

The framework for the inspection of local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities

Framework for inspecting local areas in England under section 20 of the Children Act 2004

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Introduction

1. New duties on local areas regarding provision for children and young people with special educational needs and/or disabilities are contained in the Children and Families Act 2014 (the Act) and amplified in regulations and in the 'Special educational needs and disability code of practice: 0 to 25 years'¹ (the Code of Practice). The Code of Practice is statutory guidance published by the Department for Education (DfE) and the Department of Health (DoH). The duties came into force in September 2014.
2. The Minister of State for Children and Families has tasked Ofsted and the Care Quality Commission (CQC) with inspecting local areas on their effectiveness in fulfilling the new duties.
3. This framework sets out the key inspection principles and should be read alongside the Code of Practice and the 'Handbook for the inspection of local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities'.²
4. The inspection handbook is a guide for inspectors on how to carry out local area inspections. The framework and handbook are made publicly available to help ensure that local authorities and health services, early years settings, schools, further education providers and other organisations are informed about the process and procedures of these inspections and to support local areas in their self-evaluation and ongoing improvement. It is also available to young people, parents and carers to help ensure that they are aware of how these inspections are carried out.

The purpose of inspection

5. Ofsted and CQC are required to carry out their work in ways that encourage the services they inspect and regulate to improve, be user-focused and be efficient and effective in their use of resources.³
6. These inspections will provide an independent external evaluation of how well a local area carries out its statutory duties in relation to children and young people with special educational needs and/or disabilities in order to support their development. The inspection will review how local areas support these children

¹ 'Special educational needs and disability code of practice: 0 to 25 years', (DFE-00205-2013) Department for Education and Department of Health, 2015; www.gov.uk/government/publications/send-code-of-practice-0-to-25.

² 'Handbook for the inspection of local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities'; www.gov.uk/government/publications/local-area-send-inspection-guidance-for-inspectors.

³ As set out in section 119(1) of the Education and Inspections Act 2006; www.legislation.gov.uk/ukpga/2006/40/section/119; and section 3(2) of the Health and Social Care Act 2008; www.legislation.gov.uk/ukpga/2008/14/section/3.

and young people to achieve the best possible educational and other outcomes, such as being able to live independently, secure meaningful employment and be well prepared for their adult lives.⁴ Therefore, although these inspections are designed to hold local areas to account, they also intend to assist local areas in improving and developing their processes and support systems in order that local areas become more effective and deliver better outcomes for children and young people.

7. The inspection leads to a published report that:

- provides children and young people, parents,⁵ elected council members, local providers and those who lead and manage the delivery of services at local level with an assessment of how well the local area is meeting the needs of children and young people with special educational needs and/or disabilities, and how well service providers work together to deliver positive outcomes
- provides information for the Secretary of State for Education about how well the local area is performing its role in line with its statutory responsibilities and the Code of Practice
- promotes improvement in the local area, its education, health and social care provision
- where relevant, requires the local area to consider the actions that it should take in light of the report and prepare a written statement that sets out those actions and the timetable for them.

The local area and the role of the local authority, health partners and other agencies

8. It is important to note that these inspections will evaluate how effectively the local area meets its responsibilities, and not just the local authority. The local area includes the local authority, clinical commissioning groups (CCGs), public health, NHS England for specialist services, early year's settings, schools and further education providers.
9. Each local area will be asked to nominate a representative – a 'local area nominated officer' – who will act as a single point of contact on behalf of all local agencies throughout the inspection and until the publication of the inspection report. Their role will be to liaise with the lead Her Majesty's Inspector (HMI) throughout the inspection so that inspection activities can be coordinated effectively.

⁴ Section 19(d) of the Children and Families Act 2014;
www.legislation.gov.uk/ukpga/2014/6/section/19/enacted.

⁵ The term 'parents' refers to mothers, fathers and/or carers.

