

The Watchmen Revisited



Curriculum and Faith in Ofsted's new
Inspection Framework

Iain Mansfield and Tim Clark

Foreword by Rt Hon Baroness Morgan of Cotes

The background of the lower half of the cover is a photograph of a weathered, light-colored stone wall. A dark, elongated shadow of a person is cast onto the wall from the right side. Overlaid on this image is the Latin phrase "QUIS CUSTODIET IPSOS CUSTODES?" in a large, dark, serif font, arranged in two lines.

QUIS CUSTODIET
IPPOS CUSTODES?

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Foreword

By Rt Hon Baroness Morgan of Cotes

Education is one of the public policy areas people not only care about but have strong opinions on – everyone has been to school themselves and many of us will have children going through the system, know someone who is a teacher, now work in the system or have to recruit young people who have been through our education system.

This important report identifies the next challenges for our school inspectorate. The fact that we are now able to focus on these specific areas demonstrates just what an effective job Ofsted has done in shining a light for almost three decades on the performance of our schools and colleges. Ofsted's annual report is a key moment in measuring the overall improvement of the English education system. Those of us who want to see continued rising standards should support the role Ofsted performs. That is why it was such a crazy suggestion in the last Labour manifesto that Ofsted should be scrapped - letting down the very young people who need the school system to work for them.

The issues highlighted here are not necessarily new. As Education Secretary from 2014 – 2016 I remember discussing with the current HMCI's predecessor that Ofsted was an inspectorate and not a school improvement body. It is for the Department for Education to set education policy and Ofsted must inspect schools within those policy boundaries. Their annual report, as well as the many conversations between Ofsted and the Department, provide space for suggestions to be made about possible policy changes based on Ofsted's inspection experiences.

I welcome Ofsted's recent changes to their inspection framework. Given my focus on character education, which I wrote about in 'Taught not caught: Educating for 21st century character' which Policy Exchange kindly helped me to launch, I think the focus on what a broad and balanced curriculum really means is a significant step forward. But results still matter – particularly for those young people for whom aspirations are still set too low by some schools.

I firmly believe that the Conservative Government's focus on academisation has driven up standards in schools across England. Part of the success of academies, if they choose to make use of them, are the freedoms they are given. We must be careful not to undermine those academy freedoms by the back door and it is important that all of us, including Ofsted respect that.

The report also makes important recommendations about the relationship between Ofsted and faith schools. This is a tricky area which requires empathy, calm reflection and constant dialogue. We must never

confuse those who wish to wish to overthrow our way of life or to incite violence towards others with those who are simply different.

Education is all about the future – the future of pupils and students and the future of our country. It is because we all care so much about this that so much is written about it. Working in the system, including inspecting schools, is not easy and those who do it deserve our support while recognising that the ever-changing nature of the education landscape means that there will always be complicated areas of policy and practice to be debated, as Policy Exchange highlight here.

Executive Summary

Ofsted is the linchpin of the English school system. It is the guardian of standards, the champion of pupils and the enabler of informed choice by parents. In a system which rightly grants a high level of freedom to school leaders, a robust and rigorous system of inspection is essential – and Ofsted has therefore played a critical role in ensuring that over 80% of children are now taught in Good and Outstanding schools.

Policy Exchange is pleased that many of the recommendations in our seminal 2014 report, *Watching the Watchmen*, have been implemented. We strongly endorse the principles behind Ofsted's new Inspection Framework. One notable aspect of our research is that even many of the most robust public critics of how the Framework has been applied endorse the principles behind it, even while they disagree with elements of its implementation. We consider it is absolutely right that Ofsted should consider the curriculum, as well as the results, when assessing a school: a broad, rigorous and knowledge-rich curriculum is at the heart of educational success. The robust stance on discipline, essential to both pupil attainment and teacher retention, echoes the approach recommended in Policy Exchange's report, *It Just Grinds me down* and is similarly to be welcomed. Furthermore, recent policy initiatives outwith the Framework, including the decision to reinstate regular inspections for Outstanding schools and Ofsted's new 'judgement-free' approach to supporting 'stuck schools' should be unreservedly commended.

In the recent high-profile public debate between Ofsted and a number of school leaders, it should be emphasised that those who have been both criticising and defending the framework are, in the main, experienced educationalists with a track record of delivering high educational outcomes for children, and who are committed to core elements of educational success, including high standards, good discipline and a knowledge-rich curriculum. We believe the current debate constitutes a reasoned disagreement between professionals who share similar aims, not an ideological dispute. Policy Exchange's project approaches the discussion in this light, with the aim of finding a resolution that results in outcomes serving the best educational interests of pupils.

In particular, the widespread concern that results do not matter under the new Framework is not correct. Analysing 142 Section 5 secondary inspections since September 2019, using the new Framework reveals that of the 10 schools with Progress 8 above +0.5, 40% were graded Outstanding and 80% Good or better, while of the 33 schools with Progress 8 below -0.5, none was graded Outstanding and only 9% were graded Good. There are legitimate questions to be asked as to whether

the balance between results and curriculum is correct, and there have been individual inspections where insufficient attention has been paid to results; however, it is not true to say results do not matter.

Despite the protestations of some school leaders, it is clear that ‘gaming’ does, at times, occur in the system and we find many of the cases cited by Her Majesty’s Chief Inspector (HMCI) to be compelling. This includes some examples in otherwise leading multi-academy trusts (MATs). Ofsted’s work to tackle genuine instances of extremism and radicalisation, in particular in unregistered schools, is also crucial and must be supported – and we welcome the additional funding recently allocated to this purpose by the Education Secretary.

Nevertheless, our research has found areas of concern. These typically arise in three main areas

- Issues related to whether Ofsted has gone beyond statutory requirements and Department for Education guidance to create its own education policy.
- Issues related to whether Ofsted has a preferred method or approach – either as a matter of policy or practice – such as on the length of Key Stages or on how to prepare learners for life in modern Britain.
- Issues concerning the implementation of the Framework, such as the training of inspectors or and consistency of inspections.

Curriculum

Ofsted has acknowledged that they are using the National Curriculum as a benchmark under the new Framework when assessing academies. This is reflected in the words of the framework, which sets out that academies must be following a curriculum of ‘*comparable breadth and ambition*’ to the National Curriculum. This is distinct from the wording used under the Education Act (2011), which merely states that academies must offer a curriculum that is ‘*broad and balanced*’. We consider it important for inspectors to recognise that the National Curriculum is neither a minimum standard nor a preferred approach, and that – beyond the core curriculum expectations set out by the Department for Education, in particular the emphasis on the EBacc – Ofsted should equip its inspectors, when examining academies or independent schools, to consider each curriculum on its own merits, without prejudice to how similar or dissimilar they are to the National Curriculum.

Ofsted has also stated that they do not have a preferred length of Key Stages 3 and 4. Whilst acknowledging this, we consider the wording of the Inspection Framework, and consequent inspection practice, has created a *de facto* preference. While in some cases a three year Key Stage 4 could result in a narrowing of the curriculum, in many cases it will not: we saw repeated occurrences of three year Key Stage 4 models being implemented in tandem with a broad curriculum, high numbers of students studying creative subjects, high levels of EBacc entry and excellent Progress 8 results,

for both all students and disadvantaged students.

We have heard significant concerns regarding the implementation of the new Inspection Framework with respect to subject ‘deep dives’. In principle, we support the concept of deep dives and believe they are an important part of maintaining a stretching and knowledge-rich curriculum. However, we believe a number of elements require further review, including the implementation of deep dives in smaller primary schools, the burden of the workload on staff, ensuring consistency in how subjects are selected for deep dives, and whether or not it is appropriate for inspectors to undertake deep dives in subjects in which they are not specialist in, at either primary or secondary level. We also welcome the fact that Ofsted has informed us they will shortly be consulting on a revised approach to their complaints procedure.

Overall, while supporting the emphasis on the curriculum, it is critical that this is not implemented in a way that undermines the academy freedoms that have been responsible for driving up standards across England or that places insufficient emphasis on results.

Church and Faith schools

Church and faith schools (hereafter ‘faith schools’) are an integral part of the educational fabric of this country and make a valuable and diverse contribution to our society. There exists a wide variety of different types of faith school in the UK, in both the state and independent sector and, historically, those in the independent sector have rightly been subject to a lower degree of control than those that are in receipt of public money.

Faith schools play an important role in meeting the basic rights expressed under Article 2 of the Protocol to the European Convention on Human Rights, enshrined in UK law via the Human Rights Act, which states:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

We welcome the fact that Ofsted has confirmed that it should be an organisation which acts impartially towards those of all faiths and of none. While we accept that is there intention, there have been too many occasions when a secularist bias has been displayed. It is also important for Ofsted to recognise that, however unintentionally, some of the language they have used has created a perception amongst some faith communities that Ofsted has a secularist agenda. The term ‘muscular liberalism’ was repeatedly cited to us as a concern by individuals of many different faiths, as was the perceived suggestion by Ofsted that freedom of religion should be limited to the private sphere. Ofsted must take active steps to address these matters and ensure that it is seen as an impartial regulator in this respect.

In some areas Ofsted has gone beyond the requirements of both statute and Departmental guidance to impose additional requirements

upon schools, in both the state and independent sector. We consider that Ofsted could act with greater flexibility when it comes to faith schools and do more to distinguish between peaceful, law-abiding differences in cultural values, and genuine extremism. In particular we consider that where Department for Education policy has been clearly set out, such as at what age it is mandatory for schools to teach about LGBT+ matters, Ofsted should not show less flexibility than is established by Departmental policies.

We commend Ofsted's readiness to act to tackle genuine extremism, as well as for its determination to tackle radicalisation in unregistered schools. However, by damaging its relationship with the faith communities it has made this important task more difficult. This is for three reasons:

- Firstly, it is an undue focus of time and resources on the wrong area: it is notable neither the Trojan Horse scandal nor the case of Umar Haque – two of the clearest cases of extremism in schools – were detected by Ofsted.
- Secondly, if parents of faith feel their children cannot receive an education that respects their belief in regulated schools, they are more likely to seek out alternative unregistered provision, where they will be more vulnerable to radicalisation.
- Thirdly, by alienating peaceful, law-abiding people of faith Ofsted makes it harder to work with these communities to tackle radicalisation.

