection report will be published on the Ofsted website. Thereafter, the school may seek accreditation with an ISC association, or with the other associations or bodies that are part of the SIS or BSI inspection remits.

## **Inspections of boarding schools**

22. Since September 2011, the inspection of boarders' welfare in boarding schools that are members of associations affiliated to the Independent Schools Council has been conducted by ISI. Ofsted monitors a sample of these inspections.

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<sup>7</sup> The draft inspection programme is subject to change, and any alterations to it are agreed between the inspectorate and DfE.

<sup>8</sup> The draft inspection programme is subject to change and any alterations to it are agreed between the inspectorate and DfE. The inspectorates will inform Ofsted of the agreed changes.



23. In boarding schools where the education is inspected by SIS and BSI, Ofsted will, over time, seek to align its inspection of boarders' welfare with an education inspection by the independent inspectorate, so that both inspections run concurrently wherever possible. This is especially desirable in schools where education inspections are scheduled to occur on a three-yearly basis. The independent inspectorate concerned should negotiate the timing of these inspections with the senior HMI for boarding provision in schools, to share any concerns and information relevant to inspection. Both sides agree to keep scheduling information confidential.
24. Although Ofsted's inspectors and the independent inspectorates' inspectors will follow their own frameworks and procedures during aligned inspections, they will work together as far as possible. Information provided by the school will be shared, in order to keep demands on the school to a minimum and make efficient use of resources. Lead/reporting inspectors will discuss main judgements to ensure consistency, particularly on matters concerning the independent schools standards and the national minimum standards for boarding or residential special schools.<sup>9,10,11</sup> On the rare occasions where there is a change of judgement post-inspection as a result of quality assurance, by either inspectorate, the lead/reporting inspectors will notify one another of the change.
25. Ofsted lead inspectors may share a draft of their report with the lead/reporting inspector from the independent inspectorate if this is requested. This will be the pre-publication draft report which is sent to the school for the factual accuracy check and which has already been through Ofsted's quality assurance procedures. In line with information assurance procedures, Ofsted lead inspectors will not send these draft reports to individual inspector's email addresses, but to a secure mailbox supplied by the independent inspectorate. For BSI the contact address is: [bsi@btinternet.com](mailto:bsi@btinternet.com); and for SIS the contact address is: [ci@schoolinspectionsservice.co.uk](mailto:ci@schoolinspectionsservice.co.uk).
26. In the unlikely event that one of Ofsted's boarding reports is withdrawn from publication, or a change in judgements is made subsequently, for example as a result of investigating a complaint, the senior HMI for boarding provision in schools will notify the relevant inspectorate.

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<sup>9</sup> The Education (Independent School Standards) (England) Regulations 2010 as amended by The Education (Independent School Standards) (England) (Amendment) Regulations 2012; [www.legislation.gov.uk/uksi/2010/1997/contents/made](http://www.legislation.gov.uk/uksi/2010/1997/contents/made) and [www.legislation.gov.uk/uksi/2012/2962/contents/made](http://www.legislation.gov.uk/uksi/2012/2962/contents/made).

<sup>10</sup> Boarding schools national minimum standards; [www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools](http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools).

<sup>11</sup> Residential special schools national minimum standards; [www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools](http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools).

## Inspections of the Early Years Foundation Stage

27. All provision for children from birth to aged three years must be registered with Ofsted. As mentioned in paragraph 4 above, ISI is approved to inspect registered early years provision in schools in the associations in membership of the ISC, and SIS is approved to inspect it in schools that are part of the Cognita Group and the Steiner Waldorf Schools Fellowship. BSI will inspect provision for children aged three to five in their remit, but the registered provision for children from birth to aged three years will be inspected by Ofsted.

### Unregistered early years provision discovered during inspection

28. All independent inspectorates will inform Ofsted of any unregistered childcare which is discovered during inspection and requires registration. This information should be sent to the mailbox [independentEYFS@ofsted.gov.uk](mailto:independentEYFS@ofsted.gov.uk).

