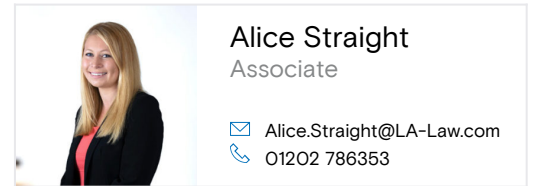




## AUTHOR / KEY CONTACT

# Effectiveness of Ofsted: Reform to Inspection Gradings Ahead?



The very sad death of a headteacher at a primary school in Reading, has been a dominating feature of the news over recent days. This event has provoked a passionate debate from colleagues across the education and care sector about the effectiveness of Ofsted as a regulator and the suitability of single-word gradings.

Amanda Spielman, the current Chief Inspector of Ofsted has commented that the debate about reform of Ofsted inspection to remove the system of single word gradings is a *“legitimate one”* in an [official statement](#) about the matter.

Providers will be acutely aware of the current gradings which, following an inspection in England, conclude a school to be rated as either “Outstanding”, “Good”, “Requires Improvement” or “Inadequate”.

The National Education Union General Secretary has commented that it is *“absurd that the whole school life is condensed into a single-word judgement”* and this is a sentiment that we regularly hear from our clients across the education and children’s social care sector. Providers often comment that the current Ofsted system of inspection is no longer fit for purpose for a number of reasons, most notably that the single-word judgement often does not capture the nuanced nature of education and children’s care services.

We have previously written about the [mechanism for challenging Ofsted inspection reports](#) and the importance of challenging an Ofsted report as promptly as possible to ensure that the factual accuracy process and formal complaint mechanism is utilised as effectively as possible. It is critical for providers to make use of the factual accuracy process for a number of reasons. This is because Ofsted, and thereafter the High Court (for example), will look at how quickly a provider has drawn to the attention of Ofsted any factual inaccuracies or concerns it had with the inspection and the draft findings. It is therefore very important for a provider to be making those concerns known to Ofsted at the earliest opportunity.

Given our extensive experience in drafting factual accuracy submissions across both the education and health and social care sector, we are familiar with the procedural process of the factual accuracy check. In addition to comments about the accuracy of factual statements in the draft report, we often seek to include higher level legal submissions relating to any failures to follow relevant policies or guidance, in addition to proportionality, accuracy and reasonableness drawn from public law principles, where applicable, when drafting factual accuracy documents on behalf of providers. We always strongly encourage providers to promptly seek legal advice from a

specialist legal adviser if they are concerned about a draft Ofsted inspection report, to discuss the factual accuracy process and to consider whether a submission should be lodged with Ofsted.

As providers will be acutely aware, an adverse inspection report can lead to other problems. Not only can an adverse grading of “Inadequate” cause reputational and commissioning concerns but it can also have a direct impact on the staff morale and people working within the service or educational setting and this impact cannot be understated, particularly in light of recent events.

We regularly make submissions to Ofsted about the fairness and proportionality of its judgments and the accuracy of its findings. In circumstances where Ofsted has inappropriately applied a grading descriptor to a piece of evidence, to the detriment of the provider, we strongly encourage providers to make contact with a legal advisor so that we can assess the steps needed to be taken to protect the service from an unreasonable or adverse grading.

The current system for grading education and care services can result in an unfair “overall” grading of the service, even if the service may perhaps have received “Good” gradings for individual categories such as “quality of education” or “personal development” but a lower grading for another category. The overall grading is often the snapshot grading for a service and providers and staff can be left feeling frustrated with a seemingly unfair representation and overall grading of its service.

We can assist providers in making submissions about the fairness of the overall grading and put forward an argument as to why the overall grading should be more proportionate.

We have experience in obtaining upward movements on gradings for individual categories of inspections from “Inadequate” to “Requires Improvement”, obtaining prompt monitoring visits for Ofsted to revisit a service and have been successful in utilising the Representation process to prevent Ofsted from taking enforcement action to close a children’s home based upon a historic inspection finding.

The current Chief Inspector, Ms Spielman is due to leave Ofsted at the end of 2023 and it remains to be seen what changes are coming down the track to the regulation of education and children’s services.

There certainly appears to be strong appetite for reform in relation to the single-word gradings of services which can have such negative consequences for so many. What is clear is that any changes should be developed in consultation with the very people that Ofsted regulate. A new mechanism for gradings is clearly required to meet the needs of providers, services and the regulator so that they can effectively regulate services in a collaborative and progressive way.

If you are in receipt of a draft Ofsted report or are experiencing difficulties with Ofsted and any proposed enforcement action, please contact our experienced team, headed up by Laura Guntrip, as soon as possible to discuss your situation and the options available to you at [Laura.Guntrip@la-law.com](mailto:Laura.Guntrip@la-law.com) or

[Alice.Straight@la-law.com](mailto:Alice.Straight@la-law.com) or call 01202 786135.