



A single inspectorate for children and learners

Ofsted's response to the DfES consultation paper

**Better
education
and care**

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Ofsted's response to the DfES consultation paper

1. Ofsted welcomes the proposals in the consultation paper. We are committed to their successful implementation, working closely with the Department for Education and Skills (DfES) and other government departments, with the other inspectorates affected by these proposals and with stakeholders outside government. In recent years Ofsted has consistently demonstrated its capacity to take on and make a success of new functions. These now extend from childcare and aspects of child protection to education provision for 19-year-olds. Transferring to Ofsted the duties covered by the consultation paper is therefore a very practical proposition.
2. We believe moreover that the direction of travel proposed is the right one, for the following reasons:
 - from the perspective of the **users of the services inspected** (children, learners, parents, employers), a single inspectorate for children and learners will make it easier to present broad and relevant information and to do so in a consistent way
 - from the point of view of **those inspected**, fewer inspectorates will mean less complex, less duplicatory and therefore less burdensome inspection arrangements
 - the approach proposed is consistent with the thrust of **government policy**, for example in relation to the functions of children's services departments at local authority level and in relation to education policy for those aged 14 to 19
 - the inclusion of employment based training within Ofsted's remit would mean that for the first time a single inspectorate was able to speak authoritatively about the relationship between **education and employment**
 - by bringing the work of a number of inspectorates together, it will be possible to realise **efficiency improvements** in inspection arrangements, coupled with **economies** in 'back office' support.
3. Our comments on the questions raised in the consultation paper are given below. Beyond the specific questions, we have commented only where we wish to make a suggestion about what is proposed. Where we do not comment, it is because we support in full the proposals.

The proposition that the ALI's existing inspection remit should be merged with the current work of Ofsted to create a single inspectorate for children and learners

4. The case for this change is, if anything, even more compelling than that in relation to the work of the Commission for Social Care Inspection (CSCI) and Her Majesty's Inspectorate of Court Administration (HMICA). The joint inspection of further education colleges by Ofsted and the Adult Learning Inspectorate (ALI) under the Learning and Skills Act 2000 was designed to ensure that colleges were not disadvantaged by the split of responsibilities between Ofsted and the ALI, but it was always recognised that the joint working would involve a certain amount of additional administration and additional costs for the inspectorates themselves. The distinction between further education for 16–19-year-olds and for those over 19 is in many respects an artificial one.
5. Many of those who conduct these inspections on behalf of Ofsted and the ALI – whether permanent employees (Her Majesty's Inspectors in the case of Ofsted) or additional inspectors – come from very similar, if not identical, professional backgrounds. ALI inspectors and HMI have often been colleagues at previous stages in their careers, for example when working for the former Further Education Funding Council. Many of the additional inspectors used in college inspections are employed by both inspectorates and are able to work in the remits of both.
6. As a consequence, members of joint Ofsted/ALI inspection teams do not necessarily confine themselves to inspecting 'their' inspectorate's responsibilities when working together in a college. In practice, HMI frequently inspect post-19 and work related provision, while ALI inspectors similarly inspect education provision where this makes sense. Locating all college inspection work within Ofsted will remove this artificial and unnecessary distinction.
7. Similarly, there are some common skill sets in relation to the inspection of employment based training. Plainly the single remit of the ALI – including the inspection of work based learning, learndirect provision, adult and community learning, and training funded by Jobcentre Plus – means that Ofsted would need to make full use of the expertise of ALI inspectors. These staff would form the bulk of the relevant workforce at Ofsted, as they do at the ALI; there would be no intention to engage the majority of HMI in these tasks. However, where individual HMI had the relevant skills and experience, it would be effective and efficient for them to work alongside the capacity transferred from the ALI.
8. Ofsted has strong links with all its main stakeholder groups, including colleges and employers. Through the transfer of staff from the ALI we

would further strengthen the links with employers in particular. This should be undertaken in parallel with the Department's proposals for the governance of Ofsted.

