



Department
for Education

Independent School Action Plan Guidance

April 2023

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Summary

About this guidance

This is guidance from the Department for Education (DfE). It is non-statutory and has been produced to support proprietors of independent schools to produce action plans. Where an independent school is found to be failing the Independent School Standards or the Early Years Foundation Stage, the Secretary of State can require the proprietor of the school to submit an action plan for evaluation, setting out how the failings will be remedied. This guidance is intended to support proprietors in producing an action plan which will properly demonstrate how they will meet (as applicable) failed standards from the [Independent School Standards](#) and the [Early Years Foundation Stage Statutory Framework](#).

Who is this guidance for?

This guidance is primarily for:

- proprietors of independent schools in England who are required to produce an action plan.
- senior leadership teams working alongside such proprietors.

It may also be useful for:

- The Office for Standards in Education (Ofsted).
- The Independent Schools Inspectorate (ISI).
- Associations in membership of the Independent Schools Council.

Expiry/Review Date

This guidance will be reviewed in May 2024.

Introduction

1. The Education (Independent School Standards) Regulations 2014 are made under section 94 of the [Education and Skills Act 2008](#) ("the 2008 Act") and set out a range of standards, known as the Independent School Standards ("the ISS")¹, that all proprietors of independent schools in England must meet.

2. Proprietors of independent schools that are early years providers for children in non-registered settings must meet the standards in the Early Years Foundation Stage, currently to be found in [Early Years Foundation Stage \(EYFS\) Statutory Framework](#) ("the EYFS").

3. Where an inspection or other evidence satisfies the Secretary of State that one or more of standards in the ISS or the EYFS are not being met in relation to an independent school, the Secretary of State may issue a notice [under section 114\(5\) of the 2008 Act](#) to the proprietor of the school. The notice requires the submission of an action plan (a plan setting out the steps that will be taken to remedy failed standards and the timeframe for taking those steps) by a specified date.

4. Enforcement action under the 2008 Act can be taken in relation to an independent school where there are unmet standards, and provided one of two conditions are met that require, amongst other things, that the Secretary of State has required the proprietor of the school to submit an action plan (see paragraph 32 below for more detail on enforcement action). Therefore, a notice requiring an action plan may be a precursor to enforcement action.

Purpose

5. The purpose of an action plan is to set out clear and specific actions, detailing how the proprietor of a school will meet failed standard(s).

6. An action plan must specify:

- the steps that will be taken to meet the standard(s) not currently met (as specified in the notice requiring the plan).
- the date by which each step will be taken.

¹ Guidance to support schools meet these standards is available here - [The Independent School Standards - Guidance for independent schools \(publishing.service.gov.uk\)](#)

Drafting the Plan

7. A suggested template for an action plan is attached at Annex A. Proprietors are not required to use this template but may find it helpful. If an action plan is structured in this way (with the necessary detail provided) then the statutory requirements for a valid action plan will be met, as well as providing further information that will assist in its evaluation by the department and its implementation by the proprietor.

8. The template covers the following matters:

- each standard which has not been met.
- objective – proposed outcome of the action taken.
- the step(s) that will be taken to meet each standard.
- the date by which each step will be taken.
- the person chosen to be responsible for ensuring a step is taken on time.
- estimated expenditure or other resources to be applied in taking a step.
- the criteria for judging that there has been success in meeting the standard.
- any other information that the proprietor considers is relevant.

9. Proprietors may also consider, for their own benefit, adding to their action plan what further steps they will take following implementation to ensure that they remain compliant with the standards - for example, provision for ongoing review such as regular safeguarding or governance audits if that is appropriate given the nature of the failings.

10. It is strongly advised that proprietors consider seeking additional support (including external support), for example, from an independent organisation, to develop their action plans. Such support (along with the challenge it can provide) can help with preparing an action plan that will properly address the school's failure(s) to meet the ISS and/or the EYFS. For example, schools could seek appropriate support from:

- The expertise of staff from other schools within a group with a shared proprietor.
- Peers from other unconnected schools.
- Independent consultants.
- Relevant member organisations which can provide direct support and facilitate peer support such as:
 - The [Independent Schools Council](#) (including its membership associations, the GSA, HMC, IAPS, ISA, AGBIS, ISBA and the Society of Heads).
 - Other representative bodies (e.g., SWSF, Chinuch UK and AMS).

