

How could Ofsted and the Department for Education reform school inspections in England?



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Introduction

Ofsted has never been popular with school leaders. Inspectorates rarely are, with the people and organisations they inspect, especially when their judgments carry such great weight. Since it ran its first inspections in 1993 there have been criticisms around Ofsted's reliability, subjectivity and of the additional pressures regular inspection creates for school leaders. The sense that successive governments have used the body, a non-ministerial department of the Department for Education, to impose their political will on schools has added to frustrations.

Headteacher unions ASCL and NAHT report their relationship with Ofsted is at a low point. There was anger that inspections, paused during the height of the pandemic, restarted as early as autumn 2021, while schools were still feeling the effects of the crisis. More seriously, in January 2023 headteacher Ruth Perry took her own life after an inspection rated her primary school inadequate. Her family have led a high-profile campaign to force changes in inspections, which has won support from many other headteachers.¹

At Perry's inquest, held in December, the coroner ruled "that Ruth's mental health deterioration and death was likely contributed to by the Ofsted inspection", and issued recommendations for reform.² ASCL and NAHT have called for inspections to be paused until those recommendations have been met.³

Earlier in the year, the largest teachers' union, the NEU – a long-standing critic of the way schools are held accountable – set up an organisation called Beyond Ofsted, chaired by former Labour schools minister Lord Knight, which has proposed removing it completely from direct contact with schools.⁴ The Commons Education Select Committee is running its own inquiry.⁵ Ministers have been slow to defend Ofsted.⁶ Labour has proposed some significant changes to inspections and indicated it might be more radical in office, should it win the next election.⁷

It is against this backdrop that the new chief inspector, Sir Martyn Oliver, previously CEO of a large multi-academy trust, will start the job in January 2024.

At the same time Ofsted remains a critical part of a school system that performs to a high standard in international comparative tests like TIMSS and PISA, with the OECD analysis of PISA 2022 results noting the importance of school accountability, especially in systems with high levels of school autonomy.⁸ The limited quantitative evidence we have from England indicates inspections do support improvements in standards – one LSE study from 2012 showed a positive impact on performance from receiving the lowest grade from Ofsted, when controlling for other factors.⁹

Inspections also remain popular among parents. A 2021 YouGov poll, commissioned by Ofsted, found 84% of those who read inspection reports find them valuable and 71% consider them a reliable source of information.¹⁰ Policy makers from other countries often view the model as highly desirable, and something they would like to introduce if it was politically possible. Moreover, perhaps contrary to the public

perception, a large majority of school leaders (83%) who responded to the most recent set of post-inspection surveys agreed that “the benefits of my inspection outweigh any negative outcomes”.¹¹

Given this, and the lack of alternative means to provide information to parents and challenge to schools, it would be unwise – and unpopular – to stop inspecting schools. Our recommendations, found at the end of this paper, are intended to help Ofsted, and the Department for Education, reduce the negative impact of inspections, and critically their consequences, while building on what makes them valuable.

How did we get here?

England has had school inspections since 1839, when a small amount of money was first granted by the government to support religious and charitable schools. Matthew Arnold, the poet and social commentator, was perhaps the most prominent school inspector of the 19th century and used his position to criticise government education reforms.

As the state gradually took more direct control over the school system Her Majesty’s Inspectorate of Schools (HMI) took on a more important role in informing government policy and providing direct feedback to schools. But it never had the capacity to inspect all schools on a regular cycle, nor was it seen as an exercise in *public* accountability, as reports on individual schools were not published. From the 1900s to the late 1970s, local authorities ran education, with central government taking a limited and mostly advisory role, and most councils hired their own school improvement officers who ‘inspected’ local schools and made recommendations.

In the late 1970s and 1980s central government started to take a much greater role, following concern that some local authorities were letting education standards drop, and that progressive education fads were being left unchallenged. The Thatcher governments initially tried to reform the existing system. From 1983 HMI inspection reports were published, and inspectors were increasingly directed by ministers towards specific targets. One education secretary, Keith Joseph, asked HMI to investigate allegations of Marxist bias in courses at North London Polytechnic (it didn’t find any but it did criticise the quality of the courses). Another, Kenneth Baker, sent inspectors to Brent local authority following a controversy over race relations advice.¹²

But after John Major became prime minister the Conservatives conducted a more complete overhaul of the system that included the creation in 1992 of Ofsted. The new body was given the aim of inspecting every state school on a four year cycle, with all reports published. The purpose of inspection, therefore, shifted from advising policy makers and supporting the delivery of school improvement to accountability, both to government and to support parental choice. This was still, of course, intended to drive school improvement, but through transparency and the risk of sanction rather than just advice.

