



Department
for Education

Fees and frequency of inspection regulations 2024-25

Government consultation response

March 2024

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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 21 December 2023 to 25 January 2024, we consulted on the following proposals:

- A 20% increase on current fees payable by children's social care providers (apart from supported accommodation), for those providers which are not already at full cost recovery;
- To not consult on future fee increases of 20% or less;
- Remove the requirement for Ofsted to undertake a second inspection on a Children's Home when there are no children accommodated in the home;
- Disclosure of names and addresses in inspection reports relating to secure 16-19 academies and secure children's homes.

A 20% 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 20%, for those providers not yet at full cost recovery.

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.

To not consult on future fee increases of 20% or less

In previous years, when we have increased fees for all providers not already paying full cost, we have consulted on how much that increase should be. These consultations have historically generated little engagement. Given the very limited engagement in these annual consultations we do not think it is proportionate or necessary to continue to consult every year, so believe moving to a system where we only consult if we want to increase fees by more than 20% is appropriate.

Remove the requirement for Ofsted to undertake a second inspection on a Children's Home when there are no children accommodated in the home at the time of the first inspection

Subject to certain exceptions, children's homes are required to be inspected twice per year. If a home is judged to be good or outstanding at their first inspection, it is not required to be inspected a second time in that same inspection year unless Ofsted determines that a further inspection is required. For homes judged to be 'requires improvement' or 'inadequate' at their first inspection, Ofsted is required to undertake a second inspection during the inspection year.

Ofsted has previously undertaken inspections of some homes where there were no children accommodated, either because the home had not formally been closed or it had not informed Ofsted that it was not accommodating any children. In these circumstances, Ofsted were unable to make a judgement on their four-point scale (because they could not assess many of the required elements). Therefore, Ofsted was required to undertake a second inspection during the same inspection year, even if they were aware there were still no children living in the home and so they would once again be unable to come to a judgment. We proposed changing the 2015 Regulations so that Ofsted no longer need to inspect homes where no children are being accommodated twice in the same year.

Disclosure of names and addresses in secure 16-19 academy and secure children's homes inspection reports

Secure 16-19 academies are a new custodial provision. They are to be dually registered with Ofsted as children's homes and 16-19 academies, for children remanded to custody or who are serving a custodial sentence. The first secure 16-19 academy is planned to open in 2024 and will be inspected by Ofsted with the support of the CQC. In keeping with inspections of regular 16-19 academies, when Ofsted begin inspecting these settings, they intend to publish the name and address of the secure 16-19 academy in their reports. Legislation however prohibits Ofsted from disclosing the names and addresses of children's homes and this creates an inconsistency, given secure 16-19 academies are to be dually registered as children's homes and 16-19 academies.

Allowing Ofsted to include the name and address for both the children's home and the 16-19 academy elements of the setting will ensure transparency, prevent potential confusion and provide a comprehensive understanding of the overall provision, contributing to the effectiveness of the inspection processes. For consistency, these amendments will apply in respect of all secure children's homes. This amendment will, by default, result in the inspection reports relating to all secure children's homes being available on the Ofsted 'find a report' website.

Stakeholder engagement

When the consultation launched, we alerted key stakeholders including the Association of Directors of Children's Services (ADCS), the Children's Homes Association (CHA), local authorities, DLUHC Chief Executive Council bulletin, the Local Government Association (LGA) and Ofsted. 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.

Summary of responses received and the government's response

There were 16 responses to the consultation. We received responses from different stakeholders from across the children's social care sector including local authorities, children's homes, adoption agencies and fostering agencies. A list of the organisations that responded can be found in Annex A.

Main findings from the consultation

A 20% increase on current fees payable by children's social care providers, for those providers which are not already at full cost recovery

Of the 16 respondents, 2 (13%) said it would have no impact. 3 (19%) thought the impact of the proposed fee increase would be minor. 6 (38%) told us it would have a moderate impact. 5 (31%) said it would have a major impact.

