



Department
for Education

Independent school inspection fee regulations

Government consultation

Launch date: 22 November 2018

Respond by: 16 January 2019

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About this consultation

This consultation seeks the views of key stakeholders on proposed increases to the fees for inspection of independent schools¹ including those that have applied to be entered on the register, as provided for in the draft Independent Educational Provision in England (Inspection Fees) Regulations 2019, with a view to the revised regulations coming into force in the spring of 2019.

This document sets out a number of proposed changes to the fees charged to those independent schools inspected by the Office for Standards in Education, Children's Services and Skills (Ofsted).

This consultation seeks views on:

- An increase in the current fees levied by Ofsted for standard inspections directed to be made under s.109 of the Education and Skills Act 2008 ('the 2008 Act');
- An increase in the current fees levied by Ofsted for progress monitoring inspections directed to be made under s.109 of the 2008 Act when a school has not met the independent school standards; and
- An increase in the current fee levied by Ofsted for a pre-registration inspection carried out when a school has applied for registration as an independent school and an inspection is required under s.99 of the 2008 Act.

It is currently intended that the proposed changes will come into force from 1 April 2019 but the Parliamentary timetable may make it necessary to delay this until slightly later in the financial year.

The consultation will run for eight weeks.

Who this is for

- Head teachers and proprietors of independent schools.
- Office for Standards in Education, Children's Services and Skills (Ofsted)
- Independent school associations.
- Parents and carers.

¹ The term "independent school" is defined in s.463 of the Education Act 1996. The proposals in relation to inspection fees do not apply to academies, city technology colleges or a city college for the technology of the arts.

Issue date

The consultation was issued on 22 November 2018.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team by email on:

InspectionFees.Consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: consultation.unit@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2019.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request a copy of the form from the addresses below and email it or post it back to the department.

By email:

InspectionFees.Consultation@education.gov.uk

By post

Independent Education and Boarding Team
Department for Education
Bishopsgate House
Feethams
Darlington
DL1 5QE

Deadline

The consultation closes on 16 January 2019.

Introduction

All registered independent educational institutions in England (excluding state-funded Academies and Free Schools), and those seeking registration, are inspected at the direction of the Department for Education (DfE) on behalf of the Secretary of State, who is the registration authority for such schools. All independent schools must meet all the independent school standards, which are set out in the Education (Independent School Standards) Regulations 2014².

Of the 2,320 registered independent schools in England (November 2018), around 1,075 are currently inspected by Ofsted. The remaining schools are normally inspected by two other independent inspectorates, the Independent Schools Inspectorate (ISI) and the School Inspection Service (SIS) - although in appropriate circumstances Ofsted can be commissioned by DfE to inspect those schools also. The proposed changes to the arrangements for fees in respect of inspections within this consultation only apply to those independent schools inspected by Ofsted; they do not affect fees levied by ISI or SIS.

In line with central government policy that fees charged by government bodies for inspections should so far as possible recover the full cost of those inspections, the Spending Review 2015³ settlement for Ofsted included assumed savings by moving towards full cost recovery. However, there is currently a significant disparity between full cost recovery and fees charged: the current 2018-19 overall level of recovery of costs from fees charged to schools amounts to approximately 30%. This is largely owing to the fact that the great majority of schools inspected by Ofsted are relatively small, with between 5 - 74 pupils; fees charged for inspections are currently based on a sliding scale according to the number of pupils on roll, and the fees for small schools are considerably below cost. For larger schools, the fees charged are much closer to actual costs.

The levels of fees currently charged to independent schools for inspections carried out by Ofsted are set in the Independent Educational Provision in England (Inspection Fees) and Independent School Standards (Amendment) Regulations 2018⁴ which were made under a power in s.111 of the Education and Skills Act 2008. Although these

² <http://www.legislation.gov.uk/ukxi/2014/3283/contents/made>

These regulations have been subsequently amended in certain minor respects, but these amendments do not affect the overall relationship between the standards and inspections carried out to determine whether the standards are met.

³ <https://www.gov.uk/government/publications/spending-review-and-autumn-statement-2015-documents>

⁴ <http://www.legislation.gov.uk/ukxi/2018/205/contents/made>

regulations put in place increases in most fees from 2018, those were the first increases since 2009, and it was made clear in the consultation which preceded those 2018 regulations that the assumptions made in the 2015 Spending Review settlement for Ofsted were likely to mean that further increases in fee levels would be proposed for the period after the financial year 2018-19 in order to maintain the move towards full cost recovery. The proposals in this consultation document do so, and if implemented would increase the overall level of cost recovery to approximately 37%.

The proposed changes are all in relation to the level of existing fees; there are no new categories of fee for schools, and no significant changes in the basis on which fees are calculated or charged.

