



Department
for Education

Registration of independent schools

**Departmental advice for proprietors and
prospective proprietors of independent
schools in England**

January 2016

Contents

Summary	3
Part A: Scope of the arrangements	5
Part B: How to apply for registration	8
Part C: The independent school standards	12
Part D: Arrangements for inspection of registered independent schools, including the fees payable	23
Part E: Making changes to a registered school	25
Part F: Failure by an independent school to meet the required standards	26
Part G: Other information	28
Further sources of information	30

Summary

About this departmental advice

This is advice from the Department for Education. This advice is non-statutory, and has been produced to help proprietors and prospective proprietors understand the requirements for the registration of independent schools.

Expiry or review date

This advice will next be reviewed before September 2016.

Who is this advice for?

This advice is primarily for proprietors and prospective proprietors of independent schools that are not Academies or Free Schools.

It may also be useful for governors, head teachers, teachers and parents.

Key points

Part 4, Chapter 1 of the Education and Skills Act 2008 provides for independent schools to be registered by the Secretary of State for Education. It is an offence to operate an unregistered independent school; therefore applications for registration by new schools must be submitted and approved before a school begins to operate and admit pupils.

Regulations made under section 94 of the 2008 Act set out the standards that all independent schools in England must satisfy as a condition of registration. The standards are set out in the Schedule to the Education (Independent School Standards) Regulations and cover:

- Quality of education provided
- Spiritual, moral, social and cultural development of pupils
- Welfare, health and safety of pupils
- Suitability of staff, supply staff and proprietors
- Premises of and accommodation at schools
- Provision of information
- Manner in which complaints are handled
- Quality of leadership in and management of schools

The Secretary of State must be satisfied that an institution is likely to meet the standards once it is registered as an independent school. As part of the registration process,

Ofsted will inspect the school against the standards and make a report to the Secretary of State on the extent to which the standards are likely to be met following registration. Once registered, schools are inspected by Ofsted within the first year of operation and thereafter on a regular cycle by Ofsted or by one of the two approved independent inspectorates: Independent Schools Inspectorate and the School Inspection Service.

This advice sets out the requirements of the legislation to help those intending to apply for registration to submit the necessary documentation, and to offer advice on those points most commonly raised by independent schools. It cannot attempt to offer an authoritative statement on all matters relating to the regulation of independent schools and given the diversity of the sector, schools may wish to seek independent advice.

Part A: Scope of the arrangements

An independent school is defined¹ as any school² at which full time education is provided for five or more pupils of compulsory school age, or one or more such pupils with an EHC plan³ or a statement of special educational needs or who is “looked after” by the local authority, and is not a school maintained by a local authority or a non-maintained special school. A child is “looked after by a local authority” if he or she is in its care or is provided with accommodation for a continuous period of more than 24 hours by the authority under certain of its social services functions (see section 22 of the Children Act 1989).

If your establishment falls outside the definition of an independent school given above, it cannot be registered with the department as an independent school. However, local authorities will need to be satisfied that children of compulsory school age who are attending your establishment are receiving full-time education suitable to their age, ability, aptitude and any special educational needs they may have, including any provision being made in parallel to that in your establishment.

It is an offence to operate an unregistered independent school, and anyone who does so is liable on summary conviction to a fine and/or imprisonment.

Full-time education

There is no legal definition of ‘full time’. However, we would consider an institution to be providing full-time education if it is intended to provide, or does provide, all, or substantially all, of a child’s education.

Relevant factors in determining whether education is full-time include:

- (a) the number of hours per week that is provided - including breaks and independent study time;
- (b) the number of weeks in the academic term/year the education is provided;
- (c) the time of day it is provided;
- (d) whether the education provision in practice precludes the possibility that full-time education could be provided elsewhere.

¹ s.463 of the Education Act 1996, as substituted by s172 of the Education Act 2002 and as subsequently amended.

² As defined in s.4 of the Education Act 1996.

³ An EHC plan is an education, health and care plan – see section 37(2) of the Children and Families Act 2014.

Generally, we consider any institution that is operating during the day, for more than 18 hours per week, to be providing full-time education. This is because the education being provided is taking up the substantial part of the week in which it can be reasonably expected a child can be educated, and therefore indicates that the education provided is the main source of education for that child.

Ofsted may inspect an institution it reasonably considers is operating as an unregistered independent school. In such cases, Ofsted will assess whether the school meets the definition of an independent school, which will include assessing whether or not the school is intending to provide, or is providing, all or substantially all of a child's education.

Compulsory school age

A child begins to be of compulsory school age on the prescribed day which either falls on or follows a person's fifth birthday. The prescribed days are currently 31st August, 31st December and 31st March, ie the term following the child's fifth birthday.

A young person ceases to be of compulsory school age on the school leaving date in the academic year in which they turn 16. The school leaving date is currently set as the last Friday in June. Raising the participation age (RPA, as set out in Chapter 1 of the Education and Skills Act 2008) does not affect the compulsory school age. However, its effect is that a young person who has ceased to be of compulsory school age but has not yet reached the age of 18 (or attained a level 3 qualification), is under a duty to participate in education or training.

Early years

Establishments that cater for children under the age of 5 will also be required to register as an independent school if they meet the definition of an independent school. They will also be required to implement the Early Years Foundation Stage (EYFS) for children aged under 5 although they can later seek exemption from some aspects of EYFS if they meet qualifying criteria.

If the school does not fall within the definition of an independent school because it caters solely for children under 5 it must be registered with Ofsted Early Years Directorate – tel: 0300 123 1231.