### Reporting on the Early Years Foundation Stage – all inspectorates

29. All inspectorates will carry out inspections with regard to relevant requirements in the Early Years Foundation Stage (Learning and Development) Order 2007,<sup>12</sup> Early Years Foundation Stage (Welfare Requirements) Regulations 2012<sup>13</sup> the Statutory Framework for the Early Years Foundation Stage 2012 and The Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008.<sup>14</sup>
30. ISI will inspect all Early Years Foundation Stage provision in ISC schools, and SIS will inspect all Early Years Foundation Stage provision accredited to Steiner Waldorf Schools Fellowship and the Cognita Group, including any provision registered by Ofsted. BSI will inspect the provision directly made by schools in their remit for children aged three and above in the Early Years Foundation Stage, according to the Early Years Foundation Stage framework. When inspecting registered provision, ISI and SIS inspectors will use the same criteria and make the same judgements of the quality of the Early Years Foundation Stage as Ofsted inspectors, although they may make different outcome grades to those made by Ofsted inspectors, as set out in the *Independent Schools Inspectorate integrated handbook framework*.<sup>15</sup> This will ensure uniformity of inspection for all registered Early Years Foundation Stage providers and will also assure the Secretary of State, parents and child carers that consistent judgements are made across all registered Early Years Foundation Stage

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<sup>12</sup> The Early Years Foundation Stage (Learning and Development Requirements) Order 2007; [www.legislation.gov.uk/ukxi/2007/1772/contents/made](http://www.legislation.gov.uk/ukxi/2007/1772/contents/made).

<sup>13</sup> The Early Years Foundation Stage (Welfare Requirements) Regulations 2012; [www.legislation.gov.uk/ukxi/2012/938/contents/made](http://www.legislation.gov.uk/ukxi/2012/938/contents/made).

<sup>14</sup> The Early Years Foundation Stage (Exemptions from Learning and Development Requirements) Regulations 2008; [www.legislation.gov.uk/ukxi/2008/1743/contents/made](http://www.legislation.gov.uk/ukxi/2008/1743/contents/made).

<sup>15</sup> *Independent schools inspectorate integrated handbook framework*, ISI, 2012; [www.isi.net/schoolinspections](http://www.isi.net/schoolinspections).

provision nationally. Beyond this, the independent inspectorates will inspect the Early Years Foundation Stage in schools in their remit according to their own agreed framework. The inspectorates may choose to integrate these findings across their written report or to detail these in a discrete section of the report. All registered provision in those schools within the BSI inspection remit and in schools of the Focus Learning Trust will continue to be inspected by Ofsted.

31. Where the Early Years Foundation Stage report appears in the main school report, the key judgement words, rather than grades, may be used. The ISI and SIS will send a copy of the Early Years Foundation Stage judgement schedule, showing the four main judgements for the registered early years provision, to Ofsted by email to [independentEYFS@ofsted.gov.uk](mailto:independentEYFS@ofsted.gov.uk) at the same time that the report is published on their website. This will enable Ofsted to analyse Early Years Foundation Stage provision nationally.
32. The independent inspectorates will report any failure of a school (including its Early Years Foundation Stage provision for pupils aged three to five) to comply with The Education (Independent School Standards) (England) Regulations 2010,<sup>16</sup> as amended by The Education (Independent School Standards) (England) (Amendment) Regulations 2012,<sup>17</sup> to the DfE.
33. Where a school has failed through negligence to register its provision for children under three years of age, or any other provision where registration is due, the inspectorate will report this to Ofsted and must reflect this failure in the report.

### **Publishing reports containing Early Years Foundation Stage judgements**

34. Inspectorates will publish all school reports on their websites, including those containing judgements on the Early Years Foundation Stage in registered settings.
35. Ofsted will publish any post-registration inspection report for Cognita Group, the Steiner Waldorf Schools Fellowship and ISC schools, and reports of registered provision for all other schools on its website. Ofsted will also publish any other details relating to registration, including conditions of registration, complaints about the provision, and enforcement action.

