



Department
for Education

Intervening in failing, underperforming and coasting schools

Government consultation

Launch date 21 October 2015

Respond by 18 December 2015

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Introduction

This consultation seeks views on proposals for tackling maintained schools that are causing concern, including how we define maintained schools which are eligible for intervention and how the powers of intervention available to Regional Schools Commissioners (RSCs) and local authorities should be used.

Who this is for

- local authorities
- schools
- teachers and headteachers, and organisations representing them
- parents and young people

Issue date

The consultation was issued on 21 October 2015.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team by email: intervention.consultation@education.gsi.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2016.

About this consultation

This consultation document makes a number of proposals regarding the new and strengthened powers of intervention in maintained schools being introduced by the Education and Adoption Bill. The document sets out:

- The background and context, including an overview of the changes being introduced in the Education and Adoption Bill;
- That the Schools Causing Concern guidance will describe how Regional Schools Commissioners (RSCs) and local authorities should use their intervention powers in practice; and
- How we propose that schools will be identified as coasting.

Provided for consideration alongside this document are:

- The revised Schools Causing Concern guidance
- Illustrative regulations to define coasting

We would like to hear your views on our proposals.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

- intervention.consultation@education.gsi.gov.uk

By post

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Great Smith Street
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Deadline

The consultation closes on 18 December 2015.

Background and context to this consultation

1. At the heart of this Government's commitment to delivering real social justice is the belief that every child deserves an excellent education, and that every day that they spend in school should be one which helps them to fulfil their potential.
2. The Education and Adoption Bill, which is currently being considered by Parliament, introduces new measures to improve school standards across the country. The measures in this Bill are designed to speed up the process by which failing schools become sponsored academies. This will ensure there is no delay in giving children the education they deserve. The Bill also ensures coasting and other underperforming schools are identified so that they receive the challenge and support they need to improve.
3. Three groups of schools will be eligible for intervention:
 - **Schools that have been judged inadequate by Ofsted** – an academy order will be issued for all such schools, requiring them to become sponsored academies;
 - **Schools that are coasting** – schools which fall within our definition of coasting. Where a coasting school does not have a sufficient plan and the necessary capacity to bring about improvement, the Regional Schools Commissioner (RSC) will use the powers of the Secretary of State to intervene; and
 - **Schools that have failed to comply with a warning notice** – local authorities and RSCs, acting on behalf of the Secretary of State, have powers to give warning notices to schools where they have concerns.
4. While the Education and Adoption Bill is being considered by Parliament, we are consulting on how the new measures to intervene in such schools will work in practice.
5. The consultation seeks views on:
 - the **revised Schools Causing Concern guidance** which sets out how RSCs will use the new powers in the Bill to turn around failing schools and to challenge coasting schools and other cases of underperformance. This guidance is also for local authorities in the use of their statutory intervention powers (see page 7 for further background and the revised guidance); and
 - the **proposed definition of coasting** for mainstream schools and the options for developing a coasting definition for special schools and for pupil referral units (see page 15 for further background and the illustrative regulations setting out the proposed definition for mainstream schools).

6. We encourage all teachers and school leaders, along with parents, local authorities, academy chains and anyone interested in these reforms, to share their views about our proposals by reading and responding to this consultation package.
7. We look forward to hearing your views, and will respond to this consultation in spring 2016.

Timing and implementation

8. The timing of the new and strengthened powers taking effect will be subject to the passage of the Education and Adoption Bill and the will of Parliament. We expect timescales for this to be as follows:
 - The powers regarding schools eligible for intervention will take effect from the summer term 2016 at the earliest, at which point they will be used in inadequate schools and schools that have failed to comply with a warning notice.
 - The Schools Causing Concern guidance will be published in good time to take effect to the same timescale.
 - We propose that a school will only be identified as coasting in light of three years of results – in the first instance results from 2014, 2015, and 2016 – and therefore RSCs will be able to notify schools that they are coasting at the point of publication of performance tables reflecting final 2016 results. No school can be identified as coasting prior to that point.
 - Whether and when special schools and pupil referral units might be considered to be coasting is yet to be determined, and will be subject to responses to this consultation.

