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## BRIEFING PAPER

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# School inspections in England: Ofsted

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### Contents:

1. Background to school inspection
2. Inspection process
3. Inspection outcomes
4. Current issues



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# Summary

## Scope of briefing

This briefing provides background on Ofsted inspections of state-funded schools in England, and looks at recent developments in school inspection. It covers issues such as:

- The frequency of Ofsted inspections
- The potential outcomes for schools after inspections
- The types of evidence inspectors look at as part of the inspection process
- Recent changes to the way Ofsted carries out its duties
- Current issues in inspection

It mostly covers England. Separate school inspection arrangements apply in Wales, Scotland and Northern Ireland.

## Ofsted's remit

Ofsted inspects all maintained and academy schools in England, and around half of independent schools, in line with the relevant inspection framework. It also inspects other services, including childcare, social care and further education.

## A new inspection framework from September 2019

Ofsted introduced a new Education Inspection Framework in September 2019. The new framework has a greater focus on the quality and breadth of the curriculum.

## Consequences of inspections for schools

Currently, there are four overall judgements that Ofsted can reach about schools: Outstanding; Good; Requires Improvement; and Inadequate. Inadequate is further subdivided into two categories, serious weaknesses or requiring special measures.

In line with the *Education and Adoption Act 2016*, an overall grading of inadequate for a maintained school triggers the mandatory issue of an academy order.

## Proposals to remove outstanding schools' exemption from routine inspection

Currently, mainstream schools judged outstanding at their last full inspection are exempt from further routine inspection. This means that some outstanding schools have not been inspected for considerable periods; the Department for Education (DfE) has said that around 1,000 exempt schools have not been inspected for a decade or longer. Her Majesty's Chief Inspector, Amanda Spielman, has called for the exemption to be removed. In January 2020, the DfE launched a consultation on removing the exemption. This will close on 24 February 2020.

# 1. Background to school inspection

## 1.1 School inspection in England: Ofsted

Ofsted is a non-ministerial department that reports directly to Parliament. It inspects maintained and academy schools (including free schools), some independent schools, and a wide range of other providers in England.

The position of Her Majesty's Chief Inspector (HMCI) has been held by Amanda Spielman since January 2017.

The current Chair of Ofsted's board is Julius Weinberg.

## 1.2 School inspection in Wales, Scotland and Northern Ireland

### Wales

Estyn is the inspectorate for state-funded schools, independent schools and many other types of provider in Wales.

Further information about school inspection in Wales can be found on the [Estyn website](#).

### Scotland

Schools in Scotland are inspected by Education Scotland. Further information about inspection for primary schools, secondary schools and other providers can be found on the [Education Scotland website](#).

### Northern Ireland

The [Education and Training Inspectorate \(Northern Ireland\)](#) (ETI) is responsible for inspecting schools and other education and training providers in Northern Ireland. Information about the evidence considered, and what happens during and after an inspection, can be found in an ETI website article:

- ETI website article, '[information about inspection](#)', undated.

## 1.3 Who inspects different types of schools in England?

This note mainly concerns inspections of state-funded schools, although Ofsted also inspects around half of independent schools in England. The remainder are inspected by the Independent Schools Inspectorate (ISI). The table below shows which inspectorate is responsible for inspecting different types of school.

School inspections in England: who does what?	
Type of school	Inspectorate responsible
Maintained mainstream schools, academies, pupil referral units/ alternative provision academies	Ofsted
Maintained and non-maintained special schools and special academies	Ofsted
Independent schools that are affiliated to the Independent Schools Council (ISC)	Independent Schools Inspectorate
Independent schools – not affiliated to the ISC ('non-association schools')	Ofsted
Boarding and residential provision in some independent schools, all maintained schools, and residential special schools <sup>(a)</sup>	Ofsted

Notes:

(a) The ISI inspects independent boarding provision at schools affiliated to the Independent Schools Council.

## 1.4 Key developments in inspection

In recent years, there have been a number of important changes to school inspections in England, and the way Ofsted works. These include:

- In September 2012, the replacement of the old judgement of satisfactory with a new grading, requires improvement.
- The introduction of short inspections for most good schools and non-exempt outstanding schools in September 2015, instead of full Section 5 inspections.