Issues highlighted by local authorities (LAs) were that providers may increase placement costs, which would be unsustainable for budgets which are already under strain. LAs also referred to the lack of information on providers not paying full cost, how far these providers are from full cost recovery, and related expected costs. LAs also said costs of placements for children were significantly higher than they were in previous years.

Adoption agencies said this was a significant rise in the fee in one year, at a time when they are struggling financially as costs continue to rise.

Fostering agencies said they already have a tight budget, pressures on services are high and costs have increased for staff, offices and utilities. They are also kept to tight uplifts by LAs.

To not consult on future fee increases of 20% or less

Most respondents (69%) saw difficulties with this proposal and thought it was necessary to consult on future fee increases. 19% thought it was not necessary to consult on future fee increases.

Of those who did not agree they explained that consultation is vital and is a mechanism for stakeholders to explain to DfE and Ofsted the pressure that fee increases places on children's social care providers. They also said any fee increase above inflation or more than the local government settlement should be consulted on.

Remove the requirement for Ofsted to undertake a second inspection on a Children's Home when there are no children accommodated in the home

Most respondents (69%) were in favour of removing the requirement for Ofsted to undertake a second inspection where there were no children being accommodated in the

home at the time of the first inspection. Respondents agreed that this change would enable Ofsted to target its resources more effectively. However, some highlighted second inspections are useful where homes are reopening or have made improvements.

Disclosure of names and addresses in secure 16-19 academy and secure children's homes inspection reports

The vast majority of respondents either did not foresee any issues with the disclosing of names and addresses in secure 16-19 academy and secure children's homes inspection reports (50%), or were unsure (25%). Of the 4 respondents (25%) who did foresee potential issues, their concerns focused on the perceived increased risk of the children/ young people accommodated in secure provision being identified, and the subsequent risk to their safety. The tested subjects were the 5 most widely taught in Europe: biology, chemistry, physics history and geography. Each jurisdiction tested their pupils in 2 of these subjects. In England, these were chemistry and physics.

Question analysis

Question 1 – Annual, registration and variation fees

What would be the impact of the proposed fee 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 |
|-----------------|-------|---------|
| No impact | 2 | 12.50% |
| Minor impact | 3 | 18.75% |
| Moderate impact | 6 | 37.50% |
| Major impact | 5 | 31.25% |

Of the 2 respondents who said the increase would have no impact, 1 said they currently pay the maximum rate and 1 said the fee increases were fair and proportionate.

Of the 11 respondents who said the impact would be moderate or major half were providers and half were LAs.

LAs said that the increase was significant and challenges their ability to provide safe placements and that sustaining essential services was becoming nearly impossible. They said that providers may increase placement costs, which would be unsustainable for budgets which are already under strain. They also referred to the lack of information on providers not paying full cost, how far these providers are from full cost recovery, and related expected costs. LAs also said costs of placements for children were significantly higher than they were in previous years.

Adoption agencies said this was a significant rise in the fee in one year, at a time when they are struggling financially as costs continue to rise.

Fostering agencies said they already have a tight budget, pressures on services are high and costs have increased for staff, offices and utilities. They are also kept to tight uplifts by LAs.

Government response

Government is fully aware of the cost of living pressures that are being felt within the children's social care sector and more broadly within wider society.

Since 2010 we have had a consistent policy of moving all providers towards full cost recovery so that the costs of their regulation and inspection are no longer subsidised by the taxpayer. But given the large disparity between the level of fees and the full costs of inspection and regulation, we have not sought to move providers there in one go. Instead, we have increased fees each year for all providers not already paying full cost, and have consulted annually on how much that increase should be. Fee increases of 10% have been applied every year since 2010 for providers not already paying the full cost rate (with the exception of 2020-21 and 2021-22 when fees were frozen due to the pandemic).

