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Guidance

Protocol between Ofsted and the Ministry of Defence, Directorate of Children and Young People

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Introduction

This protocol is between the Ministry of Defence (MOD), Directorate of Children and Young People (DCYP) and Ofsted.

Purpose

This protocol sets out the working relationship between Ofsted and DCYP by:

- establishing the framework of the partnership within which DCYP and Ofsted cooperate to provide inspections to all MOD schools and some early years provision overseas
- explaining how Ofsted carries out its responsibilities
- explaining how Ofsted will be reimbursed for this work

The role of Ofsted

Ofsted inspects all MOD schools overseas at the invitation of the MoD. These schools cater for children aged 3 and above who are the children of members of the armed forces and their dependents, and civilian employees.

At the MOD's request, Ofsted will also inspect some early years settings for children aged from birth to 5 that have been identified by the MOD's risk assessment as needing an early years inspection.

The legal framework under which Ofsted inspects

Under this agreement with the DCYP, Ofsted will inspect MOD schools and early years provision in those schools under the Education Act 2005 (sections 5 and 8) and the Education and Inspections Act 2006 (Schedule 13 para 9(2)), together with any other relevant regulations.

For early years provision outside MOD schools, inspection will be under sections 49 and 50 of the Childcare Act 2006 and the Education and Inspections Act 2006 (Schedule 13 para 9(2)).

Working arrangements

How Ofsted will inspect MOD provision

Ofsted will inspect MOD schools in a way that is broadly consistent with how we inspect publicly funded schools in England. Her Majesty's Inspectors (HMI) will use the section 5 and/or section 8 inspection handbooks and associated guidance and report templates unless specifically varied to take account of the MOD context. The MOD and Ofsted will agree these variations, for example in relation to governance.

Ofsted will inspect MOD early years provision in a way that is broadly consistent with how we inspect early years provision in England. Early years regulatory inspectors will use the early years inspection handbook, associated guidance and report templates unless specifically varied to take account of the MOD context. The MOD and Ofsted will agree these variations.

Ofsted's enforcement powers for early years provision in England do not extend to provision outside the country. If we judge MOD early years provision as inadequate, we will not take any enforcement action in relation to that provision. We will communicate any weaknesses identified to the DCYP at the end of the inspection. The DCYP will decide what action, if any, to take in relation to those weaknesses, and will be responsible for following up any action agreed. The DCYP may request that Ofsted carries out a subsequent inspection of provision judged as inadequate, in line with the arrangements for agreeing the programme of early years inspections set out in this protocol.

How we will review this protocol

Representatives of Ofsted and the DCYP will meet to review this protocol on an annual basis.

At this meeting, they will amend the protocol as necessary, for example to include any variation in the use of the education inspection framework and the relevant inspection handbooks. These variations may only be made to reflect the specific context of MOD schools and early years provision.

How we will programme inspections

The frequency of MOD school inspections depends on the findings of a school's previous inspection.

Good schools
Schools judged good for their overall effectiveness at their most recent inspection will receive a section 8 inspection approximately every 4 years. They will also will be subject to annual risk assessment. The Chief Education Officer, MOD Schools may request that Ofsted brings forward a section 8 inspection of a good school when concerns have been identified and discussed with Ofsted's linked specialist adviser.

Outstanding schools
Schools judged outstanding for their overall effectiveness at their most recent inspection will be subject to annual risk assessment. Previously, outstanding schools were exempt from routine inspection. However, in line with state schools in England, this exemption will be lifted. Ofsted will inspect MOD schools to reflect the regulations that will be put in place for state schools in England following public consultation. The Chief Education Officer, MOD Schools may request that Ofsted carries out a section 8 inspection of an outstanding school. Any section 8 inspection may convert to a full section 5 inspection.

The risk assessment exercise will be carried out jointly by the Chief Education Officer of MOD Schools and Ofsted's linked specialist adviser. It will follow the process set out in Annex A. This will take place for all schools and inform inspection scheduling of individual schools.