We consider that, where faith communities feel alienated, restoring relationships will strengthen Ofsted's ability to tackle radicalisation by working alongside, rather than in opposition to, communities of faith

Conclusion

Ofsted remains a highly effective organisation. It occupies an essential role in our school system and it is important that this role is not diminished. Furthermore, its new Inspection Framework is fundamentally correct in its principles: it is right that inspectors should consider the curriculum as well as results.

However, as is often the case with new Frameworks, there are areas which need to be recalibrated and reset. There needs to be more consistency in ensuring that results are always an important part of an inspection judgement and, while inspectors are right to critically examine the curriculum, in the absence of 'gaming' they should be careful not to substitute their judgement for that of headteachers who are producing good results. Where freedom and flexibility has been granted by Department for Education policy, whether to academies, faith schools or elsewhere, Ofsted should be careful to ensure it is not reducing that freedom, either as a matter of policy or inspection practice.

Overall, we consider the recommendations that follow would strengthen and enhance Ofsted's implementation of the Framework.

Recommendations

1. Ofsted should cease from seeking to set educational policy.

Ofsted is an inspectorate, and its role should be focused upon delivering its statutory duty of inspecting schools to a high standard according to the prescripts set out in law and in Department of Education guidance. Equally, the Department for Education has a duty to make its policy intentions clear to all involved.

2. The new Inspection Framework should be retained. However, three small but significant modifications should be made to the School Inspection Framework:

- a. The fifth bullet of paragraph 239 should be amended to read:
“Whether leaders seek to engage parents and their community thoughtfully and positively in a way that supports pupils’ education. Also, whether leaders actively seek to take the views of parents into account, while also being thoughtful in drawing boundaries and resisting inappropriate attempts to influence what is taught and the day-to-day life of the school.” This would ensure that leaders are judged as to whether they seek to take the views of parents into account, rather than solely being required to engage them and to resist inappropriate attempts at influence.
- b. The final sentence in paragraph 174 should be altered to,
“Academies are expected to offer all pupils a broad and balanced curriculum.” This would bring the guidance in line with the Education Act (2011).
- c. The following sentence should be deleted from paragraph 176: *“If a school has shortened key stage 3, inspectors will look to see that the school has made provision to ensure that pupils still have the opportunity to study a broad range of subjects, commensurate with the national curriculum, in Years 7 to 9.”* This would bring the guidance in line with Ofsted’s statement that they do not have a preferred length of Key Stage 3 or 4.

3. Results should always be an important part of every inspection.

Inspectors should actively consider school’s results and they should be referred to prominently in every report. Both curriculum and results should be considered when determining a school’s rating: when results are well below national average, a school should not normally be rated Good; similarly, when a school’s results are well above national average, unless ‘gaming’ is occurring, inspectors should be careful to ensure that they are not substituting

a theoretical judgement on curriculum over the fact that it has demonstrably achieved results.

4. **Ofsted must take steps to ensure that, when inspecting academies, inspectors are impartially assessing whether the curriculum is broad and balanced.** Ofsted must be clear that that National Curriculum is not a minimum standard and that each curriculum should be judged on its own merits, without reference as to how closely or not it resembles the National Curriculum. The Department for Education should issue guidance to support this, drawn up in consultation with Ofsted and school leaders, which would include example alternative curricula to ensure that National Curriculum is not the only example of whether a curriculum is 'broad and balanced', as well as providing high-level principled guidance on what sort of behaviours would, and would not, constitute as gaming.
5. **Ofsted should review their processes and policies on deep dives,** giving particular consideration to consistency, inspector training, the impact on workload and fair assessment of small primary schools, as well as whether, and under what circumstances, it is appropriate for an inspector who is not specialist in that subject to carry out a deep dive.
6. **Ofsted should seek to restore trust with the faith community.** This would include addressing concerns around the term 'muscular liberalism', as well as a greater explicit recognition of the right of parents to ensure education is in conformity with their own religious and philosophical convictions. It should take a risk-based approach to safeguarding students from extremism and radicalisation by demonstrating that it is focusing its efforts on addressing genuine extremism, particularly in unregistered schools, while being sensitive to peaceful cultural differences.
7. **Ofsted should rewrite and publish their guidance to inspectors to ensure it is in line with the Department for Education's primary school policy.** Where the Department for Education policy is explicit about a matter, such as the fact that teaching explicitly about LGBT+ matters is mandatory for secondary schools but not for primary schools, Ofsted should ensure its own guidance and the practice of its inspectors reflects this.
8. **Ofsted should show a greater flexibility in assessing how schools prepare children for life in modern Britain, particularly in primary schools.** Inspectors should be open to a greater variety of means of promoting tolerance and understanding, including those which derive from a faith-based rather than a secular world

view. Recognising the paramount importance of a child-centred approach, if a school does not wish Ofsted to question children of primary-school age about subjects that are sensitive within that faith, Ofsted must respect these wishes and this should have no impact on the inspection's conclusions and rating awarded to the school.

- **Ofsted should take meaningful action to address concerns about meetings between inspectors and children (where there are no other adults present).** This could involve the presence of an impartial adult or allowing these conversations to be recorded where the school requests it. As well as rebuilding trust and ensuring children are treated appropriately, this would also protect inspectors against unsubstantiated allegations.

Introduction

In 2014 Policy Exchange published the seminal report *Watching the Watchmen: The future of school inspections in England* that examined in detail the state of Ofsted's activities.¹ Written at a time when the number of academies was increasing rapidly and the country was undergoing major education reform, the report proved to be highly influential in setting out a radical new direction for Ofsted.

Many of its recommendations, including the ending of lesson observations, a reduction in the proportion of inspectors contracted to private outsourcing companies and the system of 'shorter' and 'longer' inspections were rapidly implemented, while other recommendations, such as that Outstanding schools should not be exempt from inspection, have been adopted more recently.

We consider the words used in *Watching the Watchmen* about the fundamental importance of Ofsted to remain as true today as they were in 2014: "In a system where schools are increasingly autonomous and diverse in their legal and operational structure, the case for an independent regulator to safeguard the public both as taxpayers and as parents is stronger than ever." And while Ofsted today is a much stronger, higher performing and robust organisation than it was in 2014, there is no public body so perfect that it cannot benefit from external scrutiny.

Our decision to undertake this report now was prompted by the adoption by Ofsted in September of a new Inspection Framework which, among other things introduced a greater emphasis on the curriculum. Since that time the Framework, and its implementation in practice, has come under significant public criticism from a diverse set of groups and individuals, including leading MAT CEOs, teaching unions and faith groups. As a steadfast champion of the need for Ofsted and a supporter of the importance of a rigorous, stretching and knowledge-rich curriculum, Policy Exchange determined to revisit a former topic and continue our assessment of the school system's invaluable Watchmen.

In writing this report, Policy Exchange has made use of:

- Round tables with head teachers, leaders of multi-academy trusts and leaders of faith communities.
- Interviews and dialogue with Ofsted and the Department for Education.
- Analysis of Ofsted Inspections undertaken under the new Framework, considering both the ratings awarded to schools and the contents of the reports.

1. <https://policyexchange.org.uk/publication/watching-the-watchmen-the-future-of-school-inspections-in-england/>

- A desk based review of information that has been written about the new Framework, including formal published reports, speeches, news articles and blogs written by those in or involved in education.

The Role of the Curriculum

The 2019 Education Inspection Framework

Ofsted's new Inspection Framework became effective from September 2019, introduced after extensive consultation. It succeeds several previous Frameworks including from 2017, 2015 and two in 2012. Between 1 September 2019 and 30 January 2020, 169 Section 5 inspections of secondary schools have been completed and published under the new Framework².

Some elements of the new Framework remain consistent with what was replaced, including the four outcomes: (1) outstanding, (2) good, (3) requires improvement and (4) inadequate. Assessors will, however, now assess schools against four Key Judgements: quality of education (an extremely broad heading); behaviour and attitudes; personal development and leadership and management. Noted features of the new framework include a significantly greater emphasis on the curriculum, a reduced emphasis on the results achieved by the school, an updated section on preparing learners for modern Britain and the introduction of an explicit consideration of how leaders are managing staff workload.

Regulations state that Section 5 inspections [full inspections] will be undertaken “within five school years”, unless schools are exempt; “good” schools are to receive a Section 8 inspection [short/2-day inspection] approximately every four years (under the previous Framework it was every three years). The latter cannot change the grading, but if evidence suggests appropriate, inspectors will recommend a future Section 5 inspection which can then change the grade up or down. Subsequent to publication of the Framework and following revelations that some “outstanding” schools had not been inspected for a decade (and of those that had, only 16% managed to retain their outstanding grading), the Department for Education announced that the previous exemption from inspection for Outstanding schools would be lifted, with the intention being to inspect all Outstanding schools within five years.

The new Framework has been subject to a considerable degree of criticism, in particular since the beginning of 2020. In January, the heads of two of the UK's leading multi-academy trusts (MATs) publicly denounced the Framework as ‘a middle-class framework for middle-class kids’ that will ‘damage outcomes for disadvantaged children’.³ Others have asserted that a major improvement in Key Stage 2 SATs was used ‘as a stick to beat us with’⁴ and that the use of the National Curriculum as an informal benchmark is threatening to undermine academy freedoms⁵.

2. Analysis of publicly available Ofsted outcomes, Key Stage arrangements (Philip Carr) and School Deprivation data by Stuart Gardner (see Annex A).