10. The local area is the geographical area of the local authority. However, the responsibility of the local area for children and young people who have special educational needs and/or disabilities extends to those who are residents of the local area but attend educational establishments or receive services outside the local authority's boundaries.
11. During the inspection, inspectors will visit providers, such as nurseries, schools, colleges and specialist services.⁶ These key activities to gather evidence are critical to enhancing inspectors' understanding of how all local providers and agencies work collaboratively together to improve the life chances of children and young people with special educational needs and/or disabilities. However, it is important to note that when inspectors visit providers, these providers are not under inspection but remain subject to separate institutional inspection arrangements in line with Ofsted's and CQC's statutory and regulatory duties and powers. Therefore, inspectors are not there to evaluate the effectiveness or quality of the individual service or provider.
12. If during the course of these inspections inspectors become aware of concerns of a safeguarding or child protection nature, they will make additional enquiries to satisfy themselves that such matters are being dealt with appropriately by the relevant authorities and in line with statutory requirements.⁷ In circumstances where inspectors remain concerned that children and young people are not safeguarded, or are at risk of harm, Ofsted and/or CQC will consider whether it is appropriate to take further action. This could include, where appropriate, inspectors referring individual children's and young people's cases to the local authority or inspection of the individual service or provider in line with Ofsted's or CQC's statutory and regulatory duties and powers.
13. The starting point for inspection is the expectation that the local area should have a good understanding of how effective it is. Leaders⁸ for the local area should be able to accurately assess how well the local area meets its responsibilities. Leaders should have an understanding of strengths and aspects that require

⁶ Services will include specialist support and therapies, such as clinical treatments and delivery of medications, speech and language therapy, assistive technology, personal care (or access to it), Child and Adolescent Mental Health Services (CAMHS) support, occupational therapy, habilitation training, physiotherapy, a range of nursing support, specialist equipment, wheelchairs and continence supplies and also emergency provision. They could include highly specialist services needed by only a small number of children. Social care services include childcare, leisure activities, support for young people when moving between social care children services and social care adult services, and support for young people in living independently and participating fully in society.

⁷ 'Keeping children safe in education', Department for Education, 2015; www.gov.uk/government/publications/keeping-children-safe-in-education--2, and 'Working together to safeguard children'; www.gov.uk/government/publications/working-together-to-safeguard-children-2.

⁸ The term 'leaders' refers to those responsible for the strategic planning, commissioning, management, delivery and evaluation of services to children and young people with special educational needs and/or disabilities.

further development. Inspectors will test out the accuracy of this understanding during the inspection as they make their evaluation.

Legislative basis for inspection

14. Local area inspections of responsibilities for children and young people with special educational needs and/or disabilities are carried out under section 20 of the Children Act 2004.⁹ This section enables Ofsted and CQC to undertake joint inspections of each local area in accordance with a timetable approved by the Secretary of State for Education.

15. Further, 'The Children Act 2004 (Joint Area Reviews) Regulations 2015'¹⁰ require that:

'The Chief Inspector of Education, Children Services and Skills must (having regard in particular to the nature of the review):

(a) determine whether it is appropriate for a written statement of proposed action to be made in light of the report; and

(b) if so, determine the person or body ("the principal authority") who must make this statement.'

16. Where Her Majesty's Chief Inspector (HMCI) has determined that a written statement of action is required, the local area must produce this statement within 70 days following receipt of the final inspection report/letter, publish it on local websites and send a copy to Ofsted, CQC and the Secretary of State.¹¹

17. Subject to HMCI's determination, a written statement is likely to be required where inspectors identify significant concerns in relation to one of the following:

- illegal practice
- failure to meet the duties under the Act.¹²

18. On receipt of the written statement of action, HMI will assess whether the statement is fit for purpose and the relevant Ofsted Regional Director will write to the local area to communicate this assessment. Where HMI assess that the written statement is not fit for purpose, they will make recommendations about how the statement needs to improve. The local area should then make appropriate changes and republish the written statement of action.

⁹ Children Act 2004, section 20; www.legislation.gov.uk/ukpga/2004/31/section/20.