Consultation on statutory Schools Causing Concern guidance

Background

9. The Schools Causing Concern guidance is published by the Department for Education and describes the roles, responsibilities and processes for intervening in maintained schools that are underperforming or otherwise causing concern. It is statutory guidance for local authorities on the exercise of their functions¹. The current version of the Schools Causing Concern guidance, which describes local authorities' and the Secretary of State's existing powers, was published in May 2014, and revised in January 2015. That version is available [here](#).
10. In addition to being statutory guidance for local authorities, we intend this version to also become guidance for RSCs in how they will exercise the powers of the Secretary of State in respect of maintained schools which are causing concern.

Content of the guidance

11. The revised Schools Causing Concern guidance is provided.
12. This revised guidance reflects intervention powers that are new or strengthened in the Education and Adoption Bill. In summary, it describes:
 - a. That for any school judged inadequate by Ofsted, the RSC² must make an academy order in respect of that school. The RSC will then ensure that the school opens as an academy with the support of a sponsor;
 - b. How RSCs will interact with coasting schools, including making decisions about which schools it will be necessary to intervene in and what, if any, interventions will be necessary;
 - c. The situations in which, and the process for how, a performance standards and safety warning notice may be issued to a maintained school by a local authority or RSC;

¹ Section 72 of the Education and Inspections Act 2006 places a statutory duty on all local authorities in England, in exercising their functions in respect of schools causing concern as set out in Part 4 of the 2006 Act, to have regard to any guidance given from time to time by the Secretary of State.

² RSCs will be operating the Secretary of State's powers on her behalf.

- d. The existing intervention powers that local authorities have in maintained schools that are eligible for intervention, and how they will be exercised; and
 - e. The strengthened intervention powers that the Secretary of State has in maintained schools that are eligible for intervention, and how they will be exercised by RSCs.
13. The Schools Causing Concern guidance describes the roles and responsibilities of RSCs and local authorities, and how they will work together and with Ofsted, foundation trusts, Dioceses and others to identify underperforming maintained schools, and act swiftly to put into place the necessary challenge and support to bring about sufficient improvement.

Questions for consultation

We welcome views on the revised Schools Causing Concern guidance, and in particular we seek views on:

- 1) Do you think the revised Schools Causing Concern guidance describes clearly the powers, processes and responsibilities for intervening in underperforming maintained schools? Please specify any elements you think require further clarification.
- 2) Chapter 3 of the Schools Causing Concern guidance proposes how RSCs should make decisions about what action should be taken in schools that meet the coasting definition. Do you think that the described approach and process is appropriate?
- 3) Chapter 3 explains that RSCs could use their discretion to decide not to intervene where a coasting school is supporting its pupils well, but has fallen within the coasting definition because of its circumstances or pupil characteristics. Do you agree that this is appropriate? The guidance is not intended to be exhaustive, but please specify if there are other such circumstances or factors you think should be included in the guidance that currently are not.
- 4) Chapter 4 describes what may constitute low standards of performance and what factors local authorities and RSCs may take into consideration to identify this, for the purpose of issuing a performance standards and safety warning notice. Do you agree with the factors listed which may indicate that a warning notice may be necessary?

5) Chapter 5 describes the specific powers of local authorities and RSCs (using the powers of the Secretary of State) in schools eligible for intervention. Are the respective responsibilities, and the interactions between the local authority and RSC powers, sufficiently clear?

6) Do you have any other comments on the revised Schools Causing Concern guidance?

Consultation on coasting schools definition

Background

14. The Education and Adoption Bill makes provision for coasting schools to become eligible for intervention.
15. The Bill gives the Secretary of State the power to define coasting in relation to maintained schools in regulations³. The following section sets out proposals for a definition. Illustrative coasting regulations, first published on 30 June 2015, are provided.

