

Changes to Ofsted's post-inspection arrangements and complaints handling: proposals 2023

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) is a trade union and professional association representing over 24,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business leaders and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million children and young people across primary, secondary, post-16 and specialist education. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation. Our response is based on the views of our members, obtained through discussions at ASCL Council, with relevant advisory groups, and prompted and unprompted emails and messages.
3. When considering the impact of any proposals on different groups, it is ASCL's policy to consider not only the nine protected characteristics included in the Equality Act 2010, but also other groups which might be disproportionately affected, particularly those who are socio-economically disadvantaged. We have answered any equality impact questions on this basis.

B. Key points

4. ASCL welcomes this important consultation. Reforming the complaints process and post-inspection arrangements was one of ASCL's recommendations in our *Future of Inspection* discussion paper¹, shared with Ofsted and other stakeholders in January 2023.
5. We strongly support all four proposals set out in this consultation. We believe they will have a significant impact on school and college leaders' experience of inspection. In particular, the ability for providers to raise concerns about a report or an inspection earlier, and through a number of routes, is most welcome.
6. ASCL members often report their frustration that they cannot raise these concerns with Ofsted until they have the draft report. The changes proposed would address many of these concerns.

¹ [ASCL - The Future of Inspection](#)

7. Likewise, the ability to escalate concerns directly to ICASO is welcome, although we note that ICASO does not have the authority to overturn a judgement. This means that, in effect, Ofsted is still 'marking its own homework' to some degree, although these proposals would make the process more transparent. The proposal for providers to speak to an inspector the day after the inspection, who was not on the inspection team itself, will help provide some additional impartiality.
8. However, while welcome, we do not think that the proposals go far enough. ASCL members often comment that the feedback they get following a complaint that is not upheld is minimal, and often several detailed complaints are amalgamated into one response. Moreover, often the response refers to the 'evidence base', without directly citing from it, and without the provider being able to see that evidence base, or be able to fact-check it.
9. ASCL recommends that Ofsted commits to responding to every complaint a provider raises point-by-point, rather than amalgamating responses together.
10. It is ASCL's clear view that the single biggest change to the current Education Inspection Framework (EIF) which would impact positively on school and college leaders' wellbeing and mental health, and consequently on the recruitment and retention of leaders, would be the removal of the overall effectiveness grading.
11. This single-phrase judgement cannot possibly reflect everything a school or college has done since its last inspection, and can be reductionist and misleading. It does not take into account changes in the framework since the setting's previous inspection, so leaves parents and pupils thinking that a school or college may have declined, when in fact it is being inspected under very different frameworks.
12. ASCL calls for the removal of both the overall effectiveness judgement and the four separate judgements, meaning that reports are narrative based on the strengths and weaknesses of the provider. We strongly urge Ofsted and the Department for Education to consult on this change as soon as possible.
13. The proposals in this consultation will go some way towards supporting school and college leaders during and after an inspection, but Ofsted must be aware of the significant impact inspection has on leaders' mental health. Our members describe their working week as being of two halves: Monday to Wednesday waiting for 'the call', and then Thursday to Friday when they can focus on leading their institution.
14. While we strongly support the intent behind the EIF, we think its implementation has been flawed, and its impact damaging to leaders' wellbeing and their trust in their inspection process.
15. Most providers report a good experience of inspection, and Ofsted has worked with us closely to see what more can be done. However, the 'threat' of a downgraded judgement remains constant in the system, and inspection experience is still too variable. These proposals will go some way towards fixing this, but do not go far enough: more reform to the process and reporting is needed.
16. Overall, we welcome this consultation, strongly support all the proposals in it, but think that more needs to be done to rebuild the trust and support of the profession in the inspectorate.

C. Answers to specific questions

Question 1: Do you support the proposal to enhance on-site professional dialogue during inspections to help address any issues before the end of the inspection visit?

17. Strongly agree.
18. Most ASCL members report that the lead inspector (LI) does this routinely. However, in a small number of inspections that we are told about, this doesn't happen. Formalising this dialogue is therefore welcome.
19. If this proposal is implemented, Ofsted should produce material to explain to school and college leaders what they should expect from their inspection team in this regard. This will help manage expectations on both sides, and allow providers to feel empowered to raise concerns if dialogues are not being conducted properly.
20. These dialogues should include the provision of an Ofsted contact outside of the inspection team, who school and college leaders can talk to at any point before or during the inspection (not just the day after, as suggested in Proposal 2). Inspection can be a daunting process, and some school and college leaders may feel more comfortable raising concerns with an external inspector rather than the LI.

Question 2: Do you support the proposal to introduce a new opportunity for providers to contact Ofsted the day after an inspection if they have any unresolved concerns?

