



OFFICIAL RESPONSE TO THE CONSULTATION

'IMPROVING THE WAY OFSTED INSPECTS EDUCATION'

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About **Community Union**

This is an official response on behalf of members of **Community Union**

Community is a general Trade Union affiliated to the TUC and GFTU. We provide legal and casework support to our members and regularly engage with them in determining our response to policy proposals.

Community's Education and Early Years sector represent thousands of serving teachers and support staff, headteachers, lecturers, nursery and early years workers, nannies and other education professionals in schools and academies, nurseries and early years settings, colleges and universities across the whole of the United Kingdom.

This evidence was submitted to the Department for Education on behalf of our members and as such represents the views of a wide range of individuals from different backgrounds across England and the UK.

The information shared within this response may be used and quoted as appropriate for the purposes it was gathered, with Community Union acknowledged as the contributor. We would be happy to discuss the comments in this response further, please contact us using the details supplied.

This Official Response will be published on our website following the close of the consultation period.

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Consultation response

Proposal 1: report cards

Proposal 1 sets out Ofsted's proposed evaluation areas, the evaluation scale and the proposed layout of Ofsted's report cards.

For more information, please refer to the [consultation text about proposal 1](#).

Members felt that all of the areas identified by Ofsted could be appropriate evaluation areas and that each had their own merits but there were far too many overall and this would be likely to have a negative impact on workload and wellbeing during the preparations for inspection. Members were also aware that any difficulty in one evaluation area would be likely to have a detrimental impact on their overall grade which would increase the stress and high-stakes nature of inspection.

Of the proposed evaluation areas, understandably, members felt that Leadership and Governance was the most important since this is where all of the decisions around a schools direction and effectiveness are made. Members felt that without effective management the quality of everything could suffer which would lead to poorer outcomes for the children and poorer conditions for the staff.

Members were also clear that safeguarding was an important aspect to be evaluated. Since safeguarding is so important in schools, and so much sits on the effectiveness of safeguarding processes and procedures, members felt that having regular checks of their system was a useful quality check. Though there were questions about whether or not Ofsted was the correct authority to undertake these regular checks. Perhaps it would be appropriate for the Local Authority, who already have responsibility for safeguarding to assume this regular role but members were clear that it should not add to their already high levels of workload.

In general members felt that all identified evaluation areas could be appropriate though obviously inspection of early years and post-16 provision would only be applicable in certain settings.

What do you think of Ofsted's proposed 5-point scale for reporting inspection findings? (the scale ranges from 'causing concern' to 'exemplary')

Community have been clear in discussions with DfE and Ofsted that we feel these proposals are the same as the old method just with new names and that they will continue to cause the same stress and issues as the current system. In fact, there is significant risk that they would be worse than the current system since it is likely that 'exemplary' will be unattainable.

Members have raised concerns that not only will the system be unsuitable for schools and nurseries but also that it does not work for parents either as they will say "a school is red or orange" as well as then noting whether or not they are "Causing Concern or Attention Needed." Therefore, instead of one word judgments, schools will have a colour judgment and a one or two word judgment. This combined colour and statement judgement will cause confusion and lead to

less clarity and understanding about the effectiveness of education in the school or setting.

We would prefer that Ofsted took the time to properly develop the system which has recently evolved where all overall grades are removed. Members note that overall grades have a detrimental impact on staff morale, set up conflict with parents and create schools that nobody wants to attend it work at. Community would be interested to work with Ofsted to develop such a system.

Some members suggested that a simple system of PASS the standard or FAIL the standard would be appropriate as it would provide the necessary assurances to parents without promoting competition between schools and providers. All schools still have detailed reports within the PASS criteria that would outline the inspection findings and the small number of the failing providers could be given support and funding to improve. We acknowledge that this is not possible within the current legislative framework which requires two categories of failure within the system.

What do you think about Ofsted's approach to 'exemplary' practice?

Community fear that exemplary practice will be almost unattainable. The toolkit is very word heavy and the descriptors for the different gradings are muddled and overlapping making it more open to interpretation and less transparent. Then sheer number of evaluation areas and the huge effort to achieve in each one will place enormous pressure on leaders and staff to be performing well in every area.

