



Department
for Education

Fees and frequency of inspection regulations 2022-23

Government consultation response

February 2022

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Introduction

The Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) Regulations 2015 (the 2015 Regulations) set out the fees payable to the Office for Standards in Education, Children's Services and Skills (Ofsted) and the minimum frequency of inspections for children's homes, residential family centres, voluntary adoption agencies, adoption support agencies, fostering agencies and holiday schemes for disabled children.

From 19 November 2021 to 14 January 2022, we consulted on the following proposals:

- A 10% increase on current fees payable by children's social care providers, for those providers which are not already at full cost recovery;
- The introduction of new fees for providers who wish to include multiple buildings under one children's home registration; and
- Resetting the three-year inspection cycle for residential family centres, voluntary adoption agencies, adoption support agencies and fostering agencies.

A 10% increase on current fees payable by children's social care providers

The majority of providers are a long way from paying the full cost of the inspection and regulatory activity undertaken by Ofsted, with around 70% still paying less than 50% of the full cost. As part of the consultation, we proposed increasing fees by 10%, for those providers not yet at full cost recovery. The increase is consistent with annual increases of fees since 2010. Fees were frozen in 2019-20 and 2020-21 due to the pandemic.

Fees for providers already at full cost recovery level would be capped at the full cost rate. The annual fees for residential holiday schemes for disabled children would also continue to remain capped at a reduced rate. These services are usually run by small specialist charities and support children with complex needs who have very limited alternative opportunities to access the activities and experiences provided by the schemes. We believe this continues to represent a proportionate fee structure in relation to the operating model for this specific setting.

New fees for multi-building children's homes

Ofsted have been considering ways in which they can boost capacity within the children's social care system and also create more flexible provision. As part of this work, they have recently published [guidance on multi-building children's homes](#). Under a multi-building children's home application, Ofsted will allow children's social care providers to accommodate up to six children in total across a maximum of four buildings under one single children's home registration.

The 2015 Regulations do not currently include a specific fee category for multi-building children's homes, and we proposed to amend the 2015 Regulations to introduce new fees

that are more reflective of the work that Ofsted will need to undertake in regulating and inspecting this type of provision. The fees would be set in line with Ofsted's current cost model.

A reset to the three year inspection cycle

Under regulation 27(1)(b) of the 2015 Regulations, residential family centres, voluntary adoption agencies, adoption support agencies and fostering agencies are to be inspected at least once in every three year period (starting on 1st April in any year and ending on 31st March in the third year following).

Some of these providers would have been due an inspection during 2020-21 when routine graded inspections were paused because of the COVID-19 pandemic. This has created a backlog of providers who are overdue an inspection. In order to avoid Ofsted being required to complete an unattainable number of inspections and to allow them more flexibility to prioritise providers requiring more support, we proposed to amend the regulations to reset the three year inspection cycles.

Stakeholder engagement

When the consultation launched, we alerted key stakeholders including children's charities, the Office of the Children's Commissioner, the Association of Directors of Children's Services (ADCS), the Local Government Association (LGA), Ofsted, children's rights organisations and organisations representing children's social care providers such as the Independent Children's Homes Association (ICHA), the Children's Society and the National Association of Fostering Providers. We also asked these stakeholders to promote the consultation amongst their networks and Ofsted raised this directly with all registered providers through their regular newsletter.

To further support this consultation, we held two webinars where we explained our proposals in greater detail and responded to stakeholders' questions. These webinars took place during the consultation period and were attended by 73 stakeholders from across the sector. This included representatives of children's homes, fostering agencies and adoption agencies.

Summary of responses received and the government's response

There were 27¹ responses to the consultation. We received responses from different stakeholders from across the children's social care sector including children's homes, voluntary adoption agencies and fostering agencies. A list of the organisations that responded can be found in Annex A.