Education for 16-19 year olds

An independent school that provides solely for students over compulsory school age does not need to register with the department. The department does not exercise any direct statutory control over the independent sector of further and higher education, nor is

that sector governed by regulations applying to maintained or assisted further and higher education institutions.

Establishments that cater for five or more compulsory school age pupils, or one or more such pupils with a statement of special educational needs, or who is looked after, as well as those over the age of 16 will however be required to register as an independent school.

Special Educational Needs

There is no legal definition of an 'independent special school', although that title is sometimes used for around 500 independent schools which have described themselves as being specially organised to cater for children with SEN. The application form for registration asks whether the school is to be specially organised in this way, and this is recorded on Edubase, which constitutes the Register of Independent Schools.

Part B: How to apply for registration

Independent schools must be registered before they start to operate. It is illegal to operate an unregistered school and anybody who does so is liable for prosecution. The application form should be completed and returned to the department with the information listed below.

The form may be completed and submitted on-line from Gov.UK.

Alternatively, the registration application form may be requested from and submitted to: registration.enquiries@education.gsi.gov.uk or

Independent Education and Boarding Team
DfE
Level 3
Bishopsgate House
Feethams
DARLINGTON
DL1 5QE

Various information must be provided as part of your completed application form⁴ together with the supporting documentation shown below. The application will be processed more quickly if all supporting documents are uploaded to an internet cloud filestore and the link for that provided to the department. A password may be used for such a link, but it must not be necessary for the department to subscribe to the service or to download software. Filenames used for documents should reflect the contents. The supporting documents required are:

- A statement that the school is an independent school;
- A plan showing the layout of the premises and any accommodation provided;
- Detailed curriculum plans and schemes of work for all subjects and year groups; and student assessment procedures;
- The written behaviour policy setting out, amongst other matters, the sanctions to be adopted in the event of pupil misbehaviour;
- Particulars of the school's arrangements to safeguard and promote the welfare of pupils at the school and how those arrangements have regard to guidance issued by the Secretary of State;
- Particulars of the school's anti-bullying strategy;
- The complaints procedure.

⁴ This information is required by Part 2 of the Schedule to the Education (Independent Educational Provision in England) (Provision of Information) Regulations 2010

Incomplete applications

Applications which do not include all of the information requested on the application form and all of the information listed above do not constitute an application under section 98 of the Education Act 2008, and will not be considered formally for registration. You may be given further time to provide such information, but your application will not be processed without all of the required documents.

School name

If the name you are proposing for your school may be construed as implying a Royal connection, e.g. Queen's, King's, Prince's etc, the adoption of that name requires prior approval from the Cabinet Office. You may write to:

The Constitutional Policy Team
Cabinet Office
70 Whitehall,
London
SW1A 2AS
Email: royalnames@cabinetoffice.gov.uk

Applications for use of the word 'University' in a school title or business title should be made to:

Privy Council Office
2 Carlton Gardens
London
SW1Y 5AA
Tel: 0207 747 5310

In the absence of approval from either the Cabinet Office or the Privy Council Office, schools will not be admitted to the Register of Independent Schools under such titles.

Registration process

The Secretary of State must decide whether the independent school standards are likely to be met before a school can be registered. Once an application for registration has been received, the Secretary of State must notify Ofsted of it and Ofsted must then inspect the institution and make a report to the Secretary of State on the extent to which the school is likely to meet the independent school standards upon registration. The inspector will have copies of the documents which accompanied the application and will examine these as well as looking at the proposed premises and discussing with the school's proposers their plans for operating the school. The Secretary of State will consider the report from Ofsted and any other evidence relating to the independent school standards which is available in coming to a decision. If the Secretary of State

decides that the standards are likely to be met once the institution becomes registered as an independent school then it must be registered as such.

The application process is expected to take approximately six months from receipt of a complete application provided everything is in order and the Secretary of State decides that the standards are likely to be met upon registration. Applications to register should therefore be made well in advance of the proposed admission of pupils. However, the pre-registration inspection may not be carried out until the premises are in a state which allows the inspector to reach a conclusion on whether the standards are likely to be met, so if they are still being built or adapted, the inspection may be some time after the application is first made.

If your application is successful, a letter will be sent to you by the department confirming that your school has been entered on the Register of Independent Schools and informing you of your school's registration number. The school **must not** admit pupils before you receive this letter.

No fee is payable for registration or for the pre-registration inspection.

Fire precautions

One of the requirements of the Independent School Standards is compliance with the Regulatory Reform (Fire Safety) Order 2005. You should therefore contact the local Fire and Rescue Service (FRS) to advise it of your proposed school and request that it inspects the premises – although based on its assessment of risk, it may advise you that this is either unnecessary or will be done at a later date. The Ofsted pre-registration inspection will look at the school's compliance with the Order only in terms of a completed fire risk assessment, evidence of a request to the FRS, and whether the school has basic fire precautions in place, and is not a substitute for an inspection by the Fire and Rescue Service if that is judged necessary by the FRS. See also the later section on fire precautions in relation to the independent school standards.

Unsuccessful applications

If your application is unsuccessful, the department will write to you setting out the reasons for rejecting your application. It is open to you to resubmit your application once you are in a position to show that the school is likely to meet the independent school standards. It is also possible to appeal to the First-Tier Tribunal against a decision by the Secretary of State that the standards are not likely to be met upon registration. The school should not begin to operate before registration is granted. It is an offence to operate an independent school which is not registered and anyone who does so is liable on summary conviction to a fine and/or imprisonment.