Schools that require improvement
Schools that are not good will be inspected more frequently, in line with these schools in England.

Schools judged as requires improvement for their overall effectiveness at their most recent inspection will normally be re-inspected within a period of 30 months.

Those schools that are judged as requires improvement twice consecutively will be subject to monitoring under section 8. The timing of the next inspection under section 5 will reflect the individual circumstances of the school and the findings of any monitoring inspections.

Inadequate schools
Schools judged inadequate for their overall effectiveness at their most recent inspection will require significant improvement.

Inadequate schools in which inspectors judged the leadership and management to have the capacity to improve the school will be identified as having serious weaknesses. These schools will receive at least 1 monitoring inspection under section 8, and may receive a second monitoring inspection, before they are next inspected under section 5, within 30 months of the inspection that judged them to have serious weaknesses.

Inadequate schools in which inspectors judged leadership and management to lack the capacity to improve the school will be deemed to require special measures. MOD schools subject to special measures will receive termly monitoring by HMI. A full inspection under section 5 will take place within 30 months of the inspection that judged them to require special measures. If, during a section 8 monitoring inspection, inspectors judge that a school has improved sufficiently, HMI may take the school out of special measures by deeming it a section 5 inspection.

Arranging and coordinating inspections
DCYP through the Chief Education Officer, MOD Schools retains the right to determine which and when inspections take place.

When making these determinations, the Chief Education Officer, MOD Schools will take account of Ofsted's deferral policy and consider the impact of regimental handovers and large-scale troop deployments on individual schools. Schools scheduled for closure will not normally be inspected during the final 12 months of operation.

They will also determine which MOD early years provision requires inspection by Ofsted. Ofsted and the MOD will agree the arrangements for the programme of early years inspections before the start of each academic year. Ofsted will complete these inspections within a timescale agreed with the MOD, subject to the necessary resources being available.

Where appropriate, Ofsted will coordinate inspections of the MOD school and any associated early years provision at the same time. This will depend on the availability of inspectors and on the timing of the school or early years provision's next inspection.

Ofsted will provide inspection teams drawn from HMI for school inspections and early years regulatory inspectors for early years inspections. The lead HMI will have received induction training and will have experience of working on MOD school inspections. Early years regulatory inspectors will have received induction training and a full briefing relating to the nature of MOD early years provision.

Schools and early years providers will receive up to 2 working days' notice of the inspection.

The Ofsted complaints procedure will apply to the inspection of MOD schools and early years provision.

Travel and subsistence

Ofsted's linked specialist adviser will inform the Chief Education Officer, MOD Schools of the dates of forthcoming inspections at least 6 weeks in advance to facilitate appropriate security clearances for the inspection team.

Ofsted will make appropriate travel and accommodation arrangements for HMI. Ofsted will invoice the full cost to the MOD for these expenses and for the subsistence costs of visiting inspectors.

Cost of inspections

The cost of each type of school inspection is set out below. This includes the cost of inspector time to inspect and travel to the setting, but it does not include travel and subsistence costs incurred; these would be invoiced in addition to the costs below.

Inspection costs may be amended from time to time, in discussion between Ofsted and the MOD. Ofsted will carry out inspections of MOD early years provision at the request of the MOD.

Cost of schools inspection (£)

Number of pupils on roll	Europe - Section 5: primary and secondary	Rest of the world - Section 5: primary and secondary	Europe - Section 8: primary	Rest of the world - Section 8: primary	Europe - Section 8: secondary	Rest of the world - Section 8: secondary
0–150	10,800	15,600	9,600	14,400	10,800	15,600
151–250	12,000	16,800	10,800	15,600	10,800	15,600
251–400	15,600	22,800	10,800	15,600	10,800	15,600
401–600	16,800	24,000	10,800	15,600	10,800	15,600

When shadow inspectors are required, an additional £1,200 will be added to the cost per day, including travel time.