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<sup>16</sup> The Education (Independent School Standards) (England) Regulations 2010; [www.legislation.gov.uk/uksi/2010/1997/contents/made](http://www.legislation.gov.uk/uksi/2010/1997/contents/made).

<sup>17</sup> The Education (Independent School Standards) (England) (Amendment) Regulations 2012; [www.legislation.gov.uk/uksi/2012/2962/contents/made](http://www.legislation.gov.uk/uksi/2012/2962/contents/made).

## **Inspections of registered early years provision – ISI and SIS only**

### **Registration of early years provision and variations to conditions of registration**

36. Ofsted will inform ISI and SIS of any newly registered settings that fall within their inspection remits, by email to [data@isi.net](mailto:data@isi.net). Ofsted will retain a full record of such providers on its database and provide any additional information to ISI and SIS that may be required to support them to fulfil their inspection responsibilities. This will include conditions of registration, the name of the provider, and the full name and address of the setting. Ofsted will also inform ISI and SIS of any closed settings this will includes resigned and cancelled registrations (following the mandatory appeal period).
37. Ofsted will continue to conduct the post-registration inspection of registered provision within seven months of its registration. After this inspection, the setting will be passed to the ISI or SIS remits, provided that the inspection outcome is good or better. If the ISI or SIS inspection of the school takes place before the post-registration inspection of the registered early years provision by Ofsted has occurred, the registered provision will not form part of SIS or ISI's school inspection, nor be evaluated in the report. Inspectors will, of course, check that children are safe, and alert Ofsted immediately to any obvious matters of concern.
38. Ofsted will take all decisions for any requests to vary the registration conditions that may be made by a registered setting. If this occurs during an inspection, ISI and SIS will advise the provider to contact Ofsted directly so that the standard variation request form can be completed, and future inspection forms pre-populated accordingly. Ofsted is solely responsible for making the variation decision and if further information is required from the provider in order to reach a decision, Ofsted will obtain that information directly from the provider.
39. Ofsted retains responsibility for the management of all aspects of the registration process (see Annex A). This will include any enforcement action that may be required if a setting has been operating without registration where registration is required, or if the registered provider has been working in breach of regulations. Ofsted retains responsibility for checking the suitability of managers and those making an application for registration, and the nominated individual.

### **Inspections of registered early years settings**

40. Once a setting has been registered, it will be subject to a post-registration inspection by Ofsted. Providing the outcome grade of the post-registration inspection is good or better, responsibility for inspecting the registered provision in an ISC association school will move to ISI, and the responsibility for inspecting registered provision in schools that are part of the Cognita Group and the Steiner Waldorf Schools Fellowship will move to SIS.

41. At the start of each inspection cycle, Ofsted will provide ISI and SIS with a list of all registered settings that require inspection. ISI and SIS will check this information and ensure that Ofsted is notified of any discrepancies or changes in the settings concerned. ISI and SIS are responsible for scheduling these inspections in accordance with their procedures. ISC association schools are given five days' notice of inspection. Cognita Group and the Steiner Waldorf Schools Fellowship schools are given four days' notice of inspection. Ofsted will also inform ISI and SIS of any closed settings in each previous period in order for ISI and SIS to remove these settings from their schedules.
42. By the start of each term, Ofsted will ensure that ISI and SIS have any relevant information to support the inspection process in that term. Ofsted will provide this information to ISI by email to [concerns@isi.net](mailto:concerns@isi.net) and to SIS by email to [ci@schoolinspectionsservice.co.uk](mailto:ci@schoolinspectionsservice.co.uk) as soon as practicably possible.