3. <https://www.thetimes.co.uk/edition/news/ofsted-accused-of-favouring-middle-class-children-with-new-regime-dkdmk8qzh>

4. <https://www.tes.com/news/exclusive-ofsted-made-3rs-success-stick-beat-us>

5. <https://www.tes.com/news/why-national-curriculum-ofsteds-gold-standard>

Other bodies have also been highly critical of the new Framework. The National Association of Headteachers (NAHT) union has described the new inspection regime as being regularly described as ‘brutal’, arguing that it ‘impacts significantly on the wellbeing of individual teachers and leaders, the day-to-day operation of a school and the delivery of the curriculum to pupils’ and ‘risks undermining the Department for Education’s fledgling recruitment and retention strategy’⁶ while the National Education Union (NEU) has called on its members to stop working for Ofsted⁷. Faith groups have indicated that they feel ‘let down’ by Ofsted after previously highly rated schools have been regularly failed under the new framework.⁸ There has also been ongoing criticism of the implementation of the framework in practice, in areas such as the variability in the quality of inspectors⁹ and on subject deep dives, particularly in areas such as the impact on primary schools and the fact that some deep dives were being carried out by inspectors who were not a specialist in that subject¹⁰.

Ofsted has responded to this criticism by announcing an additional transition year for schools to adjust their curriculum¹¹ and recruiting new subject specialists to support deep dives.¹² In the main, however, it has responded robustly to its critics. At the launch of its 2018-19 Annual Report in January, HMCI launched a vigorous defence of the new Framework, stating that ‘children need and deserve a proper, substantial, broad education for as long as schools have them’, that ‘we mustn’t succumb to the seductive but wrong-headed logic that we help disadvantaged children by turning a blind eye to schools that narrow education in this way as long as they deliver acceptable grades at the end’, and that Ofsted ‘have raised the bar for the outstanding grade, because this grade needs to mean something.’¹³ The report itself stated bluntly that “Teaching to the test, narrowing the curriculum, off-rolling and qualification-gaming have become all too common” and warned that Ofsted’s job sometimes ‘means giving difficult messages to hard-working, hard-pressed professionals.’¹⁴

The relative importance of curriculum and results

The new Key Judgement in this Framework is that entitled “Quality of Education”. Results from national tests is the penultimate of twelve bullet points in this section. This leads to one of the most fundamental questions raised by the new framework – how important are exam results for judging school effectiveness?

In previous frameworks, exam success has been a key judgement in itself, to the point whereby in excess of 80% of overall judgements were identical to the judgement for achievement.¹⁵ Public exam results (especially if one concentrates on progress rather than raw scores) are one of the few fair and largely objective measures that can be used to discriminate between one school’s performance and that of another. The drive to Improve exam results have been one of the key drivers in school improvement, especially for academies in areas where schools have traditionally underperformed, and have been a tool for raising pupil and parental ambitions. The curriculum freedoms granted to academies had the explicit intention of driving up results: “Autonomy isn’t just a mechanism for reversing underperformance – it works for accelerating high performance as well.”¹⁶

6. Ofsted: A Change for the Better? (NAHT, 2020)
7. NEU Press Statement (February 2020) <https://neu.org.uk/press-releases/neu-backs-pauseofsted-campaign>
8. <https://neu.org.uk/press-releases/neu-backs-pauseofsted-campaign>
9. <https://www.tes.com/news/dame-rachel-de-souza-backs-ofsted-inspection-critics>
10. <https://www.tes.com/news/ofsted-framework-asks-way-too-much-primary-staff>
11. <https://educationinspection.blog.gov.uk/2020/02/13/curriculum-transition-extended-for-a-year/>
12. <https://www.tes.com/news/ofsted-hiring-subject-experts-improve-inspections>
13. <https://www.gov.uk/government/speeches/amanda-spielman-launches-ofsteds-annual-report-201819>
14. The Annual Report of Her Majesty’s Chief Inspector of Education, Children’s Services and Skills 2018/19
15. Maintained schools and academies inspections and outcomes as at 31 December 2017 <https://www.gov.uk/government/statistics/maintained-schools-and-academies-inspections-and-outcomes-as-at-31-december-2017>
16. Michael Gove, Policy Exchange, June 2011.

On the other hand, by some schools, the change of emphasis will be welcomed, after all, education is about much more than just exam results and should instead involve the development of the whole person. What is taught is fundamental. An emphasis on the rigorous, stretching, knowledge-rich curriculum is also a core part of the education reforms introduced by Michael Gove, and lay behind the drive to reform the curriculum for GCSE and A-Level¹⁷. An emphasis on a knowledge-rich curriculum was a focus of Policy Exchange's 2018 report, *Completing the Revolution*¹⁸ and has been a continued focus of Schools Minister Nick Gibb¹⁹. HMCI has set out that she wants "a rigorous debate about what children should learn"²⁰ and hopes that the renewed focus on curriculum, "will encourage schools to think more about what they are teaching, and what they aim to get from that teaching"²¹.

It was notable that even the most ardent critics of Ofsted agreed that in principle it was right that Ofsted should be looking at the curriculum. The question, however, is the relative weight placed upon evidence from results compared to evidence from the curriculum, and how the curriculum is being judged. In conversations with headteachers and MAT leaders we were told of a number of occasions in which they considered inspectors had inspectors being dismissive of results – 'well, we can talk about them if you want to' – or accounts of results barely being raised in the training of inspectors²². Some MAT leaders have publicly objected to schools with very good results being rated as Good. Examination of Ofsted reports also shows a number of schools being rated as Good despite having Progress 8 scores being well-below average. For example, Southfields Primary, Peterborough saw its 2017 Requires Improvement grade rise to Good, while Elmgreen School, Tulse Hill was continued to be rated Good, despite its Progress 8 score declining from -0.38 to -0.5²³.

Notwithstanding some concerning individual cases, when considering all reports it is clear that results are continuing to play a significant role in determining ratings. Analysing 142 Section 5 secondary inspections since September 2019, using the new Framework reveals that of the 10 schools with Progress 8 above +0.5, 40% were graded Outstanding and 80% Good or better, while of the 33 schools with Progress 8 below -0.5, none was graded Outstanding and only 9% were graded Good²⁴.

An important debate in this matter relates to the "3 Is": Intent, Implementation, Impact. The question is to what extent should a good intent be counted favourably towards a school's credit if it is failing to deliver impact; or, conversely, the extent to which a school should be downgraded for intent if it is delivering impact, as measured by results. A number of school leaders expressed the view that Impact should be primary, because if a school had delivered this, it was not for inspectors to second guess the headteacher's judgement on matters such as curriculum sequencing, when the current practice was delivering strong results²⁵.

17. For example, "The more children who enjoy a stretching academic curriculum - for longer - the better, for all children. And the experience of Poland - the fastest-improving nation in Europe educationally - reinforces that. As does the example of Germany, which has also dramatically improved its ranking in international league tables with a stronger emphasis on an academic core for all. Following an academic curriculum to the age of 16 is not, in any way, a downplaying of the importance of vocational education and training. Academic study to 16 is a prelude to vocational training, not an alternative to it. It shouldn't surprise us that the emphasis on a knowledge-based curriculum improves standards for all." Michael Gove, speech at Policy Exchange, 2014.

18. <https://policyexchange.org.uk/publication/completing-the-revolution-delivering-on-the-promise-of-the-2014-national-curriculum/>

19. For example, <https://www.gov.uk/government/speeches/nick-gibb-the-importance-of-knowledge-based-education>

20. Wellington Festival of Education, June 2019.

21. Speech to Policy Exchange, July 2019.

22. Policy Exchange round table with school leaders

23. Ofsted inspection reports <https://files.ofsted.gov.uk/v1/file/50116813> and <https://files.ofsted.gov.uk/v1/file/50145856>

24. Analysis of publicly available Ofsted outcomes, Key Stage arrangements (Philip Carr) and School Depriation data by Stuart Gardner (see Annex A).

25. Policy Exchange round table with school leaders.

Deep Dives

A number of concerns were raised about deep dives; particularly, though not exclusively, related to how they were carried out in practice, though in some cases deeper concerns have been raised about the methodology and the research underlying the approach²⁶.

The impact of workload caused by deep dives has also been consistently highlighted²⁷. There was a particular focus on small primary schools, where it was suggested inspectors had unreasonable expectations of teachers in those schools, as it was unreasonable to expect a teacher in a small primary school (where each teacher might be covering multiple subjects) to have the same detailed and in-depth knowledge of all curriculum areas. Ofsted has indicated that while they are cognizant of these challenges, there is an important system question in considering whether certain sizes of school can provide the quality of education that are expected for children, regardless of where they go to school.

We are satisfied that Ofsted has a clear policy in place as to how the subjects for deep divers are selected, in which schools have the opportunity to input into the choice of subjects but the final decision is the inspectors. Some school leaders do not feel that this is being followed consistently, saying that some schools have been able to pick their subjects while others have had choices they felt unsuitable – examples given for primary schools included careers and modern foreign languages – imposed upon them. We consider Ofsted could do more to clearly communicate its policy and ensure it is being followed in practice.

One important question is whether or not inspectors should be specialists in the relevant subject. Some school leaders we spoke to felt strongly that this should be the case, a view that is also shared by the National Education Union²⁸. Ofsted's position is that individual inspectors do not need to be specialists in a subject in order to conduct a deep dive, any more than a senior leader in a school needs to be a subject specialist to determine whether a head of department is doing a good job. Inspectors should simply be able to ask the right questions about curriculum planning, organisation and ambitions, and then triangulate this with other evidence to see if the "intent" is really being put into practice²⁹. It should be noted that Ofsted has also recruited new subject specialists to support deep dives.³⁰

Overall, while we support the principles behind deep dives, and recognise that they are an integral part of the new Framework and its focus on curriculum, we consider there are sufficient concerns that Ofsted should review the approach to confirm it is having the intended effect.

Gaming

There is no single definition of gaming, but it is broadly understood to mean a school carrying out practices that are not in pupils' best interests in order to enhance their results. This could include practices such as off-rolling or entering students for perceived 'soft' subjects when this was not in their best interests.