A culture of blame is a likely unintended consequence if an area or a particular person is deemed responsible, and the consequential grade falls down. This will be particularly detrimental for staff working in small and rural schools where the pressure on staff will be greater because everyone has so many areas of responsibility.

We have serious concerns that this massive increase in the number of evaluation areas will mean that significant numbers of settings will be at risk of falling into an area of concern and graded inappropriately. We do not feel that one evaluation area on its own should have the overall impact of damning an entire school, when this is an inspection often based on opinion, rather than hard data. This is especially the case because pupil achievement is extremely cohort-dependent in small schools.

Members were clear that they favoured a development of the current interim arrangements based on dialogue and narrative reporting. These inspections follow an approach where areas of weakness are highlighted for attention and support.

Members felt that this aspect of the proposals required more development.

Are there any other ideas Ofsted could consider?

Members noted that as most schools are in MATs perhaps the focus should be "looking at how these organisations run their schools. Consistency across these organisations and reducing workload within individual schools will bring about best practice." This could be expanded to look at the malmanagement and regulation of all school systems - both MAT and LA - to ensure that there is a consistent approach around funding (especially gag-pooling), safeguarding, curriculum and SEND provision.

All members were clear that the approach of the inspectorate also needed to be much more supportive and collegiate. They noted that as staff, "we do not belittle students as a way to get them to achieve, yet I have witnessed Ofsted inspectors give scathing comments to teachers/schools and expect it to improve them."

It is Community's view that inspection could be a way to share and celebrate good practice without indicating that they themselves have all of the answers.

What do you think about including data alongside report cards, for example information about how well children and learners achieve?

Data is only ever a snapshot of evidence and only serves to support a narrative rather than to tell the story on its own. There is a significant risk that sharing of data without context "could alienate or inflate schools on a snapshot of evidence."

As we have already noted, pupil achievement is also extremely cohort-dependent in small schools and therefore cannot always be relied upon to be an indicator of poor school performance. This is particularly exacerbated in small schools and in selective schools and is therefore an unreliable comparator. Therefore, any data based purely on outcomes is automatically an unreliable comparator of pupil performance and progress.

Inspection, where it needs to take place, is an opportunity to check that systems are in place to monitor provision and that the needs of pupils and staff are being met. There is already accountability for schools through formal assessment and data reporting to the Department for Education and, "as many schools are now in trusts or other clusters, there are opportunities for these to work with their schools and look at what could improve learning," whilst also reducing individual school's workload.

Part 2: how Ofsted inspect

Part 2 of this survey is about what Ofsted look at when they inspect and how they carry out inspections.

Proposal 2: education inspection toolkits

To answer the following questions about Ofsted's proposed **early years inspection toolkit**, please refer to the [consultation text about proposal 2](#) and the [education inspection toolkit for early years](#).

What do you think about the toolkit for early years?

As with our overall comments, Community is not convinced that judgements measured on a 5-point scale will have a positive impact on inspection, outcomes, parental decisions nor staff recruitment and retention.

There are issues with sequencing of curriculum, expectations – both explicit and implied, despite the moving baseline and the continuing funding difficulties that plague the early sector.

Early Years members want assurances that funding for the supposedly “free funded places” is a decent amount for all age groups as this will help them to recruit and retain quality staff. Additional funding would support training to practitioners and not just to school-based staff. It is the outside issues which have the biggest impact on settings for example: how do you define what “achieve well” is? Everyone, especially in the EYFS, has different starting points-a point to be considered at present with cultural capital.

With specific regard to the toolkit, it is very wordy. This makes it very difficult to understand and the grade separation is unclear and too open to interpretation. Members noted further that there is no context, and it does not support value added and takes no account of children's ability upon entry. Children are increasingly requiring personal health needs in the early years. Ofsted need to be fully aware of areas of deprivation and the extra workload that this impacts on practitioners. The welfare and safeguarding issues are overlooked when inspectors are focused on the academic achievement, and this is not referenced in the toolkit.

In relation to early years, what do you think about Ofsted's working definition of inclusion, and how Ofsted will inspect inclusion?

It is important that inclusion is noted in inspection reports. The more effective a setting is at being inclusive, the better the needs of all pupils can be met. However, in some settings, specific referencing of SEND and inclusion may place an individual at risk or reveal data around protected characteristics. Therefore any such reporting must only report in general terms and should use a widely understood definition of inclusion rather than one which has been specifically defined by the inspectorate.