Tacit consent

We consider applications to register independent schools to be exempt from Directive 2006/123/EC of the European Parliament and Council on services in the internal market. The directive normally requires all licensing and registration authorities to set out timescales within which applications for business licenses and registrations must be processed. Where the authority fails to meet a timescale the license or registration is deemed to be granted. The exemption allows for different arrangements in a situation where there is an overriding reason relating to the public interest. It is our view that this exemption applies as it is not in the public interest for the registration of an independent school to be deemed granted in this way as this may lead to a risk to the welfare, health and safety of children.

Part C: The independent school standards

The standards are set out in the Education (Independent School Standards) Regulations 2014.

Quality of education

Independent schools must offer full-time supervised education for pupils of compulsory school age which takes into account the ages, aptitudes and needs of the pupils including those with special educational needs. The school must draw up a written curriculum policy setting out the school's approach to teaching, which is supported by schemes of work (for every subject and year group taught). The standards are not intended to be prescriptive about the way a school organises its curriculum, and they do not require the school to follow the National Curriculum. However the school must provide experience in the following areas:

- **Linguistic:** this area is concerned with developing pupils' communication skills and increasing their command of language through listening, speaking, reading and writing - pupils must acquire speaking, listening and literacy skills. In all schools, except schools following the curriculum of another country where all pupils are temporarily resident in this country, if the principal language of instruction is not English, there must be lessons in written and spoken English;
- **Mathematical:** this area concerns pupils making calculations, understanding and appreciating relationships and patterns in number and space and developing their capacity to think logically and express themselves clearly. Their knowledge and understanding of mathematics should be developed in a variety of ways, including practical activity, exploration and discussion;
- **Scientific:** this area is concerned with increasing pupils' knowledge and understanding of nature, materials and forces and with developing the skills associated with science as a process of enquiry: for example, observing, forming hypotheses, conducting experiments and recording their findings. This does not necessarily require extensive practical work;
- **Technological:** Technological skills, can include the use of ICT; developing, planning and communicating ideas; working with tools, equipment, materials and components to produce good quality products; and evaluating processes and products. If a school does not allow the use of IT systems it should still teach pupils to be aware of the impact these can have in their lives;
- **Human and social:** this area is concerned with people and with their environment, and how human action, now and in the past, has influenced events and conditions.

In most schools, the subjects of history and geography make a strong contribution to this area;

- Physical: this area aims to develop the pupils' physical control and co-ordination as well as their tactical skills and imaginative responses, and to help them to evaluate and improve their performance. Pupils should also acquire knowledge and understanding of the basic principles of fitness and health;
- Aesthetic and creative: this area is concerned with the processes of making, composing and inventing. There are aesthetic and creative aspects of all subjects, but some make a particularly strong contribution including art, music, dance, drama and the study of literature because they call for personal, imaginative, and often practical, responses.

Plans and schemes of work must illustrate how each area is to be woven into the school curriculum. Schemes of work must set out in detail for each year group what lessons are to cover throughout the year. It is not necessary for subjects to be treated as separate but the overall curriculum must cover the range set out above. Alternative Provider schools should consider in particular how the main themes addressed by their curriculum can meet the standards by ensuring that subjects not taught on a discrete basis are incorporated into lessons (for example by teaching numeracy through basic science). The curriculum must not undermine the fundamental British Values set out in the standards. There are also standards setting out the requirements for teaching and assessment of pupil performance

There is no requirement that teachers in independent schools must be qualified teachers but those who are not should have relevant expertise or experience, or the school is unlikely to be able to meet the standard on teaching quality. Residential schools will also be expected to employ adequate ancillary staff and childcare staff with appropriate qualifications and experience. Schools are also expected to have proper regard for their pupils' health, safety and welfare by ensuring that a member of staff has either the appropriate training in basic first aid or holds a suitable nursing qualification. Please see also the section on the suitability of proprietors and staff.

Spiritual, moral, social, and cultural development of pupils

Independent schools are expected to ensure that they plan and provide effectively in order to develop pupils' spiritual, moral, social and cultural awareness. Subject areas such as personal, social and health education (PSHE) and religious education may make strong contributions, but work within all other subjects may also contribute. The department has published advice on this standard in two documents which are available for download at the link shown in the 'Further Sources of Information' chapter.

Schools are required to actively promote the Fundamental British values and ensure that there is political balance in teaching and other activities

Pupils should be led towards distinguishing right from wrong, respecting the civil and criminal law of England, and towards acting with a view to the consequences of their own and others' actions. In addition the school should:

- lead pupils towards becoming confident and positive contributors to their local community and to society more widely and to become effective users of public services and facilities according to pupils' level of maturity;
- enable pupils to gain insights into the origins and practices of their own cultures, and into those of society more widely and to encourage tolerance for others;
- encourage respect for other people, paying particular regard to the protected characteristics set out in the Equality Act 2010 (ie age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation).

Welfare, health and safety of pupils

The standards require schools to ensure that arrangements are made to safeguard and promote the welfare of pupils at the school having regard to any guidance issued by the Secretary of State. The DfE guidance *Keeping Children Safe in Education* and *Working Together* are statutory guidance. For those schools that provide boarding for pupils, they must ensure arrangements are in place to safeguard and promote the welfare of those boarders having regard to the National Minimum Standards for Boarding Schools or, where applicable, for Residential Special Schools. Schools must also have health & safety and anti-bullying policies in place that are implemented effectively. The standards also require schools to have a written policy to promote good behaviour amongst pupils including setting out the sanctions to be adopted in the event of pupil misbehaviour and to implement that policy effectively.

