



Department
for Education

Fees and frequency of inspection regulations 2023 to 2024

Government consultation response

March 2023

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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 30 November 2022 to 18 January 2023, we consulted on the following proposals:

- A 10% increase in current fees payable by children's social care providers, for those providers which are not already at full cost recovery; and
- a minimum inspection frequency for the secure element of secure 16-19 academies under the secure 16-19 academy inspection framework.

A 10% increase in 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 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.

Inspection framework for secure 16-19 academies

Secure 16-19 academies (Secure Schools) are a new type of custodial provision for children and young people remanded or sentenced to detention in relation to a criminal offence. They will be run by child-focused providers and create a therapeutic environment within a secure setting, in line with international evidence that this is the most successful approach in reducing reoffending. The first secure school is planned to open in 2024 and will be run by education provider Oasis Restore.

The Police, Crime, Sentencing and Courts Act 2022 dual-established Secure Schools as secure 16 to 19 academies under the Academies Act 2010, and secure children's homes under the Children's Homes (England) Regulations 2015. These schools will be inspected by Ofsted, with support from the Care Quality Commission.

In the consultation, we proposed that the 2015 Regulations be amended so that all secure 16-19 academies are required to receive a minimum of two Ofsted inspections per year.

Summary of responses received and the government's response

There were 57 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 are contained within Annex A.

Main findings from the consultation

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

Close to half of respondents (44%) told us that the proposed fee increase would have no or a minor impact. Whereas 39% told us that it would have a moderate impact and 18% told us it would have a major impact.

The most common issue raised by respondents (17 out of 57) was that they thought the fee increase would be an additional cost for the sector as it was already dealing with cost of living pressures. One of the impacts of this was that it reduced provider profits leading to less money being able to be spent on services.

For those who told us that the proposed increase would have no, or a minor impact, they said the increases were small and would only have a minimal impact on their budgets.

Inspection framework for secure 16-19 academies

We asked respondents what they thought about our proposal on amending the 2015 Regulations to require that secure 16-19 academies be inspected twice per year by Ofsted. We had 40 responses to the question.

The majority of respondents (63%) agreed with our proposal. They thought that this number of inspections was appropriate and would help to maintain standards. Additional comments were made about the burden of Ofsted inspections and the potential that this could increase costs. Two respondents noted that the consultation document could have been clearer on the focus of the inspections, namely that the proposal was limited to inspections under the secure children's homes framework (as opposed to the 16 – 19 academies framework). We have provided further clarity on this point in the government response.

Question analysis

Question 1 – Annual, registration and variation fees

What would be the impact of the proposed increases on 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.

Answer	Total	Percent ¹
No impact	5	9%
Minor impact	20	35%
Moderate impact	22	39%
Major impact	10	18%
Did not answer	0	0%

The most common issue highlighted by respondents (17 out of 57) was the additional financial burden that this would place on the sector given the rising cost of living. Further comments were made about increasing financial pressures on smaller providers and how the proposed fee increase did not equate with any uplift in fees that providers were receiving from local authorities. Alternatively, eight respondents also said that they would pass on the fee increase to local authorities through increasing charges. Respondents also noted that profit margins were decreasing due to increases in staffing costs and energy bills and that this gave providers less money to reinvest in the services that they provide.

For those who said the fee increase would have no or a minor impact (44%), the most common explanation for their response was that they thought the fee increase was a small amount and would have a minimal impact on budgets. Four respondents also thought that the fee increase was fair and that it helped to ensure a good level of regulation for the sector.

Of the 22 respondents who indicated the proposed increase would have a moderate impact, they mainly highlighted, as outlined above, the additional financial pressure that this put on them on top of other cost of living pressures. This was reflected in responses

¹ Percentages are rounded and therefore do not add to 100%.

provided by children's homes providers, local authorities, voluntary adoption agencies and a fostering provider. Other issues identified were that the fee increase was disproportionate for some providers, particularly for those which were relatively small.

Alternatively two respondents noted that the fee increase could be passed onto local authorities through increased placement costs and two respondents told us that the fee increase means that there could be less money available for the services that they provide.

Ten respondents told us that the proposed fee increase would have a major impact. Four respondents highlighted the additional financial burden that this placed on providers. Two respondents also thought the current fees were unfair or too high as they are disproportionate to the income that the provider can generate.

Government response

Government is aware of the cost of living pressures that are being felt within the children's social care sector and more broadly within wider society and has taken steps to support the sector, through means such as the Energy Bills Relief and Energy Bills Discount Schemes. However, most providers are not currently paying the full cost of Ofsted regulation and inspection, with the taxpayer continuing to subsidise the cost of inspection and regulation.

We also note that a large percentage (44%) indicated that the proposed increase would have no, or a minor impact. Given this result, the government has decided it will (subject to parliamentary approval) implement the 10% increase to Ofsted annual, registration and variation fees from 1 April 2023 for children's social care providers 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.

We have heard through the consultation responses that there are additional financial pressures being felt by the sector at the moment; however, by following the same 10% increase that has been implemented in previous years, we believe this 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 £284-340² or an extra £5-£7 per week. Evidence for 2020/21³ found that local authority residential places cost on average £4,865 per child per week and places in independent settings cost on average £4,153 per child per week.