Ofsted was not set up as a regulator for schools, and still is not, which causes much confusion. Rather it is an inspectorate, which provides information. It is up to government to decide how to use that information for the purposes of top-down accountability, and to parents when making school choices.

From the start this shift to accountability was controversial, and in 1994 became even more so when Chris Woodhead was appointed as the second chief inspector. It was Woodhead who introduced the idea of an education establishment “blob” to the English education debate, which won him few friends in the sector, though plenty in the media and Conservative Party. There was also immediate concern that the reports – initially graded on a seven-point scale, then five and now four – were too simplistic, and put unfair pressure on headteachers, particularly in lower-income areas.

After Woodhead left, in 2001, a series of more emollient chief inspectors, including David Bell and Christine Gilbert, calmed things down somewhat, largely by introducing more elements of self-evaluation to the process, but never won headteachers over entirely. There was also, under the Blair government, a major expansion of Ofsted’s remit, in line with his administration’s greater focus on broader children’s services.

By 2010 Ofsted was responsible for inspecting local authority children’s services, residential children’s homes, social care, adult learning and skills, and child care. For several of these it was the regulator as well as inspectorate, with formal powers to trigger interventions and closures. Inevitably these additional burdens made the chief inspector job more challenging, as Gilbert found during the ‘Baby P’ tragedy – when one-year-old Peter Connelly was murdered by his mother and her partner despite multiple opportunities for Haringey children’s services to intervene. Gilbert admitted Ofsted hadn’t done a good enough job of raising concerns about the quality of the council’s children’s services.¹³

After 2010 these responsibilities continued but DfE’s attention refocused on to schools, and Ofsted was encouraged to be more assertive, as part of a renewed push on standards. Sir Michael Wilshaw, headteacher of the successful, if controversial, Mossbourne Community Academy, was appointed by the education secretary, Michael Gove, as chief inspector. He riled up school leaders in the manner of Woodhead, and then fell out badly with Gove on a whole series of issues including ‘no notice’ inspections, the failure to reappoint his preferred chair, Sally Morgan, and the ‘Trojan horse’ affair regarding alleged extremism in Birmingham schools.¹⁴

Amanda Spielman was appointed in his wake and initially reduced tensions, both with DfE and the profession. She introduced a new inspection framework concentrated more on curriculum, with the aim of refocusing on the quality of education in schools, following concerns that previous frameworks had been too tied to gameable exam results. Some prominent multi-academy trust (MAT) leaders felt this moved the goalposts, having built systems designed for the previous approach, but many in the sector agreed with the approach. And after several years of seeing the new framework in practice there is little desire to revert to the previous model.

The past few years have been more difficult given the fallout from Covid and Ruth Perry's suicide. There has also been something of a lack of join-up between what she has tried to do at Ofsted and the DfE's objectives to reduce budgets given the broader financial environment.

Spielman will end her term as chief inspector on 31 December 2023. In her final report she recorded her frustration that Ofsted's role was "poorly understood" and that its ability to do its job is being "progressively curtailed" due to heavy cuts to funding.¹⁵ She is right on both counts. None of the issues around Ofsted are new but have got increasingly heated in recent times, but largely due to decisions taken by government.

Ofsted is often described as 'independent'. It is true in the sense that inspector judgments are independent of political interference but it is not in a broader sense – and was never designed to be. It inspects what ministers agree it can inspect, with the resources that ministers make available. And its inspections are used, for accountability purposes, by ministers. Any analysis of Ofsted must, therefore, also be an analysis of how the DfE manages and deploys it.