26. See for example <https://www.teachertoolkit.co.uk/2019/11/03/deep-dives/>

27. <https://www.tes.com/news/ofsted-workload-prompts-teacher-wellbeing-fears>

28. <https://neu.org.uk/blog/ofsted-education-inspection-framework-eif>

29. The research upon which Ofsted's position is based has been published here: <https://www.gov.uk/government/publications/inspecting-education-quality-lesson-observation-and-workbook-scrutiny>

30. <https://www.tes.com/news/ofsted-hiring-subject-experts-improve-inspections>

It should be noted that there is nothing about the approach now being used which is uniquely suited to dealing with gaming: gaming is not a new phenomenon and it has always been frowned upon. We consider it right that Ofsted should take a robust approach towards gaming.

The challenge is that in many cases where there is no consensus as to what constitutes gaming. Sometimes it is easier in hindsight: where schools were entering whole cohorts into the European Computer Driving Licence (ECDL), but then stopped as soon as this qualification stopped counting in the school's results, that appears almost certain to be gaming. But schools which entered a whole 6th form cohort for General Studies would argue that this served a valid purpose in broadening their pupil's education – the stated purpose of the qualification – even though it was also a 'softer' A-Level that could boost the school's performance.

We considered specifically two examples of gaming described by HMCI at the launch of her annual report: entering native English speakers for English as a Second Language courses and entering a whole cohort on to BTec sports science, speaking to school leaders and to Ofsted³¹. Our view was that the first, despite the protestations of school leaders, very clearly did seem to be gaming; on the other hand, we found that Ofsted could not give a rationale that satisfied us as to why entering a cohort on to BTec sports science would be inappropriate, whereas entering the whole cohort on to Latin GCSE, Religious Education GCSE or a Statistics qualification might be³². We do not pretend that our view on this matter should be considered definitive; we simply use these examples to demonstrate that 'gaming' is not currently well defined and that reasonable people committed to children's education may differ.

Whilst there will always be the occasional rogue Head, the vast majority of school leaders have dedicated their lives to improving the life chances of youngsters, very often in some of the most deprived areas of the country. Equally, one should not underestimate the very high pressure that school leaders are under to deliver high results and secure a good Ofsted rating and should recognise that, as in any profession, what is measured can drive behaviour. School leaders must accept that gaming exists; equally, Ofsted should seek to avoid tarring all schools with the same brush in its approach.

One of the most consistent messages heard from school leaders was a desire for increased clarity on what would, and would not, constitute gaming, alongside a concern that some practices were retroactively being ruled inappropriate. We consider that offering greater clarity in this area would be a simple way of improving the dialogue around this issue: while it would neither be advisable, nor even possible, to detail every possible example of gaming, some principles-based guidance would offer clarity to all sides. Both Ofsted and school leaders should then seek to interpret that guidance in the spirit in which it was provided, rather than legalistically.

31. <https://www.gov.uk/government/speeches/amanda-spielman-launches-ofsteds-annual-report-201819>

32. Policy Exchange Interview with Ofsted.

The role of the National Curriculum

While there is broad agreement that curriculum is important, there is less consensus over what status the National Curriculum should hold in Ofsted's inspection framework. It is explicitly stated in many academy's funding agreements that they do not have to follow the National Curriculum; indeed, the Education Act (2011) simply establishes that they must have a 'broad and balanced curriculum'. This is in contrast to the new Framework, which explicitly states that academies must be following a curriculum 'comparable in breadth and ambition [to the National Curriculum]'.

It is clear that the National Curriculum cannot be a minimum entitlement: the National Curriculum comprises enough material to fill a full school timetable, so for an academy to offer a different curriculum it must offer more in some areas and less in others. But to what extent is, and should, the National Curriculum be the yardstick against which other curricula are judged?

There is a fear amongst some school leaders that the National Curriculum is being seen by Ofsted as the new gold standard³³. For academies, Ofsted is always going to have to judge and evaluate the quality of provision, but what can they use to compare and evaluate different approaches and provision? "Good is relative...so good compared with what?" asks Hood, and the answer appears to be, relative to the National Curriculum. This has been confirmed by Ofsted, who told us explicitly that they use the National Curriculum as a benchmark upon which to judge whether other curricula are comparable in breadth and ambition³⁴.

The new Framework repeats the previous version in declaring that Ofsted will not "advocate a particular method of planning...teaching or assessment", but rather, lessons should have features to show that they are "delivered effectively". Ofsted, therefore, no longer prefers a particular teaching style *per se*, but leaves the decision to the professionalism of the teacher. This move was rightly welcomed when it was introduced. What would be undesirable if the 'Ofsted preferred approach' simply moved from applying to methods of teaching to applying to the curriculum.

There is a risk that, by using only the National Curriculum as a benchmark, this may be becoming a 'preferred curriculum', with schools finding it easier to receive a Good or Outstanding grade where their curriculum is closer to the National Curriculum. It is too early to determine conclusively whether or not this is occurring, but if it were to become the case – or even if schools perceived it to be the case – it would

33. The National Curriculum is now the informal benchmark within the new Ofsted framework" (Matt Hood, TES February 2020 <https://www.tes.com/news/why-national-curriculum-ofsted-gold-standard>)

34. Policy Exchange interview with Ofsted.

undermine the freedoms that are at the heart of the success of the academy programme.

The Length of Key Stages 3 and 4

One of the most important curriculum decisions for schools concerns the length of Key Stage 3 and Key Stage 4. Whilst the traditional approach has been a three-year Key Stage 3 [Years 7, 8 and 9] and two-year Key Stage 4 [Years 10 and 11], some schools have reversed the time allocation, or opted for some form of hybrid (e.g. the three-year KS4 might be appropriate for some pupils or for some subjects).

Ofsted has stated that they do not have a preferred length of Key Stage 3 or 4³⁵ and have also observed, correctly, that schools teaching a three year Key Stage 3 have received an Outstanding rating under the new Framework, demonstrating that it is possible to do so. Nevertheless, the wording of the Framework creates a preference for a Key Stage 3, saying that schools should be ‘teaching a full range of subjects for as long as possible, “specialising” only when necessary’ and that ‘If a school has shortened Key Stage 3, inspectors will look to see that the school has made provision to ensure pupils will have the opportunity to study a broad range of subjects’. By placing an explicit duty on inspectors in one case but not the other, the Framework creates a *de facto* preference. This is borne out by the results so far under the new Framework: of schools with a standard three-year KS3, more than double the percentage achieved Good or better than those schools with a shortened KS3³⁶.

There appears to be a perception that a two year Key Stage Three will lead to a narrowing of the curriculum, or a reduction in the number of students who study creative subject. Certainly in some cases it can. However, schools that offer a three year Key Stage Four have argued that it can lead to greater depth, as well a breadth, not least through the study of additional subjects such as economics, business studies or sociology. Others have argued that, given the timetable contains a finite amount of time, sometimes narrowing the curriculum is an essential way of improving results and helping pupils, very often traditionally disengaged, to receive the grades they need to successfully move on to college or sixth form, closing the gap between advantaged and disadvantaged pupils. Other have cited support from pupils and parents, in once case referring to a survey by the school that found 90% of pupils and 85% of parents were in favour³⁷.

The data below shows the results from the Harris Federation, which has a three year Key Stage 4, which demonstrates an example of how this system can lead to not only increased EBacc results but also high levels of pupils achieving in creative subjects³⁸.

35. <https://www.tes.com/news/ofsted-insists-there-no-preferred-length-ks3>

36. Analysis of publicly available Ofsted outcomes, Key Stage arrangements (Philip Carr) and School Deprivation data by Stuart Gardner (see Annex A).

37. Policy Exchange round table with school leaders.

38. Data supplied by Harris Federation.

% Students achieving at KS4	Harris Federation	National
Art and Design	21.0%	25.3%
Design and Technology	12.8%	12.5%
Drama	14.7%	8.0%
Media	11.4%	5.1%
Music	8.4%	4.8%
English Baccalaureate (4+)	35.0%	24.1%
English Baccalaureate (5+)	23.3%	16.7%
English Baccalaureate (Disadvantaged Students) (4+)	29.7%	12.1%
English Baccalaureate (Disadvantaged Students) (%+)	18.4%	7.2%

Disadvantaged pupils are those who were eligible for Free School Meals at any time during the last 6 years and children looked after\adopted from Care; proportion disadvantaged pupils at Harris Federation is 42.3%, compared to national average of 27.7%

The Wider Curriculum

A positive aspect of the new Framework is the commitment to personal development, considering how the curriculum extends beyond the classroom, enabling learners to discover interests and talents, as well as developing resilience, confidence and character, for example by statements such as “A varied and exciting programme of experiences in and out of school” or “A rich range of extra-curricular opportunities.” One concern that has been raised is how such activities will be funded, particularly in a way which does not exclude pupils, but overall this focus is to be welcomed.

A further notable change is the inclusion, for the first time, of vocational ambitions in the Quality of Education section, which says that schools should have “The same academic, technical or vocational ambitions for almost all learners”. While it is right that Ofsted continues to focus upon the “strong academic core” and reiterates the government’s ambition that by 2025, 90% of Year 10 pupils should be embarking on the EBacc, it is encouraging that parity of esteem is given to academic and vocational ambitions.

Behaviour

Pupil behaviour is, without doubt, the *sine qua non* for good and improving school performance. Policy Exchange’s previous report, *It Just Grinds You Down* (December 2018)³⁹ has demonstrated that persistent poor behaviour not only has a significantly negative impact on teaching and learning, but also on teacher recruitment and retention: “75% of teachers think that low level disruption occurs frequently or very frequently in their schools and that 72% know a colleague who has ‘left the teaching profession because of bad behaviour’”.

The Framework places heavy emphasis on learners’ behaviour and conduct, requiring that they should “know the difference between right and wrong”, but also insisting that bullying and abuse “are not tolerated”. This emphasis appears to be being applied in practice, also: for example,

39. <https://policyexchange.org.uk/publication/it-just-grinds-you-down/>

Farnley Academy, Leeds, was recently judged Requires Improvement (following a previous Outstanding grade in 2013) despite Progress 8 being ‘well above average’, primarily because both ‘behaviour and attitudes’ and ‘leadership and management’, were judged to require improvement⁴⁰.

