



Northern Ireland
Assembly

Research and Information Service Briefing Paper

Paper 25/14

04 December 2013

NIAR 863-2013

James Stewart

Complaints Procedures for School Inspections

1. Introduction

Inspections of schools and colleges are carried out by the Education and Training Inspectorate in Northern Ireland (ETI), Ofsted in England, HM Inspectorate of Education in Scotland, and Estyn in Wales. In the Republic of Ireland inspections are carried out by the Inspectorate.

Each of the jurisdictions has established respective complaints procedures. This paper summarises these processes with respect to school inspections. For each jurisdiction, it indicates the extent to which the complaints process is independent of the inspectorate and outlines whether complaints or appeals can lead to a revised inspection outcome.

2. Northern Ireland

Key Points

- All inspection findings are subject to internal moderation;
- Informal resolution of complaints is the ETI's preferred outcome. If informal proceedings are unsuccessful they are followed by two formal stages;
- Formal Complaint Stage 1: A **written complaint** which is investigated by an inspector with no previous involvement in the school inspection;
- Formal Complaint Stage 2: The Chief Inspector assigns an investigating officer to carry out an **internal review** of the handling of the initial investigation;
- If a school is not satisfied after completing the ETI's complaints procedure, it can refer the complaint to The Assembly Ombudsman for Northern Ireland for an independent investigation into maladministration;
- None of the complaints received by the ETI have resulted in inspection findings being overturned.

2.1. Internal Moderation

During an inspection, the provisional evaluation outcomes are agreed by the inspection team at a moderation meeting. This usually happens on the Thursday of the inspection week (for a 5 day inspection) and on the final day of a short inspection (2 day inspection). The inspection outcomes are then communicated to the Managing Inspector who has a key role in ensuring consistency of inspection outcomes. The ETI states that the Managing Inspector will challenge inspection outcomes, where necessary.¹

The inspection team leaves a written summary of the key findings with the school Board of Governors at the end of the verbal report which is held on the Friday of the week of the inspection (or on day 2 of short inspections).

¹ Information provided by the Department of Education (December 2013)

This summary includes a statement which reads:

This document is confidential to the staff and Board of Governors. Inspection performance levels are provisional, subject to moderation through ETI's quality assurance process and are not final until the report is published. The Reporting Inspector will mediate any changes, as a result of moderation, to the Principal.

Where a Managing Inspector has concerns about the accuracy of the overall inspection evaluation it is brought to the attention of the Assistant Chief Inspector (ACI). If the matter remains unresolved, the ACI will bring the matter to the attention of the Chief Inspector. Discussions are held with the Reporting Inspector throughout this process. The Chief Inspector has overall accountability for inspection outcomes.²

2.2. Complaints Procedure

The Education and Training Inspectorate (ETI) updated its complaints procedure in September 2012. The complaints procedure is the ETI's only mechanism for an individual or organisation to make a formal complaint about any aspect of its work.

The ETI advises that the complaints procedure cannot be used to contest the professional judgements/evaluations of inspectors because their findings are unwelcome or because change is promised or implemented after the inspection. However, the ETI complaints procedure states that it will admit to being mistaken where this is clearly supported by the facts, or where it agrees that there have been serious factual errors in its work.³

The ETI states that the number of complaints it receives is very low given the large number of inspections that take place. An independent survey of professionals in a school leadership role was conducted by NISRA in 2012-13. The results indicated that 93% of the 120 respondents reported that they felt that they had been treated fairly during an inspection.⁴

However, the Irish National Teachers Organisation (INTO) maintains that there is no appeals procedure in relation to school inspections. INTO points out that all complaints are dealt with internally with no independent appeal mechanism.⁵ None of the complaints received by the ETI have resulted in inspection findings being overturned.⁶

² Information provided by the Department of Education (December 2013)

³ ETI (2012) *Complaints Procedure* Bangor: DE

⁴ As above

⁵ INTO (2013) *Response to the Northern Ireland Assembly Committee for Education Inquiry into ETI and the School Improvement Process* Belfast: INTO

⁶ Information provided by the Department of Education (December 2013)

Informal Resolution

The ETI's complaints procedure states that, in most circumstances, an issue should be resolved at an informal level. The ETI recommends that concerns should be raised with the Reporting Inspector (RI) at the earliest convenience. The RI is then tasked with resolving the matter during, or immediately following the inspection.⁷

Formal Written Complaint

If it has not been possible to resolve concerns informally, a formal complaint can be made. This can be made in writing at any stage during an inspection or up to 12 weeks after the visit. ETI will not normally delay publishing an inspection report while it investigates a complaint.