In this report we will look at the four core challenges for Ofsted and the Department for Education and what the options are for the new chief inspector and the secretary of state:

- **Accountability:** Ofsted was introduced to shift the purpose of inspections to achieve improvement through accountability to parents and central government, rather than just to provide advice and recommendations. The centralisation of school regulation since has increased DfE's reliance on inspections.
- **Reliability:** As regulation has become more dependent on inspection reports, the need for reliability has increased. At the same time funding constraints have made this harder to achieve.
- **Context:** The demographics of schools can be very different which, if all schools are being assessed against the same criteria, will inevitably make judgments seem unfair to those in the most challenging settings; at the same time building in assumptions of lower standards for certain groups risks cementing low expectations. The greater the role inspections play in regulation the more this matters.
- **Ofsted's wider role:** Most discussion of Ofsted focuses on schools but its remit covers everything from social care to early years and this inevitably splits the attention of senior personnel. There may be ways to limit this burden and identify saving that could be spent on improved school inspection.

Box 1 **How school inspection works**

The broad principles of Ofsted inspection have stayed the same since its creation in 1992. Each school is inspected on a regular cycle that results in an overarching judgment. But the details have changed regularly.

At the moment schools are inspected on a five-year cycle, though there are some exceptions for historical reasons. There are four overarching judgments a school can receive: 'outstanding', 'good', 'requires improvement', and 'inadequate'. If a school received an 'outstanding' or 'good' judgment on its previous inspection it will usually be seen again within five years; if it was 'requires improvement' or 'inadequate' it will be inspected more quickly, usually within 2.5 years.

Many inspections of 'outstanding' and 'good' schools are now ungraded, which means the inspectors are simply checking whether the school is still at the same level. Because these inspections are run with fewer inspectors they cannot assign a new grade, but they can be turned into a graded inspection if inspectors consider it necessary.

Under the current inspection framework, introduced in 2019, inspectors make assessments of four areas: quality of education, behaviour and attitudes, personal development, and leadership and management (including safeguarding). If a school is found to be inadequate or requiring improvement in any one area, or in safeguarding, this will usually carry over to its overarching rating, in what is called a 'limiting judgment'.

Schools can appeal their result before it is made public but this involves an assessment of whether the inspection was properly carried out, rather than a reinspection. Results can be changed but this is very rare. Reports are published several weeks later, and DfE decides on any intervention action to take beyond that.

Accountability

The reason Ofsted was created in the first place was to shift the purpose of inspection to improvement through accountability rather than just providing advice on school improvement. Of course, inspection reports have continued to highlight areas for improvement but it is not the job of Ofsted to deliver, or support the delivery of, those improvements. It would not be possible to do both jobs as that would create a direct conflict of interests: Ofsted would end up reporting on its own efforts to drive improvement.

This is something Spielman highlighted in her final chief inspector's report:

“Ofsted’s schools work (and funding) has long been limited to the diagnostic function of inspection. Ofsted is not a policy-making department and cannot decide to divert its resources to support work, any more than the driving test agency can decide to switch to giving driving lessons. Yet it is being argued that Ofsted is acting punitively or in bad faith by not doing so. Clarification is needed.”¹⁶

It would, of course, be possible for DfE to change the policy role of Ofsted and revert to the old HMI model, where reports were not published and no sanction could be taken by central government as a result of them, however damning. But since 1992 the legal basis on which schools are regulated has fundamentally changed and is built entirely around inspection reports. Shifting Ofsted's purpose would require an entirely new regulatory framework.

Since the Education and Inspections Act 2006, schools have been “eligible for intervention” if they are considered to have “serious weaknesses” or require “special measures” by Ofsted.¹⁷ Under the current framework an ‘inadequate’ grade means a school will be in one of these categories and DfE can intervene, though it doesn't always choose to do so. When it does intervene it means, in practice, that it converts the school to become an academy under the leadership of an MAT, or if it's already an academy, move it to a different MAT.

In the last few years the importance of Ofsted inspections for intervention purposes has been strengthened further. In 2019 the then education secretary, Damian Hinds, announced that exam results would no longer be used for the purposes of intervention, which is allowed under the 2006 Act.¹⁸ This was done to reduce pressure on school leaders – but inevitably put even more focus on to inspections.

In 2022 the government introduced regulations, under the Education and Adoption Act 2016, which allowed it to specify a definition of ‘coasting schools’, which would also make them eligible for intervention.¹⁹ They chose to define ‘coasting’ as two successive ‘requires improvement’ (RI) judgments. This significantly increases the pressure on headteachers whose schools receive an RI judgment as they will usually be reinspected within three years. At the time these changes were announced Ofsted argued that intervention could be “unnecessary and possibly damaging” and that it might lead schools to “implement short term fixes to avoid a second RI rather than focusing on sustainable improvement”.²⁰

It is ultimately these accountability consequences, right up to school leaders losing their job, that mean inspections create such pressure. Changes to the inspection framework or method of reporting that don't address those consequences can only make a marginal difference. The effects of this pressure cannot be dismissed. Not only can it be harmful to individuals but if it puts teachers off making the step up to school leadership then it could have negative impact on the system above and beyond the positive benefits of accountability.