¹⁰ Regulations 3(3)(a) and (b); www.legislation.gov.uk/uksi/2015/1792/regulation/3/made.

¹¹ Regulation 4(5); www.legislation.gov.uk/uksi/2015/1792/regulation/4/made.

¹² Inspectors will use their professional judgement to assess whether the overall evidence gathered causes them sufficient concern to recommend that a written statement of action be produced.

Post-inspection

19. Inspections are intended to be constructive for local areas as well as hold them to account. Where a written statement of action is required, the DfE, working with the DoH and NHS England where relevant, will seek to engage closely with the local area to provide appropriate challenge and support to bring about the necessary improvements identified by the inspection. After a period of time, usually around 12 months after the publication of the inspection report, the DfE will advise the Minister on progress made in delivering the improvements. In exceptional circumstances, this may include a recommendation to Ministers that the local area for a further inspection by Ofsted and CQC. Under section 20(1) of the Children Act 2004, Ofsted and CQC must inspect a local area when requested to do so by the Secretary of State for Education, in accordance with the terms specified in that request. Annex A to the inspection handbook outlines the post-inspection support and challenge arrangements.

How local areas are selected for inspection

20. All local areas will be inspected at least once during a five-year period. As set out above, the Secretary of State retains the power to request further inspection activity in a specific local area following the initial inspection. Selection of local areas to be inspected in a given year will endeavour to ensure a spread across the country and will, wherever possible, take account of the timing of other Ofsted and CQC inspection activity to avoid undue burden being placed on local areas.

21. Ofsted and CQC will ensure that scheduling of inspections retains flexibility. Where evidence suggests that there are concerns about a local area, the schedule can be adapted and that local area may be inspected earlier than might have been the case otherwise. This may occur where Ofsted or CQC have significant concerns about how well an area is fulfilling its responsibilities, including, but not exhaustively, in relation to:

- the academic achievement of relevant children and young people over time, taking account of both attainment and progress
- rates of attendance and exclusion for relevant children and young people
- the destinations of relevant children and young people including data for young people not in education, employment or training (NEET)
- the outcomes of any inspections of local authorities and of educational establishments, and health services carried out by Ofsted or CQC
- complaints received about providers or services that are regulated or inspected by CQC and/or Ofsted
- local area performance in the completion of assessments and the making of education, health and care plans within the statutory timescales

- rates of appeal to the First-Tier Tribunal (Health Education and Social Care Chamber)
- any other significant and relevant concerns that are brought to Ofsted's and/or CQC's attention.

The focus of inspection

22. Inspectors will consider how effectively the local area identifies, meets the needs of and improves the outcomes of the wide range of different groups¹³ of children and young people who have special educational needs and/or disabilities as defined in the Act and described in the Code of Practice.

23. The inspection will focus on the contribution of education, social care and health services to children and young people with special educational needs and/or disabilities, as set out in the Act, the Regulations and the Code of Practice.

Reporting on the inspection outcomes

24. The outcomes of the inspection will be reported in a letter and the judgements will be in narrative form. The letter will outline areas of strength and key priorities for improvement. It will be published on the Ofsted and CQC websites, usually within 33 days of the end of an inspection.

25. The inspection of the local area will cover and report on the following key aspects in arriving at a judgement about the effectiveness of the local area:

- the effectiveness of the local area in identifying children and young people who have special educational needs and/or disabilities
- the effectiveness of the local area in assessing and meeting the needs of children and young people who have special educational needs and/or disabilities
- the effectiveness of the local area in improving outcomes for children and young people who have special educational needs and/or disabilities.

26. In reaching their judgements, inspectors, in line with the requirements of the Code of Practice, will pay particular attention to:

- the accuracy and rigour of the local area's self-evaluation,¹⁴ the extent to which the local area knows its strengths and weaknesses, and what it

¹³ These groups of children and young people are detailed in Part 2 of the 'Handbook for the inspection of local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities'.

