

Memorandum of understanding (MoU) for Ofsted's monitoring of the independent inspectorates for independent schools in England

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

This MoU will be formally reviewed annually in November.

February 2015

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Introduction

1. Under section 106 of the Education and Skills Act 2008 (the 2008 Act), the Secretary of State for Education may approve a body or bodies to carry out inspections of registered independent schools. Under section 109, the Secretary of State may direct Her Majesty's Chief Inspector of Education, Children's Services and Skills (HMCI) to inspect an independent school or arrange for an independent inspectorate to do so.
2. The following independent inspectorates have been approved by the Secretary of State to inspect independent schools.
 - The Independent Schools Inspectorate (ISI) is approved to inspect registered early years provision for children, and education and boarding provision in schools in membership of the Independent Schools Council (ISC) associations, as set out in the agreement of 13 January 2015 between the Department for Education (DfE) and ISI.
 - 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 of 13 January 2015 between DfE and SIS.
 - 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 of 13 January 2015 between DfE and BSI.
3. Under section 87A of the Children's Act 1989, the Secretary of State for Education may approve an independent inspectorate to conduct welfare inspections of the registered independent schools that provide accommodation. ISI is approved to conduct inspections of boarders' welfare in the independent schools in its remit.
4. Ofsted is responsible for the registration and regulation of all registered early years provision in accordance with the Childcare Act 2006, including registered provision at independent schools. ISI is approved to inspect Ofsted-registered childcare provision in the independent schools in its remit as set out in the agreement between DfE and ISI. SIS is approved to inspect Ofsted-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 as set out in the agreement between DfE and SIS. Ofsted inspects registered childcare provision in all other independent schools.
5. HMCI is required under section 107 of the 2008 Act to send a report at intervals of no more than a year to the Secretary of State about independent inspectorates. In practice, the report will focus on the inspectorates' work in relation to their specific remits as detailed in their individual agreements with the Secretary of State. In order

to comply with this reporting duty, it is agreed that Ofsted shall monitor the work of the independent inspectorates in accordance with paragraphs 19-43 and Annex B. The annual report summarises the main findings from Ofsted's monitoring 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 criteria set out and the inspectorate's own framework as agreed with the DfE. In preparing this report, HMCI must have regard to matters that the Secretary of State has directed. A copy of the directions is at Annex A.

Purpose of the MoU

6. The purpose of this MoU is to:

- set out the strategy for communication between DfE, Ofsted and the independent inspectorates;
- set out the types of provision that will be inspected by Ofsted and the independent inspectorates;
- explain the process and extent to which Ofsted will monitor and report on the work of the independent inspectorates;
- explain the nature of monitoring that Ofsted will undertake and set out the arrangements for determining volume;
- 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 annual report; and
- describe the handling of complaints about inspections carried out by the independent inspectorates, complaints about registered early years settings, complaints about schools inspected by the independent inspectorates, and complaints about Ofsted's monitoring of inspections.

7. This MoU is published on the Gov.UK website.

Review

8. This MoU will be formally reviewed annually in November.

Information sharing

9. DfE will arrange meetings 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 individual meetings with the Chief Inspector of each independent inspectorate where this is more appropriate.
10. Additionally, DfE will arrange and attend individual meetings with Ofsted and the Chief Inspector or a representative of each approved inspectorate each term to discuss progress and emerging findings from monitoring activity so far in that year.
11. These formal meetings do not preclude other contact between DfE, Ofsted and the independent inspectorates by email, telephone or in person, as appropriate. Informal communication is welcomed and any discussions which have implications for the MoU and thus for all inspectorates, will be followed up formally.

Scheduling and conducting inspections

12. 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. Each list will contain the following details.
 - Schools that have merged or closed.
 - Schools that have been added to the inspectorate's list, with approval from DfE in the case of BSI.
 - Schools that have been removed from the inspectorate's list.
13. 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 as soon as possible and within ten working days. 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.
14. 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. This information should be sent to ind.sch@ofsted.gov.uk for the attention of the HMI national lead for monitoring the independent inspectorates.
15. 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 routine boarding school inspections should be given to Ofsted at least six months in advance.