- The introduction of a new Common Inspection Framework for education, skills and early years in 2015.
- Between 2013 and 2018, the commissioning of batched or focused inspections of schools in the same multi-academy trust (MAT), reflecting the changing landscape of school organisation in England.
- From 2018, the introduction of MAT summary evaluations with the [first evaluation report published in February 2019](#).
- In recent years, an increased focus on identifying and tackling unregistered independent schools.
- The introduction of a new Education Inspection Framework from September 2019.
- In January 2020, the launch of a [Government consultation](#) on removing the exemption from inspection for mainstream schools judged outstanding.<sup>1</sup>

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<sup>1</sup> Department for Education (DfE), [Ofsted inspection: removal of the outstanding exemption](#), January 2020.

## 2. Inspection process

### 2.1 What do routine inspections of state schools look at?

#### Full Section 5 inspections

Since September 2019, Ofsted has inspected schools in line with the new [education inspection framework](#) (EIF).

Ofsted is required to undertake routine inspections of qualifying schools at prescribed intervals. These are sometimes known as full section 5 inspections after the relevant section of the *Education Act 2005*, as amended. There are special arrangements for mainstream schools judged good or outstanding overall at their last full inspection – see S 2.2 below.

From September 2019, section 5 inspections report separate judgements on:

- The quality of education
- Behaviour and attitudes
- Personal development
- Leadership and management

Inspectors will always make a written judgement on the effectiveness of the arrangements for safeguarding pupils, and will reach an overall judgement on effectiveness.

In making the overall judgement, inspectors will also take account of the effectiveness and impact of the provision for pupils' spiritual, moral, social and cultural development and how well the school meets pupil needs, including the needs of pupils with special educational needs or disabilities (SEND).

Further detail about evaluation criteria and the evidence Ofsted considers prior to and during a full inspection can be found in:

- Ofsted, [Section 5 school inspection handbook](#)

#### Section 8 inspections

Section 8 inspections, named for Section 8 of the *Education Act 2005*, as amended, can be carried out in a range of different circumstances, including:

- For monitoring schools judged to require improvement or to be inadequate overall, at their last inspection.
- For short inspections of schools judged good at their last full Section 5 routine inspection (see section below).
- For investigating concerns about behaviour and other matters.

There is a [separate inspection handbook](#) for Section 8 inspections.



## 2.2 How often are state schools currently inspected?

When are English state-funded schools inspected?	
Judgement at last full inspection	Usual cycle
Outstanding	Exempt from further section 5 inspection but may be inspected if concerns arise or in certain other circumstances <sup>(a)</sup>
Good	Short inspection under S8 usually once every four years; some schools receive a full S5 inspection if concerns arise about performance
Requires Improvement	Will usually have a full re-inspection within 30 months.
Inadequate: serious weaknesses or special measures	Arrangements differ depending on school status and other factors – see para 13 onward of the School inspection handbook (Section 5), and S 3, below.

### Notes:

- (a) Some categories of providers judged outstanding are not exempt from inspection, e.g., special schools, pupil referral units/ alternative provision schools and maintained nursery schools.

### Exempt schools

Mainstream primary and secondary schools that were judged outstanding at their last full section 5 inspection are exempt from further inspection under section 5. This does not apply to special schools, pupil referral units, or maintained nursery schools, which are still eligible for inspection under section 5.

Exemption from routine inspection doesn't mean that outstanding schools will never be inspected. The circumstances in which they might receive a further inspection (under section 8 of the 2005 Act) are outlined in paragraphs 16 to 23 of Ofsted's Section 5 School inspection handbook.

Special schools, pupil referral units and maintained nursery schools judged outstanding at their last full inspection will usually receive short inspections at least every four years, in common with mainstream schools judged good.

In January 2020, the Department for Education (DfE) launched a consultation on removing the existing exemption for outstanding schools – see section 4.1, below, for more on this issue.

## Short inspections

Schools graded good at their last full Section 5 inspection will usually receive a shorter two-day inspection under Section 8 of the *Education Act 2005*, as opposed to a full re-inspection. This policy was first introduced in September 2015. Non-exempt schools judged outstanding will also usually receive short inspections.

Paragraph 24 of the section 5 school inspection handbook states that schools graded good can now expect to receive a short inspection approximately every four years.