In the wake of the Ruth Perry inquest, Ofsted has pledged to train inspectors in identifying when leaders are in distress and when it would be appropriate to stop inspections, as well as providing a hotline to senior Ofsted staff for heads who are concerned during an inspection.²¹ But this is unlikely to be enough to satisfy bodies representing schools.

More substantive change would, however, require a shift in policy from DfE, not Ofsted. Options range from smaller adjustments that would nevertheless reduce pressure, through to major reform:

- **Keep the existing system but scrap 'double RI' interventions and make criteria for the use of intervention powers more explicit.** At a minimum, government could reverse some of the additional pressure added in recent years by ending the assumption of intervention after two 'requires improvement' inspections. Beyond that government could, without major legislative changes, clarify when it will intervene to provide some reassurance for school leaders. For instance, a school found inadequate for safeguarding will usually be found inadequate overall (a 'limiting judgment') but if these concerns can be fixed relatively quickly by the existing leadership team, then there would never be a need for intervention.
- **Keep national regulation by DfE but try to adapt it to allow for more nuance.** If government wanted to go further but without getting into structural reform it could consider a proposal recently published by the IPPR think tank. This argued that Ofsted should publish two inspection reports, one for parents with a narrative and statistical description of the schools strengths and weaknesses, and one for the school and DfE that would set out technical recommendations for improvement (which would come with significant resource implications for Ofsted).

Based on this latter technical report and other relevant information DfE would decide to place the school in one of three categories: 'school-led development', which would leave it to the school and its trust to work through any recommendations; 'enhanced support', which would set out measures that had to be taken working with an external source of support (such as another successful school); and 'immediate action', which could lead to a governance change.²²

These proposals are in line with, though much more detailed than, current Labour plans to remove single overarching judgments from inspection reports without changing the underlying structure of the system. They do, though, raise several questions. Would a narrative report be accessible to all parents – for instance, would all be able to 'read between the lines' or interpret a range of statistics? Does the DfE have the capacity to make nuanced regulatory judgments without Ofsted providing a judgment, or would that risk more uncertainty and unfairness? Would headteachers really be significantly less stressed by the prospect of 'immediate action' than an 'inadequate' rating?

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- **A return to the pre-1992 model.** The reason we have such a crude approach to accountability is centralisation. It is hard (some might say impossible) for DfE civil servants to make regulatory decisions that incorporate local factors and context, because there are just too many schools, and too little autonomy from ministerial edicts.

As things stand there is no alternative to DfE (or another central body) acting as the regulator because local authorities have been cut back so heavily due to funding reductions and staff cuts. Most have relatively few staff left on the education side and, even if a government wanted to revert to the pre-1992 system, these staff would need to be given significant time and money to rebuild.

Moreover, the pre-1992 system had plenty of downsides. HMI had a more supportive role but there was a serious lack of accountability from some local authorities, and much greater variation in school quality, at least when it came to exam performance. There is a reason the Callaghan, Thatcher, Major and Blair governments were all concerned about school standards, particularly for the poorest, and that it was a much bigger topic of public debate than it is today.

The rise of combined authorities, mostly with directly elected mayors, as a governance structure offers potential alternative ways to devolve regulatory powers and add in more local context. But at this stage they don't have the capacity to take on that role nor do they yet cover large parts of the country; less than half of England's population is covered by some form of devolution settlement.

- **Inspecting at a higher level.** The Beyond Ofsted report, sponsored by the NEU, argues that government should stop external inspections of schools altogether, and move to a self-evaluation model. But it also proposes inspections at the level of the MAT for academies and local authority for maintained schools. These inspections would focus "on their leadership and governance and capacity for accurate self-evaluation".²³

There is some precedent for this in other systems. The Netherlands inspects at the governance group level, which again can be run by local government or independent organisations – though it also has the highest between-school variation in the OECD, according to PISA, which isn't a great recommendation.²⁴

And again it raises some difficult questions. Would parents find much use in an external inspection of a MAT or local authority that is not involved in the day-to-day running of their school (given it seems unlikely that self-evaluations would have much validity if used for accountability purposes)? How would inspectors reliably assess whether MATs or local authorities were accurately self-evaluating if they didn't evaluate the schools? Is it even possible to make an accurate assessment of that? Is this what is best for students, who are – after all – those who are most affected by an underperforming school?