Main findings from the consultation

A 10% increase on current fees payable by children's social care providers

Just over half of respondents (54%) told us that the proposed fee increase would have a minor, neutral or no effect. Of the 14 respondents, 11 thought either the increase was fair, understood why fees were now being increased or thought the fee increase could be sufficiently covered. Ten respondents (38%) told us that the proposed fee increase would have a moderate effect and two told us that it would have a major effect. Issues highlighted by these respondents were that the fee increase was unfair, as it was an above the rate of inflation increase or that it added to rising financial costs such as minimum wage increases, rises in national insurance as well as the impact of the pandemic on financial positions.

New fees for multi-building children's homes

Most respondents (78%) (excluding those who indicated that the proposed fees were not applicable for them) agreed with our proposals to introduce new registration, variation and annual fees for multi-building children's homes.

While respondents welcomed allowing providers to register multiple buildings under one children's home registration and did not identify any major issues with the proposed fees, one identified that further clarity was required on which type of provision would be captured under the fees, while another advised that the fees should not be a barrier to providers.

Resetting the three year inspection cycle

Most respondents (73%) were in favour of resetting the three year inspection cycle. However, some highlighted the reset would extend the time between inspections for many providers creating increased uncertainty. Issues identified were that key staff are unable to make leave arrangements due to providers' needs to be inspection ready for a longer

¹ One respondent only provided a response to the questions on the inspection cycle reset and on potential impacts on the protected characteristics for the purposes of the public sector equality duty.

period than normal or the impact on those with a lower judgement who would have an extended time to wait for reinspection in order to demonstrate an improved rating. Some respondents also noted that while they understood that Ofsted will inspect poorer performers more frequently, it was also important that there is not a significant delay in inspecting 'good' or 'outstanding' providers as this could affect the quality and standard of care.

Question analysis

Annual, registration and variation fees

Proposed 10% increase for providers not at full cost recovery

How would the proposed increases affect you as a provider?

Respondents were asked to indicate how the proposed increase would affect them and to explain their answer. A table of the responses is set out below.

	Total	Percent
No effect	3	12%
Minor effect	7	27%
Neutral	4	15%
Moderate effect	10	38%
Major effect	2	8%

For the 14 respondents that said the fee increase would have a neutral, no or minor impact, 11 provided further explanation of the reason for response. Five explained that the fee increase could be found within existing budgets and/or that it would not affect their financial positions. Two also thought the increase made sense given that fees were paused while regular inspections could not be carried out due to the pandemic. However, two respondents also advised that they would need to pass on some of the cost to local authority commissioners.

Twelve respondents advised that the fee increase would have a moderate or major effect. Some of the respondents told us that the sector is already facing financial pressures due to rises in inflation, increases to the minimum wage and for charitable organisations, loss of income due to restrictions on income caused by the pandemic. Two respondents were also concerned that the fee increase would be passed on to local authority commissioners of children's services, thus increasing placement fees. However, three noted that they would have difficulty in passing on the cost to commissioners due to existing agreements.

Government response

Ofsted restarted routine graded inspections in April 2021 and has been continuing to inspect providers as part of a regular inspection cycle since this time. Most providers are not currently paying the full cost of Ofsted regulation and inspection.

The consultation has indicated that just over half of providers see the proposed increase as having a minor, neutral or no effect. Given this result, the government has decided and will (subject to parliamentary approval) implement the 10% increase to the 2022-23 fees in 2022-2023 for those not already at full cost recovery. These proposed fees are set out in [Annex A and B of the consultation document](#). Fees for holiday schemes for disabled children will continue to remain capped.

The government acknowledges the responses regarding wider economic pressures. However, given that 70% of providers are still paying less than 50% of the full cost rate, the policy of an annual 10% increase in fees represents a measured way of bringing fees closer to full cost recovery. By way of illustration, a typical children's home has 3-5 places so the fee increase would represent an annual increase of £258-310² or an extra £5-6 per week. Children's homes typically charge £3,830³ per week per child. The government has aligned this fee increase with previous increases in order to limit the financial burden placed on providers while moving towards the full cost recovery of fees.