The statement that, “Exclusion is a vital measure for headteachers to use”, will be a welcome relief to many Heads who want to maintain high standards. While there is work to be done on the provision for excluded pupils, if certain behaviours are not to be tolerated and that this is to be made publicly clear to pupils, their parents and staff, a clear recognition of the importance of a measured and appropriate use of exclusion is essential.

Exclusion must, however, be transparent, legal and appropriate. Linked to it are the issues of off rolling and alternative provision. Quite rightly, the Framework requires an end to the ‘off rolling’. There have been examples of high performing schools which, whilst being significantly oversubscribed, suddenly have spare places in Year 11; pupils, especially those unlikely to perform well in public exams, have simply disappeared from the roll. This is rightly deemed unacceptable. It is also welcome that the Framework requires the inspection and evaluation of any alternative provision (i.e. where a pupil is educated off site). As long as a pupil remains on a school’s roll, the school is legally, and morally, responsible for that pupil’s education and safety; it is essential for safeguarding and child protection reasons to ensure that no pupils disappear from the system.

A broader point is that the new Framework, in assessing behaviour, considers both what pupils do and what is done to them. The two are obviously linked – if schools get it right in the way they treat and deal with pupils, the correct behaviour will follow – but by focusing more on how pupils behave, the onus is on outcomes rather than methods. This approach is introduced early in the Framework: inspectors are required to evaluate, ‘What it is like to be a learner in the provision’.

The use of data

One aspect of the Framework is the reduced focus on the analysis and interpretation of data, something that reverses the trend of the previous two decades. Prior initiatives, including Raise online/ASP (Analyse School Performance), Ofsted’s IDSR, data dashboards, ALPS, Fischer Family Trust Aspire etc, has resulted in data becoming more subtle, granular, robust, informative and useful, and made it easier to critically analyse performance.

Balanced against this must be the increased burden on staff and school leaders for data collection and the fact that data itself became too much of a focus in some schools (after all, it can be argued that data primarily allows you to ask questions rather than to answer them). A risk is that if external exam results are of less importance to making judgements, the internal data may become even more relevant for really understanding a school’s performance, and this may not be available.

40. <https://files.ofsted.gov.uk/v1/file/50130445>

Staff workload

One of the most welcome elements of the new Framework is the inclusion, for the first time, of an explicit focus on staff workload. At a time when one in six new teachers leave the profession within a year, and nearly one in three within five years⁴¹, the attention to these matters will be especially reassuring to the teaching profession, both the need to ‘Focus on improving staff knowledge’ and to ‘Be aware of pressures on staff including workload’. It is only right that Ofsted and schools are both committed to developing staff professionally and are fully conscious and responsive to the growing demands placed on teachers.

It is important that this welcome focus takes place in practice. Ofsted has recognised that ‘any change in inspection framework does create some work’⁴² some teachers remain concerned about the impact of the new framework – and it should be remembered that, as long as we believe (as we should) that we should cater for every child’s needs, regardless of background or ability, then proper planning is an essential prerequisite for pupil progress. It will be important for this area to continue to be given appropriate focus if it is to have a real impact.

Inspections in Practice

Concerns about the quality of inspectors were raised to us on several occasions and have also been highlighted by the National Education Union, which has said ‘Ofsted has neither the personnel, the expertise nor the experience, to operate its new curriculum-focused inspection framework fairly.’⁴³ Some school leaders felt that judgements were not being made on a consistent basis and that, particularly as the new Framework required a greater degree of subjectivity, not all inspectors had the required training or expertise. Some specific concerns related to deep dives or the assessment of curriculum have been discussed above.

It is important to recognise that any new Framework will bring with it a degree of upheaval and that even with the most effective preparation, the transition to a new system will never be seamless. Nevertheless, as former Policy Exchange Head of Education Jonathan Simons has written, it is clear Ofsted is facing a number of challenges that are not of its own making⁴⁴.

The #PauseOfsted campaign supported by the National Education Union, which calls on serving school teachers to not work as inspectors for Ofsted, has the potential to reduce the number and quality of inspectors available, just as the demands of the new Framework require an increase in the level of judgement that Ofsted inspectors are required to apply. Similarly, the decision to remove the exemption from inspection for Outstanding schools, while a highly welcome and necessary initiative, will lead to increasing demand for inspectors.

Inconsistency of inspections was one of the principal criticisms levied at Ofsted in Policy Exchange’s previous report, *Watching the Watchmen*.⁴⁵ Since then, the situation has improved considerably, with many of the recommendations made by Policy Exchange having been implemented. We welcome the fact that Ofsted has informed us that their system of

41. <https://www.gov.uk/government/statistics/school-workforce-in-england-november-2018>

42. The Annual Report of Her Majesty’s Chief Inspector of Education, Children’s Services and Skills 2018/19

43. <https://neu.org.uk/press-releases/ofsted-annual-report-1>

44. <https://www.tes.com/news/ofsted-finds-itself-unenviable-position>

45. <https://policyexchange.org.uk/publication/watching-the-watchmen-the-future-of-school-inspections-in-england/>

inspector training for the new Framework is under continual review⁴⁶. As Ofsted moves forward, it will be important for it to continue to place the highest importance upon the recruitment and training of inspectors to ensure high quality, consistent judgements, as upon these will depend the legitimacy of the new system.

Complaints procedure

There has been a history of criticism of Ofsted's complaints procedure. A motion laid at the NAHT union's Annual Conference in 2010, arguing that 'it is not right that Ofsted polices its own complaints' and calling for 'the establishment of an independent review panel to give schools the opportunity of a statutory right to appeal against an Ofsted judgement where they believe the outcome is irrational or unfair,⁴⁷' is representative in expressing the central concern of the lack of external challenge. These concerns become more critical under the new Framework, which provides greater space for individual inspector judgement.

Just over a year ago the Court of Appeal ruled that Ofsted's complaints procedure was lawful⁴⁸. Approximately 20% of complaints or concerns raised against Ofsted are fully or partially upheld, indicating that the procedure is meaningful⁴⁹. However, some school leaders argue that such statistics do not tell the whole story, as sometimes only a peripheral part of the complaint is upheld and it is rare for the overall judgement to change⁵⁰ – though it does sometimes happen, such as the upgrading of Park Academy West London's grade of Inadequate to Requires Improvement earlier this year⁵¹.

Particularly under the new Framework it is vital that the complaints procedure is not just fair, but is seen and perceived to be fair. We welcome the fact that HMCI said last summer that Ofsted is "having a hard look at it at the moment to see how we make something that is better and that fits the current model better". We have been informed by Ofsted that they will be publishing a consultation shortly on a revised approach and look forward to these proposals being published⁵².

Cross-cutting Themes

Throughout this section there have been a number of cross-cutting themes, including:

1. Consistency versus academy freedoms: it is apparent that a principal tension is the extent to which the freedom of academies should be tempered by prescription. Related to this is the question as to how far the bad behaviour of a small minority (e.g. 'gaming') should be used to impose greater consistency over all schools.
2. Who sets policy? There are a number of areas in which Ofsted appears to be going beyond the baseline parameters set out in statute or Department for Education guidance. To an extent, this will always be the case as implementation cannot be perfectly divorced from policy making; however, the extent to which active policy making by Ofsted is desirable goes to the heart of where

46. Policy Exchange Interview with Ofsted.

47. <https://www.tes.com/news/ofsted-should-not-police-its-own-complaints>

48. <https://schoolsweek.co.uk/ofsted-wins-appeal-against-durand-academy-high-court-ruling/>

49. <https://www.tes.com/news/more-complaints-about-ofsted-upheld>

50. <https://www.tes.com/news/exclusive-ofsted-reviews-school-complaints-procedure>

51. <https://schoolsweek.co.uk/ofsted-amends-inadequate-grade-after-curriculum-inspection-complaints/>

52. Email exchange between Policy Exchange and Ofsted.

education policy should be determined.

3. Implementation. An new Framework is bound to create uncertainty amongst educational professionals, as well as some mistakes in early implementation. Ofsted's reassuring statement that an inspection should be, "A developmental process between professionals", is a clear and extremely encouraging way forward⁵³. Nevertheless, close attention must be paid to how the new Framework is implemented in practice if it is to be as effective as Ofsted desires.

Together, these themes underpin much of the debate about the new framework. Teachers, MAT CEO's, LA's, the DfE and Ofsted need to realise that they all have essential roles to fulfil and that working together positively, in an atmosphere of mutual professional courtesy and with a common set of goals, can only be in the very best interests of the young people whom we serve.

53. Policy Exchange Interview with Ofsted.

Church and Faith Schools

The role of faith in education and schools can often be a sensitive one. In her 2018 speech to Policy Exchange, *The Ties that Bind*, HMCI clearly set out her views on this matter and why, despite the sensitivities, it is an important area for Ofsted to be involved in⁵⁴.

There is widespread support amongst society for tackling cases of genuine extremism and radicalisation, such as the Trojan Horse affair in Birmingham⁵⁵ (which it should be noted took place in non-faith schools) or the case of Umar Haque, later convicted for terrorism, who showed ‘violent and graphic’ footage to children as young as 11 as part of attempts to train an ‘army of children’ for terrorist attacks⁵⁶. Similarly, there are few who would disagree with Ofsted’s efforts to clamp down on extremist materials in unregistered schools⁵⁷, or the prosecutions of those involved in major failures of safeguarding⁵⁸. A greater sensitivity and societal debate emerges when it comes to a consideration of the wider role of religious faith within the education system.