<b>Applications</b>	Date of application
	EY number
	EY setting address
	Name of link school
	School URN
<b>Registrations</b>	EY number
	Registration granted date
	Post registration inspection date (PRI)
	Post registration inspection judgement
	Residual issues for ISI planning
<b>Notifications of concern (NOC)</b>	Name of setting
	EY number
	EY setting address
	Name of link school
	School URN
	Date of NOC
	NOC summary
<b>Risk assessment</b>	Risk assessment outcome
<b>Closed settings</b>	Name of setting
	EY number
	EY setting address
	Name of link school
	School URN
	Date of closure

	Reason for closure
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43. The email will contain all details in the table above and any copies of relevant compliance notices and/or welfare requirements notices and any conditions of registration. ISI and SIS must take account of all relevant information in the inspection process.
44. Where Ofsted has contact with or receives information about a setting that requires investigation by a lead child protection agency such as social services, the police or the Health and Safety Executive, Ofsted will inform ISI and SIS of the circumstances. Early notification will allow ISI and SIS to make the decision to postpone any imminent inspection where necessary. Annex A of this protocol provides a flowchart to show the interface between Ofsted early years, SIS and ISI.
45. In certain circumstances Ofsted may need to assess whether the provider continues to meet the requirements of registration. Where Ofsted has concerns about the leadership and management of the setting and where that role is shared between the early years setting and the school, Ofsted will share their concerns with ISI and SIS in advance of any inspection or enforcement activity.
46. ISI and SIS will inform Ofsted of all requires improvement and inadequate judgements at the end of the inspection in which they were made, by contacting the national Compliance, Investigation and Enforcement team in Nottingham. Contact with this team must be made via the National Business Unit on 0300 123 1231.
47. Within four working weeks of the end of the inspection of a registered early years setting, ISI and SIS will send the full school report with the embedded section on the Early Years Foundation Stage and registered childcare provision, and the Judgement Recording Form by email to [independentEYFS@ofsted.gov.uk](mailto:independentEYFS@ofsted.gov.uk). In cases where the registered provision has been judged as requires improvement or inadequate, ISI and SIS will notify Ofsted of the judgement within five working days.
48. At the end of each term, ISI and SIS will notify Ofsted of any inspections of registered provision which were scheduled but did not take place. The mailbox [independentEYFS@ofsted.gov.uk](mailto:independentEYFS@ofsted.gov.uk) should be used for this purpose.

### Reporting on registered early years provision

49. Following an inspection of registered early years provision in its remit, ISI will report the inspection findings as set out in the *Independent Schools Inspectorate integrated handbook framework*.<sup>18</sup> SIS will report findings in line

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<sup>18</sup> *Independent schools inspectorate integrated handbook framework*, ISI, 2012; [www.isi.net/schoolinspections](http://www.isi.net/schoolinspections).

with its framework and handbook for inspecting registered settings. In particular, this will include text in the main body of a school report stating the overall judgement for the effectiveness of the registered Early Years Foundation Stage provision.

50. Any areas of non-compliance that relate to children in the registered setting must be clearly listed and cross-referenced to the statutory guidance for the Early Years Foundation Stage. Ofsted will be responsible for setting and monitoring any actions following an inspection that relate to any compliance issues in the registered setting. ISI and SIS will also be able to make such recommendations about how the setting may improve that do not affect the conditions of registration or require any enforcement action from Ofsted.

### **Managing enforcement and investigations in the Early Years Foundation Stage**

51. ISI's remit includes registered childcare provision in independent schools judged as requires improvement or inadequate at the last inspection. However, if serious safeguarding concerns have arisen about such registered provision or the provision does not meet the requirements of its registration, Ofsted will undertake a risk assessment. As a result of the risk assessment, the setting will either be subject to an investigation by Ofsted, or a further inspection by ISI. In the case of an investigation, if Ofsted decides to carry out a monitoring visit, it will inform the ISI of the dates in advance in order to ensure that there is effective coordination between Ofsted monitoring visits and any inspection conducted by the ISI.
52. All decisions regarding investigations and enforcement for registered provision must be made by Ofsted but it is recognised that ISI and SIS have a role in this work, as it will have information which will be of assistance to Ofsted in making decisions about proposed enforcement action. Evidence from the inspection will need to be passed to Ofsted to inform decision making and the ISI or SIS inspector will be involved in any case discussions.
53. With regard to registered provision, ISI and SIS reports may make recommendations that are straightforward issues for the provider to resolve. Such recommendations will not require any enforcement action by Ofsted but may be a minor breach of regulations that do not impact on the safety of children who are attending the setting. Major recommendations and actions relate to the requirements in the Early Years Foundation Stage. In this situation, ISI and SIS will inform Ofsted in writing of all recommendations and provide a copy of the relevant inspection evidence to support the recommendation made. ISI and SIS will make clear to the provider what they must do to improve at the end of the inspection and will ensure that the provider informs both ISI, SIS and Ofsted when the recommendation has been completed.