Moreover, at the moment there is no legislative mechanism for government to intervene at the MAT level on educational grounds, as the Institute for Government argued in detail for in a February 2022 paper on academy reform.²⁵ Such a mechanism could be introduced but the government did try in legislation it introduced in summer 2022, albeit in a rather botched way, and parliament considered that it centralised too much power within the DfE.

As even this brief overview indicates, the bigger the change the more complex the wider ramifications and the greater the risks to the system. Smaller changes, like ending 'double RI' interventions, could be made quickly with minimal risk to standards and help encourage school leaders to take on more challenging schools. More substantive changes would take longer – at least three years given where we are in the parliamentary cycle – and require considerable policy and legislative effort, and political capital, with uncertain trade-offs. Either way it is critical to note these are all decisions for DfE, and the wider government, not Ofsted. Of course, the new chief inspector can make his views clear in private and public but the policy function of Ofsted is not his decision.

There is a further issue, rarely discussed as policy discussions tend to be parochial within sectors. Other public sector inspectorates like the Care Quality Commission (CQC), which regulates health and social care, use the same approach as Ofsted: provider-level inspections with overarching grades. Some, like the CQC (and some non-school bits of Ofsted) are also the regulator but that doesn't change the fundamental similarity. If the approach to school inspection is radically changed that will lead to pressure to change other systems too, which, interestingly, rarely get the same level of media criticism that is levelled at Ofsted. (This might be because other systems seem more opaque and complex to generalist commentators and school leaders have unusually vocal unions.)

Reliability

As Ofsted inspections have become an ever more critical part of our regulatory system for schools, questions of reliability – the consistency of inspection judgments – have grown in importance. If an inspection can be used to force people out of a job then its accuracy really matters.

Right from the start there were questions about reliability, but it is only recently, as the stakes have risen, that we have started to get any data on the topic. Ofsted has published two studies, which is two more than any other inspector or regulator. One, from 2017, asked two different HMIs (senior inspectors) to run an ungraded assessment and make independent assessments on whether the school should remain as 'good' or 'outstanding'. Almost all (22 pairs out of 24) made the same judgment, and in only one case was the difference due to subjective disagreement on the evidence. But the majority of this type of inspection results in no change, so while positive this gives us limited information.²⁶

Another study in 2019, which looked at whether inspectors made the same judgments about lesson observations and students' work, raised more concerns. Here reliability of judgments for secondary schools was found to be only moderate, and for further education colleges it was substantially worse.²⁷ This doesn't tell us much about the reliability of inspections overall – given overarching judgments are formed through the collation of lots of different judgments on work, lessons and other factors. But it did raise questions. Ofsted responded to these findings with new training programmes, including subject specialist ones. But no further published work is scheduled on the topic.

There has been almost no independent analysis of reliability simply because researchers don't have access to data and can't run studies without Ofsted's support. In 2023 one group of academics did a study showing that schools that employed inspectors as staff did better than ones that did not, raising concerns about fairness, though inevitably Ofsted select inspectors from better schools so the causal relation is not clear.²⁸ One of those academics, Professor John Jerrim, has written that Ofsted is not keen to help independent researchers or do more work themselves, which is understandable because:

"If it conducts research and reports its inspections to have a high level of reliability, it does not garner much external credibility. Cynics will argue that Ofsted has 'marked its own homework' and say 'well, of course Ofsted would say that'. On the other hand, were Ofsted to conduct such a study and find inspections to have low levels of reliability, they would find themselves in a very awkward position. Would any governmental organisation be willing to come out and say 'look, what we do isn't particularly reliable'? So, for Ofsted, such research becomes a no-win situation. They're damned if they do, and damned if they don't."²⁹

But ultimately that leads to an evidence vacuum on this important question, and one that makes it harder for politicians and others to defend inspection. It also makes it harder for Ofsted to make the case for additional resources to improve reliability, as Spielman did in her final chief inspector's report:

"Relative to school budgets, the current government allocation to school inspection is about a quarter of what it was 20 years ago. To illustrate this, the entirety of our work on state secondary schools (including all training and overheads) now has to be done with the budget of one moderately large secondary school. This means that school inspections are necessarily shorter and more intense; reports are necessarily briefer; and many strands of our work that help build school sector goodwill and reinforce our value to the sector, government and others are having to be progressively curtailed."³⁰

This cannot but harm reliability as well as goodwill – and value to parents and schools. It's something that can be seen in the large proportion of inspections that are now ungraded (to just assess whether a good or outstanding school should stay at the same level), which account for almost half of all inspections in recent years. These involve fewer inspectors, with somewhat less preparation and reporting and so are cheaper

to run. Initially they ran for a single day but this was changed in 2019 and most run for two days like other inspections. But Ofsted would still prefer to run all inspections for longer, with more experienced inspectors and more substantive reporting.

In an environment in which funding for public services is highly constrained (something that will not change after the next general election), the new chief inspector, and the Department for Education, will need to be able to make the case that budget increases will materially improve the quality of inspection, the training of inspectors, and reliability.

Context

Another criticism of Ofsted since the early days is that it conflates the effects of factors that are not the responsibility of schools with ones that are. There is extensive literature on the extent to which schools drive pupil outcomes versus demographic background and peer group, but few would argue that there are no factors at play beyond the school.

Historically this has been tricky for Ofsted. It's impossible to inspect without taking any context into account, but at the same time there has been an understandable reluctance to build that context into the grading system in any structured way. First, because it would be confusing for parents to say that two schools performing at different levels were both 'good' or 'outstanding'. Second, because there is always a danger that contextual measures embed expectations. This was a big challenge with the 'contextual value added' exam performance measure that the Blair government introduced. By trying to create a mathematical formula for context they ended up making assumptions about different groups that can seem like excuses.

Nevertheless, it is a challenge to Ofsted's legitimacy, and perhaps more importantly, a disincentive for school leaders to work in lower incomes areas, which are exactly the schools where you would want the most competitive recruitment processes. It is something Spielman acknowledged when introducing the new framework, when she argued that the previous model was too focused on exam performance, inevitably benefiting schools in higher income areas, whereas the new framework would allow the inspectorate to "reward schools in challenging circumstances that are raising standards through strong curricula".³¹

There is some evidence this has happened. In 2018/19 there was a 22 percentage point gap between the number of schools rated 'good' or 'outstanding' in the quintile with the most children on free school meals and the one with the least. In 2022/23 it had fallen to 11 points.

This is not, though, an exact comparison as the type of schools inspected is not random and more schools overall are now getting 'good' or 'outstanding' ratings. In addition to this, the closing of the gap has all happened as the gap between the percentage rated 'outstanding' has grown. Last year just 5% of secondaries with the most free school meal pupils got 'outstanding' compared to 36% with the least (compared to 2% and 17% in 2018–19).³²

There is a limit to what can be achieved in making inspection 'fairer' to context through the framework. As Sean Harford, Ofsted's former director of schools, wrote in 2019, in response to concerns the new framework wasn't making a big enough difference:

"[Though] schools in the poorest areas of the country face a steeper path to providing a good quality of education for their pupils... When it comes to an overall judgement, we have to report on the quality of education as we find it. If the quality of education in these schools is not good enough, not recognising this helps no one, particularly the children who go there."³³

Moreover, there are schools in lower income areas doing incredible things with limited resources, and that is easier to recognise, and imitate, if their inspection outcomes are genuinely comparable with wealthy-intake schools.

But there are options outside of framework change that DfE and Ofsted could consider. First, Ofsted could provide more context in reports, whether or not that changes the judgment itself (assuming a system with overarching judgments continues). This need not just present data on, say, the number of children arriving from early years or primary with lower attainment, or special needs, but provide narrative context about the wider geographic area the school is in.

This could take into account how local authorities are performing on critical issues like exclusion and special needs. In some authorities certain schools have become heavily relied upon to take pupils who have been excluded elsewhere, or have serious special needs, or are from particularly challenging groups like recent asylum arrivals. By acknowledging these kinds of local issues, as well as the performance of the local authority on issues like child safeguarding, inspectors could put leadership challenges in context and strengthen headteacher buy-in.