Listed below are departmental documents which summarise the key existing legal requirements relevant to schools and provide information to help them understand some of their legal responsibilities and meet the independent school standards (hyperlinks are available at the end of this document):

- take steps to prevent bullying so far as practicable; a relevant document is *Preventing and Tackling Bullying: Advice for school leaders and governors*;
- safeguard and promote the welfare of children who are pupils at the school, using a policy which has regard to:

- DfE guidance *Keeping Children Safe in Education*;
 - HM Government guidance *Working Together to Safeguard Children*. This guidance applies in its entirety to independent schools;
- safeguard and promote the health and safety of pupils in school and on activities outside the school; a relevant document is: *Health and Safety: DfE advice for schools*
 - have satisfactory arrangements for administering First Aid; a relevant document is *First Aid in Schools*
 - promote good behaviour; a relevant document is *Ensuring good behaviour in schools: summary*

Schools must ensure that pupils are properly supervised, and keep a written record of sanctions for serious pupil disciplinary offences.

Boarding Schools

Boarding schools are those that provide overnight accommodation for pupils at the school or elsewhere, but excluding accommodation for pupils being accommodated away from the school premises during a brief school trip. This includes pupils who are accommodated elsewhere under arrangements made by the school, whether or not the accommodation is in fact provided off site by a third party, e.g. a host family or landlord. Unless the accommodation arrangements are made by the child's parent(s), the school is responsible for their welfare and inspections will include such arrangements in their scope.

Independent boarding schools are inspected by Ofsted, or by the Independent Schools Inspectorate (ISI) for those schools affiliated through an association to the Independent Schools Council (ISC). Ofsted or ISI inspect the boarding provision against the **National Minimum Standards for Boarding Schools (NMS)**. Boarding schools which cater wholly or mainly for pupils with special educational needs, will be inspected against the **National Minimum Standards for Residential Special Schools**.

Any boarding school that provides accommodation for more than 295 days in any 12 month period falls within the definition of a Children's Home and as such must be separately registered with Ofsted, and meet the **National Minimum Standards for Children's Homes**.

Fire Precautions

The Regulatory Reform (Fire Safety) Order 2005 came into force on 1 October 2006. The order places responsibility on a 'responsible person', which in the case of an independent school is the proprietor, to (amongst other things):

- carry out a fire risk assessment (formally recorded and regularly reviewed so as to keep it up to date);
- produce a fire risk policy which includes the elimination or reduction of risks from dangerous substances;
- develop fire procedures and provide staff training (repeated periodically where appropriate);
- ensure the safety of staff or anyone else legally on the school premises;
- carry out fire drills and contact emergency services when necessary;
- appoint one or more competent persons (with sufficient training, experience and knowledge) to assist in taking preventive and protective measures (including fire fighting and evacuation);
- have a suitable system for the maintenance of: clear emergency routes and exits (with doors opening in the direction of escape), signs, notices, emergency lighting where required, fire detectors, alarms and extinguishers (the maintenance should be by a 'competent person' (for example, ISO9001 certified or BAFE approved));
- provide staff and any others working on the school site with fire safety information.

Additionally, staff are required to take 'reasonable care' in carrying out their duties.

The fire risk assessment should be reviewed regularly and revised in light of any changes that occur at the school. The local Fire and Rescue Service will inspect independent schools periodically in the same way as any other business i.e. on a risk assessment basis. This is likely to mean more frequent inspections, for instance, for boarding schools or those dealing with pupils who have special needs.

Admission and attendance registers

Independent school proprietors are required to keep registers of both admissions and attendance and proprietors should acquaint themselves with the Education (Pupil Registration) (England) Regulations 2006 as amended, which govern this.

These regulations specify the detail required in the registers and the manner of their completion. Proprietors of independent schools must make the registers available for inspection. Proprietors are also liable, under the Regulations, to make returns to the local authority detailing the names of any children who fail to attend school regularly and

to notify the local authority if parents withdraw a child to home educate. The duty to keep attendance (as distinct from admissions registers) does not apply where all the children in an independent school are boarders, but proprietors may choose to keep them.

The suitability of proprietors and staff

Suitability of proprietors

The standards require the Secretary of State to make checks on any individual or individuals responsible for the management of an independent school. The checks cover the person's identity, right to work in the UK, whether they are barred from regulated activity relating to children, or subject to an order prohibiting them from teaching, or a direction barring them from taking part in the management of an independent school, and an enhanced criminal record check which must be submitted via the department for countersigning. If the proprietor has lived abroad checks may also be made by the department with the relevant overseas authorities. If the proprietor is a formally constituted board of governors, directors or trustees, a trust or limited company, it is the chair or equivalent will be required to undergo an enhanced criminal record check via the Department for Education. This will relate to the chair of the proprietorial body, not the chair of any local governing body appointed by the proprietorial body. The chair or equivalent will be responsible for ensuring that enhanced criminal record checks, a check on whether a person is barred from taking part in the management of an independent school, identity and right to work in the UK checks, plus overseas checks where relevant, are undertaken on the remaining governors, trustees or directors. When the school is inspected, inspectors will want to see evidence that these checks have been undertaken and recorded in the single central register.

On receipt of your application for registration, the department will send out full details of how to apply for an enhanced criminal record check for the proprietor or chair.

