

**EXPLANATORY MEMORANDUM TO  
THE EDUCATION (INDEPENDENT SCHOOL INSPECTION FEES AND  
PUBLICATION) (ENGLAND) REGULATIONS**

**2008 No. 1801**

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

These Regulations set out the fees payable for inspections of independent schools carried out by Ofsted. The Regulations also set out the publication requirements where Ofsted is required to publish an inspection report of an independent school. These regulations consolidate with amendments the Education (Independent School Inspection Fees and Publication) (England) Regulations 2003. The principal amendments introduce a new fee for a Reduced Tariff Inspection (RTI), which will take the form of a limited inspection (the Secretary of State has the power to limit the scope of inspections under section 162A(2)(b) of the Education Act 2002). It is anticipated that a school which meets 90% or more of the Education (Independent School Standards) (England) Regulations 2003 (SI 2003/1910) will be subject to RTI. In addition, there are changes to the fee levels for full inspections. There is also an amendment to require full or RTI inspection fees to be paid in six equal annual instalments.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The proposed fee increases are above the level of inflation because the intention is to address a large shortfall, which is currently met out of the public purse, between current fees and the cost of inspection. There has been no increase in fees since fees were introduced in September 2003. Whilst there are no plans to impose further increases neither are there any plans to cease or reduce fees. The proposed levels will continue for the foreseeable future

4. **Legislative Background**

4.1 Inspection charges were first introduced in 2003 by the Education (Independent School Inspection Fees and Publication) (England) Regulations 2003. This is the first increase since fees were introduced. The instrument aims to secure that the fees more closely reflect the cost of carrying out an inspections. The introduction of the new RTI fee is intended to reduce burdens for schools which perform well.

## **5. Extent**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 These amending regulations will allow Ofsted to go to some way towards meeting government requirements, set out in 2006, that public sector inspectorates reduce expenditure by about a third over the medium term.

7.2 Ofsted will conduct lighter touch inspections of independent schools which, at the time of their last inspection, met 90% of the Education (Independent School Standards)(England) Regulations 2003. The Secretary of State will limit the scope of the inspection of such schools pursuant to the power contained in section 162A(2)(b) of the Education Act 2002. The effect of these regulations is to set a lower rate of inspection fees for these higher performing schools. It is expected that this will provide an incentive for all independent schools to meet the same level of regulatory standards so that less intervention is required to ensure schools reach an acceptable level. The regulations continue to set out fees for full inspections where it is decided that such an inspection is appropriate. The revised fee levels also ensure that schools pay a more realistic level of the full cost to Ofsted of conducting inspections. However small schools with 150 pupils or less will still pay less than full cost recovery and all schools will benefit by being able to pay full or RTI inspection fees in six equal instalments so that they can spread the cost and budget for the fees more effectively.

7.3 A public consultation was undertaken on a range of proposals to revise the system for the registration and monitoring of independent schools. This consultation, which ran from 27 July 2007 to 19 October 2007, included the proposals to amend the level of fees for independent school inspection. 329 responses were received from independent schools, independent school organisations, local authorities, individuals and other bodies e.g. teacher unions. Respondents were asked if they agreed with our proposals to raise the cost of inspection to better reflect their actual cost and their views on introducing annual payments.

43 responses were received to the question of raising fees. 24 (56%) agreed, 11 (26%) disagreed and 8 (19%) were not sure.

39 responses were received to the question of the introduction of annual payments. 29 (74%) agreed, 4 (10%) disagreed and 6 (15%) were not sure.

The summary of results to the consultation may be found at:

<http://www.dcsf.gov.uk/consultations/conResults.cfm?consultationId=1498>

7.4 All independent schools inspected by Ofsted will be sent a copy of the regulations with a covering letter highlighting the key changes.

## **8. Impact**

8.1 An Impact Assessment is attached to this memorandum.

8.2 There is no impact on the public sector.

## **9. Contact**

Margaret Pattinson at the Department for Children, Schools and Families (tel: 01325 392172 or e-mail: [margaret.pattinson@dcsf.gsi.gov.uk](mailto:margaret.pattinson@dcsf.gsi.gov.uk)) can answer any queries regarding the instrument.

**Department for Children, Schools and Families**

**Impact Assessment of Changes to the Inspection and Inspection Fee Regimes for  
Independent Schools in England**

## Introduction

This assessment sets out the impact of a two tier inspection regime for independent schools in England contained in the Education (Independent School Inspection Fees and Publication) (England) Regulations 2008. These regulations consolidate the previous regulations and introduce amendments set out below.

Those schools which meet 90% or more of the regulatory standards overall, with strong performance on the standards relating to the quality of education and safeguarding pupils, will benefit from a Reduced Tariff Inspection (RTI) which will take the form of an inspection under section 162A of the Education Act 2002, limited in scope pursuant to section 162A(2)(b) of that Act. Ofsted will conduct a standard full inspection every six years, with a RTI at the three year point. Schools, in relation to which the Secretary of State decides not to limit the scope of the inspection and who will not therefore receive a RTI, will have two standard inspections over a six year period. Standard inspections are conducted over five days whereas RTIs will be conducted over 2-3 days.

The fee for the inspection of small schools will increase in order to recoup a greater proportion of the cost to Ofsted of inspecting these schools. However, the amount recouped will still be substantially less than the 100% paid by larger schools and schools will be able to pay inspection fees in annual instalments.

## Costs

Currently fees have been paid following full inspections against all of the standards every six years. The current level of fees is set out in The Education (Independent School Inspection Fees and Publication) (England) Regs 2003. Payment is required either in full within 28 days of the inspection or in two equal instalments with the final payment due within 28 days of the first anniversary of the inspection.

