



Education Act 2005

2005 CHAPTER 18

PART 1

SCHOOL INSPECTIONS AND OTHER INSPECTIONS BY SCHOOL INSPECTORS

CHAPTER 4

PROCEDURE FOR INSPECTIONS UNDER CHAPTER 3

Introductory

32 Inspections by members of the Inspectorate

- (1) If the Chief Inspector so elects in the case of any inspection of a school by a member of the Inspectorate under section 20(2)(b) or 24(1), that inspection is to be treated for the purposes of the relevant provisions as if it were an inspection under section 28.
- (2) In subsection (1) “the relevant provisions” means sections 28(1) and (5) and 35 and—
 - (a) (in the case of an inspection of a maintained school) sections 38 to 40, and
 - (b) (in the case of an inspection of a school other than a maintained school), sections 41 and 42.

Inspections and reports: all schools

33 Duty to report on section 28 inspections

Where a section 28 inspection by a registered inspector or a member of the Inspectorate has been completed, the inspector must make in writing a report of the inspection and a summary of the report.

34 Section 28 inspections by registered inspectors

- (1) Where a section 28 inspection was conducted by a registered inspector and he is of the opinion—
 - (a) that special measures are required to be taken in relation to the school, or
 - (b) that the school requires significant improvement,
 he must submit a draft of the report of the inspection to the Chief Inspector.
- (2) If the Chief Inspector so requests, an inspector who has submitted a draft under subsection (1) must provide the Chief Inspector with such further information as the Chief Inspector may specify.
- (3) The Chief Inspector must inform an inspector who has submitted a draft under subsection (1) whether he agrees or disagrees with the inspector's opinion.
- (4) Where—
 - (a) the Chief Inspector informs the inspector that he disagrees with the inspector's opinion, but
 - (b) the inspector remains of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
 the inspector may not make a report stating that opinion unless the terms in which he makes the report are substantially the same (except as to the statement required by subsection (6)(b)) as the draft or as a subsequent draft submitted to the Chief Inspector under this subsection.
- (5) Where a subsequent draft is submitted under subsection (4), the Chief Inspector must inform the inspector whether he agrees or disagrees with the inspector's opinion.
- (6) A report made by a registered inspector who is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement must—
 - (a) state his opinion, and
 - (b) state whether the Chief Inspector agrees or disagrees with his opinion.
- (7) If a report of an inspection of a school by a registered inspector is made in circumstances where—
 - (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
 - (b) in the latest report of an inspection of the school the person making the report stated that in his opinion such measures were required to be taken and either—
 - (i) that person was a member of the Inspectorate, or
 - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the registered inspector must state his opinion in the report (whether or not he is required by subsection (6) also to state the opinion that the school requires significant improvement).
- (8) If a report of an inspection of a school by a registered inspector is made in circumstances where—
 - (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but

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- (b) in the latest report of an inspection of the school the person making the report stated that in his opinion the school did require significant improvement and either—
 - (i) that person was a member of the Inspectorate, or
 - (ii) the report stated that the Chief Inspector agreed with his opinion,the registered inspector must state his opinion in the report.

35 Reports of inspections by members of the Inspectorate

- (1) Where on the completion of any inspection of a school under section 20(2)(b) or 24(1) by a member of the Inspectorate, that person is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, he must—
 - (a) prepare in writing a report of the inspection and a summary of the report, and
 - (b) state his opinion in the report.
- (2) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
 - (a) he is of the opinion that special measures are not required to be taken in relation to the school, but
 - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken in relation to the school and either—
 - (i) that person was a member of the Inspectorate, or
 - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must prepare a report of the inspection and a summary of the report and state his opinion in the report (whether or not he is required by subsection (1)(b) also to state the opinion that the school requires significant improvement).
- (3) If on the completion of any such inspection of a school by a member of the Inspectorate in circumstances where—
 - (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
 - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion the school did require significant improvement and either—
 - (i) that person was a member of the Inspectorate, or
 - (ii) the report stated that the Chief Inspector agreed with his opinion,the member of the Inspectorate must prepare a report of the inspection and a summary of the report and state his opinion in the report.
- (4) A report of a section 28 inspection of a school by a member of the Inspectorate must, if he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, state his opinion.
- (5) If a report of a section 28 inspection of a school by a member of the Inspectorate is made in circumstances where—
 - (a) he is of the opinion that special measures are not required to be taken in relation to the school, but

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- (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion such measures were required to be taken and either—
 - (i) that person was a member of the Inspectorate, or
 - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the member of the Inspectorate must state his opinion in the report (whether or not he is required by subsection (4) also to state the opinion that the school requires significant improvement).
- (6) If a report of a section 28 inspection of a school by a member of the Inspectorate is made in circumstances where—
 - (a) he is of the opinion that the school does not require significant improvement and that special measures are not required to be taken in relation to the school, but
 - (b) in the latest report of an inspection of the school, the person making the report stated that in his opinion the school did require significant improvement and either—
 - (i) that person was a member of the Inspectorate, or
 - (ii) the report stated that the Chief Inspector agreed with his opinion,
 the member of the Inspectorate must state his opinion in the report.