54. ISI and SIS inspectors wishing to discuss any issues or questions arising in an inspection, to check the level of evidence gathered, or to seek guidance on any aspect of the inspection process that may result in an requires improvement or inadequate judgement being made, must seek advice from the ISI or SIS helplines, who will in turn contact Ofsted's Application, Regulatory and Compliance team (ARC) on 0300 123 1231. The ISI or SIS administrator will ask to be put through to the duty ARC early childhood regulatory inspector. This colleague will offer support in formulating wording for actions and recommendations if required.
55. When a decision is required in relation to an inspection outcome that may result in investigation or enforcement action, Ofsted will arrange a telephone conference call that will include the ISI or SIS inspector (and any other person nominated by ISI or SIS) and any relevant Ofsted personnel.
56. Ofsted will be responsible for issuing any enforcement letter to providers and for monitoring any action plans required following inspection by ISI or SIS. Ofsted will ensure that ISI and SIS are kept informed of information received regarding inspection outcomes.
57. Ofsted and ISI/SIS will work together to identify the most appropriate method to manage investigation and enforcement visits required following inspection. Ofsted will always be the lead for this work, but there may be circumstances in which it would assist if an ISI or SIS inspector accompanied an Ofsted monitoring or investigation visit, in order to clarify issues arising from an inspection.
58. Ofsted will ensure that ISI and SIS have copies of all information leaflets for providers that relate to investigation and enforcement matters. ISI and SIS will make available to Ofsted their respective handbooks for the inspection of Early Years Foundation Stage and registered settings.

## **Monitoring the work of the independent inspectorates**

59. Ofsted will monitor a cross section of each inspectorate's work with greater use of evidence base reviews. Ofsted's monitoring will focus primarily on a sample of visits to on-site inspections, reviews of evidence bases and reports and on the inspectorate's own quality assurance arrangements, but may also include such other activities as may reasonably inform Ofsted's judgement of the quality of the inspection process. Such activities may include, for example, evaluating the inspectorate's handbook and the effectiveness of the advice and guidance given to support inspectors, or the impact of the training of inspectors, where this is appropriate, for example at the start of a new area of work.
60. The selection of inspections, evidence bases and reports for monitoring will be undertaken according to and in proportion to risk. Where an inspectorate has already established a secure track record, Ofsted will monitor up to 10% of all



on-site inspections or evidence bases, and up to 15% of all reports over the academic year. However, HMCI may direct more extensive monitoring where this is deemed appropriate, for example with a new inspectorate, where an established inspectorate has taken on new work, where there are concerns about an inspectorate, or where the volume of work undertaken by an inspectorate is so small that such percentages are meaningless. Monitoring will cover all types of school inspection, including the inspection of the Early Years Foundation Stage where this is appropriate. Monitoring of inspections, evidence bases and reports will take place every term, and feedback will be provided within 20 working days.