Where Ofsted's own risk-assessment or other data indicates a good school's performance could have "deteriorated significantly", then there will be a full Section 5 inspection, instead.<sup>2</sup>

There are several possible outcomes from a short inspection. They are:

- **Outcome 1** – the school continues to be a good/outstanding school. This is the most common outcome. [...]
- **Outcome 2** – the school remains good and there is sufficient evidence of improved performance to suggest that the school might be judged outstanding if it received a section 5 inspection at the time of the section 8 inspection. The school will be informed that its next inspection will be a section 5 inspection, which will typically take place within one to two years of the publication of the section 8 inspection report. [...]
- **Outcome 3** – the lead inspector is not satisfied that the school would receive at least its current grade if a section 5 inspection were carried out at the time of the section 8 inspection. The school will be informed that its next inspection will be a section 5 inspection within the statutory timeframe, which will typically take place within one to two years of the publication of the section 8 inspection report, depending on how near to the end of the statutory timeframe the section 8 inspection has taken place. [...]
- **Outcome 4** – the lead inspector has gathered evidence that suggests that the school may be inadequate in one or more of the graded judgements under section 5 inspection, and there are serious concerns about the quality of education, pupils' behaviour or safeguarding. For outstanding non-exempt schools, there are concerns that the performance of the school could be declining to 'requires improvement'. The section 8 inspection will be converted to a section 5 inspection, usually within 48 hours.<sup>3</sup>

## 2.3 Inspection of new schools and schools that have changed status

Wholly new free schools and maintained schools that have been replaced by a sponsored academy usually receive a full inspection within

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<sup>2</sup> Ofsted, [School inspection handbook – Section 5](#), November 2019, p9.

<sup>3</sup> Ofsted, [School inspection handbook – Section 8](#), November 2019, p18.

three years of opening. Converter academies may be subject to the short inspection regime, or may be exempt from routine inspection, depending on the inspection history of their predecessor school and type of school.

Further details about the arrangements for inspecting new schools can be found in:

- Ofsted, [Selecting new schools for inspection](#), September 2019.

## 2.4 How much notice do schools get before an inspection?

Schools are usually notified the working day prior to the start of a school inspection. However, Ofsted has powers to undertake no-notice inspections in certain circumstances – for example, where there are serious concerns about issues including safeguarding, rapidly declining standards or the breadth and balance of the curriculum.<sup>4</sup>

### Deferring an Ofsted inspection

In exceptional circumstances, schools may be able to request that their inspection is deferred. More information on deferral policy can be found in the following document:

- [Ofsted, Deferring Ofsted inspections, June 2016](#)

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<sup>4</sup> Ofsted, [School inspection handbook – Section 5](#), November 2019, p22.

## 3. Inspection outcomes

### 3.1 What are the main outcomes of inspections?

There are four main categories of overall judgement on a school's effectiveness:

- Outstanding (Grade 1)
- Good (Grade 2)
- Requires Improvement (Grade 3)
- Inadequate (Grade 4)

#### **Schools graded inadequate – serious weakness and special measures**

The inadequate grading is subdivided into two further categories.

Schools with serious weaknesses (and in need of significant improvement) are those which:

[H]ave one or more of the key judgements graded inadequate (grade 4) and/ or have important weaknesses in the provision for pupils' spiritual, moral, social and cultural development.<sup>5</sup>

In line with Section 44 of the *Education Act 2005*, as amended, a school is deemed to require special measures if:

- It is failing to give its pupils an acceptable standard of education and
- The persons responsible for leading, managing or governing are not demonstrating the capacity to secure the necessary improvement in the school.<sup>6</sup>

### 3.2 What happens if a school is judged inadequate?

#### **Academy conversion is mandatory when a maintained school is rated inadequate**

The *Education and Adoption Act 2016* places a duty on the Secretary of State for Education to make an academy order if a maintained school is judged inadequate by Ofsted. The Department for Education's [Schools causing concern](#) guidance says:

The Secretary of State has a duty to make an academy order in respect of any maintained school that has been judged inadequate by Ofsted, to enable it to become an academy and receive additional support from a sponsor.

The RSC, acting on behalf of the Secretary of State, will take responsibility for ensuring that the maintained school becomes a sponsored academy as swiftly as possible, including identifying the most suitable academy trust and brokering the new relationship

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<sup>5</sup> Ofsted, [School inspection handbook – Section 5](#) November 2019, p33.

<sup>6</sup> As above, p33.

between that trust and the maintained school. Further details about academy orders are set out in Chapter 3 of this guidance.<sup>7</sup>

## What happens when academies or free schools are rated inadequate?

Local authorities have no general power to intervene in academy or free schools rated inadequate. However, the Education and Skills Funding Agency (ESFA), the Regional Schools Commissioner (RSC) or the Secretary of State for Education may intervene in these schools.