Underlying principles

16. Unlike failing schools, where there is no question that swift intervention is required, we want our approach to coasting schools to focus on support and tailored action. Where a coasting school can demonstrate that it can improve sufficiently, it should be allowed to do so.
17. We want a clear, transparent measure to define 'coasting' so schools are in no doubt when they have fallen within the definition. We therefore think that it should be based on published performance data. We considered using the Ofsted requires improvement judgement as our definition of coasting, but are clear that Ofsted judgements reflect a much broader range of factors and aspects of a school's effectiveness. While some schools judged to require improvement could be considered coasting schools, many in the category will not be. Conversely, it is possible that some schools which are classed as coasting may be schools which are judged good by Ofsted, for example because a school has a historical Ofsted judgement or where data does not yet reflect a school's rapid improvement.
18. We want to ensure that the coasting definition reflects the progress that pupils make at a school. We think the starting point of pupils should be considered rather than simply their attainment, to recognise the variation in schools' intakes and how well a school helps its pupils to achieve their potential. We do not believe that coasting should be about isolated dips in performance but about identifying schools which have consistently not stretched their pupils sufficiently over a number of years.

³ See paragraph 29 of this document for how coasting applies to academies.

19. We think the coasting definition should be based on the headline performance measures used for accountability in any given year, which also underpin the floor standards⁴. This will ensure schools are clear about the aspects of their performance for which they will be held to account.

20. In summary, we concluded that the coasting definition should:

- be based on published performance data rather than Ofsted judgements, and reflect headline accountability measures;
- reflect the progress that pupils make in a school; and
- consider performance over time, not a single year.

Proposed definition

Our proposal is that:

- A coasting school is where data shows that, over a three year period, the school is failing to ensure that pupils reach their potential. A school will only be coasting if performance data falls below the coasting bar in all three previous years.

No school will be identified as coasting until after the final 2016 performance data is published⁵, when there will be 3 years of data available (for 2014, 2015 and 2016).

We are seeking views on this overall approach and the technical detail set out below.

Technical details of the definition

21. The accountability arrangements for schools are changing in 2016⁶. We are consulting on the definition which will therefore apply under these new arrangements for results from 2016 onwards and which, from 2018 will be the sole measure of whether a school is coasting. In order to identify schools as coasting before this point, however, we are proposing an interim definition for 2014 and 2015 data, based on the headline accountability measures against which schools were held to account in those years. We think this is a fairer approach than applying the measures which will apply from 2016 retrospectively.

⁴ More information on expected levels of school and college performance (floor standards) can be found here: http://www.education.gov.uk/schools/performance/fs_14/index.html

⁵ Final performance tables are currently published in late 2016 for KS2 and early 2017 for KS4.

⁶ See footnotes 7 & 9 for details.

22. Our proposed bar from 2016 is:

- **Primary** – a school will be coasting if in three consecutive years fewer than 85% of pupils achieve the new expected standard across reading, writing and mathematics and pupil progress⁷ is below the progress element of the definition. The same progress metric will be used in both the floor standard⁸ and the coasting criteria, but a higher progress bar will be set for the coasting criteria in 2016 than for the floor standard.
- **Secondary** – a school will be coasting if in three consecutive years it falls below a new coasting level set against the progress 8 measure⁹. This level will be set in 2016 and will be above the absolute floor standard of -0.5.

What does this mean for primary schools?

From 2016, primary schools will be measured on both the progress pupils have made when compared to pupils with the same starting point and the proportion of pupils whose results in reading, writing and mathematics show they are ready to succeed at secondary school.

When fewer than 85% of pupils in a primary school reach the standard we expect and pupils are failing to make enough progress then we would be concerned that the school was not fulfilling the potential of their pupils. If a primary school continues to perform below these standards for three years, then the school will be coasting. These schools will need to demonstrate that they have sufficient capacity to improve or face further action.

If a school is below the 85% performance standard but above the progress standard, or vice versa, in any of the three years they will not be regarded as coasting.

⁷ New accountability measures will be implemented in 2016 for primary schools: www.gov.uk/government/uploads/system/uploads/attachment_data/file/297595/Primary_Accountability_and_Assessment_Consultation_Response.pdf

⁸ See footnote 4.

⁹ Progress 8 will be implemented in 2016 for all secondary schools: : <https://www.gov.uk/government/publications/progress-8-school-performance-measure>

What does this mean for secondary schools?