61. Since January 2012 Ofsted includes in its monitoring programme a sample of welfare inspections in ISC boarding schools undertaken by ISI. This means that Ofsted routinely monitors in total up to 10% of all ISI inspections – education-only, welfare-only, and integrated education and welfare inspections. In the case of integrated inspections, wherever possible, Ofsted will monitor both the welfare and education aspects of the inspection for the purposes of efficiency and economy. Ofsted will also monitor in total up to 15% of all ISI inspection reports – education-only, welfare-only, and integrated inspection reports.
62. The monitoring work of SIS and BSI inspections, and education-only inspections conducted by ISI, will be undertaken by HMI. The monitoring HMI may be joined by an experienced boarding inspector in monitoring ISI integrated boarding inspections. In larger boarding schools monitoring inspections may include a 'trainee monitor' so that Ofsted can build capacity. In the case of small boarding schools, the monitoring of both the boarding and education aspects of an integrated inspection will be conducted by one HMI, in order to reduce the burden of additional personnel on the school and inspection team. Such monitoring inspections may, in the first instance, be conducted by one of the social care HMI.
63. The HMI or Ofsted's inspection support officer for monitoring the independent inspectorates will make every effort to notify the lead/reporting inspector by telephone at least two days in advance of any monitoring visit. Contact will be made by email or via the inspectorate concerned if the lead/reporting inspector is unavailable. The HMI or Ofsted's inspection support officer will contact the school at the start of the week of the inspection to inform them of the monitoring visit, and will not contact the school until the lead/reporting inspector has been informed.
64. Monitoring will take place in accordance with the procedures set out in this document. In monitoring a sample of school inspections, HMI will make judgements on:
  - whether inspections correctly establish that schools meet the prescribed standards for registration as set out in the Statutory Instrument The Education (Independent School Standards) (England) Regulations 2010, as amended

- where relevant, whether inspections establish that the schools meet the prescribed requirements for the Early Years Foundation Stage and the registered early years provision in accordance with the Childcare Act 2006
  - the extent to which the inspectors' judgements of the school's compliance with those regulations and of the Early Years Foundation Stage are accurate.
65. In monitoring a sample of boarding inspections, inspectors will make a judgement about whether inspections correctly establish that schools meet the national minimum standards for boarding schools.
66. Where it is appropriate to do so, inspectors may also comment on:
- the overall quality of the inspection and whether it complies with the inspectorate's quality requirements, as agreed with the DfE and set out in its handbook
  - the suitability of the inspection team and its deployment
  - the conduct of the inspection
  - the impact of training provided by the inspectorate
  - the probity of inspection, including whether the inspectorate's arrangements for checking that there are no connections between schools, inspectors and governors/trustees that might compromise the objectivity or integrity of the inspection are being implemented effectively<sup>19</sup>
  - the quality of support and guidance provided by the inspectorate and the effectiveness of its own quality assurance arrangements.
67. In making a judgement on whether or not inspections, evidence bases and reports meet the standard required, HMI/SCI will refer to the criteria which have been agreed by and shared with all parties, including the DfE.
68. Towards the end of their monitoring visit, or by telephone shortly afterwards if this is more appropriate, HMI/SCI will provide the lead/reporting inspector with clear feedback on the strengths and weaknesses of the inspection.
69. A letter containing written confirmation of these judgements will be sent to the lead/reporting inspector (if their address is known) as soon as possible and at the very latest within 20 working days of the monitoring event. A copy of this letter will also be sent to the inspectorate at the same time, for information,

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<sup>19</sup> The probity of inspection refers to the honesty and integrity with which an inspection is conducted, and whether it is carried out impartially and in line with the independent inspectorate's framework.

and for distribution to the lead/reporting inspector where their address is not available to Ofsted.