Complaints are investigated by an investigating officer who has no previous involvement with the case. Along with the consideration of evidence provided by the school, the investigation involves contact with the individual inspector or inspection team whose work or report is being complained about. A written response should be received within 20 working days of the complaint being received.⁸

The response includes:

- the outcome of the investigation indicating whether ETI has upheld, partially upheld or not upheld the complaint;
- where ETI have upheld or partially upheld the complaint, what action they are taking to address the issue and to make sure it does not happen again; and
- what a school can do if it disagrees with ETI's decision.

Internal Review

If the complainant is unhappy with the way in which ETI has investigated the written complaint an Internal Review can be requested. The Chief Inspector then assigns an investigating officer, normally a managing inspector, to consider the request and carry out a review of the handling of the Stage 1. This officer will have had no previous involvement in the case. The Chief Inspector will normally respond to the school within 20 working days and will advise:

- whether the previous investigation was thorough, fair and objective;
- whether the Internal Review upholds the outcomes of the previous investigation, or amends or rejects them;
- what actions, if any, will be taken as a result of the Internal Review; and
- what a school can do if it is not satisfied with the outcome of the Internal Review.

⁷ ETI (2012) Complaints Procedure Bangor: DE

⁸ As above

The Assembly Ombudsman for Northern Ireland

If a complainant is not satisfied after completing ETI's complaints procedure, it can refer the complaint to The Assembly Ombudsman for Northern Ireland. Complaints referred to the Assembly Ombudsman for Northern Ireland pertain to maladministration rather than appeals relating to inspection results.

3. England

Key Points

- Informal resolution of complaints is the Ofsted's preferred outcome. This is known as Step 1;
- There is an opportunity to raise concerns about the accuracy of an inspection report as part of a response to the factual accuracy check of the draft;
- Step 2 is a formal complaints process whereby the actions of inspectors are investigated. Step 2 cannot alter the grading of an inspection;
- Step 3 is an internal review carried out by a Senior Manager and **can** result in the moderation of an inspection grade;
- There is a provision for an external review which can be requested from the Independent Complaints Adjudication Service for Ofsted (ICASO) as an independent body. The Adjudicator **cannot** overturn the inspection judgements or decisions made by Ofsted.⁹

3.1. Overview of Procedure

Ofsted published a document entitled 'Complaints about Ofsted' in April 2013. The document states that Ofsted will act swiftly to correct any factual errors in inspection reports. However, Ofsted states that it will not change its inspection judgements simply because they are disappointing to a school, or because improvements in provision have happened since the inspection or are promised in the future. Ofsted's complaints procedure follows three steps.

Step 1: Informal Complaint

Ofsted encourages that, in the first instance, all complaints about its work are raised directly with the individuals concerned as soon as these arise. If a concern is about an Ofsted inspection or inspector, this should be raised with the lead inspector as soon as possible during the inspection visit. This includes concerns about the inspection process, how the inspection is being conducted, or the inspector's judgements.

There is a further opportunity to raise concerns about the accuracy of an inspection report as part of a response to the factual accuracy check of the draft report. Concerns are considered as part of a quality assurance process, prior to the finalised report being

⁹ Ofsted (2013) *Complaints about Ofsted* Manchester: Ofsted

published. This process allows an opportunity to resolve concerns prior to the preparation and publication of the final inspection report.¹⁰

Step 2: Formal Complaint

If concerns about an inspection have not been resolved at Step 1, a formal complaint can be raised with Ofsted. When a school is judged to have 'serious weaknesses' or to 'require special measures', **these judgements are not reconsidered under Step 2** of the complaints policy. Ofsted advises that all such judgements are always subject to thorough and robust moderation procedures prior to authorisation of the judgement by Her Majesty's Chief Inspector.

Furthermore, it is stated that the school contributes to this moderation process and may comment on the inspection findings prior to publication of the report. Although the inspection grade cannot be challenged at Step 2, complaints about inspector conduct and the inspection process can be considered at this stage.

