Consultation Response Form

Consultation closing date:
10:00am on Monday 4 August 2014 on Part 2 and Part 4, and
by 10:00am on Monday 18 August 2014 on the remaining standards

Your comments on the relevant Parts must reach us by the appropriate date

RESPONSE FROM VOICE THE UNION

Proposed New Independent School Standards
If you would prefer to respond online to this consultation please use the following link: https://www.education.gov.uk/consultations

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name: Ian Toone

Please tick if you are responding on behalf of your organisation.  

Name of Organisation (if applicable): Voice: the union for education professionals

Address:  

2 St James’ Court, Friar Gate, Derby  DE1 1BT

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the GOV.UK ‘Contact Us’ page.
New Independent School Standards (ISS)

As the consultation document explains, replacing the existing ISS regulations is part of a wider programme of regulatory reform aimed at raising standards in independent schools in England. The Department is proposing to move from the current regime for the regulation of independent schools contained in the Education Act 2002, to that in the Education and Skills Act 2008. Most of the existing provisions in the 2002 Act mirror those in the 2008 Act, but we also propose introducing new requirements to raise standards and these are the subject of this consultation. Academies and free schools are required through their funding agreements to meet the Independent Schools Standards (except for those in Part 1 ‘Quality of education provided’).

We have divided the consultation document and this response form into eight parts to align with those in the proposed standards in the draft Schedule. We have included a draft Schedule that identifies where changes have been made to the existing standards to show what the revised standards might look like. This can be downloaded from the list of documents on the right of the consultation web page.
The changes to the SMSC standard will also be reflected in updated guidance to maintained schools and we will take responses to this consultation into account in doing so.

**PART 1 – Quality of education provided**

1 a) Do you agree that Part 1 requires strengthening in order to raise the threshold for meeting the quality of education standard, securing continued improvement and ensuring students have experience in a range of subjects appropriate to their age and aptitude? If not, why not?

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Comments:

The proposed changes to the Independent School Standards risk imposing a centrally prescribed curriculum and pedagogy on schools which is directly opposed to the present Government’s intention to reduce regulatory burdens on schools and is, in any case, entirely inappropriate for the independent schools sector. Independent schools are accountable to fee-paying parents for the quality of education provided, and parents often choose a particular school because of its distinctive character in terms of the curricular and extra-curricular services which it provides. Whilst the Government is entitled to set minimum operating standards for such schools, such standards should relate primarily to safeguarding children from possible abuse; independent schools should be able to exercise autonomy in matters of curriculum and pedagogy, subject to the acceptance and approval of parents and pupils.

There is no justification, or even any evidence, for concluding that educational standards are in need of strengthening or improvement in the independent sector. All the evidence suggests that it is in unregistered schools (which may be Muslim madrassahs, Jewish yeshivas, or Christian Sunday schools) where the problems lie. As such, it would be better for the Government to focus on strengthening compliance with existing legislation rather than introducing coercive strategies aimed at those institutions which are already complying with relevant legislation.

Extending the powers of the Secretary of State in the way proposed may have negative unintended consequences, not least because such powers may be used by successive Secretaries of State in inappropriate ways which were not originally envisaged.

Regulations of this kind require very careful consideration and analysis before they are enacted or even proposed. The hasty way in which this consultation is being conducted signals a knee-jerk reaction rather than the measured response which is required.
1 b) Do you agree that the proposed changes to Part 1 will achieve the aim of raising the threshold for meeting the quality of education standard, securing continued improvement and ensuring students have experience in a range of subjects appropriate to their age and aptitude? If not, why not and how else could this be achieved?

[ ] Agree  [X] Disagree  [ ] Not sure

Comments:

The consultation document states that the “overarching intention is to raise the bar to ensure all independent schools perform at a level that is consistent with expectations in schools in the state sector”. This makes no sense as benchmarking data applicable to state-funded schools (e.g. data from RAISEonline, the school data dashboard, PANDA and L3VA) have no equivalents in the independent sector, and such an approach would severely hamper the freedom which independent schools currently have in choosing their own qualifications (regardless of whether they are approved by Government or included in league tables), and determining their own curricula and pedagogies (regardless of any National Curriculum or current fads and fashions).