Suitability of staff

Proprietors are responsible for ensuring that any staff at the school, whether under a contract of employment, under a contract for services or other than under a contract, and supply staff, have been subject to the specified recruitment and vetting checks. These include an enhanced criminal record check where relevant, which must be done before or as soon as practicable after their appointment. To do this, consult the DBS advice (listed in the Further Sources of information' section). Inspectorates will also expect to see evidence that the appropriate additional checks have been carried out on any person who has lived outside the UK.

Schools should note that the requirements of the standards in relation to the range of DBS checks have not altered for staff. A check has to be made when a new staff member joins the school workforce and is working 'regularly' at the school, but not subsequently if

that staff member moves with continuity of employment, which means moving without a gap in service of more than three months. But when DBS checks are required, the standard now allows for these to be done by the school using the DBS update service if the individual has subscribed to it. By virtue of regulation 2(5)(b), members of school staff who are not in regulated activity but work regularly at the school remain eligible for enhanced DBS checks, and schools should obtain these

Medical fitness

Proprietors must satisfy themselves of the medical fitness of staff at the school to carry out the duties of the post applied for. It would normally be expected that employers would ask prospective employees to complete a medical questionnaire. This should not be done until after the offer of an appointment. The questionnaire should only ask for information relevant to the post applied for and this does not include previous sickness absences. Independent schools will then have to decide whether, based on the information provided in the questionnaire, they need to seek further medical advice, with the written consent of the prospective employee.

Disabled staff can make an important contribution to the overall school curriculum, both as effective employees and in raising the aspirations of disabled pupils and educating non-disabled people about the reality of disability. Many disabled people will be medically fit to teach, though under the Equality Act 2010 employers may have to make reasonable adjustments to enable disabled people to carry out their duties effectively.

Other checks

Schools must also make appropriate checks to satisfy themselves of the identity of prospective employees, whether they are barred from regulated activity relating to children or subject to an order prohibiting them from teaching, a direction barring them from taking part in the management of an independent school (if the post is relevant), their qualifications (where appropriate) and their right to work in the United Kingdom. They should also take up character and professional references and check previous employment history.

The rules for employing migrant workers changed from February 2008 so that any employer who employs someone who is subject to immigration control, aged over 15, who is not entitled to undertake the work, could face a fine of up to £10,000 per illegal worker. UK Visas and Immigration has produced guidance entitled Preventing Illegal Working.

Schools should also check the suitability of any supply staff, prior to them beginning work in the school. The proprietor must be satisfied of their identity, irrespective of any checks that have been carried out previously by the employment business that employs them. The proprietor should also be in receipt of written notification from the employment business, confirming that they have checked a person's identity, their right to work in the

United Kingdom, whether they are barred from regulated activity relating to children or subject to an order prohibiting them from teaching, and relevant qualifications and also that where relevant an enhanced criminal record certificate has been obtained in respect of them.

Single central register of checks

Proprietors must ensure that a record of all recruitment and vetting checks is kept in a single central register. The register must have a record of all staff employed at the school, supply staff and the proprietor (including all members of a proprietorial body). The register should record evidence of each recruitment check and the date on which each check was completed or the resulting certificate obtained.

Premises of and Accommodation at schools

The standards set out what is required but there is, however, one area where we believe schools will find it helpful to have further clarification which is not covered by Part 5 of the Independent School Standards Regulations. This relates to classroom sizes.

The size of the classrooms must not compromise either the health and safety of pupils or the teaching at the school. An example of where this might occur is where there is overcrowding in classrooms. Teachers must be able to move around the classroom easily and be able to help each pupil and be able to reach pupils in the event of an emergency. Pupils must be able to evacuate the classroom safely.

Classrooms will vary according to the type of provision and numbers of pupils on roll but even schools with very limited space will need to ensure they have sufficient space to enable effective teaching even if specialised classrooms are not provided. There are no statutory minimum requirements for space but inspectors will reach a conclusion on whether the teaching and premises standards are met based on the actual premises and their professional experience of the needs of pupils

Commonly **primary** schools will include a variety of types of space to accommodate the wide range of activities required by the curriculum:

- general teaching areas – these will include individual class rooms which provide the registration and ‘home base’ for each class, where most of the curriculum will be taught;
- halls - these will include the main hall for assembly and activities such as PE and some music;
- learning resource areas – these should include the library or any specialist teaching area.

In terms of accommodation for **secondary** age pupils, the overall teaching area will commonly include a variety of types of space to accommodate the wide range of activities required by the curriculum. These spaces can be divided into three main categories:

- timetabled teaching rooms - these will include general teaching classrooms, practical areas such as science laboratories, music and drama spaces;
- halls - these will include assembly halls, sports halls and activity halls;
- learning resource areas - these will include independent study and reference areas such as the library resources centre, local information and communications technology resource areas and study areas, small group rooms for non-timetabled groups and other ad-hoc uses, and specialist resource rooms.

Further guidance is available in Building Bulletin 98 “Briefing Framework for Secondary School Projects”, Building Bulletin 99 (2nd Edition) “Briefing Framework for Primary School Projects” and Building Bulletins 102 “Designing for disabled children and children with special educational needs.

The provision of information

Independent schools must provide all parents and prospective parents with the following information:

- the school’s address and telephone number, and the name of the head teacher;
- the full name of the proprietor and an address for correspondence during both term-time and holidays and a telephone number or numbers on which s/he may be contacted; or if they are a body of persons their registered or principal office address and telephone number;
- where there is a governing body, the name and address of its chair;
- a statement of the school’s ethos (including its religious ethos) and aims;
- Parents must also have the opportunity to be provided with an annual report on their child’s progress.