Written responses are provided within 30 days for all complaints investigated at Step 2. Responses provide a conclusion as to whether or not the complaint has been upheld. The response will include an explanation of any steps that Ofsted will take as a result of the investigation.¹¹

Step 3: Internal Review

If a complainant is dissatisfied with the way their complaint has been handled, a review of the complaint process can be requested. This should be submitted within 15 working days of the date of the response to the original complaint

When an inspection has judged a school to require 'special measures' or to have 'serious weaknesses', requests for a review of the **moderation of judgements** process will be carried out under Step 3 of this policy.

The internal review is carried out by a senior manager in Ofsted with no previous involvement in the investigation of the complaint. The reviewing officer decides whether or not the original complaint was investigated fairly and properly in line with published policy. Ofsted provides a written response within 30 working days. This is the final step within Ofsted's internal complaints handling procedure.

Independent and external review of Ofsted's complaint handling

If a complainant remains dissatisfied with the responses there is a provision for an external review, which can be requested from the Independent Complaints Adjudication Service for Ofsted (ICASO). This must be done within three months from the date of the response letter following an internal review by Ofsted.

¹⁰ Ofsted (2013) *Complaints about Ofsted* Manchester: Ofsted

¹¹ As above

The role of the Adjudicator is to investigate the manner in which Ofsted has dealt with a complaint and to provide advice to improve Ofsted's complaints handling. **The Adjudicator cannot overturn the inspection judgements or decisions made by Ofsted.** If complainants are not satisfied with the outcome of the adjudication service review, they can contact the Parliamentary and Health Ombudsman.

4. Scotland

Key Points

- Schools are advised to speak to the Managing Inspector or a member of the inspection team whilst the inspection is on-going if they have a concern.
- HM Inspectorate of Education in Scotland does not accept challenges to evaluations as part of inspection or review.
- If a service user feels that HM Inspectorate has not followed **due process** during the course of an inspection or review, HM Inspectorate will accept and investigate that complaint, adhering to the complaints handling procedure.¹²

4.1. Overview or Procedure

In Scotland inspectors are viewed more as coaches than external examiners. The process is collaborative, with inspectors and the school cooperating throughout the process. Self-evaluation is a key aspect of the approach. It has been suggested that teachers are more likely to view external inspection in a developmental manner rather than a judgemental one.¹³

HM Inspectorate of Education in Scotland has a complaints handling procedure. However, this procedure **cannot** be used to challenge evaluations as part of an inspection. The complaints handling policy states that a school has the opportunity to provide all of the evidence needed for the inspection team to reach its evaluations.

If there is a problem during an inspection, schools are advised to speak to the Managing Inspector or a member of the inspection team. HM Inspectorate suggests that it is easier to resolve issues whilst the inspection is on-going.

However, if a service user feels that HM Inspectorate has not followed **due process** during the course of an inspection or review, HM Inspectorate accept and investigate that complaint, adhering to the complaints handling procedure outlined below.

Stage 1: Front Line Resolution

This could involve giving an on the spot apology and offering an explanation where something has gone wrong, taking immediate action to resolve the issue.

¹² Education Scotland (2012) *Complaints Handling Procedure* Livingstone: Education Scotland

¹³ Perry (2013) *Approaches to school inspection* Belfast: The Northern Ireland Assembly

Stage 2: Investigation

This could involve a detailed internal investigation. When looking into complaints at Stage 2 HM Inspectorate will:

- discuss a complaint to confirm why a complainant remains unhappy and what outcome they are looking for; and
- give a full response to the complaint as soon as possible and within 20 working days.

Scottish Public Services Ombudsman

If a complainant remains unhappy after HM Inspectorate has fully investigated a complaint the Scottish Public Services Ombudsman (SPSO) can be asked to consider the complaint.

5. Wales

Key Points

- Estyn's complaints-handling procedure does not deal with challenges to inspection judgements;
- The procedure applies to issues including the standard and quality of services or products; the content of resources or websites; the conduct of a staff member; and specific inaccuracies;
- Complaints about an inspection must be made in the period between the start of the on-site part of an inspection through to the date of publication of the inspection report. Estyn does not accept complaints about an inspection once the report is published unless there are exceptional circumstances.