There is no evidence that the current regulations are failing to protect pupils in the independent sector and, as these regulations have only recently been amended, any further changes should be predicated on a proper evaluation of the impact of these recent changes. Government attention would be better focused on ensuring that unregistered schools (as mentioned above) are properly regulated, rather than compromising the autonomy of independent schools which are already fulfilling all regulatory requirements.

1 c) Do you agree that inserting the word ‘good’ in Part 1 at paragraph 3 (a), (e), (f) and (g) should help to achieve the aim of raising the threshold for meeting the quality of education standard and securing continued improvement? If not, why not and how else might this be achieved?

[ ] Agree  [X] Disagree  [ ] Not sure

Comments:

There is no indication that standards are currently poor in the independent sector, so the proposed change appears to be redundant, especially as fee-paying parents have the freedom to move their children to another school if they feel that they are not receiving the service for which they are paying.
1 d) Do you consider that the changes to Part 1 will help address any concerns about extremism including extremist teaching and curriculum content, and reinforce principles of equality and fundamental British values? If not, why not and how else might this be achieved?

| Yes | ✓ No | Not Sure |

Comments:

It is unhelpful to equate failure to promote British values with extremism, especially extremism of a kind which would trigger safeguarding concerns. This is a very different way of viewing how schools should deal with such sensitive issues as belief, religion, culture, sexual ethics and discrimination and represents a radical departure from the current measured and proportionate approach to encouraging tolerance and promoting equality and diversity.

The notion of ‘British values’ is relatively ill-defined and begs the question ‘Who is defining them?’ It is not helpful to give the impression that values such as democracy, the rule of law, individual liberty, mutual respect and tolerance of those with different faiths and beliefs are peculiarly British or are more developed in Britain than elsewhere. It would be better to acknowledge that these are key values expressed in international human rights legislation.

As already stated, it would be more legitimate and effective to mobilise resources towards the eradication of unregulated activities in unregistered schools.

1 e) The intention is for the strengthened quality of education standards not to affect the very many effective and high performing independent schools, but to impact on coasting and poorly performing independent schools where performance needs to be improved. Do you consider that the changes to Part 1 will achieve this aim? If not, why not and how else might they be achieved?

| Yes | ✓ No | Not Sure |

Comments:

Whilst it may be legitimate for the Government to regulate performance in schools which are funded by the state, it is the right of fee-paying parents to stipulate what they require of an independent school (and such requirements may differ from the Government’s definition of ‘good performance’). Independent schools should be free to make their own decisions in respect of curriculum, qualifications, assessment methods and pedagogy without being subject to political interference. Such schools are answerable primarily to parents rather than the Government, and consumer accountability is, arguably, more effective in the independent sector than the imposition of national norms or comparability with state-school expectations.
PART 2 - Spiritual, moral, social and cultural development of pupils

2 a) Do you agree that changes to Part 2 are required to ensure proprietors actively promote the fundamental British values as set out in paragraph 5(a) and that schools are actively promoting the principles set out in paragraph 5(b), including: tolerance; respect for other people; and respect for democracy? If not, why not?

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Comments:

We have already stated our view that the concept of ‘British values’ is inherently problematic (see our response to 1d above). The change from ‘encourage pupils to respect’ to ‘actively promote’ in relation to fundamental British values risks creating a Government-led ‘Trojan horse’ which would not prevent a repetition of the Birmingham ‘Trojan horse’ situation but could threaten and constrain schools, especially those with a particular religious or philosophical foundation (whether Muslim, Christian or Steiner-Waldorf). The Government’s proposals risk imposing an ideological, politically motivated restriction on schools.