16. Independent inspectorates will forward updated inspection programmes for the current term, including inspections commissioned by DfE outside of the normal cycle, to DfE and Ofsted on a monthly basis. 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. The information will be sent electronically to ind.sch@ofsted.gov.uk, registration.enquiries@education.gov.uk, and copied to EY-Childcare@ofsted.gov.uk marked for the attention of the HMI national lead for monitoring the independent inspectorates.
17. 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.
18. During all inspections, including aligned inspections, Ofsted and the independent inspectorates will follow their own frameworks and procedures.

Monitoring the work of the independent inspectorates

19. Ofsted will monitor a cross section of each inspectorate's work. Ofsted's monitoring will focus primarily on a sample of visits to on-site inspections (including reviews of emerging evidence bases while on-site), and reviews of reports, but may on occasion also include such other reasonable activities where these are agreed in advance by DfE in accordance with the independent inspectorates' agreements. 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.
20. The volume and selection of inspections, and reports for monitoring will be undertaken according to the parameters specified in the agreement between DfE and each inspectorate and in proportion to risk. Some monitoring will take place each term and Ofsted will agree their programme for monitoring with DfE on a termly basis. HMCI will secure DfE agreement for more extensive monitoring, for example with a new inspectorate, where an established inspectorate has taken on new work, or where Ofsted or DfE has concerns about an inspectorate. The Chief Inspector of the inspectorate will be informed if more extensive monitoring is required and the reasons

for this given. Monitoring may cover all types of school inspection, including demand-led inspections and the inspection of boarding and the Early Years Foundation Stage where this is appropriate. Monitoring of inspections and reports will take place every term, and feedback will be provided to the inspectorate in writing within 20 working days of the monitoring activity.

21. The monitoring work of SIS and BSI inspections, and education-only inspections conducted by ISI, will be undertaken by HMI. Ofsted will ensure that there is no connectivity between the monitoring inspector and the school to be inspected. In larger schools monitoring inspections may include a 'trainee monitor' so that Ofsted can build capacity. In larger boarding schools inspected by ISI, an HMI and Social Care Regulatory Inspector (SCRI) may visit to monitor both parts of the inspection. In the case of smaller boarding schools, only one HMI or SCRI will visit, but will therefore only monitor one aspect of the inspection (education or boarding welfare) in order to reduce the burden of additional personnel on the school and inspection team.
22. Where Ofsted is monitoring a routine inspection, the HMI/SCRI or Ofsted's inspection support officer for monitoring the independent inspectorates will notify the head office of an inspectorate 30 minutes in advance of any monitoring visit. Contact will be made by email if there is no response by telephone. Ofsted will not give notice to the lead/reporting inspector of the inspection that is subject to monitoring.
23. Where Ofsted is monitoring a no-notice inspection, the HMI/SCRI will notify the head office of an inspectorate no less than 2 days in advance of the inspection starting, to allow for discussion between the HMI/SCRI and the lead inspector to consider any risks to the inspection. The HMI/SCRI must not make contact with the school; and the HMI/SCRI will co-ordinate their arrival at the school with the lead/reporting inspector so that the inspectorate's no-notice arrangements are not compromised.
24. Monitoring will only take place in accordance with the procedures set out in this document. The main purpose of monitoring is to judge whether inspections meet the criteria as agreed with DfE; and specifically in doing so, whether or not:
 - inspections and reports correctly and accurately establish whether schools meet the independent school standards including safeguarding;
 - reports accurately and clearly, and in accordance with the relevant published framework, inform parents and others about the quality of the school's work;
 - the overall quality of the inspection complies with the inspectorate's quality requirements, as agreed with DfE and set out in the inspectorate's framework; and
 - the inspection team is suitable for the inspection, well trained and deployed efficiently.