New fees for multi-building children's homes

Do you agree with the proposed new registration, variation and annual fees for multi-building children's homes?

Most respondents (78%) (excluding those who indicated that the proposed fees were not applicable for them) agreed with our proposals to introduce new registration, variation and annual fees for multi-building children's homes.

One respondent noted that residential special schools that operate across multiple buildings could also be impacted by these fees, and it was important to ensure that this group is not unreasonably disadvantaged. Another also said that the fees charged should not be a barrier to the development of this provision.

How would the proposed fees affect you as a provider?

Respondents were asked to indicate how the proposed fees would affect them and to explain their answer. A table of the responses is set out below.

² The base fee for a children's home with 3 approved places will increase by £258. Children's homes with 4 or 5 approved places will pay the increase on the base fee (£258) plus the increase per each approved place (£26). For example for 4 approved places the increase will be (£258+£26) and for 5, (£258+£26+£26).

³ Children's social care market study interim report (October 2021) - average is representative of costs taken from 13 large providers of children's homes.

	Total	Percent
No effect	15	58%
Minor effect	1	4%
Neutral	4	15%
Moderate effect	5	19%
Major effect	1	4%

The majority of respondents who said that the new fees would have no effect were not currently running a multi-building children’s home or did not indicate plans to run a multi-building children’s home.

For those providers that told us that the new fees would have a moderate effect, those who provided further explanation of their response advised that any increases in fees may lead to costs being passed on to commissioners and also noted the impact of increased costs on financial positions.

Government response

Multi-building children’s homes will provide greater flexibility to providers, for example, by offering solo and more specialised placements. We believe it is fair that the fees charged for the regulation and inspection of multi-building children’s homes is reflective of the work that Ofsted will undertake in inspecting and regulating this provision.

The government will implement the new fees for multi-building children’s homes within a statutory instrument amending the 2015 Regulations. It is clear from the outcome of the consultation that there are no major objections to these proposed fees. The fees have been set using the current model that Ofsted use for calculating fees and will not be set at the full cost rate. The only cost difference between a multi-building children’s home and a large children’s home will be the annual fee. Registration, variation and the per place fee will remain the same as a large children’s home (a children’s home with 4 or more approved places). These fees will provide a careful balance between charging a fee that will help to cover Ofsted’s costs as well as ensuring it is not a barrier to the development of this new type of provision.

The government will make it clear within the statutory instrument that is laid before parliament that secure children’s homes and any schools that are also children’s homes under s.1(6) of the Care Standards Act 2000 (such as residential special schools also registered as children’s homes) are excluded from paying the multi-building children’s homes fees.

Provision inspected on three year cycles

Do you agree that we should reset the three year inspection cycle for residential family centres, voluntary adoption agencies, adoption support agencies and fostering agencies?

Do you foresee any problems or issues that this proposal might create?

Most respondents (73%) agreed with our proposal to reset the three year inspection cycle. Of the 26 responses to this question, many thought that this made sense given the impact of the pandemic on Ofsted inspections. Three respondents advised that this was not relevant to them as they are providers of children's homes.

However, when asked to identify any problems or issues with the proposed reset, two respondents highlighted that there may be a longer period between inspections for some providers. While they noted that Ofsted retained the capacity to inspect providers when concerns are raised and that providers judged to be less than 'good' will be inspected more frequently, it was also important that there is not a significant delay in inspecting 'good' or 'outstanding' providers as this could affect the quality and standard of care.

Three respondents also told us about the inspection cycle creating uncertainty as there is a long time period in which they could be inspected. This was also something that was reflected during the webinars. They noted concerns that resetting the inspection cycle could extend the time between inspection and the impact that this would have on staff being able to make leave arrangements or the impact on those with a lower judgement who would have an extended time to wait for reinspection in order to demonstrate an improved rating. One also suggested it would be helpful for Ofsted to pilot more regular assurance visits with providers between inspections.