It would be preferable for the Government to require schools to promote inclusion and community cohesion rather than British values, which has the potential to be counter-productive by segregating and stereotyping Muslim communities in particular and other faith communities generally.

2 b) The policy intention of the proposed changes to Part 2 is to make clear to schools that they should be actively promoting fundamental British values, not just acknowledging them. Do you consider the changes to Part 2 will achieve this aim? If not, why not and how else might they be achieved?

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<th>Yes</th>
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Comments:

The majority of independent schools already promote British values. The minority which do not are unlikely to change their stance as a result of revised regulations. The way to achieve the Government’s aim is by promoting social inclusion and community cohesion, and by targeting unregistered schools rather than by causing stress and disruption to legitimate and compliant schools, especially as it is not clear to what lengths schools would need to go to ensure that they are meeting the new standard of ‘actively promoting’ British values. Some schools may feel that they can only do this by challenging pupils and parents over their beliefs and practices, which can only lead to greater conflict and discrimination.
2 c) Maintained schools will also be required to promote fundamental British values. We are proposing to update the guidance to maintained schools to mirror the requirements set out here. Do you agree that the government should set the same expectations for maintained schools as for free schools, academies and independent schools with regard to their duty to promote fundamental British values? If not, why not?

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Comments:
As we disagree with the requirements set out in the consultation, we cannot consent to their being mirrored in guidance to maintained schools. Lengthier and more meaningful consultation is needed, together with a more careful analysis of the impact of the current requirements (which were last amended only in January 2013) and a more measured, proportionate and realistic consideration of how regulations should be framed so as to ensure wide public support and effective implementation.

PART 3 – Welfare, health and safety of pupils

3 a) Do you agree that changes to Part 3 are required to ensure that these policies are not only drawn up, but are also effectively implemented?

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<th>Agree</th>
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Comments:
The changes to Part 3 are largely cosmetic and are unlikely to improve effective implementation of the welfare, health and safety of pupils. The Government’s intentions would be better met by enforcing the requirement for independent school proprietors to meet the ‘fit and proper persons test’, alongside a similar requirement for staff to be ‘fit and proper persons’.

3 b) Do you agree that schools should be required to have in place risk assessment policies and be able to demonstrate that they are implemented effectively and that action is taken to address identified risks? If not, why not?

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Comments:

It is not clear what this is intended to add to current requirements and practice. Schools already carry out risk assessments in compliance with current health and safety legislation.

PART 4 – Suitability of staff, supply staff and proprietors

4 These standards are quite detailed, but we would welcome comments on them. In particular, do you consider them to be sufficient and appropriate to ensure the suitability of independent school proprietors and those employed in independent schools? If not, why not?

Yes ☐ No ☑ Not Sure ☐

Comments:

Most of the changes appear designed to bring the 2012 regulations up to date in the light of subsequent legislative changes. These changes are largely technical and uncontroversial. However, there are two areas in which amendments need to be made in order to render these standards sufficient and appropriate to ensure the suitability of independent school proprietors and those employed in independent schools.

The first concerns the Single Central Register. §21(3) appears to enforce a retrospective requirement for the Single Central Register to contain the results of prohibition orders (or similar directions) from 1st May 2007, even though such checks were not required before April 2014 (when ‘Keeping Children Safe in Education’ was published) and only became an inspection requirement from September 2014. If this is not corrected, it may put all schools technically in breach of the regulations.

The second concerns immigration checks for governors. This is mentioned in the consultation document in §3.2.4(d) but does not feature in the draft schedule. A growing number of independent schools, especially those with overseas links, are wishing to appoint overseas governors who lack the right to work in the UK. As being a governor is a voluntary role, the right to work in the UK should not be an issue, but the current standards make it an issue, thus preventing independent schools from appointing the most talented, suitable and appropriate people to the role of governor.

PART 5 – Premises of and accommodation at schools

5 No significant changes are proposed to this Part as it was revised in January 2013 to align with requirements for maintained schools.
Comments:
As no changes are proposed to this part (apart from changing 'pupil' to 'student') there is nothing to comment upon.