Of course the real test would be how DfE used such contextual information for accountability purposes. A formal policy statement as to how this kind of information would be used may give school leaders some reassurance, especially if it was clearly applied in practice. Whether DfE has the capacity to apply this kind of process is unclear and goes back to the wider question of how we regulate schools in a more centralised system where most are academies reporting directly to the department.

Ofsted's wider role

The focus of this paper is Ofsted's role in school inspection. That is what it is best known for, and where the new chief inspector, and new government, will come under most pressure to make changes. But it is important to recognise that the majority of Ofsted's work is *not* with schools. In 2022/23, only 40% of Ofsted's spending, which mostly goes on staff costs, related to schools. And even that includes broader education-related inspections such as private schools, initial teacher training and area-level inspections of special educational needs provision.

Another 13% went towards inspecting further education and training, including colleges, prison education, and apprenticeship providers – and 23% and 24% respectively went towards children’s social care and early years, where Ofsted is the regulator as well as the inspector.³⁴ These funding flows are ring-fenced by DfE to the relevant area.

This regulatory work requires Ofsted to handle registration checks, and also manage the intervention process when a provider is offering an unacceptable level of service or putting children at risk. This is a growing burden as the largely private markets in children’s homes and child care become increasingly dysfunctional.³⁵

The social care market has grown significantly too because of the rise in children being taken into care. In 2010 there were 2,091 care homes, which had grown to 3,000 this year – in the last year alone there has been an 11% increase. Of these, 180 required some level of regulatory intervention.³⁶

The number of early years providers has declined significantly, largely due to the huge drop in childminders from 55,300 in 2013 to 27,000 this year. Many nursery providers are also struggling to stay open, and are having to cut costs around staffing, putting quality at risk. This has reduced the burden of inspection but also created additional regulatory challenges.

The government announced in March 2023 that it would dramatically expand free entitlements for child care, with one- and two-year-olds becoming eligible for 30 free hours a week as long as their parents are in work. Labour is also committed to this. But this will be an extremely challenging pledge to fulfil given supply constraints, and if it is to happen it will likely require workforce and market reforms that expand provision and increase the number of childminders, by simplifying the registration process and incentivising sign-up.

These kinds of challenges inevitably suck up a lot of attention within Ofsted, even though many think of it as entirely school-focused, given that is where most media scrutiny is applied. It is highly unlikely that any government will want to split out any of these functions into a separate regulator, given the cost and complexity of doing so. Nor would this be a good idea given the benefits of having one organisation overseeing all services that affect children.

But they may want to consider alternative ways to limit the regulatory burden. For instance, since 2014, the government has allowed third-party ‘childminder agencies’ to register and inspect childminders. Unfortunately the business model has not worked and there is only one large agency in operation. Supporting the growth of agencies would, potentially, free up Ofsted time and resource, which DfE could then choose to repurpose to school inspection. Independent schools can already sign up to be inspected by a third party that is then overseen by Ofsted.* Saving money would also require that these agency visits were less onerous than current inspections.

* It is worth noting that school inspections were contracted out to private for-profit outsourcing organisations like SERCO for a period. The arrangement was ended by Michael Wilshaw because the standard was not seen as acceptable. But this is different to a proposal for sector specific agencies overseeing registration and managing regular visits.

Ofsted's large range of functions, whether done directly or by third parties, also means that government would need to consider whether any radical changes to school inspection should be mirrored for other services. Those who argue that the current model is broken for schools rarely say the same about, say, nurseries or prison education. But this also makes any reform significantly more complex – meaning it is even more important it's done in a cautious and considered way.

Conclusion and recommendations

The new chief inspector is taking over at one of the more challenging moments in Ofsted's history. There is evidence that the current inspection framework for schools is an advance on previous ones, but many headteachers are frustrated by what they see as a lack of empathy during an extremely difficult period. Union soundings, and responding to the recommendations from the Ruth Perry inquest, do not make the situation any easier.

Politicians must take into account the needs of parents who, according to all the survey data we have, value Ofsted – and the interests of children who deserve a consistently safe and academically enriching experience at school. Past experience tells us most schools would offer that without inspection, but not all. It is also the case that, as England's regulatory system has become more and more dependent on inspection reports, so substantive changes have wide-ranging implications.

These recommendations set out some immediate actions that should be taken by a new chief inspector, and DfE. But they also set out the key things to consider if this or a future government wanted to pursue more substantive reform – and it would be government making these decisions, given Ofsted has very limited room to manoeuvre independently on policy questions.

