



Ofsted Publishes Response to Coroner's Concerns about Inspections: Meaningful Change?

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Further to our article in relation to the inquest into the death of Ruth Perry, Ofsted has now published its [formal response](#) to the Prevention of Future Deaths report issued by the Coroner.

Ofsted's new Chief Inspector, Sir Martyn Oliver, apologises for the role that the [Ofsted inspection played in her death](#). He states that Ofsted accepts the Coroner's findings and that Ofsted intends to re-evaluate its internal policies and procedures in light of the findings so that it can identify where changes should be made.

Sir Oliver states that over the coming months [Ofsted](#) will launch an initiative he is calling the "Big Listen" which will hear from staff working in education and social together with parents, carers, learners, children and young people. The outcome of the consultation is due to be published in September 2024.

In our experience, many providers have been experiencing many of the concerns outlined by the Coroner in her Prevention of Future Deaths Report. Providers have regularly commented on the lack of understanding by Ofsted and the lack of ability to hold it to account for the judgements it makes and the disproportionality in the ratings applied when certain areas for improvement are identified during an inspection. Many providers will no doubt welcome the publication of this response and the actions set out therein. However, it remains to be seen whether these changes will bring about effective change.

Even since the chief inspector's apology about the conduct of Ofsted, providers remain concerned that Ofsted does not appear to be engaging effectively with the factual accuracy process, post inspection, providing only a limited response to provider's factual accuracy comments.

Coroner's concerns in relation to Ofsted and the Department for Education

The Coroner's Prevention of Future Deaths report set out seven concerns she had about Ofsted and the Department for Education, the way in which the inspection process takes place and some of Ofsted's post

inspection arrangements.

The Coroner's concerns following the inquest are summarised as follows:

1. *"Transparency and ease of message to parents are not currently weighed against teachers' welfare. The current system allows a school that is inadequate in all areas to receive the same overall label as a school that is good in all areas, but with some safeguarding issues that can be repaired by the time the report is published.*
2. *There is an almost complete absence of Ofsted training or published policy in signs of distress in school leaders, practical steps to take, pausing an inspection by reason of the distress of a school leader and who can attend meetings with the inspector during the inspection process.*
3. *Absence of a clear path to raise concerns during an inspection if these cannot be resolved directly with the lead inspector.*
4. *The confidentiality requirement after an inspection. Some changes have been made already, but this is not yet written into policy.*
5. *Timescales for report publication.*
6. *No learning review of these matters was conducted by Ofsted. There is no policy requiring this to be done.*
7. *In an Ofsted publication dated 12 June 2023, the Secretary of State for Education was quoted as follows: 'We must ensure our school leaders have the support they need, which is why today we are significantly expanding our wellbeing support. This expansion will help make sure headteachers have access to support whenever they need it'. The Ofsted witness was not able to clarify what form this additional support has taken."*

Summary of steps taken by Ofsted in relation to the Coroner's concerns

We have summarised what we consider to be the key steps already taken together with further action planned by Ofsted. For a full copy of Ofsted's response and all actions planned and already taken, please see the full document [here](#).

Concern 1 – Overall labels

Ofsted states that it agrees with the Coroner that the same overall grading for a school judged good (except for some safeguarding issues) in all areas having the same overall label as a school which is judged as inadequate in all areas obscures the clear difference between them.

Ofsted has confirmed that it currently allows time for safeguarding issues to be correctly immediately during the inspection before a judgement is made. Where issues are more serious and leaders have proven capacity to address the concerns urgently, Ofsted has introduced the opportunity for a rapid re-inspection within three months.

Through the Big Listen, Ofsted wishes to explore alternative approaches to inspection and reporting on safeguarding, including how it can give more time for a school to resolve safeguarding issues before a report is published.

Ofsted has already introduced a national safeguarding duty desk which all inspectors are required to call if their emerging safeguarding evidence could result in an ineffective judgement, to receive support and challenge.

Between January and March 2024, Ofsted will conduct a formal internal review of where aspects of safeguarding fit within the individual judgements of the education inspection framework.

Concern 2 – Absence of training in relation to distress

The Coroner stated that Ofsted has relied too heavily on “inspectors’ professional experience” in relation to leaders’ well-being during an inspection, rather than providing clear written guidance.