25. In making a judgement on whether or not inspections and/or reports meet the standard required, HMI/SCRI will refer to the criteria at Annex B.
26. Where relevant, monitoring inspections and reports will also establish whether or not:
- inspections correctly and accurately establish whether the prescribed requirements of the Early Years Foundation Stage are met; and/or
 - inspections correctly and accurately establish whether the relevant national minimum standards for boarding provision are met.
27. Towards the end of their monitoring visit, or by telephone as soon as practically possible after the visit, the HMI/SCRI will provide the lead/reporting inspector with clear feedback on the strengths and weaknesses of the inspection.
28. In the course of the inspection and as part of a professional dialogue, an HMI/SCRI may make other observations in line with this MoU, for example about the effectiveness of the inspectorate's training or guidance for inspectors, as they are demonstrated in the context of the inspection.
29. In monitoring a sample of school inspection reports, HMI/SCRI will make judgements on:
- whether reports establish clearly that schools meet the standards for independent schools as set out in the Education (Independent School Standards) Regulations 2014, 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 framework; and
 - whether the report meets the criteria at Annex B.
30. Any other monitoring activity by Ofsted will be agreed exceptionally by DfE in advance and notified to the inspectorate concerned in accordance with its agreement. This could, for example, include sampling the inspectorate's own quality assurance procedures and records of quality assurance activity, or the training for inspectors. Where monitoring events of this kind occur, HMI/SCRI will provide written feedback to the Chief Inspector no later than 20 working days after the event and these will be included in the termly update.
31. 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 or potential conflict with this MoU within the next 10 working days unless agreed otherwise by DfE. Such matters should be communicated, in the first instance, by e-

mail 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 mailbox.

Practicalities of monitoring

On-site monitoring

32. On arrival, having introduced themselves and shown their identity badge, the HMI/SCRI will:

- arrange to be introduced to the head teacher/principal and lead/reporting inspector to explain the purpose of the monitoring visit and outline the way in which the monitoring visit will be conducted;
- explain that the HMI/SCRI is not involved in the inspection and will observe what happens during the inspection to assess whether the inspection meets the required standards;
- explain that the HMI/SCRI will intervene in the inspection only if there are exceptional circumstances where children are at immediate risk and inspectors have failed to take appropriate action; and
- explain that in the event of serious concerns about an inspection, the HMI/SCRI will contact the head office of the inspectorate at the earliest opportunity to enable suitable action to be taken by the inspectorate.

33. During the day the HMI/SCRI will:

- invite the school's views about how the inspection is being conducted and take account of positive feedback as well as concerns. Wherever possible matters of concern raised should be relayed to the lead/reporting inspector so that they can be resolved during the day;
- feedback to the lead/reporting inspector any concerns from the school regarding inspectors' conduct or reliability so that action can be taken to remedy any shortcomings or concerns during the inspection;
- observe any element of the full range of inspection activity in order to:
 - assess whether the lead/reporting inspector gathers appropriate evidence to demonstrate whether the school does or does not meet the independent school standards, national minimum standards, and the requirements and regulations for early years provision, as appropriate; and

- assess whether the lead /reporting inspector makes reliable judgements, based on secure evidence, about the impact of the school's arrangements to safeguard children;
- ensure that the lead/reporting inspector receives any positive comments from the school about what is going well;
- review the emerging evidence base to assess whether it is clear, legible and evaluative and that the emerging judgement grades are consistent with the evidence base at that point in the inspection;
- ascertain the extent to which the lead/reporting inspector has monitored the quality of the evidence base as appropriate to the stage of the inspection and if feedback has been provided according to the procedures for that inspectorate;
- scrutinise the pre-inspection information to the inspection team and contact with the school;
- observe team meetings, where possible, and focus on the extent to which evidence of outcomes and the range of evidence secures the emerging judgements, strengths and areas for improvement; and
- when the monitoring visit is scheduled for the same day as the inspection feedback, the monitor should make every effort to observe the feedback.

34. HMI/SCRI will ensure that the monitoring activity that is undertaken does not disrupt or otherwise have a negative impact on the inspection.

After the on-site monitoring

35. HMI/SCRI have a working day to write a short report to the Chief Inspector. The text of the report must:

- give specific examples from the evidence base and meetings to support the judgements, explaining any weaknesses, ambiguity or contradiction;
- report any omissions in inspection practice as required for the agreed framework; and
- report on the main findings including the strengths of the inspection.