From 2016, each year 11 student's progress will be compared with the performance of other year 11 students in the country with the same starting point. Performance will be looked at across eight core subjects, including English and mathematics. If student X gets 8Cs at GCSE but the average for students with the same results at the end of primary school, is 8Bs then student X would have made, on average, one grade less progress than their peers.

When all year 11 pupils' performance is taken together this will give the school an overall progress score (known as their Progress 8 score). The Department for Education will set a Progress 8 score and if schools do not reach this level we would be concerned that they were not fulfilling the potential of their pupils. Where a school falls below this bar for three years then they will be coasting. These schools will need to demonstrate that they have sufficient capacity to improve or face further action.

23. The interim bar for 2014 and 2015 is:

- **Primary** – fewer than 85% of pupils achieve level 4+ in reading, writing and mathematics and the percentage of pupils making expected progress in reading is below the national median, the percentage of pupils making expected progress in writing is below the national median and the percentage of pupils making expected progress in mathematics is below the national median.
- **Secondary** – fewer than 60% of pupils achieve 5 or more A*-C grades including English and maths at GCSE and the percentage of pupils making expected progress in English is below the national median and the percentage of pupils making expected progress in mathematics is below the national median.

What can parents expect?

This new approach to tackling coasting schools means we will look at the performance data of schools in a new way. Schools that have been doing “just enough” for 3 years will now be formally challenged and supported to improve.

For primary schools, we will look at both test results and the progress pupils make from the end of year 2 to year 6. Where these fall below the expectations we have set over three years, we will take action to ensure the school improves. This could range from some short-term support from a stronger school, to becoming an academy with the support of an experienced sponsor.

Primary schools have to be below our standards on both test results and progress to be classed as coasting. So a school that didn't quite reach the standard on test results but where the pupils have made good progress would not be coasting.

At secondary level we will judge schools on how well pupils do in their GCSEs compared to other pupils who got the same primary school test results. Therefore if a secondary school with a high performing intake was achieving strong GCSE results but not stretching its pupils sufficiently it would be classed coasting and challenged to improve.

This means that where schools are ensuring their pupils make good progress, they will not be coasting. This recognises the positive work many teachers and schools leaders do to support their pupils to achieve their potential, often in challenging circumstances.

Which schools are covered by the proposed definition?

Local authority maintained mainstream schools

24. The definitions above will apply to local authority maintained mainstream primary and secondary schools¹⁰. As the definition is based on key stage 2 and key stage 4 results, it will not apply to nursery schools, infant schools or first schools, but does apply to middle schools with pupils at the end of key stage 2. 16-19 institutions are not covered by the legislation¹¹ and hence the definition does not apply to them. There will also be separate arrangements for schools that have opted into the new Progress 8 measure early for their 2015 results (see paragraph 30 of this document).

¹⁰ Mainstream community, voluntary aided, voluntary controlled and foundation schools.

¹¹ The Education and Inspections Act 2006, which clause 1 of the Education and Adoption Bill seeks to amend.

Local authority maintained special schools

25. The Education and Adoption Bill does apply to special schools but we do not propose to apply the mainstream school coasting definition to them. This is because the specific nature of each special school's provision means their pupils are less likely to be able to access (or if they can access, do well in) the tests the definitions are based on. It is, of course, important that these schools are ensuring their pupils fulfil their potential. We are, therefore, seeking views on whether and how to define coasting in these schools.

26. The Department has appointed Diane Rochford – Executive Headteacher of JFK Special School – to chair an expert panel to review how best to assess the attainment and progress of pupils with lower attainment. We will consider the outcome from this review alongside feedback from this consultation when considering a possible coasting definition for special schools.

Pupil referral units

27. The Education and Adoption Bill does not apply to pupil referral units (PRUs). We do not currently publish attainment data for individual PRUs. The small numbers of pupils in PRUs; the high turnover of pupils; and the variation in point of entry and time in PRUs mean there are concerns about how valid such performance data could be. The composition of pupil bodies in PRUs and their particular challenges and needs may also vary considerably from year to year. This variation, alongside the small number of pupils, means changes in attainment and progress may reflect, more than in mainstream schools, changes in the profile of pupils rather than the performance of the school. Progress and attainment data such as those being used for the mainstream school coasting definition does not, therefore, necessarily reveal quality in PRUs.