Given total annual fees charged by providers are in the thousands of pounds, this is a very small overall increase in costs for providers. The providers most affected by the increase in fees will be those running children's homes. The majority would see a weekly increase on top of their current annual fee rate of between £12 -£15 per week for each placement. On average, the annual additional cost of a 20% fee increase for all private and voluntary providers (not just children's homes) would be around £538.

We also note that the majority of respondents (approx. 68%) indicated that the proposed increase would have no, minor or moderate impact. Given this result, the government has decided it will (subject to parliamentary approval) implement the 20% increase to Ofsted annual, registration and variation fees from 1 April 2024 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](#).

Question 2 - Not consult on future fee increases of 20% or less

Do you agree that we should not consult on future fee increases of 20% or less?

A table of the responses is set out below.

| Answer | Total | Percent |
|----------|-------|---------|
| Yes | 3 | 18.75% |
| No | 11 | 68.75% |
| Not sure | 2 | 12.50% |

The majority of respondents (69%) did not agree that we should not consult on future fee increases of 20% or less. 19% of respondents agreed that we should not consult on future fee increases of 20% or less.

Those who did not agree explained it was important that Ofsted and DfE understand and hear the pressure future fee increases place on social care providers. They said consultation is vital and should be the case for all increases, particularly for any in excess of local government settlement. They also argued that DfE needs to reflect on the impact of previous fee increases and will only get this information through consultation. They also said consultation should take place where the fee increase proposed is above the rate of inflation.

Government response

Despite the majority of respondents to this consultation not agreeing with our proposal, we have decided we will not continue to run a formal consultation process on fee increases of 20% or less. Given the very limited engagement (16 responses this year, which is less than 5% of the sector, and 57 responses last year¹) in these annual formal consultations we do not think it is proportionate or necessary to continue to consult every year. We therefore plan to move to a system where we only consult if we propose to increase fees by more than 20%. We will continue to work with Ofsted to engage with providers through other mechanisms to ensure we understand the impact of fee increases as we move towards full cost recovery.

Question 3 - Remove the requirement for Ofsted to undertake a second inspection on a Children’s Home when there are no children accommodated in the home

Do you agree that with the approach that we will remove the requirement for Ofsted to undertake a second inspection on a Children’s Home when there are no children accommodated in the home?

A table of the responses is set out below.

| | Total | Percent |
|----------|-------|---------|
| Yes | 11 | 68.75% |
| No | 2 | 12.50% |
| Not sure | 3 | 18.75% |

Most respondents (69%) agreed with our proposal to remove the requirement for Ofsted to undertake a second inspection on a Children’s Home when there are no children accommodated in the home at the time of the first inspection. Of the 16 responses to this question, many agreed that second inspections on Children’s Homes without children is an inefficient use of resources. However, some respondents have advised that second inspections are often helpful for homes who have made changes and improvements. The absence of a second visit may act as a barrier to the ability of Children’s Homes that have made improvements to reach a suitable standard. A second inspection in such cases provide assurance to the homes of the quality of their provision before accommodating children.

Government response

The government will amend the 2015 Regulations so that, where an inspection is undertaken and a report prepared under section 32(5) of the Care Standards Act 2000 which does not record a judgment on the overall experiences and progress of children and young people living in a children’s home because there are no children and young people living in the home at the time of the inspection, no further inspection will be required in that year unless the Chief Inspector determines that a further inspection is required. This change will mean Ofsted will not be required to undertake a second inspection in the same inspection year if they are aware that there are still no children living in the home. Ofsted will update the Social Care Common Inspection Framework (SCCIF) to set out the circumstances in which a second inspection will be necessary and likely timescales.

We believe this is a sensible and pragmatic change which will better allow Ofsted to deploy their resources.

Question 3 - disclosure of names and addresses in secure 16-19 academy and secure children’s homes inspection reports

Do you foresee any issues this proposal might create?