Monitoring reports

36. It is for each inspectorate to determine the format and length of the report, and the house style, consistent with the inspectorate's framework as agreed with DfE.

37. HMI/SCRI will consider whether, in relation to the agreed framework, the report is concise, accurate and accessible to parents and others, including whether or not:

- the impact of the school's arrangements to safeguard children is reported sufficiently and clearly;
- a clear picture of the quality of the provision is given, with details of the standards, requirements and regulations that are met or not met;
- judgements are unambiguous and consistent throughout the report; and
- recommendations for improvement are clear about what aspects of the provision or outcomes require improvement.

38. The HMI/SCRI will write a short report to the Chief Inspector. The monitoring inspector will make clear in the report the reasons for the judgements about the report. The text of the report must:

- give specific examples, with page or paragraph references to support the judgements, explaining any weaknesses, ambiguity or contradiction;
- report any omissions; and
- report on the main findings, including the strengths of the inspection report.

Additional considerations for making judgements

Safeguarding

39. Any inspection or report that neglects to identify safeguarding issues or where judgements are not clear or founded on evidence will be judged as not meeting the required standard.

40. Inspectors must consider any necessary implications of safeguarding judgements for other aspects of the inspection as applicable to their respective frameworks.

Impact of judgements

41. Where applicable, inspectors will consider the implication of judgements made about boarding, the Early Years Foundation Stage and the sixth form on judgements made about the school as a whole.

Exemptions for early years

42. There are schools where an exemption has been agreed with the DfE for the Learning and Development strands of the Early Years Foundation Stage, and so inspections and reports must be tailored to reflect the school's current status regarding whether any exemptions have been applied for or granted.
43. A school may not be exempt from the welfare and safeguarding strands.

Annual report

44. At the end of the academic year in which the monitoring has taken place, Ofsted will produce a report on the matters specified in the directions at Annex A and in accordance with this MoU more generally. In preparing the report Ofsted will use the evidence arising from 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 summary of the principal findings.
45. Where appropriate, Ofsted will recommend improvements based on its monitoring evidence and the principal findings, in its annual report on each inspectorate. The inspectorate will be expected to implement improvements as required by DfE, subject to a complaints procedure as detailed below. Progress in meeting these recommendations will be included in subsequent reports on the inspectorate's work. It is a matter for the Secretary of State to review the approval of the inspectorate and to decide on any timescale for doing so.
46. Ofsted will send a draft of the annual report to the inspectorate concerned, and allow at least 10 working days for the Chief Inspector to check its factual accuracy and compliance with this MoU. The draft report must be treated as restricted and confidential to senior personnel.
47. The HMI national lead for monitoring the independent inspectorates will respond to the factual accuracy check within five working days and notify the inspectorate accordingly. In exceptional circumstances, a meeting between the inspectorates, Ofsted and/or DfE will be arranged during the subsequent five working days, when the contents of the report may be discussed.
48. The final version of the report will be sent to the Secretary of State and to the independent inspectorate prior to publication. It will then be published on Ofsted's website in the autumn term. The intended publication date will be the end of October in the following academic year.

Complaints about Ofsted monitoring visits or their outcomes and report reviews

49. 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/SCRI concerned while the visit is in progress. If the inspector's concerns are not resolved in this way, or if the Chief Inspector wishes to complain about an HMI/SCRI's conduct or a written assessment of an inspection or a review of a report, the Chief Inspector should notify the HMI national lead for monitoring the independent inspectorates via email. This process should also be followed if an independent inspectorate has concerns or wishes to complain about the annual summary report or termly update.
50. If it has not been possible to resolve the complaint through contact with the HMI national lead for monitoring the independent inspectorates, the inspector or inspectorate may refer their complaint to DfE in accordance with its agreement. The inspectorate may also make a formal complaint to Ofsted. 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, is published on Ofsted's website.

Handling other complaints

Complaints about an inspection or report by the independent inspectorate

51. From time to time DfE and/or 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. In such instances, DfE may look at the inspectorate's processes for handling complaints.