RSCs are DfE appointees. There are eight RSCs, each covering different regions of England. The DfE's Schools causing concern guidance explains:

As set out in the Education and Adoption Act, regardless of the terms in an academy's funding agreement, the RSC (on behalf of the Secretary of State) can terminate the funding agreement of an academy that has been judged inadequate. This is a power rather than a duty, meaning the RSC may decide to implement other measures to improve the school, rather than terminate its funding agreement, to bring about a change of trust, for example, where a change of academy trust would prevent the consolidation of improvements in a school. [...]

When an academy has been judged inadequate, the RSC may identify a new academy trust to take on responsibility for the academy, and will enter into a new funding agreement in respect of that academy (this is sometimes referred to as an academy transfer). RSCs will assess these cases on an individual basis, and may not effect a transfer. If the academy that was judged inadequate was previously a 'standalone' academy, this will generally mean it will join a strong trust that has been assessed as having the capacity to improve the school. The academy will continue to function, and the RSC and the new academy trust will work to ensure minimal disruption to pupils' education during the transition. In some exceptional cases, where the academy is not considered viable in the long term, the RSC can move to terminate the funding agreement in order to close it.<sup>8</sup>

## Inspection frequency following inadequate judgement

Where a maintained school graded inadequate subsequently converts to academy status, or an academy is graded inadequate and transfers to a new sponsor, the school inspection handbook makes clear that such schools will usually receive a full re-inspection within three years. In some cases, though, a S8 inspection will be carried out before this.<sup>9</sup>

The arrangements are slightly different for academies judged inadequate but which are not transferred to new academy trusts. The Handbook says:

139. Academies judged to have serious weaknesses, and which are not brokered or rebrokered, will be subject to monitoring by Ofsted. They will normally be re-inspected within 30 months of

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<sup>7</sup> DfE, [Schools causing concern](#), September 2019, p19.

<sup>8</sup> As above, pp33-34.

<sup>9</sup> Ofsted, [School inspection handbook – Section 5](#) November 2019, p12.

the publication of the inspection report in which they were judged to have serious weaknesses.

140. Academies judged to require special measures, and which are not rebrokered, will be subject to monitoring by Ofsted. The timing of the next section 5 inspection will be determined by the academy's rate of improvement. However, it will normally take place within 30 months of the publication of the inspection report that judged it to require special measures.<sup>10</sup>

### 3.3 Complaining about an Ofsted inspection

#### Internal complaints

Providers who are unhappy about the way an inspection is being carried out are encouraged to discuss any concerns with the inspection team. There should also be an opportunity for the school to fact-check a draft of the resulting report for accuracy.

Providers that are still unhappy with the outcome of an Ofsted inspection can follow the remaining stages of Ofsted's published internal complaints procedure, as laid out in the following document:

- Ofsted Guidance, [Complaints about Ofsted](#), May 2018.

There are time-limits for submitting complaints.

#### Complaining to the Independent Complaints Adjudication Service for Ofsted (ICASO)

After following internal complaints procedures, schools and other providers may also be able to complain to the [Independent Complaints Adjudication Service for Ofsted](#) (ICASO).

ICASO can consider complaints about a range of issues including alleged discourtesy during inspections, failure to apologise or accept mistakes, and failure to follow procedures, but it cannot overturn inspectors' judgements.

Individuals or private organisations unsatisfied with the outcome of an ICASO review may be able to ask the [Parliamentary and Health Service Ombudsman](#) to look at the issue.

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<sup>10</sup> Ofsted, [School Inspection Handbook – Section 5](#), November 2019, p35.

## 4. Current issues

### 4.1 Lifting the exemption for outstanding schools

In June 2019, HM Chief Inspector, Amanda Spielman, raised renewed concerns about the exemption of most outstanding schools from routine inspection. She noted that during the 2018-19 academic year, Ofsted had substantially increased the number of exempt outstanding schools it had inspected.

This, she said, was “partly due to concerns about some schools having been exempt for so long that parents can no longer have confidence in their outstanding grade.”<sup>11</sup> She said that it was “not surprising” that such a large proportion of re-inspected outstanding schools lost their top grading, because the schools had been selected for re-inspection because data suggested their performance had been declining. However, she called for the exemption to be removed, and Ofsted’s resources to be increased:

Commenting on today’s figures, Ofsted Chief Inspector Amanda Spielman said:

Today’s figures are not particularly surprising, but they should still set alarm bells ringing.