Given that the level of cost recovery would remain significantly under 50%, it is likely that further fee increases will be proposed for years beyond 2019. However, the scale of such increases is likely to depend on the settlement reached for Ofsted in the next spending review and the assumptions which underpin that.

DfE proposes to give effect to the fee increases by revoking the relevant provisions in the Independent Educational Provision in England (Inspection Fees) and Independent School Standards (Amendment) Regulations 2018 and replacing them with a new set of regulations. A draft of those regulations is being published alongside this consultation document.

Standard Inspections

Standard inspections are carried out under the Ofsted inspection framework against the complete set of independent school standards. All non-association independent schools will have a 'standard inspection' within the period of three academic years starting from September 2018; for some schools more than one standard inspection will take place within those three years, but the annual standard inspection fee chargeable will not be affected.

The standard inspection normally lasts no more than three days, during which time inspectors gather evidence, talk to pupils about their school work, observe teaching in lessons and scrutinise school records and documentation. This evidence is used to inform judgements and to check the school's compliance with the independent school standards.

The existing 2018 regulations are based on a three year interval; schools pay annual instalments of one third of the total inspection fee, to even out the cost impact on the school. That would continue.

Proposed changes to fees for standard inspections

It is our intention to increase the overall level of fees charged by Ofsted. As the cost of standard inspections varies depending on the size of the school the new costs have been devised using data on independent schools, pupil numbers and age to arrive at a structure which is still proportionate to school size but is moving towards better cost recovery - particularly for small schools. Table 1 below illustrates fees currently charged and the new proposed annual fees:

Table 1

*Pupils on roll of school	Current annual fees		Proposed annual fee instalment	
	Fixed Charge element of Fee paid per year	Variable Fee Charged per Pupil per year	Fixed Charge element of Fee paid per year	Variable Fee Charged per Pupil per year
1 to 99	£300	£12	£400	£16
100 to 150 (current) 100 to 149 (proposed)	£1,475	£12(a)	£2,200	£10(a)
151 to 399 (current) 150 to 399 (proposed)	£1,999		£2,500	
400 plus	£2,232		£2,750	

(a) Only charged for pupils on roll above 120 in number. Without this, schools at the highest end of this band would pay less than at present.

The effect of the proposed increase is that a school with 50 pupils would pay three instalments of £1,200 rather than £900, a school with 150 pupils would pay £2,500 rather than £1,835, and a school with 400 pupils £2,750 rather than £2,232. In comparing these levels, it should be noted that inspection costs do not rise in linear proportion to school size; under the new fee levels, the smaller schools would continue to pay a smaller proportion of actual costs than the larger schools even though the scale of increase is larger in percentage terms.

Question 7 (on on-line form): Do you agree that the proposed level of increases for standard inspection fees is reasonable?

Question 8: Do you have any further comments on the proposed level of increase in fees for standard inspections?

No significant change to the method of calculating fees for standard inspections is proposed. Invoicing would continue to be carried out by Ofsted on an annual basis. From 2018 the fee has been payable for the first standard inspection carried out after a school opens as well as subsequent inspections, and that would continue to be the case.

Other categories of fee

There are a number of other types of inspection for which fees are currently charged under the current 2018 regulations. These are:

- Pre-registration inspections;
- Progress monitoring inspections;

To further support the full cost recovery policy we propose to increase the fees charged for these categories of inspection. For others, there will continue to be no charge.

Pre-registration inspections

Proprietors wishing to open a new independent school must apply to the DfE for registration of the school under s.98 of the 2008 Act. When the DfE has received a complete application from a proposed new school to enter on the register, Ofsted must conduct a pre-registration inspection of the proposed school in accordance with s.99 of the 2008 Act. The purpose of the inspection is for Ofsted to report to the DfE whether the school is likely to meet all of the independent school standards once it becomes a registered independent educational institution.

In 2018 a fixed charge of £1,792 was introduced for the pre-registration inspection of each proposed new school. This charge applies to the pre-registration inspection of independent schools as well as those existing independent schools wishing to convert to free school status. This fee covers approximately 65% of the actual cost at 2018 levels. If a second pre-registration inspection is necessary for the same registration application then the fee would need to be paid again. Schools have the option of withdrawing their application before the second inspection in such circumstances; but if the registration application is then re-submitted, there would need to be another pre-registration inspection in due course. This means that schools need to ensure that they are ready for a pre-registration inspection soon after they make an application for registration, to avoid multiple inspections.

