

Post Implementation Review

Review of the Independent Educational
Provision in England (Provision of Information)
and Non-Maintained Special Schools
(England) and Independent School Standards
(Amendment) Regulations 2018

March 2024

Title	Review of the Independent Educational Provision in England (Provision of Information) and Non-Maintained Special Schools (England) and Independent School Standards (Amendment) Regulations 2018
PIR Number	DfE-005
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Lead Department/Agency	Department for Education
Contact for enquiries	Claire.Evans@education.gov.uk
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Type of review	Statutory
Date measure came into force	1 September 2018
Recommendation	Keep

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1. Introduction

This Post Implementation Review (PIR) has been prepared to meet the statutory requirement at Regulation 9 of The Independent Educational Provision in England (Provision of Information) and Non-Maintained Special Schools (England) and Independent School Standards (Amendment) Regulations 2018. This regulation provides the following:

9.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations except for that contained in regulation 10 and 11, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st September 2023.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**12**) requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

2. What were the policy objectives of the measure?

1. The objectives of implementing the Independent Educational Provision in England (Provision of Information) and Non-Maintained Special Schools (England and Independent Schools Standards (Amendment) Regulations 2018 (“the 2018 Regulations”) were to:
 - Increase the effectiveness of the due diligence checks undertaken as part of the registration process to ensure that only suitable persons are able to run a school.
 - Ensure departmental records are accurate and reflect the current circumstances at the school.
 - Ensure suitability of supply staff by requiring schools to carry out the same checks as those conducted on non-supply staff.
 - For independent schools to carry out additional checks on supply staff (teaching or non-teaching staff) employed by employment businesses (such as an agency) if they are living or have lived outside the UK.

3. What evidence has informed the PIR?

2. The evidence that has informed the PIR is based on a review of the number of applications received since the implementation of the 2018 Regulations, and whether any complaints or feedback has been received in relation to the additional information being requested and/or the length of time taken to register an independent school. We originally considered contacting those applicants who had applied for independent school registration both pre and post implementation in order to obtain the impact on businesses who had experienced the process before and after the changes were implemented.
3. To identify those applicants' data was pulled from the Department's systems to understand how many organisations applied for registration prior to the 2018 Regulations being implemented on 1 September 2018 and how many of those organisations applied after 1 September 2018 to capture organisations that were more likely to remember the changes that took place. We were able to identify seven organisations in total. Of those seven organisations, only four remain active and with the same proprietorial body. However, we were not able to confirm whether staff in post pre implementation were in post following the implementation and now, some five years later, to provide constructive feedback. On the basis that the pool of organisations to which we would have sought feedback was extremely small, and with no way of being able to confirm that staff currently in post were around at the time to provide the type of constructive and useful feedback required to inform our conclusions, we took the decision not to approach these organisations.
4. Additionally, as the change was of low impact, and one that would be expected in line with opening an independent school, it is likely that any feedback received would either be minimal or advise that they do not recall the change. As a result, it was considered to be disproportionate to contact the organisations as the response is likely to provide weak evidence. Therefore, in order to assess the effectiveness of the changes introduced following the implementation of the 2018 Regulations, the Department have undertaken data analysis of the number of applications received since the implementation of the 2018 Regulations, and whether any complaints or feedback was received in relation to additional information being requested and/or the length of time taken to register an independent school, to determine:
 - a) Whether implementation of the changes have achieved their intended purpose; and

- b) Whether the changes introduced have negatively impacted potential proprietors wishing to make a new application to register a new independent school or, current proprietors completing an initial and annual return.

4. To what extent have the policy objectives been achieved?

5. The changes in legislation mean that proprietors need to submit, an application for a school to be registered, more details about members of the proprietor body such as their National Insurance numbers, and for an individual proprietor or chair of the proprietor body, an employment history and current photograph. The additional information required from proprietors is used by the Department to undertake thorough checks of the proprietor(s) during the application process to ensure suitability. As we now gather more information, we can conduct DBS checks and Open-Source Research. This additional information allows us to build a picture of the proprietor when assessing whether they are suitable to manage an independent school.
6. The additional checks introduced for supply staff were already a requirement for non-supply staff and help ensure only suitable staff work within the school.
7. The additional information provided at the initial and annual return ensures our records are accurate and reflect the circumstances at the time of completion of the return. This information ensures that Get Information About Schools ('GIAS'), which is the Department's official independent school register, provides the general public an accurate record of each of our independent schools.