The fact that outstanding schools are largely exempt from inspection leaves us with real gaps in our knowledge about the quality of education and safeguarding in these schools. Some of them have not been inspected for over a decade, and when our inspectors go back in, they sometimes find standards have significantly declined.

We believe most schools judged outstanding are still doing outstanding work. But for the outstanding grade to be properly meaningful and a genuine beacon of excellence, the exemption should be lifted and Ofsted resourced to routinely inspect these schools.<sup>12</sup>

On 10 January 2020 the DfE opened a [consultation on removing the exemption for schools judged outstanding](#). In a [response to a written question](#), the Schools Minister, Nick Gibb, outlined the procedure that would be followed to do this, explaining that to remove the exemption would require secondary legislation, approved by Parliament through the affirmative process.<sup>13</sup>

### 4.2 Introduction of a new inspection framework from September 2019

Ofsted introduced a new Education Inspection Framework (EIF) in September 2019. HMCI, Amanda Spielman, provided initial details of the planned approach in a [speech](#) to the Schools NorthEast summit on

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<sup>11</sup> Ofsted press release, ‘[Ofsted Chief Inspector repeats call for outstanding school exemption to be lifted as more schools lose top Ofsted grade](#)’, 13 June 2019.

<sup>12</sup> As above.

<sup>13</sup> [PQ 1922](#), 10 January 2020.

11 October 2018.<sup>14</sup> She said that the new framework would “focus more on the “substance of education and a broad curriculum”. As such, it would “move focus away from headline data”.<sup>15</sup>

Ofsted [consulted on the EIF](#) between January and April 2019, and published its [report in response](#) in July 2019. This reaffirmed that the focus of inspections would be “on the real substance of education: the curriculum”. Other features of the new framework include:

- greater recognition of education providers’ work to support the personal development of learners
- a greater focus on behaviour.<sup>16</sup>

### Reactions to the consultation for the new inspection framework

The National Association of Head Teachers (NAHT) said that while it welcomed the “shift in emphasis towards a more detailed examination of a school’s curriculum and a reduced focus on data”, the proposals did not fulfil the recommendations the union had made in its September 2018 [Accountability Commission report](#).<sup>17</sup>

The Education Policy Institute (EPI) think tank praised many aspects of the new framework, including its focus on off-rolling and schools’ use of exclusion. However, it criticised Ofsted’s decision to stop recommending that some schools review their use of the Pupil Premium, and for the framework’s approach to speaking and listening skills in the early years and in the teaching of early reading.<sup>18</sup>

### Reactions following the implementation of the new inspection framework

A blog from the Institute of Education claims that Ofsted’s new inspection framework was “largely welcomed by the teaching profession”. However, it also notes that there have been challenges to perceived elitism within the framework.<sup>19</sup>

Writing in the Guardian, Warwick Mansell outlines the arguments around whether the framework’s emphasis on developing cultural capital could be viewed as dismissing the experiences of working-class children’.<sup>20</sup> Multi Academy Trust CEOs have also criticised perceived Ofsted resistance to 3 year GCSEs, arguing that judging against schools

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<sup>14</sup> [Amanda Spielman speech to the SCHOOLS NorthEast summit](#), 11 October 2018.

<sup>15</sup> Ofsted press release, [‘Chief Inspector sets out vision for new Education Inspection Framework’](#), 11 October 2018.

<sup>16</sup> Ofsted, [‘Education inspection framework 2019: a report on the responses to the consultation’](#), 29 July 2019.

<sup>17</sup> National Association of Head Teachers press release, [‘NAHT responds to Ofsted’s inspection framework consultation’](#), 4 April 2019.

<sup>18</sup> Education Policy Institute, [‘Improvements and errors. Ofsted’s new framework is difficult to grade’](#), 14 May 2019.

<sup>19</sup> Institute of Education, [‘Cultural capital and curriculum: will OFSTED’s new framework encourage better education in our schools?’](#), 9 September 2019

<sup>20</sup> The Guardian, [‘Ofsted plan to inspect ‘cultural capital’ in schools attacked as elitist’](#), 3 September 2019



pursuing a lengthier Key Stage 4 phase will “damage outcomes for disadvantaged children”.<sup>21</sup>

Sean Harford, Ofsted’s National Director of Education, contested these claims in January 2020, stressing that Ofsted has no “preferred length” for Key Stage 3. Mr. Harford argued that the new inspection framework looks at whether schools “offer pupils an ambitious curriculum across their whole time in secondary education”.<sup>22</sup>

### First inspections under the new framework

In December 2019 Ofsted published [an article](#) looking at the first wave of inspection outcomes after the introduction of the new EIF in September 2019.

