

Ofsted reform: Where are we now and where do we go from here?

📅 09 February 2024 👤 Katie Michelin

In 2023 the conversation around Ofsted reform undoubtedly accelerated. Towards the end of last year, we published the results of our [school leaders survey](#) which indicated that the majority of leaders still sought meaningful change.

We expected further developments in 2024 and the first month of the calendar year certainly delivered on that front. Below, we have summarised some of the recent developments and highlighted what we can expect next.

Ofsted's response to the Prevention of Future Deaths Report

In its [response to the coroner's recommendations](#) following the inquest into Ruth Perry's death, Ofsted stated that it accepted the coroner's findings and committed to further changes.

Ofsted's response, which was published on 19 January 2024, addresses the seven concerns raised by the coroner, in each case setting out the steps it has already taken, as well as what it proposes to do next.

A change in tone

Many have observed the change in tone evident in this response, a shift led by the new Chief Inspector, Sir Martyn Oliver, who took up his post at the start of this year.

In terms of further measures, Ofsted includes reference to the "comprehensive listening exercise", what it calls the "Big Listen", which it plans to undertake. Further details should be available in the coming weeks and Ofsted has committed to completing this exercise by June 2024.

Ahead of that process, Ofsted will carry out an internal review regarding the inspection of safeguarding and how it fits within the inspection framework judgements, an action stemming from the coroner's concern about the potential damaging and disproportionate consequences of safeguarding as a limiting judgement.

Revised School Inspection Handbook

In conjunction with its response to the coroner's report, Ofsted issued an updated version of the School Inspection Handbook, making various amendments and additions supporting the messaging in its response. [Full details of the changes](#) include a greater emphasis on expected standards of inspector conduct and the support that should be available for headteachers throughout, as well as at specific points of, an inspection.

The changes to the Handbook formalise various sensible measures to protect and support school leaders during inspection. It is vital that those measures are properly implemented in all cases. We know schools' frustrations when the expectations of the Handbook are not in fact followed, a flaw which has in the past been compounded by an unhelpful, opaque complaints process (see further on that below).

New guidance on pausing inspections

The inquest into Ruth Perry's death highlighted some holes in Ofsted's training and policies, including in relation to dealing with distress during inspection and pausing inspection in some such cases. In addition to changes to the inspection process designed to deal with that (as mentioned above), Ofsted has published [dedicated guidance on pausing inspections](#).

Importantly, this is different to an inspection being deferred, for which there is separate, existing guidance. In a pausing scenario, inspectors will already be on site and a pause can be initiated by the lead inspector or requested by the school. Inspections may be paused in "exceptional circumstances that mean it cannot reasonably proceed", with examples provided within the policy.

Although Ofsted envisages that any "pause" will be for a short period, with the inspection resuming the following school day, it is acknowledged that this may not always be possible and where the pause is longer than five working days, Ofsted's policy on incomplete inspections may need to be invoked.

It is worth noting that where a decision is taken not to pause an inspection, the lead inspector is expected to explain to school leaders why this decision was made.

Changes to complaints procedure

We have previously written about [Ofsted's consultation on changes to its complaints procedure](#) and [the outcome of that exercise](#). In January, "phase one" of those changes took effect, with enhanced and prescribed dialogue during inspection and the opportunity for providers to speak to someone senior from Ofsted, who has not been involved with the inspection, the day after an inspection visit.

In its response to the coroner's findings, Ofsted committed to creating a complaints process which is "trusted by the sector". It suggests that there will be further amendments to the complaints procedure and inspector code of conduct to reflect how providers can raise concerns about an inspector's behaviour, an action which will be completed by the end of March.

It will be interesting to see whether responses to the Big Listen prompt further reform to how Ofsted handles complaints. Despite the recent consultation and changes, transparency and objectivity are still not words that many readily associate with Ofsted's approach to handling complaints and the extent of changes decided upon last year does not seem fitting for the era in which we now find ourselves.

For example, there is frustration amongst school and trust leaders that although ICASO's role in the new process is triggered earlier on, the remit and powers of that body remain limited. As highlighted below, MPs have recommended that the Chief Inspector explores the option of setting up an independent body to review inspection judgements.

Education Committee report on Ofsted's work with schools

On 29 January 2024, [the Education Select Committee published a report](#) with the aim of providing recommendations to the Chief Inspector in light of the immediate challenges he faces following the "intensified public scrutiny and debate" surrounding Ofsted.

The inquiry was launched in June 2023, so many months prior to the conclusion of the inquest into Ruth Perry's death. The final report calls for "tangible changes" and makes numerous recommendations spanning the inspection process, the scope of inspections and post-inspection implications and actions. These include a headline-grabbing call for the Department for Education and Ofsted to work together "to develop an alternative to the current single-word overall judgement".

The report describes the "high stakes" nature of the current system, with the school intervention system, particularly the more recent introduction of intervention in coasting schools, exacerbating this issue.

"An in-depth review of the complaints process"

On complaints about Ofsted inspections, the Committee calls for an "in-depth review of the complaints process", including consideration of the establishment of an independent body, as mentioned above.

It also highlights the disadvantage schools are placed at when challenging an inspection as a result of being denied access to the evidence which informed the judgements, concluding that "Ofsted must allow schools to gain access to the evidence base used to reach a judgement when making a complaint".

There are also recommendations made with regard to the expertise of inspectors, reducing the frequency but increasing the depth of inspections, carrying out separate safeguarding audits and a call for the urgent development of a trust inspection framework.

In many respects, the Select Committee's report takes us down a well-trodden path, bringing together themes and proposals which have been well-versed in various forums, particularly over the last year. However, absorbing such a comprehensive review following conclusion of the inquest and in an election year certainly presents fresh pause for thought.

Obstacles and challenges

The Select Committee's recommendations are not without their obstacles and challenges. A number of the proposals point towards a potentially greater inspection burden for schools and would require additional resource which doesn't appear to be available.

Whilst there are some more simple and practical recommendations (the proposal to amend reference to overall effectiveness judgements only on Ofsted and DfE websites for example), others equate to root and branch reform and will be significant undertakings, with potential changes to primary legislation. Others, such as the push to develop an inspection framework for trusts, are arguably premature.

Have your say

Schools and trusts can have their say as the Big Listen commences and we will provide further updates as the year continues. In the meantime, with inspection activity having resumed, we hope that the changes made to date are having a positive impact.

Key contact



Katie Michelin

Partner

katie.michelon@brownejacobson.com

+44 (0)115 976 6189

Related expertise

Education law

Ofsted inspections and interventions