With this in mind it may be appropriate to measure inclusion by describing the setting's population statistics data for SEND, backgrounds, EAL, etc., interviewing a range of stakeholders about what inclusion means to them within the setting and describing that in the report. Only this kind of description will enable interested people to form a picture of inclusion in the setting and ask questions tailored to their own needs and situations. As noted, it can be difficult to meet all needs, so this needs to be sensitively and appropriately described in a context of opportunities available, steps taken and efforts made.

Unfortunately, despite continued calls for early intervention, children in early years are rarely prioritised for support or additional funding and this means that settings are not able to be properly provide for the increasing range of needs they are presented with. There seems to be a situation within SEND provision where families feel they must fight for rights, and Local Authorities make decisions “not to assess” unleashing appeals or tribunals. Therefore it is unreasonable to hold settings to account for a lack of provision or the inability to meet needs, when this decision is one outside of the control of the setting.

In relation to early years, do you think the toolkit will be suitable for different types of providers?

As previously mentioned, the toolkit is very text-heavy and will be difficult for some individual care-providers to understand and implement. Furthermore, as noted above it does not give clear information about the way children will be measured from their point of entry and whether or not allowances for the value that a setting brings will be understood and praised or whether it will be a more data and outcome driven approach.

Proposal 3: Inspection methodology

To answer the following questions about Ofsted's proposed inspection methodology, please refer to the [consultation text about proposal 3](#).

In relation to early years, what do you think about Ofsted's proposed changes to how they carry out an inspection?

This proposal is not dissimilar to the way schools and settings are inspected at present. However, it does place a huge burden on the leaders of smaller settings who may also be actively involved in the provision of care. This means that the pre-inspection phone call can reduce the capacity of settings and place pressure on the quality of a setting at precisely the time when provision is being judged. This can have risks for staffing, parental feedback and for the safety and wellbeing of children and effective mediation should be considered.

What do you consider are the likely workload and well-being implications of these proposals for early years?

Workload is always worsened around Ofsted inspections for all different types of settings. These proposals do nothing to alleviate the pressure of Ofsted, nor do they give staff any protection from the demands of leaders to prepare for inspection. Over 52% of respondents felt that these changes would make their workload worse or much worse, whilst 48% felt that there would be no change to their already heavy workload.

Proposal 2: education inspection toolkits

*To answer the following questions about Ofsted's proposed education inspection toolkit, **in relation to state-funded school inspections**, please refer to the [consultation text about proposal 2](#) and the [education inspection toolkit for state-funded schools](#).*

Ofsted would like to know what you think about the toolkit for state-funded schools.

As has already been noted, whilst we think the areas identified in the consultation may well be appropriate areas to be looked at during inspection but there are too many of them. Furthermore, we have noted previously that, Community is not convinced that judgements measured on a 5-point scale or indeed on any reductive scale will have a positive impact on inspection, outcomes, parental decisions nor staff recruitment and retention.

We particularly have concerns that one or other area may take priority over another and areas such as welfare and safeguarding issues may be overlooked when inspectors are focused on the academic achievement or dominate the outcome of any report. This is particularly noted as a point of serious weakness since the framework acknowledges that any of the multitude of evaluation areas which fall below the standard could lead to the whole outcome falling and a school being graded as causing concern.

At the moment it is almost impossible for a school to be confident that their own self-evaluation of teaching and learning will be validated by the inspectorate which increases the opacity in the system. It is vital for the success of any framework that it is transparent, and we fear that these proposals will not achieve what they set out to. If grades must be applied, members would rather each evaluation area was graded, as currently happens within the interim arrangements, with no overall grade except where a school is placed into special measures.

As noted for the Early Years, members have particular concerns around the fact that inspection does not recognise context, does not support value added and takes no account of children's ability upon entry. Children are increasingly requiring personal health needs in the early years of schooling. Ofsted need to be fully aware of local issues affecting the school but outside of its control such as levels of deprivation and the extra workload that this impacts on practitioners.

In relation to state-funded schools, what do you think about Ofsted's working definition of inclusion, and how they will inspect inclusion?