70. In the course of the inspection, an HMI may make other observations, for example about the effectiveness of the inspectorate's training or guidance for inspectors, as they are demonstrated in the context of the inspection. In these circumstances, a separate letter containing this feedback will be sent to the chief inspector. This letter will be sent within 20 working days of the monitoring visit.
71. In monitoring a sample of evidence bases, HMI will make judgements on whether:
  - the evidence base demonstrates clearly that the inspection has established schools' compliance with the standards for registration as set out in the Statutory Instrument, The Education (Independent School Standards) (England) Regulations 2010, as amended, and where appropriate the standards set out in the Early Years Foundation Stage Framework and/or the national minimum standards for boarding schools
  - the evidence base provides secure and convincing evidence to support the inspection judgements and recommendations;
72. In monitoring a sample of school inspection reports, HMI will make judgements on:
  - whether reports establish clearly that schools meet the standards for registration as set out in the Statutory Instrument, The Education (Independent School Standards) (England) Regulations 2010, as amended and where appropriate the standards set out in the Early Years Foundation Stage Framework and/or the national minimum standards for boarding schools
  - whether the report complies with the inspectorate's quality requirements, as agreed with the DfE and set out in its manual/guidance.
73. HMI will provide to the lead/reporting inspector a clear written assessment of the evidence base and/or inspection report. A copy of this letter will be sent to the inspectorate at the same time. The evaluation of evidence bases and/or reports will be communicated in a letter to the chief inspector of the relevant inspectorate no later than 20 working days after the evaluation has taken place. This will allow the inspectorate to take any remedial action as soon as possible. Some evaluation of inspection, evidence bases and/or reports will take place every term.
74. All other monitoring activity by Ofsted will be agreed in advance with the relevant chief inspector, or an appropriate nominee for each inspectorate. This could, for example, include sampling the inspectorate's own quality assurance procedures and records of quality assurance activity, and may also include

monitoring the training for inspectors, for example where new inspection requirements such as for boarding schools are to be introduced. Where monitoring events of this kind occur, HMI will provide written feedback to the chief inspector no later than 20 working days after the event.

75. After the receipt of such letters described in the paragraphs above, the lead/reporting inspector or the inspectorate, as appropriate, may raise matters of factual accuracy within the next 10 working days. Such matters should be communicated, in the first instance, by e-mail or telephone to the HMI national lead for monitoring the independent inspectorates, who may discuss the letter with its author. Inspectorates may use the [ind.sch@ofsted.gov.uk](mailto:ind.sch@ofsted.gov.uk) mailbox as an alternative means of contact.

### **Conducting an evidence base review**

76. Lead inspectors should return the evidence base relating to the inspection in question to the inspectorate in line with their requirements for their own quality assurance deadlines. Ofsted will notify the independent inspectorate where it wishes to review an evidence base and the review may be undertaken at a location and timescale which is acceptable and practical for both parties. The inspectorate should provide the full evidence base and the report for scrutiny. Requests for an evidence base review will always be made after the publication of the inspection report.
77. HMI will review the evidence base for clarity, consistency and comprehensive coverage of the independent school standards, ensuring that key judgements and the main findings and recommendations for improvement are substantiated by the recorded evidence. Guidance and criteria for reviewing an evidence base are in the zip files for Ofsted inspectors which are shared with the independent inspectorates.
78. HMI will send the review of the evidence base to the lead inspector, copied to the chief inspector of the inspectorate. This will be done within 20 working days of the review to allow the inspectorate to take any necessary remedial action as soon as possible to improve future inspection practice. The inspectorate will have 10 working days to respond, if they wish, to the HMI regarding the evaluation.

### **Annual summary report**

79. At the end of the academic year in which the monitoring has taken place, Ofsted will produce a report as directed by the Secretary of State. In preparing this report Ofsted will use the evidence provided by its annual monitoring activities, in order to produce a clear overall evaluation of the work of the inspectorate in relation to its agreed framework, including a brief report of the principal findings.
80. Where appropriate, Ofsted will recommend improvements in its annual summary report on each inspectorate. The inspectorate will be expected to

implement improvements recommended in Ofsted's annual summary report, subject to an appeals procedure detailed below. Progress in meeting these recommendations will inform subsequent reports on the inspectorate's work. Where Ofsted recommends that an inspectorate is not suitable to act as an approved body, it is a matter for the Secretary of State whether that approval should be withdrawn and within what timescale. In this situation, alternative arrangements will need to be put into place to inspect the relevant schools. Detailed procedures for this eventuality will be agreed by Ofsted and DfE, and these will be published.