Schools must also make available particulars of the policies and arrangements listed in paragraph 32(3) of the independent school standards, including for example the school’s policy on and arrangements for admissions, misbehaviour and exclusions. This could be either by placing the information on the school’s website, if there is one, or providing it direct to parents on request. Particulars of the school’s safeguarding arrangements must be placed on the school website where there is one and where there is not, provided on request. Schools must also inform parents if the Secretary of State has taken any of the regulatory action specified in the standards against the school, by placing the information

on the school's website, if there is one, or providing it on request where there is not. In addition a school must provide information to the Secretary of State, Ofsted or an independent inspectorate on request so that they can ascertain whether the school meets the standards for registration.

The manner in which complaints are to be handled

All parents of pupils in independent schools must have access to a written complaints procedure. Complaints should be investigated, properly considered, and the findings and recommendations should be made known to the proprietor, head teacher, complainant and, where relevant, those about whom a complaint has been made.

The requirements of the complaints procedure are as follows:

- a) it must set out clear timescales for every stage including the giving of sufficient notice to parents to enable them to respond meaningfully and appropriately;
- b) it must allow for a complaint initially to be made and considered on an informal basis;
- c) if the complainants are not satisfied with the response following the informal approach there should be provision for the complaint to be made in writing;
- d) if the complainants are not satisfied with the response to the written complaint there should be provision for a hearing before a panel of at least 3 people who were not directly involved in the matters detailed in the complaint;
- e) where a panel hearing is convened, one person on the panel must be independent of the management and running of the school. The proprietor is responsible for the appointment of the panel. It is for the school to determine who the independent member should be, but anyone with a business or other pecuniary relationship with the school (for example, the school's solicitor) is unlikely to be suitable;
- f) a parent must be allowed to attend and be accompanied to a panel hearing if they wish;
- g) it must provide for the panel to make findings and recommendations, and ensure that the complainant, proprietor, head teacher, and, where relevant, the person complained about, are informed of any findings and recommendations;
- h) written records must be kept of all formal complaints (that is to say, all those that are made in writing) and their outcomes, whether they were resolved at the preliminary stage, when a complaint is submitted in writing or whether they proceeded to a panel hearing, and what action was taken as a result of a complaint, if any;

- i) all correspondence, statements and records of complaints must be kept confidential but must be shown to inspectors when they inspect or to the Secretary of State for Education, on request.

Quality of leadership in and management of schools

This new standard requires that those who are leading and managing a school should be able to demonstrate good skills and knowledge appropriate to their role, fulfil their responsibilities effectively, so that the standards are met consistently and actively promote the well-being⁵ of pupils.

⁵ As defined in s.10(2) of the Children Act 2004

Part D: Arrangements for inspection of registered independent schools, including the fees payable

All new independent schools will have an Ofsted inspection in their first year of operation, and provided they meet all the standards at that point will thereafter be inspected on a regular cycle. Schools not belonging to any association will be inspected by Ofsted. Schools belonging to an association may be inspected by an independent inspectorate as follows:

- The Independent Schools Inspectorate (ISI) inspects schools affiliated to associations that are part of the Independent Schools Council (ISC).
- The School Inspection Service (SIS) inspects schools that belong either to Focus Learning Trust (FLT), the Steiner Waldorf Schools Fellowship or the Cognita Group.
- The Bridge Schools Inspectorate (BSI) inspects schools affiliated to the Christian Schools Trust (CST) or the Association of Muslim Schools UK (AMS-UK) when they have chosen to be inspected by Bridge and this has been approved by the Department on the basis of a satisfactory Ofsted inspection. BSI will close in September 2015, and transitional arrangements are being put in place.

ISI, SIS and BSI are approved bodies for the purposes of inspecting registered independent schools and operate an inspection framework which is broadly comparable to the inspection framework operated by Ofsted. Ofsted monitors a percentage of inspections and reports done by ISI, SIS and BSI and reports annually to the Secretary of State on their performance. This quality assurance function has now been placed on a statutory basis. The department has the right to require Ofsted to inspect any independent school at any time even if it normally inspected by another inspectorate. In addition, inspections by Ofsted, ISI, SIS or BSI may be more frequent where there is cause for concern.

Boarding facilities at independent boarding schools are inspected by Ofsted - or by ISI for those schools affiliated to the ISC - every 3 years, against the National Minimum Standards. Boarding facilities at residential special schools are inspected annually by Ofsted against the National Minimum Standards for RSS. Boarding inspections will be integrated with education inspections where the timescales make this sensible.

Early years settings will also be inspected against the Early Years Framework for Schools by Ofsted (or ISI is part of a school inspected by that inspectorate)

Inspection fees

When a school is inspected by Ofsted, costs are based on a sliding scale relating to the size of the school, and fees will be collected in instalments on an annual basis. Ofsted will invoice and collect payment. Schools will be able to plan for and to build inspection costs into their budget process.

The annual inspection fee, which is set out in regulations⁶, is replicated in the table below for standard inspections, that is, full inspections conducted on a scheduled basis. These charges are based on the inspection cycle of two inspections in a 6 year period. Schools inspected by ISI, SIS or BSI will be invoiced by their inspectorate at the rate agreed by the inspectorate.