The sensitivity can be demonstrated by a number of high profile disagreements between Ofsted and members of some faith communities over recent years. For example, the use of the term ‘muscular liberalism’ was criticised by some faith leaders (and welcomed by the National Secular Society) as it was perceived to be promoting secularism, a charge that Ofsted firmly rejects⁵⁹. Another major disagreement occurred in the context of Ofsted’s desire to have the ability to inspect out-of-school settings, including both secular settings such as football clubs and religious settings such as Sunday Schools, in order to detect extremism. Opposition to these proposals were raised by the Archbishop of Canterbury⁶⁰, amongst others, and Ofsted later responded robustly, to criticise the Church of England for its stance.⁶¹

Other times the debate has involved what occurs in schools. The high profile protests at Anderton Park Primary School in Birmingham over LGBT+ teaching have consistently made the news over the last year and Ofsted has unequivocally backed the school in this matter⁶². Other controversies have concerned Ofsted’s own actions. In 2017, Ofsted was criticised as ‘racist’ for advising inspectors to question young girls wearing a hijab⁶³. Christian⁶⁴, Jewish⁶⁵ and Muslim⁶⁶ schools have all, at various points, argued that Ofsted is targeting them unfairly. More recently, under the new Framework, there appears to have been an increase in previously highly rated faith schools failing their Ofsted inspections: for example, all 21 Haredi⁶⁷ schools inspected under the new framework have failed their inspections⁶⁸, despite most of these having been passed under the

54. <https://www.gov.uk/government/speeches/aman-da-spielman-speech-to-the-policy-exchange-think-tank>

55. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/340526/HC_576_accessible_.pdf

56. <https://www.bbc.com/news/uk-england-london-49598026>

57. <https://www.thetimes.co.uk/article/children-taught-hatred-at-illegal-schools-as-experts-demand-change-to-home-education-laws-glmlj7ps03>

58. <https://schoolsweek.co.uk/spielman-says-second-illegal-school-conviction-is-tip-of-iceberg/>

59. <https://www.christian.org.uk/news/backlash-ofsted-s-muscular-liberalism-push/>; <https://www.secularism.org.uk/news/2018/02/ofsted-head-criticises-cofe-for-resisting-sunday-school-inspections>

60. <https://www.thetimes.co.uk/edition/news/welby-delivers-sunday-school-from-terror-laws-d0vc8tm7l>

61. <https://www.thetablet.co.uk/news/8508/ofsted-head-criticises-cofe-for-resisting-sunday-school-inspections>

62. <https://www.gov.uk/government/speeches/amanda-spielman-launches-ofsted-s-annual-report-201819>

63. <https://www.theguardian.com/education/2017/nov/28/ofsted-accused-racism-hijab-questioning-primary-schools>

64. <https://premierchristian.news/en/news/article/christian-schools-claim-ofsted-s-discriminating-against-them>

65. <https://schoolsweek.co.uk/show-more-respect-for-religious-schools-jewish-faith-leaders-tell-ofsted/>

66. <https://www.independent.co.uk/news/education/education-news/islamic-faith-school-takes-legal-action-against-ofsted-for-report-criticising-gender-segregation-a7334951.html>

67. Ultra-Orthodox Jewish

68. Analysis of publicly available Ofsted reports

previous Framework. Concerns about the new Framework have also been expressed by Christian and Muslim leaders⁶⁹.

It is important to recognise that there is not one single faith community, nor is there a single view on Ofsted's actions. In contrast to the Church of England, the Catholic church did not oppose the proposal to inspect out-of-school settings such as Sunday Schools, saying, "we don't see this posing a threat to any extra-curricular Church activity."⁷⁰ At the time of the hijab row, Shaista Gohir, who chairs Muslim Women's Network UK, was more supportive of Ofsted's position, saying: "The rising phenomenon of primary-school-aged girls wearing the hijab is certainly not an issue to trivialise," and argued that "what messages are being sent to these girls about their hair and body?"⁷¹ Similarly, Rabbi Laura Janner-Klausner, the Senior Rabbi to Reform Judaism UK, has written strongly in favour of LGBT+ teaching to be imposed in all schools, explicitly disagreeing with her Haredi co-religionists⁷².

Ofsted has explicitly confirmed that it should be an organisation which acts impartially towards those of all faiths and of none, a stance which we welcome – and this has been publicly stated by Ofsted on numerous occasions, including by HMCI, who has said, 'I want to be absolutely unequivocal: Ofsted has no anti-faith bias or secular agenda.'⁷³ In considering the question of faith, this paper does not attempt to address all of Ofsted's interactions with questions of faith, still less wider questions of interest to faith schools, such as admissions policy, but focuses in particular on the interaction of the new Inspection Framework on faith schools.

Rights and Equalities

In addition to the UK's Education Acts, or other laws and government policy that explicitly relate to schools, there are fundamental principles that relate to faith and education, some of which are statutory.

Article Two to the Protocol for the Protection of Human Rights and Fundamental Freedoms in the European Convention on Human Rights, incorporated into UK law by the Human Rights Act, states explicitly that the State shall respect the right of parents to ensure teaching in line with their religious and philosophical beliefs:

*"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."*⁷⁴

Article 26 of the United Nations' Universal Declaration of Human Rights, which does not have statutory force in the UK but is nevertheless of interest, similarly endorses the right of parents to choose the kind of education their children receive, but also says that education should be directed to the strengthening of respect for human rights and promote tolerance between different groups:

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.

69. Policy Exchange round table with faith leaders.

70. <https://www.thetablet.co.uk/news/8508/ofsted-head-criticises-cofe-for-resisting-sunday-school-inspections>

71. <https://www.bbc.com/news/education-42902864>

72. <https://labourlist.org/2019/10/scrapping-ofsted-could-put-lgbt-inclusive-sex-education-at-risk/>

73. <https://www.gov.uk/government/speeches/aman-da-spielmans-speech-to-the-policy-exchange-think-tank>

74. European Convention on Human Rights https://www.echr.coe.int/Documents/Convention_ENG.pdf

Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.⁷⁵

Aside from the Human Rights Act, the other principal legislation relevant to this matter in the UK is the Equality Act (2010) which, amongst other things, forbids discrimination on the basis of nine protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation⁷⁶. Each of these protected characteristics is considered to be equal to each of the others; there is no hierarchy of characteristics.

In addition to the prohibitions on discrimination, which apply to all individuals and organisations in the UK, Section 147 of the Equality Act (2010) creates the Public Sector Equality Duty (PSED), which sets out that:

A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The PSED applies to Ofsted and to state schools (including academies) as these are public bodies under the meaning of the Act. It does not apply to independent schools as these are not public bodies; however, it does apply to Ofsted's actions with regards to independent schools, as Ofsted remains a public body even while it is inspecting organisations which are not public bodies.

For a public body, making decisions with respects to these rights is not straightforward. As HMCI said last year in a speech to Stonewall, 'The exercise of one right can sometimes be seen as limiting of another right. The different protected characteristics can and do bump into each other... This is even more difficult where there are competing claims of individual rights, parental rights and group rights.'⁷⁷ It is worth noting that for a public body there may be matters that are required due to these rights, actions that are prohibited, but also many actions that are

75. Universal Declaration of Human Rights <https://www.un.org/en/universal-declaration-human-rights/>

76. Equality Act (2010)

77. <https://www.gov.uk/government/speeches/aman-da-spielman-at-stonewall>

neither prohibited nor required. It is in this latter case that a public body has the greatest flexibility to determine its own actions.

In considering Ofsted's approach to balancing these rights, we have found that they have principally referred to the need to balance their duties with regards to each of the protected characteristics under the Equality Act, rightly stating that there is no hierarchy to these, and to their duties under the PSED of the same Act. This was the case in private discussions with them⁷⁸, in public statements and in speeches by HMCI such as those referenced above. We were unable, however, to find similar reference to the duty under the Human Rights Act to respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions, and a senior member of Ofsted told us that he did not believe there had been any explicit references to this in recent publications or speeches⁷⁹.

It is important to recognise that the duty of the state to respect the right of parents in such a way is an explicit duty on its own terms; it is not simply a case of balancing the protected characteristic of religion and belief against another characteristic. The right of parents to determine the nature of their children's education is also reinforced by Section 9 of the Education Act (1996). The right of parents is not an absolute right – a school would not be permitted to directly discriminate against those of a certain race, simply because this was held as a religious conviction by the parents of children at that school – but it is an addition, explicit, statutory right that must be considered, balanced and tensioned against the rights and duties set out in the Equality Act. In developing future policy, and in reviewing past policy, we consider that Ofsted should ensure that their duty to respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions is explicitly taken into account, as well as making more prominent reference to this obligation in future publications and speeches.

Preparing learners for life in modern Britain

In practice, some of the greatest tensions concerning Ofsted's inspection of some faith schools have arisen around the section in the Framework concerning preparing learners in life in modern Britain and, in particular, the interaction with Relationships and Sex Education (RSE) and teaching on LGBT+ matters. One faith leader expressed the view to Policy Exchange that, 'originally this was intended to celebrate a breadth of British values, including Parliamentary democracy, the rule of law, diversity and fair play, but in practice it's now just an inspection of how a school teaches LGBT+'. This assertion is incorrect – an inspection of Ofsted reports demonstrates that Ofsted regularly comments on other matters under this heading⁸⁰ – but it is fair to say that it is an area that can cause contention. In particular, all schools all seven Haredi schools inspected since November 2019 have failed their inspections, despite most of these having been passed under the previous Framework, principally for failing to explicitly teach about sexual orientation or transgender matters, and concerns about primary schools being required

78. Policy Exchange Interview with Ofsted.

79. Email exchange between Policy Exchange and Ofsted.

80. Review of published Ofsted inspection reports.

to teach about these matters at primary school have also been expressed to us by Christian, Jewish and Muslim faith leaders.

It is important to recognise that the gap between Ofsted and the faith schools concerned is smaller than is often perceived. In particular, all the faith leaders with whom we discussed the matter fully accepted that:

- Schools should have a comprehensive anti-bullying policy that explicitly refers to each of the protected characteristics under the Equality Act.
- Schools should have a clear policy in place should any child come out as gay or transgender that fully complied with their obligations under relevant legislation.
- That schools should not incite violence or hatred against those with protected characteristics.
- That where a school taught that the tenets of its faith with respect to a protected characteristic – as they are legally permitted to do – that alongside this they should also teach the law of the land; i.e. if a school taught that their faith considered that homosexuality was a sin, they must also teach that in the UK same-sex marriages are legal and that one cannot discriminate against someone for being gay.

The sole point of serious systematic contention is about at what age a school must teach about these matters, and particularly LGBT+ issues.