Community have previously mentioned how important it is for settings to be inspected by specialists, with primary teachers inspecting primary settings and subject specialists used in secondary and college settings. The same applies for the inspection of inclusion. Members note that having real experts on the team who are knowledgeable and have a real appreciation of developing the learners against targets related to resilience, skills towards independence is essential. It is especially important that learners are not artificially measured against standards related to achievement.

Similarly, it is important that all inspectors consider the impact of inclusion in every classroom and every lesson, including how support staff are deployed, and not just in 1-1 sessions. This sort of work will help to assess whether or not the practice and the policy match.

Community have concerns that whilst the broad definition of inclusion is reasonable, it is not reasonable for Ofsted to be the agency that defines inclusion, and it is vital that a widely accepted definition is used for transparency.

Regardless of the working definition, we are concerned that the toolkit does not take account of the fact that inclusion cannot be measured as a standalone item. All aspects of schooling are affected by inclusion and an inclusive school will reflect inclusion across everything that it does. For example, a more inclusive school will likely have worse attendance and poorer statistical outcomes for pupils as they represent a student body that has significant barriers to overcome simply to attend school. If inclusion is measured separately to attendance and separately to outcomes, then this would give a wholly inaccurate impression of the efficacy of the school.

Finally, it is important to recognise that not everything can be measured, nor should it be. Conversations with students and parents may be an effective way of determining the inclusivity in a setting but means that comparison against other schools will be unreliable due to different circumstances and environment.

In relation to state-funded schools, how suitable is the toolkit for use in special schools and alternative providers?

The toolkit is similar to previous handbooks in the way that it outlines the various criteria for each assessment area and tries to differentiate between the exemplary, strong, secure etc. However, as with all work of this kind it remains too open to interpretation and will require significant training to fully understand and apply. This means it is likely to prove unreliable for most schools to try and assess themselves which will lead to inconsistencies in application and a sense of injustice when the inspectorate judge things differently. This is confirmed by the requirement for exemplary gradings to be moderated and confirmed by the national panel indicating that schools cannot themselves know if this has been achieved outside of inspection leaving the door open for opaque decision making and a lack of transparency.

In relation to state-funded schools, do you think the toolkit will be suitable for different phases of education and other types of providers?

As noted above, the toolkit is not dissimilar to the handbooks previously published by the inspectorate. We have noted that the handbooks themselves may be appropriate but it is the way that they are interpreted in a setting which is crucial to how effective inspection is. For example, an inspector from a large secondary school cannot know the burdens that apply to a teacher in a small rural school and this causes problems with assumptions and interpretation of data. Therefore, the toolkit may be suitable but users will need to be thoroughly trained and this makes it unreliable for use by individual schools, again reducing the transparency of the whole inspection process.

Proposal 3: Inspection methodology

To answer the following questions about Ofsted's proposed inspection methodology, please refer to the [consultation text about proposal 3](#).

In relation to state-funded schools, what do you think about Ofsted's proposed changes to how they carry out an inspection?

Members responded with lots of concerns about the proposed reforms. In relation to the carrying out of inspection, although members were somewhat relieved that there would no longer be deep dives, there were significant concerns about the potential increase in workload that would arise from the proposed changes.

Secondary School and College members noted that deep dives gave them the opportunity to outline their curriculum plan and justify it. "Without deep dives it removes the agency of the subject leader." However they also noted that this only worked with accepting inspectors and too many inspectors seemed to have a predetermined outcome in mind. They also noted that in too many instances the teacher was far more qualified in the subject area than the inspector, which was inappropriate and damaging to morale, especially if that area was subsequently judged poorly. Primary School members were clear that deep dives did not work in primary schools where a single teacher could be the nominated subject lead for many areas of study which left them at a distinct disadvantage in comparison to larger settings.

The conduct of the inspection team mattered hugely to members, with them saying: "providing they are polite, are still teaching themselves, and do not arrive with an agenda" inspection could be a fair experience. However, it was made clear that the inspectors should be supportive and encourage teachers to want to do better and enjoy their job again since too many times the feedback is over-critical.