PART 6 – Provision of information

6 a) Do you agree with the proposal to remove the requirement for schools to make details of staff available to parents of students and prospective students? If not, why not?

Agree  Disagree  Not sure

Comments:
It is not clear what rationale underlies the proposal to remove this requirement. The current regulations require schools to publish the number of staff at the school, including temporary staff, and a summary of their qualifications. This would appear to be a reasonable requirement and one which many parents may wish to take into account when deciding whether or not a particular school is appropriate for their children.

6 b) Do you agree with the introduction of a new requirement for schools to publish their inspection reports on their websites? If not, why not?

Agree  Disagree  Not sure

Comments:
This would provide useful information to prospective parents and students.

PART 7 – Manner in which complaints are handled

7 The main changes are intended to ensure that schools record what action is taken as a result of a complaint and to no longer require schools to record all complaints, but to use their judgment to determine when to do so. Do you agree
that changes to Part 7 are required and that the proposed changes will achieve this? If not, why not?

☐ Agree  ✔ Disagree  ☐ Not sure

Comments:

Whilst acknowledging that it may not be practicable for schools to make a record every time a parent informally raises an issue with a teacher in the playground, the proposal goes too far in allowing schools complete discretion to determine which complaints to record. This could lead to important complaints being concealed. A register of complaints is especially important for inspectors. There should be a requirement to record all formal complaints, or complaints which are dealt with by means of a formal process.

PART 8 – Quality of leadership and management

8 Do you agree that the new Part 8 standards are appropriate and will help drive up the quality of leadership and management in independent schools? If not, why not?

☐ Agree  ✔ Disagree  ☐ Not sure

Comments:

Leadership and management are already assessed during inspection, so it is not clear why this regulatory standard is required. One problem with enshrining such a standard in legislation is that it raises questions as to how school leaders will be expected to demonstrate good skills and knowledge and actively promote the well-being of pupils. If the intention is that it would give scope for the Secretary of State to impose his or own interpretation, this would make for very bad legislation. As the standard seems to apply to governance as well as management, the proposed standard could create role ambiguity between headteachers and the senior leadership team on the one hand and governors on the other hand.

Conclusion - Proposed replacement ISS regulations

9 a) Do you consider that any of the proposed changes to the regulations need to be amended from the draft text. Please explain why.
9 b) If the standards as currently drafted were to form part of the new regulations, could you indicate the extent to which you see the new requirements adding a burden, including the likely cost of reviewing them and the cost of making any required changes to school policies? Please explain below.

Comments:
See responses to previous questions.

9 c) Do you have any suggestions for how the Department might assist schools in meeting the new standards, particularly those that are small (fewer than 50, but more than 10 employees) or micro (fewer than 10 employees) businesses? If so, please set this out below.

Comments:
The best way in which the Department can assist schools is by withdrawing the new standards pending more extended and meaningful consultation and careful consideration of the issues raised above.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.
Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

- [ ] Yes
- [ ] No

All DfE public consultations are required to meet the Cabinet Office Principles on Consultation

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions
- departments should explain what responses they have received and how these have been used in formulating policy
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

If you have any comments on how DfE consultations are conducted, please contact Aileen Shaw, DfE Consultation Coordinator, tel: 0370 000 2288 / email: aileen.shaw@education.gsi.gov.uk

Thank you for taking time to respond to this consultation
Completed responses should be sent to the address shown below by 10:00am on Monday 4 August 2014 for Part 2 and Part 4 and by 10:00am on Monday 18 August 2014 for the remaining standards.

Send by post to:

ISS Consultation, IESGD
Department for Education
FAO Yvonne Feldon
GF, Area F
Mowden Hall
Staindrop Road
Darlington
DL3 9BG

Send by e-mail to: IndependentSchoolStandards.Consultation@education.gsi.gov.uk