

Removal of the 'outstanding' exemption: DfE consultation **A response from the Special Educational Consortium**

The Special Educational Consortium (SEC) is a membership organisation that comes together to protect and promote the rights of disabled children and young people and those with special educational needs (SEN). Our membership includes the voluntary and community sector, education providers and professional associations. SEC believes that every child and young person is entitled to an education that allows them to fulfil their potential and achieve their aspirations.

SEC identifies areas of consensus across our membership and works with the Department for Education, Parliament, and other decision-makers when there are proposals for changes in policy, legislation, regulations and guidance that may affect disabled children and young people and those with SEN. Our membership includes nationally recognised experts on issues including assessment and curriculum, schools and high needs funding, the SEN legal framework, exclusions and alternative provision.

In answer to the questions from DfE's consultation on the removal of the 'outstanding' exemption from Ofsted education framework SEC:

- Supports the proposal to remove the exemption for outstanding schools, which currently means they are not routinely inspected;
- Agrees with the proposal to remove the exemption for outstanding colleges and other organisations delivering publicly-funded education and training, which currently means they are not routinely inspected;
- Supports the proposed approach for currently exempt outstanding schools set out in paragraphs 19-27 of the consultation document;
- Supports the proposed approach for currently exempt outstanding colleges and other organisations delivering publicly-funded education and training set out in paragraphs 19-27 of the consultation document;

Supported by:

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Evidence on the potential impact of DfE proposals on people sharing protected characteristics for the purposes of the Public Sector Equality Duty:

SEC supports the changes proposed by the DfE in the current consultation because we believe they will have a positive impact on equalities considerations, particularly for disabled pupils. Our main concern is that in the past schools may have been able to secure an outstanding judgment without necessarily having provided an outstanding education for disabled pupils.

It is apparent from the Ofsted report (Ofsted, 2020, Making the cut: how schools respond when they are under financial pressure) that the greatest impact of the financial pressures over the last 10 years has been on provision for pupils with SEND. It is also evident from the research that Ofsted conducted prior to the publication of the new EIF that some schools were 'off-rolling' pupils in a way that undermined their educational entitlement. These practices, and others such as increased use of 'Elective' Home Education, have disproportionately affected pupils with SEN and disabilities.

Ofsted is clear that, inter alia, 'the current Education Inspection Framework looks in more detail at how schools are meeting the needs of pupils with SEND, ...' (Ofsted, 2020, see above). It is therefore important that all schools and colleges, whatever their latest Ofsted judgment are inspected as soon as possible under the new framework. We cannot be confident that schools with an outstanding judgment, as at their last inspection, were not using some of the practices referred to above, and indeed, some schools whose last judgment was outstanding have lost their outstanding status when inspected under the new framework, because they were unable to explain where a number of pupils were who had been removed from the school register.

SEC believes that a combination of the new EIF and the removal of the exemption from inspection for some outstanding schools, colleges and other organisations delivering publicly funded education and training, will lead to a clearer picture of the quality of education for disabled pupils.

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