Whether there should be, in legislation, a single overarching statement to capture the core purpose of the inspectorate and characterise its overall ethos

9. In principle, we would welcome a statement of this kind. However, with the exception of the first, the points suggested in paragraph 28 of the consultation paper do not seem to us to be parts of a **core purpose**, but rather **approaches** or **principles** to be taken into account in designing methods of inspection.
10. We believe that an overarching statement of **core purpose** should start from the inspection and regulation of education, learning and care, and should include the following:
 - in relation to those public services falling within Ofsted's remit, to make available independent and authoritative information about the quality of provision to the users and providers of the services, and to ministers and Parliament: reporting 'without fear or favour'
 - to encourage improvement in services and better outcomes for children and learners
 - in doing so, to listen to the users of services; provide information about value for money from public spending on the services inspected and so strengthen accountability; and, subject to any other legislative provisions, ensure that inspection is proportionate to risk (the proviso is because primary and more particularly secondary legislation currently constrains the extent of proportionality)
 - to guarantee standards in the services that are regulated (as opposed to inspected).
11. So far as a statutory duty in relation to improvement is concerned, there is already a strong portfolio of contributions that Ofsted makes to improvement:
 - national data that support government decision making and research
 - frameworks of inspection (and national standards) that establish baselines of good practice
 - follow-up inspections for institutions with major weaknesses

- identification of 'actions' and 'key issues' with recommendations in individual reports
- publication of grades that motivate improvement
- national publications that influence and disseminate good practice
- public information to parents and stakeholders that informs choice.

With a new statutory duty, we would want to build on this work without compromising our core functions of inspection and regulation.

12. In considering the scope of an overarching statement of this kind for Ofsted, we would encourage the DfES to consult the Office of the Deputy Prime Minister (ODPM), the Department of Health and the Home Office (and others, as appropriate) to see whether similar statements can be agreed for the Local Services Inspectorate, the Healthcare Commission and the new criminal justice inspectorate. The logic of the government's proposal that there should be four main public service inspectorates is that they should operate under a broadly similar remit. Establishing this would be a way of underpinning the proposed high level duty in paragraph 29, 'to cooperate effectively with other public services inspectorates'. We recognise that ministers may also wish to reinforce this latter duty with more specific legislative provisions. At the same time, one of the great benefits of the government's proposals is that, with fewer inspectorates, it should become much simpler for four Chief Inspectors to work informally together to streamline shared processes.

Is the list at paragraph 29 of the consultation document a fair representation of the high level duties of an enlarged Ofsted?

13. We think that the high level duties proposed would sit appropriately under a core purpose such as that suggested above. Although implicit in the list, we think it would be important to refer specifically to users in these duties: for example, to require reports to be made, where possible, in ways that are accessible to the users of the services inspected. If providing information to ministers and to users is specifically included at this point of the legislation, it would be appropriate to complete the picture (and link with the high level purpose in relation to improvement) by including reference to the accessibility and relevance of information and reports to providers of the services inspected.

Opportunities for the rationalisation of inspection legislation

14. We support the general approach proposed of transferring current duties to Ofsted as they stand, but arranging for children's services inspections to be carried out by Ofsted under a single inspection function. The move to a single inspectorate would allow Ofsted to continue the work already started to rationalise the frameworks for inspection across all types of inspection, to integrate more effectively the inspection of local services for children with the inspection of institutions and to make better use of the expertise of the inspection workforce. In addition, more might be done to make all inspection proportionate to risk and to provide better value. Beyond that, we suggest the following specific opportunity for rationalisation.
15. Independent specialist colleges are currently inspected by both Ofsted and the ALI (because they receive funding from the Learning and Skills Council) and regulated by CSCI, which classifies them as care homes. Care homes are regarded by CSCI as catering solely for adults. The regulation of the care provision within them would, other things being equal, therefore transfer from CSCI to the Healthcare Commission. This would perpetuate the split responsibility in respect of the education and care inspections of these colleges. The Department may want to consider whether this is an area where specific legislative provision could secure unified inspection and regulation by Ofsted.

If the ALI's statutory post-16 learning and skills inspection functions were to be brought within a single inspectorate, how might its quality improvement and commissioned support and advice roles best be handled in the future?

16. We believe that the advisory function of the ALI provided by Excalibur and the Provider Development Unit (PDU) should be separated from the inspection function. The PDU provides information, advice, guidance and support for work based providers and Jobcentre Plus that are to be reinspected. Excalibur provides a range of events, products and online services that provide examples of good practice. We suggest that both functions might be better placed with the Quality Improvement Agency (QIA), which will have the task of supporting and driving systematic improvement across the sector. This will simplify the responsibilities for quality improvement by placing them within a single organisation. It will also ensure that inspection and advice are kept as separate functions.

Should the separate functions of the Children's Rights Director be retained under the new arrangements and, if so, should they be given to the single inspectorate for children and learners, to the Children's Commissioner, or split between the two?

17. Ofsted believes that the nature of the functions of the Children's Rights Director is such that, now that the Children's Commissioner is in post, they would sit more appropriately with the Commissioner. However, we would of course be willing to incorporate these functions, if that were ministers' decision. In that event, it would be appropriate to set the role in the context of the functions of Ofsted's Strategic Board (see paragraph 24 below) and of any relevant proposals included in the recent White Paper on schools.