Ofsted inspection fees

Standard annual inspection fee rate:

Number of registered pupils aged 3 years or over on the date to which the last annual return was made up	Amount of fee
Small school (150 pupils or fewer)	£200 + £9 per pupil
Large school (151 pupils or more)	£1666

The fee for a first follow up inspection required to confirm that serious weaknesses have been corrected is two thirds of the annual fee. Fees for any subsequent follow up inspections are 1.5 times the annual fee. Fees in respect of follow up inspections must be paid in a single payment within 28 days of the date of request by Ofsted. Reports of these inspections will be published.

Where the proprietor fails to pay any inspection fee recovery action will be initiated by Ofsted and moreover the registration authority can remove the school from the register. If a school is sold, the liability for any outstanding inspection fees transfers to the new proprietor. If the school closes any outstanding fees have to be paid in full prior to closure.

Boarding schools, residential special schools and Children's Homes will be charged separate fees for inspections against the National Minimum Standards.

⁶ Education (Independent Educational Provision in England) (Inspection Fees) Regulations 2009 (SI 2009/1607)

Part E: Making changes to a registered school

Despite the fact that as of 5 January 2015 independent schools in England are regulated pursuant to Part 4, Chapter 1 of the Education and Skills Act 2008, section 162 of the Education Act 2002 remains in force for independent schools in England and requires them to gain approval from the Secretary of State before making certain specified changes. These are known as 'material changes' and are explained below. Whilst the majority of changes will be approved quickly, some may take up to six months, and the department may request an inspection to inform its decision. A material change will not normally be approved if a school is at the time subject to regulatory action because it is not meeting all of the independent school standards.

A material change is:

- a change of proprietor;
- a change of school address (but not the addition of extra premises unless the maximum capacity is increased at the same time);
- a change in the age range of pupils;
- a change to the maximum number of pupils;
- a change to admit boys only, or girls only, or become co-educational;
- a change to provide, or cease to provide, boarding accommodation;
- a change to admit, or cease to admit, pupils with special educational needs.

An application for approval for any material change must be made by the proprietor or in the case of approval of a change of proprietor, by the proposed new proprietor.

Applications may be made by post or email to the contact addresses shown at the end of this document,

Where a material change is made without seeking approval, the Secretary of State may remove the school from the register of independent schools. A more detailed guide to material changes is available on request from the Independent Education and Boarding Team (address provided at the end of this document).

Tacit consent (see section on this subject in Part A) does not apply to an application to make a material change as there is a legitimate public interest in the outcome of these applications. If an application is not processed within six months it will not be deemed granted. This is to prevent changes to the registration of an independent school being approved inadvertently and subsequently resulting in a possible risk to the welfare, health and safety of children.

Part F: Failure by an independent school to meet the required standards

If the Secretary of State considers that a pupil at the school is suffering or is likely to suffer significant harm, s/he may apply for an order from a magistrate for the removal of the school from the register, or the imposition of a restriction on its operations. The order takes effect from the time a copy of it is served on the proprietor, effectively forcing the school to close or restrict its operations with immediate effect. The proprietor may appeal against such an order but in the meantime the school effectively remains closed or with its operations restricted. In other cases if an inspection or other evidence reveal that the school is not meeting one or more of the standards, then the Secretary of State may write to the proprietor and:

- identify the standard or standards in question, and
- serve a statutory notice requiring the proprietor to submit an action plan within a specified period of time.

An action plan must set out the steps that the school will take to meet the standard(s), and the time by which each step will be taken.

Following submission of the action plan, it will be evaluated by the inspectorate that usually inspects the school. On the basis of that evaluation and its own consideration of the plan, the Secretary of State may:

- reject it, or
- approve it, with or without modifications.

At the request of the Secretary of State, the relevant inspectorate may visit the school to check the progress in implementing the action plan.

Where an action plan is submitted but rejected, the Secretary of State may

- Commission the relevant inspectorate to visit the school to check progress in meeting the standards; or
- require a further action plan to be submitted; or
- decide that the school is to be removed from the register of independent educational institutions, or
- make an order requiring the proprietor to cease using any part of the school premises (for all or specified purposes), close any part of the school's operation, or cease to admit any new pupils (or new pupils of specified descriptions).

Where an action plan has been approved but the steps identified have not been taken by the required date, the Secretary of State may:

- agree that the proprietor may vary the action plan, for example by substituting a later date for the taking of any of those steps;
- make an order as above, or
- decide that the school is to be removed from the register of independent educational institutions.

Where an action plan has not been submitted within the specified time period, the Secretary of State may:

- make an order as above, or
- decide that the school is to be removed from the register of independent educational institutions.

The proprietor of a school has a right of appeal to the First Tier Tribunal against any order or determination made by the Secretary of State affecting the registration of the school. The appeal must be lodged within 28 days.

Prohibition from the management of an independent school

Section 128 of the Education and Skills Act 2008 provides that a person may be barred by the Secretary of State from taking part in the management of an independent school, either at all, or only in specified circumstances or subject to specified conditions. The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 2014, which are made under s.128 set out the grounds on which a decision to make such a direction may be based, and the basis on which appeals to the First tier Tribunal, or applications to the Secretary of State for revocation or variation of the order may be made.

Part G: Other information

Schools with a religious ethos

The application form for registration will ask whether or not the school has a religious *ethos*, and details of any religious *ethos* declared will be recorded on Edubase. Independent schools registered as having a religious *ethos* are able to admit pupils and provide education and access to other aspects of school life on religious grounds. Such discrimination is generally prohibited by the Equality Act 2010, but a specific exemption exists for schools registered as having a religious *ethos*.