Impact of changes on proprietors making new applications

8. In total, there are around 2,400 independent schools in the UK. To determine whether the changes had an impact, we have used data to look at the trends relating to the number of applications received year on year, the number of complaints received about the new requirements and the time taken for applicants to provide all of the relevant documentation in comparison to previous years.
9. Since 2018, we have registered 1,078 independent schools. We have analysed the number of new applications received each year since 2014 to determine whether the additional requirements introduced in 2018 appear to have caused a decline on the number of applications received.
10. As can be seen in the table below, the number of applications received increased steadily from 41 in 2014 to 183 in 2019, before dropping slightly to 158 in 2022. Whilst there has been a slight drop in school applications over the last three years, we consider much of this relates to the impact of the Covid-19 pandemic and is not a reflection of the changes in legislation introduced in 2018.

Year of registration	Total applications	Total registrations	Of which have since closed
2014	41	57	28
2015	34	46	12
2016	79	53	15
2017	112	97	25
2018	145	63	10
2019	183	90	8
2020	176	82	14
2021	150	99	3
2022	158	78	2

11. We also measured our complaints to gauge whether the additional requirements in legislation created an increase in complaints. We have not received any complaints or questions from proprietors arising from the requirement to provide further information at the application stage nor have we had complaints about the length of time taken to register an independent school arising from the additional information required.

Impact of changes on current proprietors completing initial and annual returns

12. Due to the changes, proprietors are now required to submit the details of children's home registration, contact details, national Insurance numbers for individual proprietors, and chairs or new members of the proprietor body for the school in the annual return.

13. The data gathered from the annual return is published on Gov.uk (Schools, pupils and their characteristics). The table below shows the number of registered independent schools following the data return.

Registered independent schools	
Year	Number of schools
2018	2320
2019	2319
2020	2331
2021	2366

2022	2394
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14. The 2018 Regulations now include a provision to ensure that when a school has premises at more than one location, details are provided at the time of the initial return (usually three months after it opens) and when the annual return is made. As proprietors were already required to submit an initial and annual return prior to the changes, the extra requirements will have little impact as the information required should be accessed easily and should already be recorded via the school's records. The extra requirements allow the Department to ensure it has up to date information on all of the independent schools and the information reflects their current situation.
15. In conclusion, we believe the changes to the 2018 Regulations are fit for purpose. Whilst we lack sufficient numbers of applicants to compare pre- and post- regulation to be certain of impact, there have been no complaints in the 5 years since the 2018 regulations were introduced and we feel this is a good indication of minimal impact on applications. Further, the numbers of applications grew in 2019, fell a little during covid, and have resumed growth since. This also suggests that we can attribute minor impact to the changes made.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: ***Caroline Halls***

Date: 31/10/2023

5. What were the original assumptions?

16. A full impact assessment was not produced for this instrument as no significant impact on the business, public or voluntary sectors was foreseen. However, having undertaken the review, from the evidence we have pulled together, the low level of change in the trends suggest that there has been a low level of impact on proprietors or proposed proprietors of independent schools.

6. Were there any unintended consequences?

17. Whilst we do not have the original impact assessment to determine what consequences were identified at the outset, in conducting this review, the evidence suggests that the impact to the sector has been minimal, and the change implemented by the 2018 regulations was proportionate to what would be expected when applying to open an independent school. Therefore, it is highly unlikely that any consequences, unintended or not foreseen, have occurred.

7. Impact on business

7.1 Has the evidence identified any opportunities for reducing the burden on the business?

18. 9(4)(d) of the 2018 regulations set out that we should consider whether the original objectives remain appropriate and assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
19. Since the 2018 Regulations have been in place there has been no evidence to suggest that there has been a major impact on businesses, although it is inevitable that new regulation has impacted on stakeholders. However, there have been no attempt to measure these impacts due to the low level of burden on stakeholders, both financially, and time wise. In that respect, further analysis to evaluate the financial implications would not seem proportionate.
20. The level of regulation in place for independent schools is considered to be appropriate by the Department and we do not think that levels of regulation could be reduced, therefore, a system with less regulation is not something which would help us achieve the policy objectives.

7.2 How does the UK approach compare with the implementation of similar measures internationally, including how EU member states implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

21. The Independent Educational Provision in England (Provision of Information) and Non-Maintained Special Schools (England) and Independent School Standards (Amendment) Regulations 2018 are statutory legislation which only impacts England and no other part of the United Kingdom or indeed the European Union therefore no comparison can be made to EU states' implementation of this. Furthermore, international trade has no relevance to the implementation of these 2018 regulations.