Ofsted's Framework and the Department for Education's statutory guidance⁸¹ both indicate that such matters should be taught in an 'age appropriate' way, which is to be determined by the school. There is, however, an important difference in practice.

The Department for Education's guidance is that LGBT+ matters must be taught explicitly at secondary level and is encouraged but not compulsory at primary level⁸². Current Ofsted practice, however, is that LGBT+ matters must be taught explicitly at primary school. It is upon this point that a number of faith schools (previously rated highly under the former Framework) have failed. Ofsted does not dispute that this is their practice and have argued that they consider their approach to be most appropriate after considering their duties under the Equality Act (2010). They have stated that when the Department for Education's guidance comes into force in September 2020 they will align their approach to that⁸³.

This paper does not propose to debate whether or not the Department for Education is right to have made the policy decisions that it has, though we observe that the distinction between primary and secondary schools does seem intrinsically reasonable. Rather, our position is that where the Department for Education has clearly and explicitly set out a set of parameters within which schools can have flexibility on a matter, it is not for Ofsted to then restrict the flexibility of schools beyond those parameters. The fact that the guidance does not come into force until

81. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805781/Relationships_Education_Relationships_and_Sex_Education__RSE__and_Health_Education.pdf

82. <https://www.gov.uk/government/news/relationships-education-relationships-and-sex-education-rse-and-health-education-faqs#history>
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793973/Letter_to_NAHT_from_Damian_Hinds.pdf

83. Policy Exchange interview with Ofsted.

September 2020 is not relevant. Although we do not dispute that Ofsted, legally, can diverge from the guidance, Department for Education has encouraged schools to adopt the guidance from September 2019 and Ofsted, similarly, should align its practices now to the clearly set out policy intention of the Department for Education guidance. Doing so is not only democratically appropriate but would go a considerable way to alleviating the challenging relationships with some faith communities.

Aside from LGBT+ matters, some faith leaders also felt that Ofsted should be more open to different ways of preparing learners for modern Britain, including those rooted in a faith based perspective⁸⁴. Our examination of Ofsted reports indicates that there are cases in which Ofsted appears to have recognised such approaches⁸⁵. This is positive to see and we consider that all inspectors should be open to and supportive of recognising different approaches to preparing learners for modern Britain, including those which derive from a faith perspective.

Culture, Secularism and Inconsistent treatment

One of the concerns expressed to us by some faith leaders was an inconsistency by Ofsted in the way that it treated matters of faith. Amongst those who believed Ofsted treated faith unfairly there were differing views on the cause of this differed amongst those we spoke to: some ascribed it to individual errors of policy, others to an institutional bias towards secularism and others to individuals, either past or present, advancing a pro-secularist agenda. To quote one individual, “Ofsted’s framework and approach is informed by a modernist, secularist philosophy in which the rights of the individual were paramount and there was little or no room for the role of family, community or faith.”⁸⁶

This position is firmly rebutted by Ofsted, who confirmed to us, as they have done publicly on numerous occasions, that they consider their duty to act impartially towards those of all faiths and none. It is important to recognise that Ofsted representatives, including HMCI, have spoken repeatedly about the difficulty of balancing the competing rights of those of different groups, of different communities and with different protected characteristics, as well as the rights of individuals and communities⁸⁷, and their efforts to treat all groups and individuals fairly.

Why then do some faith leaders consider there may be a potential secularist bias, or inconsistency in the treatment of faith? In considering whether and how this manifests, four main areas were highlighted by our review of the available literature and conversations with faith leaders:

- The language used by Ofsted.
- The ratings given to schools.
- Inconsistencies in the treatment of religious education.
- Inconsistencies in terms what is inspected.
- Bad practice by inspectors.

84. Policy Exchange round table with faith leaders.

85. For example <https://files.ofsted.gov.uk/v1/file/50125154>

86. Policy Exchange round table with Faith Leaders

87. See for example <https://www.gov.uk/government/speeches/amanda-spielman-at-stonewall>; <https://www.gov.uk/government/speeches/amanda-spielman-speech-to-the-policy-exchange-think-tank>

Language

The use of the term ‘muscular liberalism’ by HMCI was repeatedly cited to us as a concern by individuals of many different faiths as evidence that Ofsted is actively pursuing a secularist agenda. It is true that this term is not intrinsically secularist and has been used by others, including David Cameron and Nick Clegg. Ofsted has also confirmed on a number of occasions that the phrase was not intended to convey support for secularism, but rather the sort of liberalism that ‘holds no truck for ideologies that want to close minds or narrow opportunity.’⁸⁸ Others have argued that the enthusiastic support from the National Secular Society for the phrase⁸⁹, and for Ofsted’s broader actions— ‘[HMCI] refuses to be silenced by the bullies, and has pressed on with intervening in schools where religion threatens the education and wellbeing of children’⁹⁰ – provides evidence of secularism. Overall, whatever was originally intended by the phrase, it is clear that the reassurances have not won over many of those who have concerns with Ofsted’s stance and, indeed, that the phrase has come to have a totemic status in this debate.

Another concern cited to us was the perceived suggestion by Ofsted that freedom of religion should be limited to the private sphere, as set out in the same speech that referred to ‘muscular liberalism’: ‘Freedom of belief in the private sphere is paramount, but in our schools it is our responsibility to tackle those who actively undermine fundamental British values or equalities law.’⁹¹ This, it was argued, misinterprets the true meaning of freedom of religion which, as set out in the European Convention on Human Rights, includes the freedom “either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.”⁹² It suggested, some felt, that Ofsted’s position was more akin to the French concept of *Laïcité* than the classic British traditions of religious tolerance and inclusion.

It is unclear to us the extent to which Ofsted as a whole does consider freedom of religion to be wholly, or principally, a matter concerned to the private sphere; but it is clear that a proper understanding of freedom of religion in a British context is not one that can be confined to the private sphere, but must include the right to fully and actively express those beliefs in public observance, including in education.

School ratings

When considering state schools, as at 31 January 2020, 89% of faith schools were rated Good or Outstanding compared to 85% of non-faith schools⁹³. When one considers independent schools inspected by Ofsted, the situation is reversed, with 61% of independent faith schools judged Good or Outstanding compared to 80% of independent non-faith schools⁹⁴.

Figure 26 from Ofsted’s most recent Annual Report shows a wide variation in inspection outcomes between faith groups. Only 39% of Jewish schools were judged good or outstanding at their most recent inspection, compared with 76% of Christian schools and 61% of Muslim schools. Similarly, around 14% of non-faith schools fail to meet the Independent School Standards; however, nearly half of Jewish schools (47%) and 30%

88. <https://www.gov.uk/government/speeches/aman-da-spielmans-speech-at-the-church-of-england-foundation-for-education-leadership>

89. <https://www.secularism.org.uk/news/2018/02/ofsted-head-school-leaders-should-promote-muscular-liberalism>

90. <https://www.secularism.org.uk/opinion/2018/03/seven-women-who-refused-to-be-silenced-by-religious-fundamentalists-this-year>

91. <https://www.gov.uk/government/speeches/aman-da-spielmans-speech-at-the-church-of-england-foundation-for-education-leadership>

92. European Convention on Human Rights https://www.echr.coe.int/Documents/Convention_ENG.pdf

93. <https://www.gov.uk/government/statistical-data-sets/monthly-management-information-of-steds-school-inspections-outcomes>

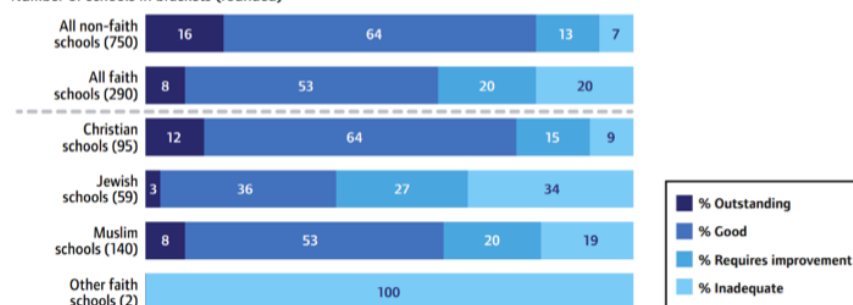
94. The Annual Report of Her Majesty’s Chief Inspector of Education, Children’s Services and Skills 2018/19

of Muslim schools do not meet the standards.

Overall, these results do not suggest that there is an overall bias in Ofsted's rating of faith schools, but do demonstrate clearly that there are certain subsets of faith schools that Ofsted considers to be consistently failing to meet the standards that Ofsted expects of them. Whether or not Ofsted is right to treat these schools in this way cannot be determined from the data alone.

Figure 23: Overall effectiveness of non-association independent schools by faith: 31 August 2019

Number of schools in brackets (rounded)



1. Includes inspections carried out by 31 August 2019 with a report published by 30 September 2019.

2. Some percentages are based on small numbers and should be treated with caution.

3. A small number of schools declared 'inter/non-denominational' or 'multi-faith' and have been included in 'non-faith' figures.

4. Percentages are rounded and may not add to 100.

Source: Ofsted

The treatment of religious education

One pertinent case of inconsistency was Ofsted's treatment of the teaching of Religious Education at Key Stages 3 and 4, a statutory requirement under the Education Act (1996). The allegation is that while Ofsted will not give a school a Good or Outstanding rating if it is not teaching RSE in a way it considers satisfactory, it will award a school Good or Outstanding if it does not teach Religious Education at Key Stages 3 and 4. This was argued to be an inconsistency in approach that detrimentally affects people of faith.

The evidence demonstrates that Ofsted will give Good or Outstanding ratings if it is not teaching Religious Education. The figures below, taken from a 2019 survey conducted by the National Association of Teachers of Religious Studies, demonstrate that the proportion of schools rated Good or Outstanding is higher than those who are compliant with their duties to be teach Religious Studies at Key Stage 4⁹⁵.