The three tables below show the fees charged under the current regime and those that will be charged from 1 September 2008.

### Current inspection fees;

Number of registered pupils aged 3 and over on the date to which the last annual return was made up	Amount of Fee
Less than 50	£40 per pupil
50-149	£500 + £40 per pupil
150-385	£500 + £40 for each of the first 149 pupils + £15 for each further pupil
386+	£10,000

Inspection fees from 1 September 2008:

**Reduced Tariff Inspection;**

Number of registered pupils aged 3 and over on the date to which the last annual return was made up	Amount of fee
150 or less	£1200 + £45.00 per pupil
151 +	£8000

**Full Inspection;**

Number of registered pupils aged 3 and over on the date to which the last annual return was made up	Amount of fee
150 or less	£1200 + £54 per pupil
151 +	£10000

Payment of the fee will be made in 6 equal annual instalments to spread the cost and allow schools to budget more effectively. The first payment will be due within 28 days of the last day of the inspection and every 12 months thereafter.

**CONSULTATION**

An extensive consultation was undertaken on a range of proposals to revise the system for the registration and monitoring of independent schools. This consultation, which ran from 27 July 2007 to 19 October 2007, included the proposals to amend the level of fees for independent school inspection. 329 responses were received from independent schools, independent school organisations, local authorities, individuals and other bodies e.g. teacher unions. Respondents were asked if they agreed with our proposals to raise the cost of inspection to better reflect their actual cost and their views on introducing annual payments.

43 responses were received to the question of raising fees. 24 (56%) agreed, 11 (26%) disagreed and 8 (19%) were not sure.

39 responses were received to the question of the introduction of annual payments. 29 (74%) agreed, 4 (10%) disagreed and 6 (15%) were not sure.

A summary of the full response to this consultation may be found at:

[http://www.dcsf.gov.uk/ria/index.cfm?action=assessments.view&i\\_assessmentID=32](http://www.dcsf.gov.uk/ria/index.cfm?action=assessments.view&i_assessmentID=32)

**Costs and Benefits of revising the inspection fee regime for independent schools**

Revising the cost of inspections will ensure that the amount paid by schools better reflects the true costs of Ofsted inspection with a consequent reduction on the burden on the public purse. Payment in annual instalments will make it easier for schools to budget as payment will be spread over a longer period than at present. This will benefit small schools, as they will not have to find reserves to cover inspection fees which fall due at present every 6 years. This regime will reward achievement and

penalise failure, benefiting both parents and pupils because schools which meet 90% or more of the regulatory standards will pay least which will act as an incentive for all schools to meet the standards.

DCSF recognises that fee levels reflecting the full cost of inspection could be a heavy burden for small schools and it remains committed to providing inspection at less than full cost.

#### **Illustrative costs – reduced tariff inspection:**

<b>Pupils</b>	<b>Full cost of inspection £)</b>	<b>Annual rate using existing charges (£)*</b>	<b>Recovery rate based on current fees (%)</b>	<b>Proposed annual fee (£)*</b>	<b>Proposed recovery rate (%)</b>
1	7000	6.67	.6	207.5	18
45	7000	300	26	537.50	46
100	8000	750	56	950	72
151	8000	1082	81	1333	100
380	8000	1654	124	1333	100
500	8000	1667	125	1333	100

#### **Illustrative costs – full inspection:**

<b>Pupils</b>	<b>Full cost of inspection £</b>	<b>Annual rate using existing charges (£)*</b>	<b>Recovery rate based on current fees (%)</b>	<b>Proposed annual fee (£)</b>	<b>Proposed recovery rate (%)</b>
1	8000	6.67	.5	209	16
45	8000	300	22	605	45
100	10000	750	45	1100	67
151	10000	1082	65	1667	100
380	10000	1654	99	1667	100
500	10000	1667	100	1667	100

\*The annual amount is calculated by dividing the existing fee and proposed fee to give a comparison in a 6 year period. The proposed fee will include payment for 2 inspections in a 6 year period instead of the current one year inspection every 6 years. Whilst the greatest increase impacts on small schools it is still the case that these schools are paying far less than the full cost of inspection.

We have carried out calculations to assess the impact of the new fee structure on the sector, taking account of pupil numbers in individual schools. We have had to make assumptions about the number of schools that will be subject to RTI. We estimate that the additional costs to the sector are £1.7m over six years, or around £283,333 per year. The cost increase will fall most heavily on smaller schools, although they will continue to pay substantially less than the full cost of inspection.

A school which is subject to a RTI with 100 pupils would pay an inspection fee of £9.50 per pupil per year. A school which is subject to a full inspection would pay an inspection fee of £11 per pupil per year.

The impact assessment completed as part of the consultation on the transfer of responsibility for the registration of independent schools and the regulation of independent and non-maintained special schools to Ofsted, which includes changes to the fee levels, may be found at:

<http://www.dcsf.gov.uk/consultations/conResults.cfm?consultationId=1498>

The Impact assessment on the Education and Skills Bill is at:

<http://www.dfes.gov.uk/publications/educationandskills/>

A full impact assessment carried out when fees were introduced in 2003 may be found at:

[http://www.dcsf.gov.uk/ria/index.cfm?action=assessments.view&i\\_assessmentID=32](http://www.dcsf.gov.uk/ria/index.cfm?action=assessments.view&i_assessmentID=32)

### **Review**

The new arrangements will be reviewed 2 years after coming into force.

### **Declaration and publication**

I have read the impact assessment and I am satisfied that the benefits justify the cost.

**Sign...Andrew Adonis.....**

**Date...7th July 2008.....**

**Andrew Adonis, Minister for Children, Schools and Families**

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