Ofsted is immediately developing policies and training to improve practice and enable inspectors to identify signs of distress in leaders.

Ofsted has stated that, during the coming weeks, it will ensure inspectors complete a full package of mental health training. Inspectors must have completed this training before they can lead an inspection. Inspectors had already been trained on “Seeing the Big Picture” in January 2023 to maintain an approach to inspection that does not place disproportionate weight on evidence collected from a small number of pupils, parents and/or staff.

A long-term development programme for inspectors covering support for leaders’ well-being is being established. The roadmap for development will be published in spring 2024.

A helpline for school leaders was introduced in December 2023 for managing concerns about the inspection process.

Ofsted has introduced a new process for pausing inspections, using a national helpline. The new national policy on pausing inspections can be found [here](#).

From December 2023, during notification calls, inspectors have been required to remind headteachers to have someone accompany them at end-of-day inspection team meetings. Inspectors emphasise that school leaders are invited to attend the meeting but are not required to, with no conclusions drawn if they do not wish to attend.

The Department for Education's Regions Groups will be notifying responsible bodies when a provider receives an adverse inspection outcome. Officials from the DfE's Regions Group will contact the responsible body of the school to check that appropriate support is in place.

Concern 3 – Absence of clear path to raise concerns during an inspection

Ofsted has referenced its consultation in relation to its complaints process in response to this concern outlined by the Coroner. Our article in relation to this can be found [here](#).

Ofsted states that it will clarify in its handbooks and associated guidance how providers can raise concerns about inspectors' behaviour, including safeguarding concerns. An update to the Education Inspection Handbook should be complete by March 2024.

Concern 4 – Confidentiality requirement after an inspection

Over recent years, we have seen examples where providers have been fearful of sharing their provisional inspection gradings and outcomes with people due to the strict confidentiality wording that used to be sent with draft reports. Wording used to read as follows: "As this is a draft inspection report, it remains restricted and confidential to the relevant senior personnel. This includes members of the governing or supervisory body, if applicable. You should not share or publish the information contained within it under any circumstances. Sharing this information in any manner is a serious breach of confidentiality. You will receive a final inspection report to make available to relevant stakeholders. We will also publish that inspection report on the Ofsted website."

Ofsted has now changed this wording to the following: "We advise against circulating widely until our moderation process is complete. Nonetheless, we would expect you to discuss the draft findings with anyone that you deem appropriate. We appreciate that, in some cases, the findings in our reports may be difficult to read. We would encourage you to seek whatever support you need."

Ofsted has stated that it now makes it clear that leaders can share provisional inspection outcomes with who they deem appropriate and to seek support. Historically, we found providers were, in some instances, fearful to even seek legal advice in respect of a provisional inspection report.

Concern 5 – Timescales for publication

Ofsted has confirmed that it has announced changes to its post-inspection and complaints process which will

allow it to publish reports more quickly.

During 2024, Ofsted intends to review its quality assurance processes to see if it can reduce the amount of time between an inspection and the publication of the report. The findings are due to feed into the Big Listen.

Concern 6 – No learning review conducted by Ofsted and no policy

Ofsted acknowledged that it has not yet conducted a formal learning review. By March 2024, it will appoint an expert from the education sector to lead an independent learning review of Ofsted's response to Ms Perry's death.

Concern 7 – Ofsted witness not able to clarify the additional wellbeing support introduced following DfE quote

Ofsted has confirmed that it is engaging with the DfE and reiterates the additional wellbeing support it has introduced and explained during its response.

How we can help

We strongly encourage providers to make contact if they are unhappy with their inspection and draft inspection report so that we can assess what steps can be taken to protect the provider. We have extensive experience in relation to holding the regulator to account through the factual accuracy and complaints process together with other proportionate action against Ofsted and the Department for Education. More generally, the team also has extensive experience in [inquest investigations](#).

If you are in receipt of a draft Ofsted report or are concerned about an ongoing inspection, please contact our experienced team as soon as possible to discuss your situation and the options available to you at Alice.Thursfield@LA-Law.com or [01202 786353](tel:01202786353).