28. It is, of course, important for PRUs to ensure pupils fulfil their potential. We are therefore also considering whether to use existing secondary legislation to apply a coasting definition to PRUs and are seeking views, as part of this consultation, on how we might define coasting in these settings.

Academies

29. The Bill does not apply to academies because they operate under a different legal framework from maintained schools and are not therefore subject to the statutory intervention powers in legislation. We have now published amended

model funding agreements¹² to apply the coasting definition to mainstream academies. This will give RSCs comparable formal powers to take action when academies fall within the definition. RSCs will assess all academies against the definition (and whether they have sufficient capacity to improve) whether they have this specific clause in their funding agreement or not – supporting and challenging them to make the necessary improvements.

Secondary schools that opted-in early to Progress 8

30. Some secondary schools opted into the new accountability system based upon the Progress 8 measure for exams taken in 2015¹³. Schools that opted in will have made curriculum and qualification decisions on the basis of being judged against the Progress 8 floor standard. So as not to disadvantage these schools, who chose to opt in without knowing about the introduction of a coasting definition, we propose applying the more favourable of the two coasting definitions for 2015 results, i.e.:

either:

- fewer than 60% of pupils achieve 5 or more A*-C grades including English and maths at GCSE and the percentage of pupils making expected progress in English is below the national median and the percentage of pupils making expected progress in mathematics is below the national median

or:

- where the school falls below a new coasting level set against the Progress 8 measure. This will be set in 2016 and will be above the floor standard of a Progress 8 score of below -0.5.

What will happen when a school is coasting?

31. As set out in the revised statutory Schools Causing Concern guidance, where a school's data as published¹⁴ in final performance tables¹⁵ shows it is coasting,

¹² <https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-single-academy-trust>

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/321782/Progress_8_opt_in_terms_and_conditions_document.pdf

¹⁴ Final performance tables are currently published in late 2016 for KS2 and early 2017 for KS4.

¹⁵ <http://www.education.gov.uk/schools/performance/>

the relevant RSC will notify the school that this is the case. At this point a school will become eligible for intervention.

32. A coasting school will not, however, automatically be subject to intervention. RSCs will consider whether the school has a sufficient plan and the capacity to bring about the improvement needed. In some cases additional support may be necessary, for example from system leaders such as National Leaders of Education or other schools.
33. Where appropriate, RSCs will use the Secretary of State's powers to intervene. For instance the new power to require a governing body to enter into arrangements could be used to direct the school to collaborate with another school, or take advice from an organisation or system leader. Alternatively, where an RSC judges that an academy solution is necessary, they may make an academy order.
34. In making assessments about what support or intervention might be needed, RSCs will look carefully at factors about the school which might have an effect on the underlying data, for instance the presence of a large SEN unit. This is described in more detail in the accompanying revised Schools Causing Concern guidance.

Questions for consultation

We welcome views on the proposed definition of coasting, and in particular we seek views on:

- 7) Do you agree that the three principles (explored in paragraphs 16-20) underlying our coasting definition are the right ones?
- 8) Should the definition of a coasting school be where data shows that, over a three year period, the school is failing to ensure that pupils reach their full potential?
- 9) Should the proposed interim definition for coasting in 2014 and 2015 be based on the accountability measures for those years, against which schools were held to account?
 - If so, are the thresholds right?
 - Alternatively should the new 2016 accountability measures be applied retrospectively for 2014 and 2015?
- 10) Should coasting standards be applied to special schools?
 - Can this be data driven – if so, what metric could be used?

- What other indicators might be used?

11) Should coasting standards be applied to Pupil Referral Units?

- Can this be data driven – if so, what metric could be used?
- What other indicators might be used?

12) Is our proposed approach for schools that chose to opt in early to Progress 8 in 2015 – that the more favourable of the two coasting definitions be applied – the right one? If not, what is the fairest way of defining coasting for these schools in 2015 and why?



Department
for Education

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