

Regulatory Triage Assessment

Title of measure	Independent Schools Fees Regulations revision
Lead Department/Agency	DfE
Expected date of implementation	November 2017 (now April 2018)
Origin	Domestic
Date	08/03/2017 (updated January 2018)
Lead Departmental Contact	Claire Evans (now Stephen Bishop)
Departmental Triage Assessment	Low-cost regulation (fast track)

Rationale for intervention and intended effects

At present, the rate of cost recovery for Ofsted inspections of independent schools is very low. This is despite HM Treasury policy that inspection activity should recover as close to full cost as possible. Since fees charged for such inspections are set in regulations, government intervention is needed to change this situation.

The policy objective is to move closer to full cost recovery whilst achieving a reasonable transition period for schools faced with higher fees, with increases that are affordable by the schools concerned.

Viable policy options (including alternatives to regulation)

The options which have been considered include:

1. leaving fee levels at those set in the current (2009) regulations;
2. raising fee levels as proposed and introducing new categories of inspection for which a fee may be charged.

It is not considered that there is any practicable alternative to regulation. Ofsted has no power to charge fees for inspection of independent schools except under the relevant regulations.

Initial assessment of impact on business

This policy change will increase costs in four areas:

1. Standard inspections (these check compliance with all the prescribed standards, and are normally carried out every three years on a schedule set by Ofsted)
2. First standard inspections (this is simply the first standard inspection carried out at a school after registration, in its first year of operation. It is always done by Ofsted whichever group or association a school belongs to)
3. Progress monitoring inspections (these are to check whether standards previously found to be not met at an earlier inspection, are now met)
4. Pre-registration inspections (these are carried out to determine whether a proposed new school is likely to meet the standards once it is open)

The cost per annum to schools, over 10 years, ranges from £440,000 to £660,000 per year. We believe there will no associated one-off cost to schools.

Rationale for Triage rating

This measure qualifies for self-certification. The proposed changes are unlikely to place significant burdens on independent schools, with the estimated impact falling well below the +/- £5m threshold in the most expensive year.

Departmental signoff (SCS): Peter Swift Date: 18.01.18

Economist signoff (*senior analyst*): Andrew Mellon Date: 18.01.18

Better Regulation Unit signoff: Viv Clowes Date: 18.01.18

Supporting evidence

1. The policy issue and rationale for Government intervention

At present HMT rules require that fees charged by government bodies for inspections should recover the full cost of those inspections. However, although the cost of independent school inspection by Ofsted is around £4m per annum (2015), only around £0.75m of this cost is recovered (data from unpublished Ofsted papers supplied to DfE). For example, for standard inspections of schools with 5 pupils, only 15% is recovered (2016), for 50 pupils only 42% of costs, and for schools with 800 pupils only 59%. This gap between fees and costs is compounded by the fact the great majority of schools inspected by Ofsted are relatively small, where the discrepancy is greatest: nearly 60% of them have no more than 74 pupils and yet inspection costs for such schools are over 70% of the cost for the largest schools.

The government's Spending Review 2015 settlement for Ofsted included making savings by moving towards full cost recovery, but moving too rapidly towards that would unduly increase the financial pressure on schools and make it less likely that they could successfully cope with the increases by – for example – passing them on to parents. This might result in more schools falling behind with fee payment instalments. At present only a small number of schools fall into that category each year. A school that does not pay its inspection fees can be removed from the register of independent schools and if that happened, would have to close.

The level of fees charged to independent schools for inspections carried out by Ofsted is set in The Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009 (SI 2009/1607)¹. The fee levels can only be changed via secondary legislation. The fee charging power is section 111 of the Education and Skills Act 2008.

The driver for increasing the fees for standard inspections is the move towards full cost recovery, which is balanced against an understanding that schools will require time to absorb the increases. Given the disparity between full cost recovery and existing fees, the percentage increase for the smallest schools would be very high indeed if full cost recovery was to be the immediate aim.

However, the consequence of making only a gradual change towards full cost recovery with increased fees for standard inspections means that in order to meet the expectations underlying the settlement for Ofsted in Spending Review 2015, it is necessary to use other methods to achieve a higher overall recovery rate than the current one. This will be achieved by introducing additional categories of charge: for pre-registration inspections, first year standard inspections, and third progress monitoring inspections. These categories of inspection arise only because of actions taken by the proprietor of the school, so are seen as justified on that account. Charges are not being introduced for emergency inspections because the need for those is decided by the Department for Education, or material change inspections, for which there is no statutory power to charge.

¹ <http://www.legislation.gov.uk/uksi/2009/1607/contents/made>

2. Policy objectives and intended effects

The policy objective is to move closer to full cost recovery so that the public purse is not subsidising the maintenance of standards in the independent schools sector, while balancing that move with a reasonable transition period for schools. The transitional time will enable schools to appropriately budget (not least because many schools are small businesses and may not be able to absorb larger increases immediately). It would be a matter for each school to decide whether it wished to absorb the inspection fee increases to any extent, or pass them on either by including the higher costs in fees charged to parents, or in the case of pupils placed with the schools by local authorities, by increasing the fees charged to the local authorities concerned. Increases are proposed to commence in 2018-19.

The intended effect is to achieve a higher overall recovery rate to meet the expectations underlying the settlement for Ofsted in Spending Review 2015.

3. Policy options considered, including alternatives to regulation

The first option is to leave the current level of fees unchanged. This would not allow Ofsted to recover a greater proportion of the cost of inspections and meet the expectations in the settlement for the 2015 Spending Review.

The second option would be to implement the changes, as suggested. This would result in an increase in the costs recovered by Ofsted, without a large burden on Independent schools.