5.1. Overview of Procedure

Estyn reviewed its complaints handling procedure in April 2012. However, the procedure does not deal with challenges to inspection judgements. Indeed, once an Estyn inspection report has been submitted, the school has no right of appeal or challenge against the outcome of the inspection and judgements.¹⁴

There is an emphasis on dialogue and communication throughout the inspection process, which includes a formal feedback meeting, prior to the report, between the inspection team and the head teacher, in which the findings are shared and discussed. There is an opportunity for a school to raise concerns and counter arguments against the inspection team's provisional findings. However, even at this point, the Estyn guidance says that 'judgements may be clarified, although they are not negotiable'.¹⁵

¹⁴ Estyn (2012) *Complaints Handling Procedure* Cardiff: Estyn

¹⁵ Estyn (2013) *Guidance for the inspection of Primary Schools* Cardiff : Estyn

Estyn will, nevertheless, accept complaints about the inspection **process**. Normally, these must be made in the period between the start of the on-site part of an inspection through to the date of publication of the inspection report. Estyn does not normally accept complaints about an inspection process once the report is published. It will not delay the publication of an inspection report while a complaint is being investigated.¹⁶

Public Services Ombudsman for Wales

If Estyn does not succeed in resolving the complaint, it may be referred to the Public Services Ombudsman for Wales about limited aspects of Estyn's work. The Ombudsman will not consider complaints relating to the professional judgements made by an inspection team, unless there were shortcomings of an administrative nature or where Estyn did not adhere to policy/procedure.

6. Republic of Ireland

Key Points

- resolving complaints at school level are preferable;
- the Assistant Chief Inspector can be called upon to resolve the concerns raised through contact with the teacher involved and the inspector;
- a Formal Review, undertaken by the Chief Inspector and external reviewer can result in an amended or rescinded inspection report

6.1. Overview of Procedure

The procedure for review may be used when a concern occurs regarding the work of the Inspectorate. A teacher or board of management affected by an inspection may seek a review where he/she or the board believes that one or more of the following circumstances can be shown to apply:

- that an inspector did not make reasonable efforts to carry out his/her duties in accordance with the Inspectorate's Professional Code of Practice on Evaluation and Reporting;
- that an inspector, when conducting an evaluation, did not make reasonable efforts to comply with the published procedures for conducting the type of evaluation involved;
- that the written report arising from an inspection did not comply with the principles regarding reporting outlined in the Inspectorate's Professional Code of Practice on Evaluation and Reporting;
- that the Inspectorate did not make reasonable efforts to comply with the published procedures concerning the publication of school inspection reports

¹⁶ Estyn (2012) *Complaints Handling Procedure* Cardiff: Estyn

Resolving a concern at the school level

If a teacher or a board of management of a school has a concern about the work of an inspector, the teacher or the chairperson (acting on behalf of the board) should bring the matter to the attention of the inspector. This should happen during the time that the inspection work is in progress in the school. The inspector and the teacher (or chairperson) should seek to resolve the matter informally.¹⁷

Formal Review

If a concern is not resolved informally, the teacher or chairperson of the board should contact the Assistant Chief Inspector of the Inspectorate region in which the school is situated. If the Chief Inspector considers that the issues fall within the scope of the Procedure for Review, he/she will initiate a formal review and appoint an external reviewer.

The Chief Inspector will propose a course of action after a formal review. This may include one or more of the following:

- that the inspection activity will be upheld and the report arising from it, if any, will be processed as normal in the Inspectorate and the Department;
- that the Inspectorate will acknowledge that an aspect (or aspects) of the inspection activity was not in keeping with the Inspectorate's Professional Code of Practice on Evaluation and Reporting and, if appropriate, that an apology will be offered by the Inspectorate to those affected;
- that the Inspectorate will acknowledge the occurrence of an error or failing in the implementation of the Inspectorate's published procedures regarding inspection or reporting or publication of inspection reports, and, if appropriate, an apology will be offered by the Inspectorate to those affected;
- that the inspection report will be amended and reissued;
- that the inspection and/or the inspection report will be rescinded, in whole or in part, and a further inspection or part inspection, as appropriate, will be carried out by an inspector (or inspectors) unconnected with the original inspection and review;
- that the Inspectorate will undertake any other action considered appropriate by the Chief Inspector.

¹⁷ The Inspectorate (2006) *Procedure for the Review of Inspections on Schools and Teachers under Section 13 (9) of the Education Act (1998)* Dublin: Department of Education and Science

Figure 1: Summary of Complaints Procedures