Cost of early years inspection (£)

Provision type	Cost in Europe	Cost in rest of the world
Non-domestic childcare providers	3,500	4,900

Validity and signatories

This protocol remains valid until superseded by a revised understanding endorsed by the signatories below. It will be reviewed on an annual basis, or earlier by request of either party.

Signatories:

Date: 21 February 2020

AMSpielman

Amanda Spielman

Her Majesty's Chief Inspector

Date: 13 February 2020

Mike Cooper

Director, Children and Young People

Annex A

Annual risk assessment procedure between Ofsted and MOD schools

The Chief Education Officer for MOD Schools will meet on an annual basis with Ofsted's National Lead for MOD schools to risk assess which MOD schools overseas require an inspection within the next 12 months. The information held by Ofsted and MOD schools will be weighed carefully against any other data and information available to determine inspection activity.

In carrying out the risk assessment, Ofsted and the MOD will take account of pupils' historic and current attainment and progress, including the data held by the MOD school team, and any contextual information. This contextual information may include:

- complaints about the school from parents and carers to Ofsted or to the MOD/DCYP
- results from Ofsted Parent View or other concerns arising from parental surveys
- material changes to the school, such as the addition of a key stage, regimental movement, and changes of senior leadership such as a new headteacher
- information provided from school reviews carried out by inspector advisors from MOD schools
- other significant issues brought to the attention of Ofsted or the Chief Education Officer, MOD Schools

Specific factors to take into account
For Reception, we will consider:

- the proportion of children reaching a good level of development, including the specific and prime areas
- the proportion of children making expected progress from their starting points

For key stage 1, we will consider:

- the proportion of pupils reaching the standard expected in the Year 1 and 2 phonics checks, for all and for disadvantaged pupils
- the percentage reaching expected standards or above in reading, writing, and mathematics, for all and for disadvantaged pupils

For key stage 2, we will consider:

- the proportions achieving expected progress or above for reading, writing, and mathematics (for all learners, different prior attainment groups, and for disadvantaged pupils)
- the proportions achieving the expected scaled scores for English and mathematics

For key stage 4, we will consider:

- progress overall, and progress for the English Progress 8 (P8), mathematics P8, and open P8 elements (considering all pupils, plus prior attainment groups, and disadvantaged groups)
- EBacc P8 element progress, and value-added measures for science, languages, and humanities (considering all pupils, plus prior attainment groups, and disadvantaged groups)
- attainment 8, for all pupils, and for disadvantaged pupils
- EBacc average point scores, for all pupils, and for disadvantaged pupils

For key stage 5, we will consider:

- value-added attainment by qualification type for all learners and by prior attainment groups, and for disadvantaged learners
- value-added attainment by subject, for all learners and by prior attainment groups, and for disadvantaged learners
- progress scores in English or mathematics for all learners and by prior attainment groups, and for disadvantaged learners
- average point score for all subjects taken, for all learners and prior attainment groups, and for disadvantaged learners
- average point score counting only the best 3 A levels for all learners and prior attainment groups, and for disadvantaged learners
- the percentage of learners attaining at least AAB in at least 2 of the facilitating subjects, which are mathematics and further mathematics, English literature, physics, biology, chemistry, geography, history and languages (classical and modern), for all learners and prior attainment groups, and for disadvantaged learners

Annex B

How we respond to information received about childcare providers

We assess all the information we receive against the details we already hold about the registered provider or setting to decide on the appropriate action to take. If we receive the information by telephone, we ask the information-giver for their contact details. Information that suggests a provider may be operating without registration is dealt with in accordance with the inspecting unregistered schools guidance.

Information from an anonymous source (except from a whistle-blower or if the information concerns safeguarding) is referred back to the registered provider. We tell the information-giver and encourage them to speak directly to the provider. We also note the information for the next visit, so we can follow this up with the provider. If the information-giver provides us with their name and contact details, but wishes to remain anonymous from the provider, we will respect their wishes if we can, but we cannot guarantee that their identity will not be deduced by the provider.