95. 1 'An analysis of a survey of teachers on the impact of government policy on student opportunity to study GCSE RS: An Eight Survey – July 2019', National Association of Teachers of Religious Education, July 2019: <https://www.natre.org.uk/uploads/Free%20Resources/NATRE%20EBacc%20Survey%202019%20FINAL%20v3.pdf>

School Type	Sample Size	Percentage Compliant with Statutory Duty at KS4 as at July 2019 According to NATRE Survey	Total Number Inspected and Rated 'Outstanding', 'Good', 'Requires Improvement' or 'Inadequate' by Ofsted in academic year 2018-2019	Percentage of those Inspected Receiving Outstanding/ Good
Non-Faith Academies	268	50%	735	61%
Community Schools	129	60%	746	62%

Ofsted has accepted that they probably have, on some occasions, awarded a school Good or Outstanding when it was not fulfilling its statutory duties on Religious Education. They have argued that there are many different obligations but that Ofsted is not a compliance driven inspectorate. Their position is that the teaching of RSE is a personal development curriculum issue – it is a question of whether you can appropriately develop youngsters if you aren't addressing these things at an appropriate level – whereas monitoring Religious Education would be a compliance test. They further indicated that Religious Education was of high importance to them and would shortly be carrying out a subject review⁹⁶.

We consider this approach concerning. Firstly, the view that RSE is of importance in personal development but that Religious Education is simply about compliance is a value judgement that suggests a lower importance is being placed upon matters of faith than upon other subjects. More fundamentally, regardless of a person's individual beliefs about the relative importance of RSE or Religious Education, it is not the role of Ofsted to determine which statutory obligations schools should, or should not, be required to comply with, but rather to inspect according to the democratically expressed will of Parliament, or, in cases of Department for Education policy, the will of its democratically elected Ministers.

What is inspected?

One area of inconsistency that was alleged was Ofsted's approach to what was inspected. For example, it was argued that it was inappropriate that Ofsted always looked at the teaching of LGBT+ matters in certain types of faith schools but did not systematically examine whether schools were explicitly teaching about age or disability, despite these protected characteristics being equal to sexual orientation or gender identity under the Equality Act. Others suggested that certain types of inspection, such as library inspections, were unfairly targeted upon certain types of schools and that, to be non-discriminatory, Ofsted should apply these to all schools, or to a fixed proportion of schools chosen at random. In some cases it was suggested that inspectors came into certain faith schools with

96. Policy Exchange interview with Ofsted.

preconceived ideas of what they would find, seeking material with which to fail the school⁹⁷.

Ofsted has set out that it uses a risk based approach in these matters and compared it to the way that if an inspector thought there might be a specific concern with maths, or discipline, or history at a school, they would be more likely to choose to look more closely at these matters. That judgement could be made on the basis of prior inspections of the school, exam results or characteristics of the school – such as whether a school is a small rural primary school, a school belonging to a particular faith group, a school with a high proportion of English as an additional language students and so forth⁹⁸.

We consider that Ofsted's approach in this matter is, in principle, reasonable. For inspectors to in every school to consider the same matters would militate against rigorous, enquiring inspections; however, inspectors should be careful to ensure that their choice of what to investigate is rooted in evidence, not in preconceived ideas or general stereotypes which may not be accurate.

Unprofessional conduct by inspectors

We heard of a very small number of cases in which it was alleged that inspectors had acted inappropriately towards children, for example by asking them personal questions such as whether they had lost their virginity or if they themselves were sure they were not gay. In some cases these were from the Jewish community, such as the publicly documented case of Yesoday Hatorah Senior Girls School⁹⁹; in other cases it was from the Christian community¹⁰⁰. It should be emphasised that these cases apply to a very small proportion of the total number of faith schools inspected and that there is no suggestion that the leadership of Ofsted condones such behaviour¹⁰¹.

It goes without saying that any such allegations, however rare, should be taken with extreme seriousness, involving as it does the safeguarding of children. However, as with any allegation of this nature it is very difficult to determine the truth of the matter: Ofsted also suggested to us that on some cases, such allegations had been invented by parents or schools looking to undermine the inspection process¹⁰². What is clear is that concern about such behaviour is significant enough that a small number of faith schools are now unwilling to allow inspectors to speak to their children.

One solution that has been formally requested by some faith leaders of Ofsted is that inspectors should be recorded for meetings they are having while alone with children. There is precedent for this in that Ofsted is trialling the use of body cameras when investigating unregistered schools and recording, importantly, would not have the same impact on the behaviour of the children that, for example, the presence of a senior teacher or parent would. However, Ofsted has rejected this request, saying they would not want to set a precedent that the whole inspection should be recorded, as this would have a chilling effect on conversations.

It is in the interests of Ofsted, inspectors and schools that conversations

97. Policy Exchange round table with faith leaders.

98. Policy Exchange interview with Ofsted

99. <https://unherd.com/2018/03/ofsted-secular-ists-bidding/>

100. Pupil witness statements provided by the Christian Institute.

101. Ofsted informed us that 'Where these issues have been raised, this went through a proper process. Had there been anything there would have been a disciplinary process.'

102. Policy Exchange interview with Ofsted.

between inspectors and children can take place in a way in which school leaders can be confident that the children in their care are safeguarded from harm and in which inspectors are also protected from unfounded allegations. We consider Ofsted should be willing to implement reasonable measures, such as recording such questions or the presence of a mutually trusted third party, where it is directly requested by the school, as an important means of rebuilding trust. We do not consider that it is necessary to role out such procedures universally, nor that it sets a precedent for recording the whole inspection – there is a fundamental difference between conversations between adult professionals and a potential safeguarding issue – but such measures should be available to schools upon request.

Extremism, Radicalisation and Faith

An important consideration is the relationship between Ofsted's interactions with non-extremist faith schools and its work to tackle genuine extremism and radicalisation. One challenge is that 'extremism' does not have a single definition. Many of the faith leaders we engaged with considered that Ofsted can conflate extremism and socially conservative or traditional religious practice, and that instead a clearer focus should be put on detecting and preventing activities such as advocating criminal behaviour; advocating the violent overthrow of democracy; encouraging violence towards individuals, including British soldiers or police; or promoting groups who advocate or glorify such matters¹⁰³.

One important consideration is that Ofsted did not successfully detect either of the two most prominent cases of extremism and radicalisation in schools to have occurred in recent years in the UK. In the case of Umar Haque, convicted in 2018 for a range of terrorism offences, Ofsted had rated the independent Islamic Lantern of Knowledge school in which he had taught Outstanding, despite the fact that Haque had been carrying out his radicalisation activities at the time of the inspection¹⁰⁴. Similarly, many of the schools (largely state non-faith schools) involved in the Trojan Horse affair in Birmingham had previously been rated Good or Outstanding by Ofsted¹⁰⁵. There is therefore significant doubt over whether an increasingly prescriptive approach to peaceful, law-abiding faith schools who hold to traditional values, but do not seek to impose these upon others or to direct violence or hostility against the state, is helpful in countering extremism and radicalisation.

In addition to the potential diversion of resources towards groups who do not pose a threat to the British way of life, we heard two further examples of how an inflexible approach towards peaceful communities of faith may actively hinder efforts to tackle genuine extremism¹⁰⁶. We consider both of these to be compelling.

Firstly, if parents no longer feel able to secure a formal education in line with their religious beliefs in registered schools, they are more likely to turn to unregistered schools or outside settings, both of which are more vulnerable to infiltration by extremists. Secondly, by being inflexible

103. Policy Exchange round table with faith leaders.

104. <https://www.theguardian.com/uk-news/2018/mar/02/isis-follower-umar-haque-jihadist-child-army-east-london--radicalise>

105. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/340526/HC_576_accessible_-.pdf

106. Policy Exchange round table with faith leaders.

over not respecting parents' wishes on teaching sexual content or LGBT+ matters to young children, particularly those in Key Stage 1, it creates a fertile ground for activists to radicalise others. A situation where people of faith see themselves as under attack by the institutions of the state, particularly in an area as emotive as the wellbeing of their children is one in which extremist views can more easily find fertile ground.

We commend Ofsted's readiness to act to tackle genuine extremism, as well as for its determination to tackle radicalisation in unregistered schools, and welcome the additional funds recently committed by the Education Secretary towards this goal¹⁰⁷. We believe this should be the focus of Ofsted's activities in this area and that, where faith communities feel alienated, restoring relationships will strengthen Ofsted's ability to tackle radicalisation by working alongside, rather than in opposition to, communities of faith.

¹⁰⁷<https://www.tes.com/news/ofsted-gets-extra-funds-investigate-illegal-schools>

Annex A: Section 5 Inspections under the new Framework

The table below includes Section 5 inspections published from 1st September 2019 to 30th January 2020. In this period there have been 169 Section 5 inspections; of these 142 have identifiable 2:3 or 3:2 splits between KS3 and KS4 (Years at KS3 : Years at KS4). These 142 are analysed below¹⁰⁸. Ofsted outcome by groups:

	Inadequate	RI	Good	Outstanding	Good or Better
2/3 KS split (69)	16%	59%	23%	1%	24%
3/2 KS split (73)	7%	37%	49%	7%	56%
P8 below floor -0.5 or below (33)	27%	64%	9%	0%	9%
P8 below national -0.2 to -0.49 (39)	3%	67%	31%	0%	31%
P8 around national -0.19 to +0.19 (42)	7%	36%	57%	0%	57%
P8 above national +0.2 to +0.49 (13)	23%	15%	46%	15%	61%
P8 well above national +0.5 (10)	0%	20%	40%	40%	80%
Highest proportion of PP students 50%+ (23)	22%	48%	30%	0%	30%
Very high proportion of PP students 40%-49% (15)	7%	80%	13%	0%	13%
Proportion PP above national 30%-39% (27)	11%	59%	22%	7%	29%
Proportion of PP around national 25%-29% (23)	13%	48%	39%	0%	39%
Proportion of PP below national 18-25% (31)	6%	35%	58%	0%	58%
Very low proportion of PP 10%-17% (13)	15%	46%	31%	8%	39%
Lowest proportion of PP 0%-9% (10)	0%	10%	60%	30%	90%

108. Analysis of publicly available Ofsted outcomes, Key Stage arrangements (Philip Carr) and School Deprivation data by Stuart Gardner



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