The main findings include:

- The proportion of all schools judged good or outstanding at their most recent inspection remained at 86%.
- The proportion of schools getting good or outstanding judgements for overall effectiveness was 77% (compared to 80% in 2018/19).
- Schools with more pupils from deprived backgrounds are still less likely to be judged good than those from more affluent backgrounds.

The article notes that these initial statistics are based on a limited number of inspections, and that the trends identified here are likely to change.<sup>23</sup>

## 4.3 National Audit Office report on Ofsted, May 2018

On 24 May 2018, the National Audit Office (NAO) published a report on the value for money provided by Ofsted. In terms of Ofsted’s structure and role, this concluded:

- Ofsted provided “valuable independent assurance about schools’ effectiveness and as such is a vital part of the school system.” However, the inspectorate had limited evidence on efficiency and impact, and until that was rectified it would be “unable to demonstrate that its inspection of schools represents value for money.”<sup>24</sup>
- Ofsted’s budget has fallen significantly but its responsibilities have grown: “Its spending (at 2017-18 prices) fell from £280 million in 2005-06 to £167 million in 2015-16, a decrease of 40% in real terms. Ofsted’s budget is expected to fall further to 2019-20.”

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<sup>21</sup> *Schools Week*, ‘[Leading CEOs: New Ofsted inspections favour middle-class kids](#)’, 10 Jan 2020

<sup>22</sup> Ofsted, [Making curriculum decisions in the best interests of children](#), 9 January 2020

<sup>23</sup> Ofsted, [Our latest statistics: a first look at the EIF](#), 16 December 2019

<sup>24</sup> National Audit Office, [Ofsted’s inspection of schools](#), HC 1004, Session 2017-18, 24 May 2018, p11.

- The Department for Education needed to be clearer about how it saw Ofsted's present and future role, and "resource it accordingly".
- There was some confusion over Ofsted's role, with some overlap between the inspectorate's functions and those of the Regional Schools Commissioners – DfE officials who each cover one of eight regions in England.<sup>25</sup>

On Ofsted's performance, it found:

- Between 2012/13 and 2016/17, the inspectorate had failed to meet its statutory inspection target to reinspect 'good' schools within five years for 43 schools – 0.2% of cases.
- Although it had missed some inspection targets, Ofsted's performance had improved.
- The average time between inspections of good schools was 4.4 years for primary schools and 4 years for secondary schools – against an internal target of approximately every 3 years.
- Ofsted's ability to meet targets had been impacted by the fact it had too few inspectors – 15% fewer HM inspectors than budgeted for at March 2018. It also had a high level of workforce turnover.
- At August 2017, 1,620 schools had not been inspected for 6 years or more, and 296 outstanding schools had not been inspected for 10 years or more.<sup>26</sup>

### 4.4 Unregistered schools

Independent schools providing a full-time education to five or more children of compulsory school age, or one child with an Education, Health and Care (EHC) plan or who is looked-after, must be registered with the DfE. Operating an unregistered independent school is a criminal offence under Section 159 of the *Education Act 2002*, as amended. Ofsted has powers to inspect suspected unregistered independent schools.

On 10 November 2015, then-HMCI, Sir Michael Wilshaw [wrote](#) to then-Education Secretary, Nicky Morgan MP, expressing "serious concern" about the safety of children being education in unregistered schools. In his view, the arrangements for closing down unregistered schools were "inadequate". He recommended that the Secretary State:

- Urgently review the arrangements between the DfE and local authorities for safeguarding children in premises confirmed by Ofsted as unregistered schools
- Review the arrangements for home education to ensure that they cannot be exploited in order to avoid registration

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<sup>25</sup> National Audit Office, [Ofsted's inspection of schools](#), HC 1004, Session 2017-18, 24 May 2018, pps 6; 11.

<sup>26</sup> As above., pps 6-8.

- Continue to work with Ofsted to ensure that we have the necessary resources to identify and support the prosecution of illegally operating schools.<sup>27</sup>

Since then, there have been several key developments in Ofsted's handling of unregistered schools:

- In January 2016, the DfE published a [policy statement](#) on prosecuting unregistered independent schools.
- Also in January 2016, Ofsted established an [unregistered school taskforce](#), intended to investigate and inspect suspected illegal schools
- [Guidance published by the DfE in March 2018](#) describes the tackling of unregistered schools as "a priority".<sup>28</sup>
- March 2018's [Integrated Communities Green Paper](#) said the Government was reviewing Ofsted's current powers in relation to unregistered schools, and looking at "strengthening their abilities to collect evidence and interview those suspected of running illegal schools, to meet the stringent requirements for criminal prosecutions and ensure the schools close."<sup>29</sup> A consultation on the Green Paper closed on 5 June 2018.
- In October 2018, the proprietors of a tuition centre in Ealing were prosecuted for operating an unregistered independent school – the first such prosecution of this type.