We take proportionate action based on the information we receive and all other relevant information available to us about the setting or registered provider, and in line with the Ofsted-wide policies relating to safeguarding and whistle-blowing.

We may:

- carry out an initial assessment in cases that meet the relevant criteria (see below)
- arrange for a 'priority' inspection – that is, normally within 7 working days of the risk assessment decision
- note the information on our database so that it can be considered at the next inspection

In these cases, we also write to providers giving them the information and asking them to take appropriate action. The letter makes it clear that providers must record the information and the action they have taken in their complaints record. They do not need to tell us of the action they take in response to our letter, but we will assess that action as part of the next visit or inspection

Gathering information to assess the action to take

When we receive information, we may ask the information-giver for further details, to clarify the matter or to indicate to them whether other action is appropriate. For example, we may ask the information-giver to refer the matter to a child protection agency. We always ask a parent or carer, member of the public or staff member whether they have referred the matter to the registered provider and if they have not, we ask them to do so, unless it is a safeguarding matter that needs to be treated in line with our whistle-blowing or safeguarding policies (see 'Safeguarding children and young people and young vulnerable adults policy'). When we need to seek further information before we can complete the risk assessment, we do so as speedily as possible.

The risk assessor always reviews:

- the provider information portal
- the record of any previous risk assessments, so we can see whether we have already received other information about this matter; if so, we decide whether this is new information that requires a separate decision or whether it should be dealt with as part of the response to the information already received

If the provider information portal identifies issues for the risk assessor to follow up, the risk assessor checks:

- details of previous compliance cases or information that triggered an inspection and the outcomes
- comments for the next visit, including any low-level concerns
- details of any active compliance case
- the registration history of the setting, including comments on appropriate fields in the database
- any action(s) we set at the last and previous inspections, during monitoring visits and in previous compliance cases and the response to the action(s) by the provider

We also check, when relevant:

- the registration history of any other settings that the registered person is linked to; this may include notifications, changes of manager and so on
- the accuracy of the registration; for example, Companies House (for limited companies) and the Charities Commission (for registered charities), to determine whether the provider is still recorded with those organisations

Escalation route for 3 or more concerns (other than notifications by the provider) in a 2-year period

If a new concern arises and there have already been 2 or more previous concerns within the past 2 years (a total of 3 concerns in 2 years), the risk assessment decision is to carry out a priority inspection or refer for regional action.

In these cases, the central risk assessment team first decides on the course of action. Regulatory professionals within the central team will decide whether the concern requires a priority inspection or regional action. If it requires regional action, the region will decide whether to carry out a regulatory visit, inspection or both, taking into consideration the information provided by the risk assessor.

In relation to escalating concerns, it is important to note that a notification from the provider is not the same as a concern that comes from another person about the provision. Although 3 or more notifications may indicate there are serious weaknesses within the setting that need to be looked at, they may indicate that the provider is dealing proactively with any issues that arise in the setting while fully complying with its legal responsibility to notify us of the matters set out in regulations. When considering cases in which there have been 3 or more notifications, the risk assessment team will need to consider whether, in the light of the rest of the provider's history, the case needs to be escalated to a senior officer or senior regulatory professional.

If a series of notifications arise over a short period identifying similar matters, risk assessors should follow the guidance above. However, we do not open a new case when either we receive new information about the provider, or we receive the same information from a different source. In these circumstances, we log the information as part of the existing case.

Recording information for inspectors in the risk assessment action plan

We record relevant information in the risk assessment form. In addition, the inspector will be given access to the previous inspection history. This means that the inspector will have all the information they need to plan and carry out their visit. The risk assessment form must include:

- full details of the information that we have received
- lines of enquiry for the inspector to pursue during the visit
- reasons for the risk assessment decision

If there is no information of a particular type, the risk assessor should make it clear in the risk assessment form that 'there is no information' rather than just leaving the relevant field blank.

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