36 Timing of section 28 inspections by registered inspectors

- (1) The carrying out of a section 28 inspection must be completed by the time allowed under subsection (2), and the making of the report required by section 33 must be completed within the period allowed under that subsection.
- (2) The time, and the period, allowed are such as may be prescribed, subject to any such extension of the period as the Chief Inspector may consider necessary to make; but the total period allowed must not exceed the prescribed period extended by three months.
- (3) In the case of an inspection of a maintained school, the Chief Inspector must give notice of any extension under subsection (2) to—
 - (a) the inspector,
 - (b) the local education authority in the case of a maintained school, and
 - (c) the governing body.
- (4) In the case of an inspection of a school falling within section 28(2)(d), the Chief Inspector must give notice of any extension under subsection (2) to—
 - (a) the inspector,
 - (b) the proprietor of the school, and
 - (c) the Assembly.
- (5) This section does not apply to a section 28 inspection carried out by a member of the Inspectorate.

Destination of reports and measures required: maintained schools

37 Duty to notify where inspection shows maintained school causing concern

- (1) Subsection (2) applies in relation to a maintained school where—

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- (a) following an inspection of the school under Chapter 3 by a member of the Inspectorate, that member has informed the Chief Inspector of his opinion—
 - (i) that special measures are required to be taken in relation to the school, or
 - (ii) that the school requires significant improvement, or
 - (b) the Chief Inspector agrees with the opinion of a registered inspector, expressed in a draft report submitted to the Chief Inspector under section 34(1)—
 - (i) that special measures are required to be taken in relation to the school, or
 - (ii) that the school requires significant improvement.
- (2) Where this subsection applies, the Chief Inspector must without delay give the Assembly and the local education authority notice in writing stating that the case falls within paragraph (a) or (b) of subsection (1).

38 Destination of reports: maintained schools

- (1) In the case of a report of a section 28 inspection of a maintained school, the person making the report must without delay send a copy of the report together with a summary of it to the appropriate authority for the school.
- (2) In a case where—
 - (a) a report of an inspection of a maintained school is made by a member of the Inspectorate, and
 - (b) he is required by section 35 to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,the member of the Inspectorate must send a copy of the report together with the summary of it to the appropriate authority for the school.
- (3) In any case, copies of the report and summary referred to in subsection (1) or (2) must be sent by the person who made the report—
 - (a) to the Chief Inspector (unless the report was made by a member of the Inspectorate),
 - (b) to the head teacher of the school,
 - (c) to whichever of the local education authority and the governing body are not the appropriate authority,
 - (d) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority, and
 - (e) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) The appropriate authority must—
 - (a) make a copy of any report and summary sent to the authority under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
 - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary

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within such period following receipt of the report by the authority as may be prescribed.

- (5) Subsection (6) applies to a report of an inspection of a maintained school if—
- (a) the inspection was a section 28 inspection or was carried out by a member of the Inspectorate, and
 - (b) the school provides full-time education suitable to the requirements of pupils over compulsory school age.
- (6) The person making the report must send a copy (together with a copy of the summary, if there is one) to the National Council for Education and Training for Wales.

39 Statement to be prepared by appropriate authority for school

- (1) Where there is sent to the appropriate authority for a maintained school either—
- (a) a report of a section 28 inspection of the school, or
 - (b) a report of an inspection of the school by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,

the appropriate authority must prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.

- (2) It is the duty of the appropriate authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
 - (b) if—
 - (i) the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
 - (ii) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
 - (iii) the Assembly is of the opinion that the urgency of the case requires a shorter period,

such shorter period as the Assembly may direct;

but this subsection does not relieve the appropriate authority of any duty to prepare a statement which has not been performed within that period.

- (3) Subject to subsection (4), where such a statement has been prepared by the appropriate authority, they must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,
 - (b) to whichever of the governing body and the local education authority are not the appropriate authority, and
 - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) Where the report in question is a report of a section 28 inspection of a school, subsection (3)(a) does not require a copy of the statement to be sent to the Chief Inspector unless the report states that the person making it is of the opinion—
- (a) that special measures are required to be taken in relation to the school, or

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- (b) that the school requires significant improvement.
- (5) If in the case of a maintained school—
- (a) the statement is prepared in response to a report of an inspection of the school in which the person who made the report states that in his opinion special measures are required to be taken in relation to the school or that the school requires significant improvement, and
 - (b) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion,
- the appropriate authority must, before the end of the prescribed period, send a copy of the statement to the Assembly.
- (6) In the case of a school having foundation governors, the appropriate authority must also send a copy of the statement to the person who appoints them and (if different) to the appropriate appointing authority.
- (7) The appropriate authority must—
- (a) make any statement prepared by them under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
 - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (8) The duty under subsection (7)(c) is to be taken to be satisfied by the appropriate authority if they—
- (a) take such steps as are reasonably practicable to secure that every registered parent of a pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by them which—
 - (i) summarises the statement, and
 - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
 - (b) provide a copy of the statement to every registered parent of a registered pupil at the school who asks for one.
- (9) Where the governing body of a school have prepared a statement under this section, they must in the report under section 30 of the Education Act 2002 (c. 32) (governors' reports) state the extent to which the proposals set out in the statement (or, if there is more than one, the most recent statement) have been carried into effect.