Writing in a blog for Ofsted's website at the time of this prosecution, National Director of Education, Sean Harford, said:

We have serious concerns about unregistered schools. These schools deny children a proper education and leave them at risk of harm and, in some instances, radicalisation.

[...]

From January 2016 to July 2018, we identified 420 suspected unregistered schools in England, and so far, we have inspected 274. We have issued 63 warning notices. During this time, 56 settings have closed or ceased operating illegally and the 7 remaining cases are still under active investigation. We find out about unregistered schools from a wide range of sources, including from our own workforce. Sometimes parents tell us, or the local authority raises concerns, or the police or the DfE

[...]

At the moment, we are investigating with one hand tied behind our back. We desperately need appropriate powers to search for and seize evidence, so that we can close these schools down. These powers can only come through legislation and we are glad that the government has pledged to review our powers in a [recent green paper](#).

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<sup>27</sup> [Letter from HMCI, Sir Michael Wilshaw, to Secretary of State for Education, Nicky Morgan MP](#), on unregistered independent schools, 10 November 2018.

<sup>28</sup> Department for Education, [Unregistered independent schools and out of school settings](#), March 2018, p4.

<sup>29</sup> Ministry of Housing, Communities and Local Government, [Integrated Communities Strategy green paper](#), 14 March 2018, p34.

We believe that if an institution is giving a child an education, it should be held accountable to the same standards as other schools. Almost always, the losers in this situation are the children.

We will continue to call on Ministers and others to keep this issue on the regulatory agenda [...].<sup>30</sup>

## Consultations on out-of-school education settings and a register of children not in school

The DfE held a [consultation](#) on a voluntary code of practice for out-of-school education settings between December 2018 and February 2019. It held a second [consultation](#), between April and June 2019, on proposals to introduce a register of children not in school in England.

Ofsted welcomed the proposed register as a “welcome first step, but said it would “continue to call for the legislation to be strengthened, and for additional powers that would allow inspectors to collect evidence they find in unregistered schools.”<sup>31</sup>

In February 2020, the DfE published [a third consultation](#). Amongst other things, this proposes introducing a statutory definition of full-time education, and expanding the range of settings that need to register as independent schools.<sup>32</sup> The consultation will close in May 2020.

## Statistics on unregistered schools

In April 2019, Ofsted published new data estimating that as many as 6,000 children were being educated in the unregistered independent schools it had inspected to date.<sup>33</sup>

The latest figures that Ofsted have published on unregistered schools in England (covering the period January 2016 to August 2019) indicate that Ofsted have investigated 618 suspected unregistered settings. Of these 293 received an inspection and 83 received a warning notice. The results of these warning notices led to:

- 50 settings changing service to comply with legislation
- 12 settings closing
- 10 settings registering
- 7 settings are still under investigation
- 4 settings saw no further action taken<sup>34</sup>

In [Ofsted's 2018/19 Annual Report](#) (published in January 2020), HMCI Amanda Spielman reiterated the call for ‘regulatory teeth’ to address the issue of unregistered schools.<sup>35</sup>

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<sup>30</sup> Ofsted article, [‘Schools in the shadows: investigating and prosecuting unregistered schools’](#), 25 October 2018.

<sup>31</sup> Ofsted press notice, [‘New data shows illegal schools are a huge nationwide problem’](#), 12 April 2019.

<sup>32</sup> Department for Education, [‘Regulating independent educational institutions Government consultation’](#), 14 February 2020.

<sup>33</sup> Ofsted press notice, [‘New data shows illegal schools are a huge nationwide problem’](#), 12 April 2019.

<sup>34</sup> Ofsted, [Unregistered schools management information](#), January 2020

<sup>35</sup> Ofsted, [Annual Report 2018/19](#), 21 January 2020, p.24.