Members felt that, broadly speaking, 2-day inspections offer more parity across all settings. However, classroom observations need to be managed so that teachers and classes are not over-observed, especially in smaller settings as this can have a damaging impact on pupil behaviour and be disruptive to learning. This led to

some members asking whether larger schools should have larger inspection teams and smaller schools smaller ones?

The pre-inspection phone call was considered to be a good idea that was generally helpful in allowing the school to set out its strengths and help the inspector "to get a feel of the school," but members also felt that sometimes the inspectors subsequently "hid away during the day" and did not always fully experience everything the school had to offer.

Members felt that if schools were party to the focus for each of the inspection days before hand "to allow for the covering of staff who may be required to meet the inspectors, that would help to manage expectations and workload. This would also help the pupils who need to be made aware that there will be visitors around for longer than usual. Some pupils will find it very unsettling."

Finally, members were clear that it was wholly inappropriate to judge the quality of education in a setting in the week immediately preceding or following a closure period.

Proposal 4: full inspections and monitoring inspections, state-funded schools

To answer the following questions about Ofsted's proposed changes to full and monitoring inspections of state-funded schools, please refer to the [consultation text about proposal 4](#).

What do you think about Ofsted's proposed changes to monitoring?

As previously noted, the change to two-day visits for all inspections may be an appropriate response to the need for inspections to be consistent across all settings however, adjustments will need to be made to ensure that the observation burden does not fall heavily in small schools. Therefore there will need to be further consideration of how this may affect the size of inspection teams.

Where schools are found to require additional support in order to improve, Community would suggest that note is taken of EPI's research into "Stuck Schools" which notes that Ofsted should "avoid transforming monitoring into too frequent inspections and over-surveillance." We fear that monitoring visits, plus the involvement of RISE teams and other agencies could actually stymie a school's efforts to improve.

https://epi.org.uk/wp-content/uploads/2022/06/Final_report_stuck_schools.pdf

Proposal 5: Identifying state-funded schools causing concern

To answer the following questions about Ofsted's how we identify schools causing concern, please refer to the [consultation text about proposal 5](#).

What do you think about how Ofsted propose to identify schools causing concern?

Community does not have any issue with the stated definitions for schools that fall into categories of concern as they remain set out in law. However, we have serious concerns that the massive increase in the number of evaluation areas means that significant numbers of settings will be at risk of falling into an area of concern and graded inappropriately. We do not feel that one evaluation area on its own should have the overall impact of damning an entire school, when this is an inspection often based on opinion, rather than hard data.

Members were clear that inspections needed to follow a more collaborative approach, where areas of weakness could be highlighted but would not necessarily have an impact on the overall grade if there was a clear plan to address it. Members felt that the school may already have identified areas for improvement across a number of evaluation areas, but that a poor inspection grade could actively conspire against the leadership being able to carry out their improvement plans.

Members felt that this aspect of the proposals required more development and consideration of the impact a negative outcome would have on the school and local community.

What do you consider are the likely workload and well-being implications of these proposals for state-funded schools?

The removal of deep dives may have a marginally positive impact, especially on small schools where a single member of staff may be responsible for multiple curriculum areas. However, the massive increase in the number of evaluation areas is very likely to eliminate any gains from this change.

As already mentioned, the huge increase in evaluation areas will place a significant burden on school leaders, curriculum leaders and classroom staff as the consequences of just one poor outcome could be catastrophic for the overall outcome of a school. Not only is this a huge workload concern, but the impact this will have on staff and student wellbeing must be reckoned, as it will have a damaging effect on morale in the school if a school that is otherwise secure, fails because of one area. This could also prevent the school from making improvements as the process of improvement means identifying weakness and seeking appropriate and sometimes creative ways to drive that improvement. During improvement an area may not be "secure", yet a school could be at risk of academisation or leadership change if the overall grade is less than secure. This change would put any improvements at risk.

What could Ofsted do to help reduce or manage any unintended consequences?

As above, remove the impact a single evaluation area could have on the overall outcome of the inspection.

It is important that the lead inspector fully understands the school and its context before they have the pre-inspection phone call and that the feedback they receive from the head teacher is received and accepted. Members noted that too many inspections seem to have a predetermined outcome and would like the opportunity for the reports to state the views of the school especially if these differ from the inspectorate. Having this contained within the report will ensure that all views are represented and will help in any appeals situations and arbitration.