81. Ofsted will send a draft of the annual summary report to the inspectorate concerned and allow two working weeks for the chief inspector to check its factual accuracy and make any comments. The HMI national lead for monitoring the independent inspectorates will accept and/or respond to comments and suggested amendments to the text within two working weeks and notify the inspectorate accordingly.<sup>20</sup> If needed, a meeting date between the inspectorates and the HMI national lead for monitoring the independent inspectorates will be arranged, when the contents of the report may be discussed. The final version of the report will then be sent to the independent inspectorate, to the Secretary of State, and published on Ofsted's website in the autumn term. The intended publication date will be the end of September for the previous academic year.

## **Complaints about Ofsted monitoring visits or their outcomes and report reviews**

82. If an individual inspector from an independent inspectorate wishes to complain about a monitoring visit or its outcome, he/she should discuss this as soon as possible with the HMI concerned while the visit is in progress. If the inspector's concerns are not resolved in this way, or if they wish to complain about a written assessment of an inspection or a review of a report, the inspector should discuss the matter informally in the first instance with the HMI national lead for monitoring the independent inspectorates either directly or via the chief inspector of the inspectorate concerned if that is in accordance with their agreed procedures. This process should also be followed if an independent inspectorate has concerns or wishes to complain about the annual summary report.
83. If it has not been possible to resolve the complaint through discussion with the HMI national lead for monitoring the independent inspectorates, the inspector or inspectorate may decide to make a formal complaint. The process by which a formal complaint may be made to Ofsted, including recourse to consideration of the complaint by an independent complaints adjudication service, has been sent

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<sup>20</sup> Where this falls in the summer holiday period, both parties will communicate over deadlines to take account of inspectors' leave arrangements.

separately to the independent inspectorates and is published on Ofsted's website.

## Handling other complaints

### Complaints about an inspection or report by the independent inspectorate

84. From time to time Ofsted may receive complaints from schools or other interested parties about an inspection or report of an independent inspectorate. Any complaint regarding the conduct of an inspector or the outcome of an inspection or report will be referred to the chief inspector of the appropriate inspectorate for investigation in accordance with their complaints policy. As part of their routine monitoring, Ofsted may look at the inspectorate's processes for handling complaints.

### Concerns about registered early years setting – ISI and SIS only

85. Notifications of concern about a registered early years setting will be managed by Ofsted. All such notifications should be forwarded to [independentEYFS@ofsted.gov.uk](mailto:independentEYFS@ofsted.gov.uk). Where appropriate, Ofsted may request information from ISI/SIS in order to assist its planning. Following a risk assessment Ofsted will normally ask ISI/SIS to carry out an inspection of the setting. If the circumstances are justified, Ofsted may undertake a visit to the setting. In these cases Ofsted will ensure that any visit to a setting is discussed with ISI/SIS, to ensure that visits do not clash with any scheduled inspection. It is possible for ISI/SIS and Ofsted to conduct a joint visit in order to facilitate joined-up working.
86. Ofsted will inform ISI or SIS of the outcome of any such visit involving an early years setting that is within their respective remits.
87. In the case of Early Years Foundation Stage inspections of registered provision, ISI and SIS will report to Ofsted at the end of each term the number of formal notifications made and their outcomes. This can be done in writing or by email to [independentEYFS@ofsted.gov.uk](mailto:independentEYFS@ofsted.gov.uk).

### Complaints about schools inspected by the independent inspectorates

88. All complaints about independent schools which are received by Ofsted are referred to the DfE. Complaints about schools that are inspected by ISI, BSI or SIS will not normally be investigated by Ofsted. However, Ofsted may inspect any school when the Secretary of State requests it to do so.

### Complaints about inspections by independent inspectorates

89. In the event that Ofsted receives a complaint about the quality of inspections conducted by an independent inspectorate, it will be considered by DfE, who

may ask Ofsted to carry out additional monitoring if this is deemed necessary by DfE. At the same time, the DfE will inform the chief inspector of the inspectorate that this activity is taking place and the nature of the complaint.

# Annex A. Ofsted's registration process for early years provision – ISI and SIS only