## 4.5 Inspection of multi-academy trusts

Multi-academy trusts (MATs) are usually groups of academies overseen by one central organisational structure and board of trustees. Ofsted doesn't currently have powers to inspect whole MATs, although since 2018 inspectors have carried out [summary evaluations](#). Inspectors evaluate the quality of education provided by a MAT and leaders' contributions to this by drawing on previous inspections of individual academies with the MAT.<sup>36</sup>

### Developing MAT inspections

Giving evidence to the Education Select Committee on 31 October 2017, HMCI Amanda Spielman said she "would like Ofsted to be looking at the quality at multi-academy trust level, not just at individual school level [...] Looking at developing the batched inspection, it needs to be developed quite a long way to be something that properly addresses the system as it operates."<sup>37</sup>

In oral evidence to the Committee on 27 June 2018, then-Education Secretary Damian Hinds MP said he thought it was:

[L]egitimate—more than legitimate, I think that it is important—to be able to know, for parents and for others, what the effect and the value of the different multi-academy trusts is. As to how you do that, I think that it would be wrong to come to an immediate decision, so I have said I will work with the sector to understand what the best way to go about it is, and which body or bodies are required and are best placed to make those assessments.<sup>38</sup>

### MAT summary evaluations

In July 2018, Ms. Spielman said that the inspectorate was trialling a new approach to the inspection of schools in MATs over the summer months. She described the key objectives of this trial as being:

- to better understand the way MATs are organised, operate, and the role they play in their own right and ensure that our inspection reflects this
- to improve our reporting on the impact that MATs are having, whether this is as part of a MAT focused review or a standalone inspection of an academy or free school that is part of a MAT
- to make focused reviews of MATs more intelligent, through better coordination and through sharing of evidence between inspection teams.<sup>39</sup>

Ofsted published an operational note for inspectors carrying out summary evaluations of MATs in December 2018.<sup>40</sup> The result of the first summary evaluation, carried out on the Truro and Penwith Academy Trust, was published in February 2019.<sup>41</sup>

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<sup>36</sup> Ofsted, [Multi-academy trusts: summary evaluations](#), 13 December 2018, p.3.

<sup>37</sup> Education Committee, [transcript of oral evidence](#), 31 October 2017, Q130-131

<sup>38</sup> Education Committee, [transcript of oral evidence](#), 27 June 2018, Q1154.

<sup>39</sup> [Speech by Amanda Spielman](#) to the Education Policy Institute conference, 3 July 2018.

<sup>40</sup> Ofsted, [Multi-academy trusts: summary evaluations](#), December 2018.

<sup>41</sup> Ofsted, [Truro and Penwith Academy Trust reports](#), January 2019.

## Ofsted report on MATs, July 2019

In July 2019, Ofsted published a report, [Multi-academy trusts: benefits, challenges and functions](#). This restated earlier calls for Ofsted to be allowed to inspect MATs, and not just their constituent schools:

The fact that accountability has multiple audiences and purposes needs to be reflected in the inspection framework for MATs and schools. This suggests the need for a model in which both MATs and individual schools are inspected by Ofsted. Much progress can be made under current arrangements, but ultimately the legislation that underlies school inspection will need to be amended to make this fully possible.

While accountability at the school level is strong, accountability at MAT level needs to be strengthened, not least in the light of weak implementation of internal accountability at trust level in many MATs. Inspection arrangements should reflect this.<sup>42</sup>

In Ofsted's Annual Report 2018/19 HMCI Amanda Spielman said that the current system of MAT summary evaluations is working well, while explaining that Ofsted are 'looking at a methodology refresh' that will help the inspectorate adapt to the changing landscape in education and give a 'richer picture' of how MATs operate.<sup>43</sup>

### 4.6 Stuck schools

- In January 2020 Ofsted published research and analysis on ['stuck' schools](#) (schools that have been graded as less than good consistently for 13 years or more).<sup>44</sup>
- The research found that as of August 2019, 210,000 pupils were in stuck schools and two cohorts of children have spent all their primary and secondary education in stuck schools.
- The report looked at the school improvement initiatives tried in these schools and found that separate systems of inspection and support are not working together as effectively as they could. Ofsted acknowledged its role in this, and highlighted the need for inspections to provide judgements that schools could use to respond and make improvements.

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<sup>42</sup> Ofsted, [Multi-academy trusts: benefits, challenges and functions](#), July 2019, p26.

<sup>43</sup> Ofsted, [Annual Report 2018/19](#), 21 January 2020, p.26.

<sup>44</sup> Ofsted, [Fight or flight? How 'stuck' schools are overcoming isolation: evaluation report](#), 6 January 2020.

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