11. It is also helpful to have action plans quality assured by a third party before submitting them to the department.

Steps to be taken to meet each standard that has not been met

12. The notice (or the annex to the notice) issued requiring an action plan will refer to the standards that have been identified as not being met by the Secretary of State. When an inspection report has been relied on in reaching that conclusion, a copy of (or link to) that report will be supplied.

13. The inspection report is a useful starting point from which to consider what action needs to be taken to meet the standard(s) in question. In fact, in most cases, it is likely to be essential to consider the inspection report since it will explain why the inspectorate concluded that the standards were not met. Similarly, it is also prudent to take into account any oral feedback given at the end of the inspection in question, as that will assist in understanding the nature of the failings and therefore, how to address them.

14. Nevertheless, it is the responsibility of the proprietor of the affected school to decide what steps are appropriate to meet the standards and are therefore detailed in an action plan.

15. The number of steps or actions needed to remedy each of the unmet standards will vary. Sometimes only one or two will be required. For example, if the only failing consists of not publishing an inspection report on the school's website and providing copies of the report to parents of registered pupils (as required by paragraph 32(1)(d) of the ISS), then the action plan needs to simply specify that the report will be published on the website by a particular date, maintained on the website thereafter and that the report will be sent to all parents of registered pupils by a particular date.

16. However, for some unmet standards, several steps will be needed to ensure that a standard is met. Examples include:

- If the curriculum and schemes of work in mathematics have been found to be inadequate (as required by paragraph 2(1)(a) of the ISS), the action plan should record all the steps involved to resolve this. This could include drafting suitable documents, drawing as necessary on existing material, trialling them in classes, and finalising them for continued use in a way that meets the standard in question.
- If the school has been found to be failing the standard relating to assessment of pupils (as required by paragraph 1(4) and paragraph 2(3)(g) of the ISS), steps here may include drawing up a suitable assessment framework, training staff in its use and putting it into effect in the school in a way that meets the standard in question.
- If there are extensive premises defects, then each main stage of remedial building work should be shown, showing how the combined effect will be to rectify the unmet standard(s) in question.

Please note, these are just examples to aid understanding and it is the responsibility of the affected proprietor to decide the specific action(s) needed to remedy their failings against the Independent School Standards or EYFS.

17. Failure to meet the ISS will normally be associated with a failure to meet one or more of the requirements in the leadership and management standard, contained within part 8 of the ISS. This is because this standard requires those in leadership and management positions to demonstrate good skills and knowledge appropriate to their roles, and fulfil their responsibilities effectively, so that all of the ISS are met consistently. Therefore, it will rarely be sufficient to only address the other standards that have been failed and presuppose that taking steps to address these failed standards will be sufficient action to address failings in relation to leadership and management standard. Where an action plan is required to address one or more failings against the leadership and management standard, proprietors should review how the leadership and management of their school is performing and consider what action needs to be taken in order to ensure that they become compliant.

18. Where an action plan is required to address failings in relation to the leadership and management standard, it should explicitly set out action(s) to remedy failings against that standard. Such actions may include training, strengthening internal governance arrangements, or putting in place arrangements to be clearer where responsibility lies for managing relevant aspects of a school's operations or improving/increasing independent oversight. Depending on the circumstances at the school, action could include additional or substitute independent governors and/or appropriate independent audit arrangements as well as other changes to the leadership and management team.

The date by which the steps should be taken

19. The date by which the steps in the action plan should be taken will depend on the nature of the failing(s). Generally, the department will expect all the steps to be completed in no longer than three months from the date of the notice requiring the action plan. However, if a failing is very serious, particularly if it affects the welfare or safety of pupils, swifter action may be expected. In these cases, the department will ensure this is made clear in the notice requesting an action plan.