A table of the responses is set out below.

| | Total | Percent |
|----------|-------|---------|
| Yes | 4 | 25% |
| No | 8 | 50% |
| Not sure | 4 | 25% |

The vast majority of respondents either did not foresee any issues with the disclosing of names and addresses in secure 16-19 academy and secure children's homes inspection

reports (50%) or were unsure (25%). Of the 4 respondents (25%) who did foresee potential issues, 3 were from LAs and 1 from a provider.

Their feedback in this regard was consistent, and centred around their concerns for the safety of some of the most vulnerable children who face highly complex risks. In particular the view from these respondents was that by disclosing the names and addresses of the Secure Children's Homes, the likelihood of these children being identified and found would increase, and there would be a knock-on impact of additional pressure on the homes to manage the risk.

Government response

The government is mindful that the purpose of the provisions of the Care Standards Act 2000 (Registration) (England) Regulations 2010 (the "Registration Regulations") which prohibit Ofsted from disclosing names and addresses in relation to children's homes is to protect the privacy and safety of children living in such settings.

Children's homes are ordinarily located within communities with their whereabouts not known to the public. These homes look after vulnerable children who may be placed at risk if their whereabouts were known. The prohibition on disclosure of name and address details is therefore to maintain privacy and protect vulnerable children from being identified and potentially contacted. Given such risks, including those outlined by the four respondents who replied 'yes' to this question, this prohibition on disclosure of names and addresses for regular children's homes will remain.

Secure 16-19 academies and secure children's homes are, however, very different to regular children's homes by their nature. They are secure provision, protected by a secure perimeter, and therefore knowing their location is not analogous with that of regular children's homes. The location of secure children's homes is already publicly available – the sector has its own website with addresses published thereon, and the children that reside in them are protected by the physical security of the setting (for the avoidance of doubt, the names of individual children are, of course, not disclosed). Before issuing the formal consultation, we tested these particular proposals informally with some Secure Children's Homes registered managers; there was consensus that the safety of the children accommodated in secure provision would not be compromised by the outlined change and nor would their ability to keep children safe be impacted.

We note that the majority of respondents (75%) did not foresee any potential issues this change might create. Therefore, given the very different risks between regular children's homes and secure 16-19 academies or secure children's homes we will amend the Registration Regulations so that name and address information of the secure settings is available to the public. By ensuring this change applies equally to secure 16-19 academies and secure children's homes we will ensure consistency in Ofsted's approach to inspection reports among both types of secure settings. Non-secure children's homes will continue to be subject to the prohibition on disclosure of their names and addresses under the Registration Regulations.

Equalities assessment

Do you have any concerns regarding the potential impact (positive or negative) that our proposals outlined in this consultation may have on those with a protected characteristic under the Equality Act 2010?

We received 16 responses to this question. 13 respondents did not raise any issues with our proposals regarding the Public Sector Equality Duty. Those who did highlight issues raised concerns that increases in fees may impact on Local Authority services developed for vulnerable groups. Some were concerned that these services may be cut in order to maintain statutory functions such as securing placements for children.

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.

We have completed an Equality Impact Assessment and Family Test and have concluded there is limited potential for these changes to have a negative impact on children and some groups which share the protected characteristics of disability and race. The potential impact relates to the possibility that fee increases could have a negative impact on quality as less money may be spent on services. However, Ofsted fees are only one of a number of costs for providers and we think this highly unlikely, given the small amount of increase. We will continue to monitor performance of children's social care providers through regular discussions with Ofsted.

Next steps

We have implemented these proposals via a statutory instrument for financial year 2024-25.

Annex A: List of organisations that responded to the consultation

- St Helen's Council
- Stockton on Tees Borough Council
- Newcastle City Council
- Lancashire County Council
- Lincolnshire Secure Unit
- Aycliffe Secure Children's Home
- Positive Aspirations Group
- North West Association of Directors of Children's Services (NWADCS)
- NASS - National Association of Independent Schools and Non-Maintained Special Schools
- Ofsted
- 5 responses were received from individuals who requested that their responses be kept confidential.



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