Views on the suggested new statutory title for Ofsted to match and reflect its wider remit: the Inspectorate for Children and Learners

18. We think this is an excellent suggestion, reflecting the emphasis on users that is central to our approach to inspection and regulation.

Views on how an enlarged Ofsted might be generally known

19. We would argue strongly for the retention of the name 'Ofsted'. Repeated surveys have shown that it is one of the strongest brands in the public sector, with particularly wide currency among parents, who see it as a mark of authoritative, independent and reliable judgement. Plainly, 'Ofsted' could no longer stand simply for the Office for Standards in Education. If the post of Her Majesty's Chief Inspector of Schools (HMCI) were retitled Her Majesty's Chief Inspector of Education, Training and Care, this would become the formal derivation of 'Ofsted'.

Do you support the suggested change in Ofsted's governance to reflect its enlarged and wider remit?

20. We welcome the proposal to retain Ofsted's status as a non-ministerial government department; this, in our view, properly reflects the importance of the functions assigned to Ofsted and the standing of the organisation. It symbolises the way in which Ofsted is part of central government, while retaining independence of judgement.
21. Similarly, we very much welcome the proposal that the non-executive role in Ofsted's corporate governance should be strengthened. Indeed, Ofsted had agreed plans for doing so earlier this year. These have been deferred pending the outcome of the present consultation.

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22. Thinking about corporate governance has moved on significantly since Ofsted was established, and we believe that a model of the kind suggested in the consultation paper, with clear responsibilities both for a non-executive chair and for the Chief Inspector, would work effectively. However, Ofsted's current governance has real strengths, which we would wish to see built on and enhanced in any new arrangements.
 23. The clarity of responsibility vested in HMCI as, in effect, Ofsted's combined chairman/chief executive has meant not only that the Chief Inspector is the authoritative and clear voice of Ofsted, but also that he is the key decision maker within the organisation. This has meant both that accountability – to ministers and to Parliament – is transparent and unambiguous, and that the decision making process has been rapid and uncluttered. It is one reason why Ofsted has been able to respond quickly to new demands. By contrast, we would argue that there have been examples in the public sector over the past decade where the 'dual leadership' of organisations has made it difficult for stakeholders to know where the real decision making power lies and has seriously hampered the effectiveness of internal decision making.
 24. It is therefore essential that the respective responsibilities of the proposed non-executive chair (and board) and HMCI are drawn clearly and unambiguously. HMCI should remain the key operational decision maker and the authoritative voice of Ofsted, both in public and in advice to Ministers. With its enlarged remit, the demands placed on Ofsted will be complex. The role of the chair will be vital. The chair should stand back from the detail, monitor Ofsted's strategic performance and environment, and on this basis provide challenge and support to HMCI and the executive team. The chair (with the board as a whole) should also have specific oversight of matters such as corporate governance and could have statutory responsibility to monitor areas such as stakeholder relations or complaints.
 25. The nature and quality of appointments will be key to making a success of the new governance arrangements. The chair will need the ability and experience to see a complex organisation as a whole. Moreover, it will be important not to compromise Ofsted's independence in the non-executive membership of the board. Listening to stakeholders should be central to Ofsted's remit, but this cannot and should not determine the composition of the board: cannot, because Ofsted has too many groups of key stakeholders for adequate representation on the board to be possible (this would be even more true under the proposed new remit); should not, because the board should be concerned to see that Ofsted effectively discharges its responsibilities in relation to **all** stakeholders, not to represent particular interests.

26. Finally, we would encourage ministers to move as quickly as possible to establish shadow governance arrangements for the new remit of Ofsted. While recognising that Parliament's approval of the necessary legislation cannot be pre-empted, there is a risk of prolonged 'planning blight' unless clear governance arrangements are in place well in advance of the proposed transfer of responsibilities. The fact that Ofsted's current governance arrangements are not specified in legislation should give substantial scope for flexibility in this matter. For parallel reasons, clarity will be needed about governance in relation to decisions taken over the next 18 months by CSCI, HMICA and, subject to the Secretary of State's decision, ALI, to the extent that these have implications running beyond March 2007. We stand ready to discuss possible approaches with the Department.

Ofsted's Strategic Board

David Bell, HMCI (Chair)
David MacLeod, non-executive director
Laura Sharpe, non-executive director
Robert Green
Miriam Rosen
Maurice Smith
Jon Thompson

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