Recommendations

- 1. Ofsted should move as quickly as possible to provide a comprehensive response to the concerns highlighted in the Ruth Perry inquest**, on training for inspectors and support for school leaders, with DfE supporting with additional resource where necessary. It would not be appropriate for government to pause inspection indefinitely while this happens but it is important that headteachers see these recommendations are being acted on.

Accountability

- 2. DfE should immediately stop intervention based on two 'requires improvement' (RI) judgments.** Not only has this contributed to inspection stress for school leaders, creating a new cliff edge for any school leadership team who are sitting on an RI judgment, but it also creates hostility to the prospect of future inspection. Schools in this position should be given additional support and challenge by DfE but there should not be an expectation of a change in school leadership.

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3. In the absence of more substantive reform **DfE should provide much more detailed criteria for intervention to give some reassurance to school leaders.** For instance, if a school is found inadequate due to a safeguarding failure alone, then if the failure can be fixed quickly by the existing leadership team, that should not lead to intervention.
 4. There are options for more substantive reform, which range from shifting Ofsted towards narrative reporting and having the DfE make separate regulatory judgments, through to localising regulation and giving Ofsted an improvement role instead, or stopping school inspection altogether and shifting towards assessing MAT/local authority ability to support and manage their schools. These proposals, and any others, need to be considered in the round as part of a wider review of the regulatory system for schools, alongside other questions such as where responsibility for school improvement sits.

There are serious risks associated with all alternative models and the government need to avoid radical change purely for the sake of ameliorating the frustrations of some school leaders (which could, perhaps, be better managed by giving them adequate funding and support to do their jobs). It should only be done if government is confident it will not risk improvements in standards reflected in international comparative league tables. Government would also need to consider whether changes to school inspection and regulation would be mirrored for other public services given the approach is currently very similar.

Reliability

5. Ofsted should commission **independent studies on the reliability of inspection**, with DfE providing the necessary funding to do so. This is important to building trust in the sector and improving the quality of inspections and training.
6. Ofsted and the DfE should **review whether ungraded inspections are as reliable and valid as full graded ones** and whether they are providing adequate scrutiny. They should not continue purely because they are cheaper to run.
7. More broadly DfE needs **to make adequate resources available for high-quality inspection**. Ofsted's funding has reduced dramatically over the past decade and that inevitably limits the quality of inspection, training and reporting.

Context

8. There is emerging evidence that the framework introduced in 2019 is somewhat fairer to schools in low-income areas. Though this is only a correlation rather than a proven causal relationship, and a gap still remains between these schools and schools in wealthier areas, especially for the 'outstanding' rating, it is good reason to **question any proposals to revert to a model where exam results, rather than curriculum offer, play a bigger role.**

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9. There is still an income gap and this can put school leaders off from wanting to work in the schools with the highest need. DfE should ask Ofsted to **provide local contextual information and provide the necessary resources and powers to do so, particularly around issues like SEND and exclusions**, and they should include how this information will be used in their more comprehensive intervention criteria (recommendation 3).

Ofsted's wider role

10. Ofsted's work in social care and early years is likely to get more burdensome in the coming years. The social care sector is growing and the residential care market is becoming increasingly dysfunctional. The government will need to increase the number of early years providers to meet its policy goals. **Ofsted needs to be adequately funded for these changes given its regulatory responsibilities in this space.**
11. Ofsted and DfE should consider whether the burden on Ofsted could be reduced, and resources freed up for elsewhere, by the **use of third parties to run less onerous childminding inspections**, especially as the number of childminders will need to rise to meet policy pledges on child care expansion. The legal structure for childminding agencies already exists. Ofsted would still oversee the third parties to ensure standards were maintained.

Ultimately, as with all regulatory models, DfE has to maintain a careful balance between the burden created for those being regulated while ensuring standards and safety are maintained. This is never easy, and very few sectors, public or private, 'like' their inspectorate and regulator.

These recommendations are designed with that balance in mind, to enable the new chief inspector to maintain the value of Ofsted for parents and children, while avoiding discouraging people from taking roles in leadership, particularly in more challenging areas. If more substantive reforms are to follow, most likely under a new government, these should avoid simply seeking to ameliorate immediate concerns with changes that could have a long-term negative impact and should instead start from the premise of system improvement.

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