¹⁴ It is important to note that Ofsted and CQC do not require self-evaluation to be provided in a specific format. Any assessment that is provided should be part of the local agencies' business processes and not generated solely for inspection purposes.

needs to do further to improve the life chances of children and young people with special educational needs and/or disabilities

- to what extent the outcomes for children and young people are improving as a result of the collective actions and support of local agencies and bodies
- the efficiency of identification of special educational needs and disabilities
- the timeliness and usefulness of assessment
- how well local agencies and bodies plan and coordinate their work to assess need and provide necessary effective support
- how well the local area engages with children and young people, and their parents and carers, to inform decisions about the strategic commissioning of services (joint strategic needs assessment)
- how well the local area involves the individual child or young person, and their parents and carers, in the process of assessing their needs
- how well the local area communicates with children and young people, and their parents or carers, to ensure that these primary users are clear about the identification and assessment processes and the criteria used to make decisions
- the extent to which the local area gives due regard to its duties under the Equality Act 2010 to children and young people with special educational needs and/or disabilities.

27. Please see the inspection handbook for more detail on how the inspection is conducted and the range of evidence that will be considered by inspectors and that will underpin the inspection findings.

Composition of the inspection team

28. The inspection team will be led by an HMI from Ofsted and will include a Children's Services Inspector from the CQC, and an Ofsted Inspector (OI) usually recruited from a local authority but without connection to the local area being inspected.

29. The OI will have: specialist knowledge of disability and special educational needs; a thorough understanding of local area structures and strategic delivery of services; and a health, social care or education background. CQC may, on occasion, allocate more than one inspector to the inspection of the local area. The complexity of the local health economy will be an important consideration. The decision on whether to deploy more than one CQC inspector will be based on a number of risk factors, including, but not restricted to, the number of NHS providers, the geographical area and the number of CCGs.

Conduct during inspection

30. Inspectors must uphold the highest professional standards in their work and treat everyone they encounter during inspections fairly, and with respect and sensitivity.

31. Inspectors will:

- evaluate objectively, be impartial and inspect without fear or favour
- uphold and demonstrate Ofsted and CQC values at all times
- evaluate provision in line with frameworks, national standards or regulatory requirements
- base all evaluations on clear and robust evidence
- declare all actual and perceived conflicts of interest and have no real or perceived connection with the provider that could undermine objectivity
- report honestly and clearly, ensuring that judgements are fair and reliable
- carry out their work with integrity, treating all those they meet with courtesy, respect and sensitivity
- take all reasonable steps to prevent undue anxiety and minimise stress
- act in the best interests of service users, prioritising the safeguarding and well-being of children and learners at all times
- maintain purposeful and productive dialogue with those being inspected and communicate judgements sensitively, but clearly and frankly
- respect the confidentiality of information, particularly about individuals and their work
- respond appropriately to reasonable requests
- take prompt and appropriate action on any safeguarding or health and safety issues
- use their title of HMI, Ofsted Inspector or CQC inspector only in relation to their work as inspectors.
- make reasonable adjustments in order to communicate with children and young people and adults with disabilities in line with the Equalities Act 2010.

Expectations of local areas and providers

32. It is important that inspectors, the nominated officer for the local area and staff from agencies and providers establish and maintain a positive working relationship. Ofsted and CQC expect providers to:

- be courteous and professional, treating inspectors with respect and sensitivity

- apply their own codes of conduct in their dealings with inspectors
- enable inspectors to conduct their visit in an open and honest way
- enable inspectors to evaluate the provision objectively against the frameworks, standards or regulatory requirements
- provide evidence that will enable the inspector to report honestly, fairly and reliably about their provision
- work with inspectors to minimise disruption, stress and bureaucracy
- ensure the good health and safety of inspectors while on their premises
- maintain a purposeful dialogue with the inspection team
- draw any concerns about the inspection to the attention of inspectors promptly and in a suitable manner
- recognise that, sometimes, inspectors will need to observe practice and talk to staff and users without the presence of a manager or registered person.

The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, further education and skills, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children's services, and inspects services for looked after children, safeguarding and child protection.

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