Complaints about schools inspected by the independent inspectorates

52. 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 only be investigated by Ofsted in exceptional circumstances and at the request of the DfE in accordance with inspectorate agreements. However, the Secretary of State retains the power to request that Ofsted inspect any school at any time. If this is the case, the Chief Inspector of the relevant inspectorate will be informed by DfE before the Ofsted inspection takes place.

Complaints about inspections by independent inspectorates

53. In the event that Ofsted or DfE 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, or may refer the concern to the relevant Chief Inspector for internal investigation. 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

Secretary of State Directions to HMCI

Powers and Duties

- Under section 107(1) of the Education and Skills Act (ESA) 2008, the Chief Inspector has a duty to prepare and send a report about independent inspectorates to the Secretary of State and, under sub-section (2), a duty to have regard to the matters that the Secretary of State directs. Under section 107(3) the Secretary of State may in particular give directions about matters to be taken into account in preparing a report and the report's form and contents;

Quality Assurance activities

- Ofsted monitors, on behalf of DfE, the independent inspectorates' adherence to their respective agreements with DfE. This work is to continue, underpinned by the statutory power in s107 of the ESA 2008.
- Ofsted's monitoring activity will be in line with a memorandum of understanding (MoU), agreed with the inspectorates and the Department, detailing the high-level practicalities of the monitoring activity.
- Ofsted will agree a programme of activities with the Department as specified in the MoU, which will include monitoring visits, reviews of inspection reports and any other activity as agreed with the Department.

Matters to be taken into account in preparing the report

- Ofsted will have regard to the following in drafting the report/s:
 - The outcome of Ofsted's monitoring work as specified.
 - Any action taken by the inspectorates in relation to any recommendations for improvement required by DfE throughout the year or in response to the previous year's report.
 - Any further and additional directions made by the Secretary of State in respect of one or more of the inspectorates.

The form and contents of a report

- Ofsted to prepare a separate annual report for each inspectorate. The form of the report should be a letter from HMCI to the Secretary of State, copied to the Chief Inspector of each inspectorate and published on the Ofsted website.

- Ofsted should prepare a termly update on each independent inspectorate to be shared with DfE and with the relevant inspectorate.
- The content of the annual report should comment on:
 - the extent to which the inspectorate meets the terms of its agreement with DfE including compliance with the DfE advice *Approval of independent inspectorates*¹;
 - the robustness of the inspectorate’s judgements on whether or not a school is meeting the independent school standards;
 - the robustness of the inspectorate’s quality judgements in line with the inspectorate’s framework and grade descriptors;
 - any recommendations stemming from Ofsted’s principal findings.

¹ <https://www.gov.uk/government/publications/approval-of-independent-inspectorates>

Annex B

Ofsted criteria for judging the quality of inspections and reports.

<p>The inspection and/or report meets the required standard when ...</p>	<ul style="list-style-type: none"> • the inspection and report meet the requirements of DfE • arrangements to safeguard children have high priority and their effectiveness is pursued and recorded rigorously • a sufficient range of evidence is considered by inspectors to make reliable judgements • conflicting evidence is tested robustly before making judgements • implementation of the independent school standards and, where appropriate, national minimum standards and/or early years regulations and requirements is checked and evaluated thoroughly
<p>The inspection and/or report does not meet the required standard when any of the following apply ...</p>	<ul style="list-style-type: none"> • the inspection and/or the report does not meet the requirements of DfE • the objectivity or integrity of the inspection is significantly compromised because an unsuitable inspection team is deployed, inspectors are not well trained or the inspection is not carried out in accordance with the inspectorate's framework • judgements and reporting on safeguarding do not properly reflect the range and nature of evidence gathered during the inspection • the report or inspection fails to take account of the inspection framework requirements when considering the impact of the safeguarding judgements on the related aspects of the school, such as the quality of leadership and management and welfare, health and safety. • evidence relating to whether or not a school is meeting the independent school standards and, where appropriate, national minimum standards and/or early years regulations or requirements is not evaluated fully or accurately • the inspection team collects or considers insufficient evidence when reaching judgements • the report is so unclear about whether a school meets the required standards, regulations or requirements that it is ambiguous or misleading

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