40 Statement to be prepared by local education authority

- (1) This section applies in circumstances where—
- (a) in a report of an inspection of a maintained school the governing body of which have a delegated budget, the person who made the report stated that in his opinion—
 - (i) special measures were required to be taken in relation to the school, or
 - (ii) the school required significant improvement, and

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- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion, and
 - (c) either—
 - (i) the local education authority have received a copy of a statement prepared under section 39 in response to the report, or
 - (ii) the period prescribed for the purposes of subsection (3) of that section has expired.
- (2) The local education authority must—
- (a) prepare a written statement of any action they propose to take in the light of the report, and the period within which they propose to take such action, or, if they do not propose to take any such action, of their reasons for not doing so, and
 - (b) send a copy of the statement prepared under paragraph (a), together with their comments on any statement prepared under section 39 of which they have received a copy, to the Assembly and the Chief Inspector and, in the case of a voluntary aided school—
 - (i) to the person who appoints the foundation governors, and
 - (ii) (if different) to the appropriate appointing authority.
- (3) It is the duty of the local education authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or
 - (b) if the Assembly is of the opinion that the urgency of the case requires a shorter period, such shorter period as the Assembly may direct;
- but this subsection does not relieve the local education authority of any duty to prepare a statement which has not been performed within that period.

Destination of reports and measures required: non-maintained schools

41 Destination of reports: non-maintained schools

- (1) In the case of a report of a section 28 inspection of a school other than a maintained school, the person making the report must without delay—
- (a) send a copy of the report together with the summary of it—
 - (i) to the proprietor of the school, and
 - (ii) (unless the person making it is a member of the Inspectorate) to the Chief Inspector, and
 - (b) if the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement and either—
 - (i) that person is a member of the Inspectorate, or
 - (ii) the report states that the Chief Inspector agrees with his opinion,
 send a copy of the report and summary to the Assembly.
- (2) In a case where—
- (a) a report of an inspection of a school other than a maintained school is made by a member of the Inspectorate, and

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- (b) he is required by section 35(1)(b) to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
he must send a copy of the report together with the summary of it to the proprietor of the school and to the Assembly.
- (3) In the case of a special school which is not a community or foundation special school, the proprietor of the school must without delay send a copy of any report and summary sent to him under subsection (1) or (2) to any local education authority that are paying fees in respect of the attendance of a registered pupil at the school.
- (4) The proprietor of the school must—
 - (a) make any report and summary sent to him under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
 - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary within such period following receipt of the report by the authority as may be prescribed.

42 Statement to be prepared by proprietor of school

- (1) Where there is sent to the proprietor of a school other than a maintained school—
 - (a) a report of a section 28 inspection of the school, or
 - (b) a report of an inspection of the school made by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,the proprietor of the school must prepare a written statement of the action which he proposes to take in the light of the report and the period within which he proposes to take it.
- (2) It is the duty of the proprietor to prepare the statement within the period allowed by this subsection, that is—
 - (a) such period as may be prescribed, or
 - (b) if—
 - (i) the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
 - (ii) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
 - (iii) the Assembly is of the opinion that the urgency of the case requires a shorter period,such shorter period as the Assembly may direct;but this subsection does not relieve the proprietor of the school of any duty to prepare a statement which has not been performed within that period.

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- (3) Where such a statement has been prepared by the proprietor of the school, he must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,
 - (b) to the Assembly, and
 - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) In the case of a special school which is not a community or foundation special school, the proprietor of the school must, before the end of the prescribed period, send a copy of any such statement prepared by him to any local education authority that is paying fees in respect of the attendance of a registered pupil at the school.
- (5) The proprietor of the school must—
- (a) make any statement prepared by him under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
 - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as he thinks fit (not exceeding the cost of supply) to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (6) The duty under subsection (5)(c) is to be taken to be satisfied by the proprietor of the school if he—
- (a) takes such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by the proprietor which—
 - (i) summarises the statement, and
 - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
 - (b) provides a copy of the statement to every registered parent of a registered pupil at the school who asks for one.

Interpretation of Chapter

43 Interpretation of Chapter 4

In this Chapter—

“the appropriate appointing authority”, in relation to a voluntary aided school, means—

- (a) the appropriate diocesan authority, if it is a Church in Wales school, a Church of England school or a Roman Catholic Church school, or
- (b) in any other case, the person who appoints the foundation governors;

“the appropriate authority”, in relation to a maintained school, means the school’s governing body or, if the school does not have a delegated budget, the local education authority;

“the Chief Inspector” means Her Majesty’s Chief Inspector of Education and Training in Wales;

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“member of the Inspectorate” means the Chief Inspector, any of Her Majesty’s Inspectors of Education and Training in Wales and any additional inspector appointed under paragraph 2 of Schedule 2;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Assembly under this Chapter;

“section 28 inspection” means an inspection under section 28.