4. Expected level of business impact for the second option

Table 1 gives a summary of the additional costs to independent schools over 10 years. The same set of values have also been discounted at the values provided by the GDP Deflator from ONS (December 2017) and Bank of England's inflation target of 2% after Year 6, as forecasts are unavailable.

Table 1

Costs	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Standard Inspections	£299k	£285k	£272k	£277k	£283k	£288k	£293k	£299k	£304k	£310k
First Standard Inspections	£81k	£161k	£242k	£242k	£242k	£242k	£242k	£242k	£242k	£242k
Progress Monitoring Inspections	£5k	£5k	£5k	£5k	£5k	£5k	£5k	£5k	£5k	£5k
Pre-registration inspections	£143k	£143k	£143k	£143k	£143k	£143k	£143k	£143k	£143k	£143k
Total (nominal)	£523k	£594k	£662k	£667k	£673k	£678k	£684k	£689k	£694k	£700k
Total (2017 prices)	£519k	£577k	£633k	£628k	£621k	£616k	£608k	£601k	£594k	£587k

1. Standard inspections

The new costs under the proposed policy are calculated using data² on independent schools and pupil numbers/ages. We have assumed Ofsted inspects 1,093 of 2,361 independent schools each year, representing 46.3% of total schools. We also account for new schools opening (80) and other schools closing (57) in each year. These numbers are based on the most up to date list of independent schools currently inspected by Ofsted (extracted 2017 from Get Information About Schools register), and last year's figures of schools opening/closing. Total independent school figures have been taken from the Schools, pupils, and their characteristics survey, 2017.

The cost of a standard inspection varies depending on the size of the school, with smaller schools paying a fixed fee plus a variable charge of £12 per pupil, and large schools paying only a fixed fee. Table 2 shows the costs that a school of varying size would face under the current and proposed costs. Table 3 gives a breakdown of the current and proposed cost components. The highest cost of £2,232 is charged to schools with 400 or more pupils, and this makes up 3% of the current population of independent schools inspected by Ofsted. Although there is a degree of uncertainty around the numbers of schools opening and closing, and the proportion of schools being inspected each year over the period of our appraisal, we are confident that the costs will fall below £5m. For the EANDCB for this policy to reach £5m in the most expensive year, it would require an additional 1,147 schools to open and be inspected each year. This is extremely unlikely to occur. Consequently, we are highly confident that the costs of this initiative fall below the *de minimis* threshold.

We expect that independent schools rated as either 'Good' or 'Outstanding' will be inspected every three years, whereas those with 'Requires Improvement' or 'Inadequate' will be inspected more frequently – once every two years. We assume schools which open will not be graded at either 'Requires Improvement' or 'Inadequate' for the time period considered in the impact assessment.

Table 2 - Examples of current and proposed fees for schools of difference sizes

No. of pupils on roll	Current cost	Proposed cost
50	£650	£900
100	£1,100	£1,475
150	£1,550	£1,835
200	£1,666	£1,999
250	£1,666	£1,999
300	£1,666	£1,999
350	£1,666	£1,999
400	£1,666	£2,232

² Statistical First Release 2017 on school and pupil characteristics.

Table 3 – Fee bands under the current system and the proposed system

NOR of Schools	Current annual fees		Proposed annual fees	
	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	£200	£9	£300	£12
100 to 150	£200	£9	£1,475	£12(a)
151 to 399	£1,666		£1,999	
400 plus	£1,666		£2,232	

(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.

2. First standard inspections

There is currently no charge to independent schools for their first standard inspection. Option B includes a proposal to charge for these at the same rate as set out in table 3. The 80 new schools opening each year will be required to pay this fee. The cost of this, for all schools, is £81,000 in the first year, £163,000 in the second year and £245,000 in the third and subsequent years (note that values have been rounded to the nearest £1,000). Schools pay for their standard inspections in three equal instalments over three years. For this reason, a cohort of 80 new schools opening each year will not pay their first standard inspection cost past the third year of opening. The costs are shown in table 4 over 10 years, in 2017 prices.

Table 4

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
y1 cohort	£81k	£81k	£81k								£245k
y2 cohort		£81k	£81k	£81k							£245k
y3 cohort			£81k	£81k	£81k						£245k
y4 cohort				£81k	£81k	£81k					£245k
y5 cohort					£81k	£81k	£81k				£245k
y6 cohort						£81k	£81k	£81k			£245k
y7 cohort							£81k	£81k	£81k		£245k
y8 cohort								£81k	£81k	£81k	£245k
y9 cohort									£81k	£81k	£163k
y10 cohort										£81k	£81k
Total: nominal	£81k	£163k	£245k	£245k	£245k	£245k	£245k	£245k	£245k	£245k	£2.2m
Total: 2017 prices	£79k	£156k	£231k	£227k	£223k	£219k	£215k	£210k	£207k	£203k	£2.0m

3. Progress monitoring inspections (PMIs)

At present, only the first and second progress monitoring inspections are chargeable. The level of charge for these is not changing. If required, the third PMI will now be chargeable at a rate of £300 plus £13.50 per pupil for small schools (150 pupils or less) or £2,499 for large schools. Based on current records, there are approximately three Third PMIs a year. Based on current school sizes, we can assume that two of these are small schools with 72 pupils on average and the third is a large school with 507 pupils on average. In this case, the following additional costs would be associated with PMIs:

$$(2 \times £300) + (2 \times 72 \times £13.50) + £2,499 \approx £5,000 \text{ per year}$$

4. Pre-registration inspections

This is a fixed charge of £1,792 for each proposed new school. Estimating around 80 new schools a year, this would cost:

$$80 \times £1,792 \approx £143,000 \text{ per year}$$