This does not create a discriminatory free for all – it would still be unlawful for such a school to discriminate on grounds of gender, sexuality, and so on.

Schools designated by order as having a religious character

In addition, the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003 as amended, allow the Secretary of State to make an order designating an independent school as having a religious *character* where the requirements set out in the regulations are met.

Independent schools designated as having a religious *character* can:

- give preference in connection with the appointment, promotion and remuneration of teachers on religious grounds;
- take into account conduct incompatible with the precepts or tenets of the religion in appointing or terminating the employment of teachers.

The Equality Act 2010 is not breached by doing anything permitted as a result of religious *designation*.

The proprietor of a registered independent school, or a person or body of persons planning to open an independent school, can apply for designation of the school as a school with a religious *character*. Full details and an application form will be sent on request or at the time of registration.

Equality Act 2010

The Equality Act 2010 covers every aspect of education. The department has produced advice to help schools to understand how the Equality Act affects them and how to fulfil their duties under the Act.

Exam results

The Education (School Performance Information) (England) Regulations 2007, as amended, provide for the supply of information which the Secretary of State can publish to assist parents in choosing schools for their children and increase public awareness of the quality of education provided by schools. Information is required from independent schools on examination results as well as general information about the school. The information will be published alongside comparable information about maintained schools.

Other legislation

It should be noted that independent schools are bound by the relevant provisions of the Health and Safety at Work etc Act 1974, as well as the relevant provisions of business/charity and employment law.

Teachers' Pension Scheme

Once an independent school has achieved registration, it may apply to participate in the Teachers' Pension Scheme. Enquiries should be made in writing to:

Capita Management Services
Mowden Hall
Staindrop Road
Darlington
DL3 9EE

Personal information

We will take all reasonable steps to update or correct personal data in our possession that you submit. You have a right to ask to see details of any information that we hold about you. If you wish to do so please use the contact details shown at the end of this document.

Further sources of information

[Register of schools \(Edubase\)](#)

[On-line registration form](#)

Education Regulations

[The Education \(Independent School Standards\) Regulations 2014 \(SI 2014/3283\)](#)

[The Education \(Independent Educational Provision in England\) \(Provision of Information\) Regulations 2010 \(SI 2010/2919\)](#)

[The Education \(Independent Educational Provision in England\) \(Inspection Fees\) Regulations 2009 \(SI 2009/1607\)](#)

[The Education \(Independent Educational Provision in England\) \(Inspection Fees\) \(Amendment\) Regulations 2010 \(SI 2010/1002\)](#)

[The Education \(Pupil Registration\) \(England\) Regulations 2006 \(SI 2006/1751\)](#)

[The Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2010 \(SI 2010/1725\)](#)

[The Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2011 \(SI 2011/1625\)](#)

[The Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2013 \(SI 2013/756\)](#)

[Education \(School Performance Information\) \(England\) Regulations 2007 \(SI 2007/2324\)](#)

[The Education \(Prohibition from Teaching or Working with Children\) Regulations 2003 \(SI 2003/1184\)](#)

(which have been amended by the following two statutory instruments):

[The Education \(Prohibition from Teaching or Working with Children\) \(Amendment\) Regulations 2007 \(SI 2007/195\)](#)

[The Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(SI 2008/2683\)](#)

[The Religious Character of Schools \(Designation Procedure\) \(Independent Schools\) \(England\) Regulations 2003 \(SI 2003/2314\)](#)

[The Religious Character of Schools \(Designation Procedure\) \(Independent Schools\)\(England\) \(Amendment\) Regulations 2004 \(SI 2004 /2262\)](#)

Education Acts

[Education and Skills Act 2008](#)

[Education Act 2002](#)

[School Standards and Framework Act 1998](#)

[Education Act 1996](#)

Guidance/advice

[Fire Safety Risk Assessment - Educational Premises](#)

[Fire Safety Risk Assessment – Sleeping Accommodation](#)

[Fire Safety Order - guidance for businesses](#)

[Keeping Children Safe in Education \(2015\)](#)

[Working Together to Safeguard Children \(2015\)](#)

[Ofsted Framework for inspecting independent schools](#)

[Health and Safety Advice for Schools](#)

[Preventing and Tackling Bullying](#)

[Use of Reasonable Force in Schools](#)

[Spiritual, Moral, Social and Cultural Development of Pupils](#)

[Disclosure and Barring Service](#)

[Standards for Schools Premises](#)

[Early Years Foundation Stage](#)

[Equality Act 2010 - Advice for Schools](#)

[Privacy Policy](#)

Other relevant legislation

[The Equality Act 2010](#)

[Protection of Freedoms Act 2012](#)

[The Regulatory Reform \(Fire Safety\) Order 2005](#)

[Health and Safety at Work etc Act 1974](#)

Children Act 1989 and associated publications

[Children Act 1989](#)

[Care Standards Act 2000](#)

[National Minimum Standards for Boarding Schools OK](#)

[National Minimum Standards for Residential Special Schools OK](#)

[National Minimum Standards for Children's Homes OK](#)

Further information

For further information on any points raised in this pack, please contact the Independent Education and Boarding Team:

Tel: 01325 340405

E-mail: registration.enquiries@education.gsi.gov.uk

Or write to:

Independent Education and Boarding Team
Department for Education
Level 3
Bishopsgate House
Feethams
Darlington
DL1 5QE



Department
for Education

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