20. In some cases, a longer implementation period may be acceptable. Examples where this may be the case include; if there are failings in relation to quality of education, if extensive training of staff is involved, or if the plan includes extensive building works. In these cases, the school should explain why the longer period is required in its action plan.

Success criteria for the steps to be taken

21. In order to evaluate the adequacy of the steps the school proposes to take to meet the standards in question, the plan should set out success criteria for each step. They should be measurable and if action has already been taken, should indicate the evidence available to show compliance with the standard has been achieved. These criteria will also ensure that there is a clear basis for making a judgement on compliance. It is strongly advised evidence available is submitted alongside the action plan (for example photographic evidence of building alterations or a hyperlink to published policies).

What happens once an action plan has been submitted?

23. When a notice requiring an action plan has been issued, it would be prudent for the proprietor of the school in question to take action to remedy any failings identified as soon as possible. A school should not, and does not need to, wait for a response from the department about its action plan before taking action to address its failings against the standards.

24. The action plan should be submitted directly to the department. Once received, it will be sent to the relevant inspectorate for evaluation and if possible the evaluation will be conducted by the original reporting inspector. The inspectorate's evaluation and assessment of an action plan look at matters such as completeness, the practicability of the timescales, and whether or not the actions proposed would result in the standards in question being met. An evaluation is provided to the department setting out the views of the inspectorate, normally within a month of receipt of a plan by the inspectorate, or in a shorter timeframe if the department deems the failings warrant expedition of the evaluation.

25. Once the department has received the inspectorate's evaluation of an action plan, it will then consider the action plan on behalf of the Secretary of State, taking into account the inspectorate's evaluation. A decision will be made on whether to:

a) **Approve the plan.** If approved, the proprietor of the school will be notified of this decision by letter, which will also outline the steps which the department intends to take to assess implementation of the plan. In addition, a copy of the inspectorate's evaluation of the action plan will be provided.

b) **Approve the plan with modifications.** If the inspectorate and/or the department identify modifications that would make the action plan acceptable, the department may approve the plan with modifications. A letter notifying the proprietor of a decision to approve with modifications will be sent to the proprietor, which will set out the modifications and outline the steps which the department intends to take to assess implementation of the plan (as modified). In addition, a copy of the inspectorate's evaluation of the action plan will be provided.

c) **Reject the plan.** If rejected (or if a proprietor of the school has not submitted an action plan and the deadline for submission has passed), the proprietor will be written to outlining the department's proposed next steps. In addition, where an action plan has been rejected, the letter will also summarise why that decision was reached and a copy of the inspectorate's evaluation of the action plan will be provided. Rejection of an action plan is most likely to happen if the plan is inadequate in terms of the steps or timescales shown, needs substantial improvement to make the plan fit for purpose, or has been drafted in a way which will make it impossible to assess whether implementation will lead to the standards in question being met. If an action plan is rejected, the proprietor and other leaders at the school should, in any event, continue to work to meet the failed standards. It is therefore advisable to consider the inspectorate's evaluation since it may assist in identifying actions needed to comply with the standards.

What happens after the action plan is evaluated?

26. If the Secretary of State approves, or approves with modifications, an action plan, it is likely, that the relevant inspectorate will be commissioned to undertake a Progress Monitoring Inspection ("PMI"). The PMI will normally take place after the date by which actions listed in the action plan were meant to be implemented, but exact scheduling will be on a risk-based approach given the seriousness of the school's failings (and therefore, an inspection may, in some cases, take place before implementation dates).

27. The principal purpose of a PMI is to consider and report on whether a school is at the time of the inspection meeting the standards that that it was required to address in an action plan, though the findings of a PMI will also be relevant to the question of whether the action plan has been complied with.

28. If an action plan is rejected (or an action plan has not been submitted and the deadline for submission has passed), the 2008 Act allows an immediate move to enforcement action in relation to a school, (see paragraph 32 below for more details on enforcement action) provided that the Secretary of State is satisfied that the ISS (and/or EYFS) are not being met. The case for taking enforcement action will always be considered in these circumstances if there are very serious failings at the school. However, normally where an action plan is rejected (or has not been submitted and the deadline for submission has passed), the relevant inspectorate will be commissioned to undertake a PMI before a decision is taken on enforcement action.