Government response

The government will amend the 2015 Regulations to allow for a reset to the three year inspection cycle for residential family centres, voluntary adoption agencies, adoption support agencies and fostering agencies. This change will have no effect on inspections for children's homes or holiday schemes for disabled children which will continue to be inspected on an annual basis.

The Social Care Common Inspection Framework (SCCIF) sets out that for all settings inspected on a three year cycle, those judged to be inadequate will be reinspected within 6 to 12 months of their previous inspection. For those providers judged to be requires improvement to be good, they can usually expect to be reinspected with 12 to 18 months of their previous inspection. This means that those providers judged to be less than 'good' will have the opportunity to address issues previously raised by Ofsted and potentially change Ofsted's previous inspection judgement. Monitoring visits, which would be in addition to the regular inspection, only take place where there are concerns raised

or if a provider has been judged to be less than 'good' and there are no plans to extend these to all providers.

The government has provided how the inspection cycle reset will work in practice as part of the consultation document and will also set this out in the accompanying explanatory memorandum that supports the statutory instrument implementing these measures. For example, providers that were due an inspection in 2020-21 will be inspected in either 2021-22 or 2022-23 and at least every three years thereafter.

Equalities assessment

Please provide any representations / evidence on the impact of our proposals on people with protected characteristics for the purposes of the Public Sector Equality Duty (Equality Act 2010).

We received 15 responses to this question. Seven respondents did not raise any issues with our proposals regarding the Public Sector Equality Duty. Two respondents reiterated the need to ensure that services to children continue to meet requirements and that any delay in inspections caused by the inspection cycle reset, could indirectly affect minority groups who are overrepresented in care.

One concern was raised about impacts on children with severe learning disabilities and that inspections of providers that cater for these children should be prioritised.

One respondent also highlighted a broader issue around in person interviews as part of the Ofsted inspection process. They felt this could impact on those with underlying health concerns due to the risk of Covid-19 infection.

Government response

The proposals will apply equally to all children's social care providers across the different sectors. Those operating children's social care settings remain responsible for ensuring that their services comply with the Public Sector Equality Duty or otherwise with standards established by relevant legislation.

Ofsted undertake a risk based approach to inspections which ensures inspections prioritise providers that are less than 'good' as opposed to focusing on a particular cohort of children who may already be cared for in a 'good' 'outstanding' setting. This process takes into account the current judgement, recent notifications and monitoring, concerns reported and other relevant information, and will also consider time between graded inspections. Inspections will also take account of the challenges posed by COVID-19 and prioritise the safety and wellbeing of all those involved.

For those providers that experience a longer period between inspections caused by the reset, the Department for Education (DfE) will continue to work with Ofsted to ensure that

all children's social care providers are inspected in line with the minimum inspection requirements as set out in the regulations and monitor the backlog to ensure that providers who have had a significant amount of time between inspections are inspected as soon as possible. The DfE will also continue to work closely with Ofsted and monitor the results of routine graded inspections to ensure that quality and standards are maintained in these settings.

Next steps

We aim to implement these proposals via a statutory instrument for financial year 2022-23.

Annex A: List of organisations that responded to the consultation

- Acorn Homes
- Adoption Matters
- Adoption UK
- All4U Fostering
- Children's Services Development Group
- Family Society – Adoption Focus
- Fostering Dimension Ltd
- National Association of Fostering Providers
- National Association of Independent Schools and Non-Maintained Special Schools (NASS)
- New Reflexions
- New Routes Fostering
- Ofsted
- Orchard House Family Assessment Centre
- SENAD Group
- Step-a-Side
- Surrey County Council
- Swiis Foster Care
- The Challenging Behaviour Foundation
- The Children's Society
- 7 responses were received from individuals or from those that requested that their responses be kept confidential.



Department
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