Question 2 – Inspection framework for secure 16-19 academies

We proposed amending the 2015 Regulations to require that all secure schools are subject to a minimum of two Ofsted inspections a year. Respondents to the consultation were asked:

Do you foresee any issues that our proposal might create?

We received 40 responses to this question. The majority of respondents (63%) told us that they thought that it was appropriate for secure 16-19 academies to be required to have two inspections per year. For example, many told us that given this was a new service, they thought that the proposed level of inspection was appropriate to ensure that standards are maintained in this type of provision.

The remaining respondents raised a wide range of issues, some providing more general comments on the secure 16-19 academy model. This included the importance that the service is therapeutic and that it will require good leadership. Another told us that there was a lot of demand for this type of setting and thought it was good that we were allowing this type of provision. Two respondents highlighted the impact of inspections on providers as this had resource implications as it took staff away from working with children as well as the level of inspection increasing costs for this type of provision.

Two respondents noted that the consultation document could have been clearer on the focus of the inspections, namely that the proposal was limited to inspections under the secure children's homes framework (as opposed to the 16 – 19 academies framework).

² The base fee for a children's home with 3 approved places will increase by £284. Children's homes with 4 or 5 approved places will pay the increase on the base fee (£284) plus the increase per each approved place (£28). For example for 4 approved places the increase will be (£284+£28) and for 5, (£284+£28+£28). The proposed fees for 2023-24 are set out in [Annex A and B of the consultation document](#).

³ [Unit Costs of Health and Social Care 2021 | PSSRU](#)

Government response

Most respondents said that our proposal to require a minimum of two inspections per year for secure 16-19 academies was appropriate. Therefore, the government will seek to amend the 2015 regulations to require that the secure children's home element of secure 16-19 academies are subject to the same number of inspections as secure children's homes.

Secure 16-19 academies will be inspected under both the secure children's homes and 16-19 academy frameworks. For the avoidance of doubt, the proposal set out in the consultation document only related to the secure children's home element of secure 16-19 academies. We are continuing to work through how Ofsted will inspect the 16-19 academy element of secure 16 – 19 academies. How the 16-19 academy element is inspected, and to what frequency, is yet to be finalised. Ofsted are undertaking work on this and will be engaging with relevant stakeholders. How inspections of secure 16-19 academies will occur will be published prior to the first one opening in 2024.

We have also noted some of the general comments that were received on secure 16-19 academies. Some providers feel that the frequency of inspections may be a burden on providers and will have resourcing implications; however, given the vulnerability of the children and young people that will be placed in secure 16-19 academies, on balance, we believe that setting the same minimum inspection frequency as secure children's homes for this setting is the right approach.

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 47 responses to this question. Thirty-five respondents did not raise any concerns about the impact of our proposals on persons with protected characteristics. Two respondents told us that our proposals around inspections are likely to have a positive impact as they expect standards will be improved and it will help to ensure regular scrutiny of settings where vulnerable people are cared for.

Two respondents also noted the overrepresentation of those with protected characteristics in the care system, including those from ethnic minorities. One respondent noted the importance of protection for young women in a secure environment, while another highlighted how increasing costs could mean increased fees for children at residential special schools, meaning that this may impact on their ability to afford to attend the school.

Government response

The fee increase will apply equally to all children's social care providers across the different sectors. However, we are also aware of the overrepresentation of persons with certain protected characteristics within children's social care service users. Therefore, our conclusion is that it is unlikely that the increase will have negative unintended consequences for these service users. This is based on our analysis of the responses received as part of this consultation, together with our own analysis of the potential impacts of this policy.

Although the fee increase will be applied to all providers, we will continue to work with Ofsted to monitor the results of routine graded inspections, ensuring that quality and standards are maintained.

Likewise, ensuring that the secure children's home element of secure 16-19 academies have the same inspection frequency as secure children's homes and are inspected twice a year by Ofsted will help to maintain standards and high quality provision, given the vulnerability of the cohort. The first secure 16-19 academy is due to open in 2024 and we will also work with Ofsted to ensure inspection outcomes are monitored.

Next steps

We aim to implement these proposals via a statutory instrument for financial year 2023-24.

Annex A: List of organisations that responded to the consultation

- Action for Children
- Advocate Residential
- Alonzi House
- Aspireone Care Ltd
- Athena
- Cameron & Cooper Limited
- Cherry trees care
- Consortium of Voluntary Adoption Agencies (CVAA)
- Family Beginnings
- Hackney Council
- Hamilton Lodge School and College
- Hestia Homes for Children
- Hull City Council
- Keys Group
- Leicestershire County Council
- Lighthouse Fostering
- Lincolnshire Secure Unit
- London Borough of Brent
- Luton Borough Council
- Marland School (Residential SEMH school)
- Midas Manors Ltd
- MJ Residential Services
- Oaktree Childcare
- Ofsted
- Plus One S W Ltd
- Positive Futures
- Potens
- Roxwell Care Group

- Solace care Group
- Speech and Language UK Meath School
- Supporting Hands Care Services
- SW Education & Care
- White Orchid Care
- Wolverdene School
- Worcestershire Children First

22 Respondents asked for us to keep their responses confidential or did not provide the name of their organisation.



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