What happens when a school is found to be meeting the standards?

29. Where the Secretary of State is satisfied, following a PMI, that a school is meeting the standards which the PMI considered, it will usually be the case that the next inspection of that school will be a standard inspection (as part of the three yearly cycle of

standard inspections of independent schools, applicable to that school), provided there is no evidence of, or concerns raised about, non-compliance with the standards in the meantime. A letter will be issued to the school to confirm this. However, what happens in terms of inspections following a PMI, will always be decided on a case-by-case basis and for example, where failures have been serious or long-standing, or there are significant changes in the leadership of a school, an earlier standard inspection could be arranged to ensure that improvement has been maintained.

What happens when a school is found to continue to fail to meet the standards?

30. If there are significant improvements found at a school at the PMI (and where any remaining failings are not serious), then it is likely that a further notice requiring an action plan will be issued rather than enforcement action being taken. However, each case will be decided on its own merits and in line with the department's enforcement policy.

31. If significant improvements are not found at that PMI or serious failings remain, enforcement action will ordinarily follow unless the department is satisfied that there are good reasons for not taking such action, although the principles and relevant factors for enforcement action, as set out in our enforcement policy, will always be taken into account in arriving at a decision.

Enforcement Action

32. The power to take [enforcement action](#) in relation to an independent school, under sections 115 and 116 of the 2008 Act may, in effect, only be exercised where a proprietor of the school has had an opportunity to improve. This is because one of two conditions in section 115(4) and (5) of the 2008 Act needs to be satisfied.

The two conditions are, broadly, as follows:

- Within 3 years prior to the enforcement action being taken, the Secretary of State has required an action plan and then either (a) no action plan was submitted and the date by which it was required to be submitted has passed, (b) an action plan was submitted but rejected, or (c) an action plan was approved but not implemented.
- At least two years before the enforcement action is taken, the Secretary of State has required an action plan and since the action plan was required (a) an inspection of the affected school has taken place and (b) at no point since then has the Secretary of State been satisfied that all the ISS and (where applicable, all the EYFS) were being met in relation to the affected school.

33. Enforcement action consists of either:

- Removing a school from the register of independent schools which has the effect of requiring it to cease operating as an independent school (since it is a criminal offence to conduct an unregistered independent school).
- Imposing a relevant restriction on the proprietor of a school – which, in broad terms, is a restriction on the school’s operations. A relevant restriction can require a proprietor of a school to do one or more of the following:
 - to cease to use any part of the school's premises for all purposes or specified purposes, for example, an unsafe building.
 - to close any part of the school’s operations, for example, the provision of boarding.
 - to cease to admit any new students or new students of a specified description.

34. Enforcement action under sections 115 and 116 of the 2008 Act can follow on relatively quickly after an action plan has been required. The department’s policy on taking enforcement action, ‘Independent Schools: Regulatory and Enforcement Action Policy Statement’ (April 2019), states:

....this does not mean that children are to remain for an extended period of time in schools which are inadequate because they are not meeting one or more of the standards in ISS (or the EYFS). The department’s overall policy aim is that in order to safeguard the education and well-being of children, schools that do not meet the ISS (or EYFS) must improve rapidly or face enforcement action.

35. It is possible for the department to take emergency action under section 120 of the 2008 Act, to seek an order from the Magistrates’ Court requiring that an independent school is removed from the register, or which imposes a relevant restriction on the proprietor of a school. Taking action here does not require that an action plan has been required from a proprietor. Instead, an application may be made where it appears that a pupil at a school is suffering or likely to suffer significant harm.

Action plan submitted under S.114 of Education and Skills Act 2008

School Name:

School Number:

| Standard No | Objective | Action proposed | To be completed by | Responsible person | Expenditure and resources | Success criteria or outcome |
|-------------|-----------|-----------------|--------------------|--------------------|---------------------------|-----------------------------|
| | | | | | | |
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Any other relevant information:



Department
for Education

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