21. Strongly agree.
22. As above (paragraph 20), it is important that providers feel they can raise concerns with an external inspector before, during and after the inspection.
23. Providing this as a formal opportunity is very welcome. Many ASCL members have raised concerns that they have to wait until the draft report before the current complaints process can begin.
24. We note that questions or concerns will be directed to an inspector "relevant to the type of inspection". We hope that within the school and college sector this means someone with direct experience of the relevant phase of education (i.e. EYFS, primary, middle, secondary, post-16 or all-through). This would be very welcome. The implementation of the EIF has been particularly challenging for small primary schools, so it's crucial that inspectors understand this setting.

Question 3: Do you support the proposal to introduce new arrangements for finalising reports and considering formal challenges to inspection outcomes?

25. Strongly agree.
26. The two routes set out make sense and will be clear to providers. We welcome the separation of these two processes. ASCL members report frustration that they currently have to work through the various steps, meaning that a serious concern or challenge to the inspection outcome might take many weeks to process.
27. As the consultation states, a majority of providers do not require this, and so separating out serious concerns from minor points of clarity or factual accuracy is sensible.

28. The consultation states that providers choosing the first route would not 'normally' have a later opportunity to raise a formal complaint. We think the word 'normally' is ambiguous, and appears to be doing a lot of heavy lifting here. Ofsted must set out the circumstances in which this would be available for a provider. We would request that ASCL is consulted on this.
29. Ofsted should make clear that, if a school or college is making a formal complaint, it does not have to publish its report until the complaint is resolved. Some leaders are not always sure about the legal requirements in this context.
30. We strongly support the proposal that formal complaints are handled by an Ofsted staff member outside of the inspection team. We would go further and suggest that most formal complaints are considered by an Ofsted staff member working in a different region, to ensure as much independence as possible.
31. We hope that the independent inspector assigned to the complaint will stay with the provider as the complaints process progresses; and that they will build in opportunities for discussion and dialogue. Currently, too much of the process relies on one-way email communication, with little opportunity to actually discuss the complaint.
32. As above, we think that all aspects of a formal complaint should be responded to separately, with clear evidence of a decision given. It is not enough to say that it is reflected in the evidence base, as providers do not have access to this, so cannot challenge it. Reasons for decisions should be specific.
33. There should be a further opportunity to respond to the outcome of the formal challenge, without escalation to ICASO. For example, a school or college may be able to provide additional evidence – without the need for an incomplete inspection outcome – of which the external complaints reviewer was not aware. Clearly in most cases this would be included in the initial complaint, but there should be the opportunity for a further feedback loop.

Question 4: Do you support the proposal for direct escalation to ICASO and adding a periodic review of closed complaints using external representatives from the sectors we inspect?

34. Strongly agree.
35. The process set out in Proposal 3 is more streamlined and time-efficient for providers. The ability to escalate to ICASO more quickly is welcome.
36. However, we note that ICASO's function is to regulate whether the complaints process was carried out properly, not the inspection itself. ICASO is also unable to overturn a judgement. This will still leave many school and college leaders with a sense that Ofsted is always 'marking its own homework', as there is no independent body which can actually overturn a judgement.
37. The proposals above may go some way towards challenging this perception, especially as complaints will be dealt with by an Ofsted staff member external to the inspection team. However, there may still be a sense of injustice if a complaint is not upheld.
38. All of this could be resolved by removing the overall effectiveness (and other) judgements, which often are the largest point of contention. ASCL would like to see an urgent consultation on this.

39. We welcome the suggestion of periodical reviews of this process, and would ask to be included in those reviews as a key stakeholder.

Question 5: Please provide any representations/evidence of the impact of our proposals for the purposes of the Public Sector Equality Duty (Equality Act 2010).

40. Schools and colleges in areas of low socio-economic advantage are more likely to be graded RI or inadequate. These providers are therefore more likely to use these processes. This makes it even more important that the new processes are introduced, and that their impact on schools and colleges, particularly those serving more disadvantaged intakes, is carefully monitored.

41. This also heightens the importance of a consultation on single-phase judgements, as the current inspection system disproportionately disadvantages providers serving poorer communities.

D. Conclusion

42. We strongly agree with all of the proposals set out in this consultation.

43. ASCL would welcome working closely with Ofsted on the implementation of them, especially around the wording used in the handbook.

44. As these proposals are unlikely to be confirmed or implemented in the autumn term, it is important that Ofsted takes a measured approach to complaints during this time, and tries to fulfil the spirit of these proposals until they are confirmed. This could include, for example, ensuring that all LIs are offering leaders opportunities to raise concerns.

45. We strongly urge Ofsted and the DfE to consult on the removal of single-phase judgement as soon as possible. An open consultation would allow both providers and users to comment on the impact of these.

46. We hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

*Tom Middlehurst
Curriculum, Assessment and Inspection Specialist
Association of School and College Leaders
September 2023*