Because the cost of the inspection remains greater than the current fee charged, it is proposed to increase the fee, to £2,500. The higher fee would be payable for every pre-registration inspection carried out for a school which applied for registration on a date

after the new regulations come into force; for pre-registration inspections carried out for schools applying before that date (whether it was a first or subsequent pre-registration inspection) the fee would still be £1,792. The increase in fee is part of the overall move towards full-cost recovery.

Question 9: Do you agree with the proposed increase in fees for pre-registration inspections?

Progress monitoring inspections

If an inspection shows that there are unmet independent school standards, DfE will normally direct Ofsted to carry out a further inspection known as a progress monitoring inspection (PMI). The PMI is conducted by Ofsted to assess the progress a school has made towards meeting the standards. From 2018 a charge was introduced for third and subsequent PMIs, as well as the fees already chargeable for first and second PMIs – the latter were already chargeable at a higher rate than that for a first PMI. The actual level of fees for PMIs was not, however, increased in 2018, which is the main reason for the substantial proposed increase in fees for the first PMI which is proposed for 2019.

The current and proposed rates are shown below:

Table 2 – first PMIs

*Numbers on roll at school	Current fee	Proposed Fee
Schools with 150 or fewer pupils	£133 + £6 per pupil	£300 plus £9 per pupil
Schools with 151 pupils or more	£1,100	£2,000

*Number of pupils on roll aged 2 and upwards at date of inspection

Table 3 – second and subsequent PMIs

*Numbers on roll at school	Current fee	Proposed Fee
Schools with 150 or fewer pupils	£300 plus £13.50 per pupil	£400 plus £15 per pupil
Schools with 151 pupils or more	£2,499	£3,000

*Number of pupils on roll aged 2 and upwards at date of inspection

Question 10: Do you agree with proposed increase in fees for progress monitoring inspections?

Emergency inspections

Emergency inspections are carried out by Ofsted when directed to do so by DfE under section 109 of the 2008 Act, usually as a result of a complaint or allegation about a school received by DfE which suggests that the independent school standards are not being met. Although such complaints are sometimes held over to the next standard inspection, if the circumstances appear more urgent (especially where pupil welfare is concerned), an emergency inspection may take place. No fee is currently charged to schools for these inspections, and that will continue to be the case under the proposed new regulations.

Question 11: Do you agree that there should continue to be no fee payable by schools for emergency inspections?

Material change inspections

These inspections are used to assess whether a school is likely to continue to meet the independent school standards if it makes a proposed 'material change' such as an extended age range. These inspections are commissioned by DfE under the relevant provisions in the Education Act 2002 and there is no power to charge for such inspections. No changes are being made and such inspections will continue to be free of charge for the time being, even though the necessity for them normally arises from a school's own actions. The department is considering creating a power to charge for these when a suitable legislative opportunity arises. This would not affect fees in 2019.

Question 12: Do you believe that a charge should be made for material change inspections if a legal power to do so were to be created?

Ofsted evaluation of schools' action plans

If a school fails to meet all the independent school standards, it is likely to be required to produce an action plan showing what steps it will take to meet them all as soon as possible. The action plan, prior to approval or rejection, is evaluated by the inspectorate which carried out the inspection which found unmet standards. Although not an 'inspection' under s.109 of the 2008 Act, these evaluations are regarded by Ofsted as an 'inspection event' as they must be scheduled, and they consume inspector time. However, there is currently no basis on which to charge for 'inspections' for the purposes of evaluating an action plan and therefore these will also continue to be free of charge for the time being.

Question 13: Do you believe that a charge should be made for evaluation of schools' action plans if a legal power to do so were to be created?

Other matters

Question 14: Do you believe that the proposals would have a particular impact on certain types of school, and do you wish to comment on that?

Question 15: Do you have any further comment on the proposed changes to fee levels or categories, particularly in relation to the likely financial impact on schools?

Regulatory clearance

Proposed changes to regulations are subject to clearance from the Regulatory Policy Committee (RPC), Home Affairs Sub-Committee (HA) and the Reducing Regulation Sub-Committee (RRC).

We are undertaking a Regulatory Impact Assessment (RIA) which summarises the rationale for Government intervention, the options considered and the expected costs and benefits. The result of an initial RIA was that the overall cost to schools meant that the measure qualified for low cost 'fast track' clearance. This is because proposed changes are unlikely to place significant burdens on independent schools, with the estimated impact falling below £5m in the most expensive year. As a result, an opinion from the RPC is not required for this consultation. A validation impact assessment will be undertaken at the conclusion of the consultation exercise.

The proposal to go to consultation has been approved by HA and RRC Sub-Committees.

An equality impact log is being published for these proposals as part of the consultation process.

Next steps

Following the consultation period, responses will be considered and a full government response will be published setting out final decisions on the new regulations for inspection fees, which will be laid before Parliament for approval.



Department
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