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*Please file  
(let Tim know that  
we have had it  
back)*



14 September 2010

Ms Oona Stannard  
Chief Executive and Director  
Catholic Education Service  
39 Eccleston Square  
London  
SW1V 1BX

RECEIVED 16 SEP 2010

*Ms Oona,*

### **Sections 5 and 48 Protocol**

Please find attached a copy of the above protocol, which has now been counter-signed by Sheila Brown, HMI, National Director, Inspection Delivery, Ofsted.

Yours sincerely

A handwritten signature in black ink, appearing to read "Mike", with a horizontal line underneath.

Mike Hoban HMI  
Managing Inspector  
Delivery Directorate



## **PROTECT - DEPARTMENTAL**

### **THE INSPECTION OF SCHOOLS WITH A RELIGIOUS CHARACTER IN ENGLAND (THOSE SCHOOLS SUBJECT TO INSPECTION UNDER BOTH SECTIONS 5 AND 48 OF THE EDUCATION ACT 2005)**

**FROM 15 SEPTEMBER 2010**

#### **PROTOCOL FOR INSPECTORS**

##### **Purpose**

The intention of this protocol is to ensure that, where a school is to be inspected under both sections 5 and 48 of the Education Act 2005, appropriate arrangements are in place for the inspections to be carried out simultaneously; or for the section 48 inspection to take place after the section 5 inspection. This is in order to minimise the volume of inspection in the school. This version of the protocol is between Ofsted and the Roman Catholic Church's Catholic Education Service. This protocol also covers the inspection of academies sponsored by faith groups.

##### **Background**

2. If a school has a religious character, as determined by the Secretary of State for Education and Skills under section 69(3) of the School Standards and Framework Act 1998, denominational religious education and the content of collective worship are inspected under section 48 of the Education Act 2005. Where religious education is required to be provided using the locally agreed syllabus relevant to the school, religious education is inspected under section 5 of the Education Act 2005.
3. The governing body of a school (or foundation governors in the case of a voluntary controlled school) is responsible (after consultation with the appropriate authority) for setting up the section 48 inspection and for appointing that inspector.
4. Ofsted and its inspection service provider (ISP) partners have no statutory remit in respect of section 48 inspections. This protocol is designed to assist in the manner in which section 5 and section 48 inspectors co-

operate while remaining within the statutory requirements of each inspection, including the provision of separate reports.

5. Section 5 inspections are generally carried out by a team, one member of which is designated the lead inspector. The inspections may be led by one of Her Majesty's Inspectors (HMI), or an additional inspector from an ISP. Where a section 5 inspection is carried out by a single inspector, the term 'lead inspector' is used to describe this inspector in this protocol. Section 48 inspections are generally carried out by one inspector and the term section 48 inspector in this protocol refers to this person or the lead inspector where there is more than one inspector on the section 48 team.

6. In circumstances where a section 5 inspection is scheduled:

- alongside an inspection of boarding provision; or
- with an inspection of the Early Years Foundation Stage taking place as part of that section 5 inspection; or
- with an inspection of the Early Years Foundation Stage taking place as a parallel inspection event alongside that section 5 inspection

then a section 48 inspection may also take place concurrently. However, if a school's leadership considers that such concurrency would place an inappropriate burden on the affected school, then the section 5 inspection of a school which has boarding provision will take precedence over the section 48 inspection, in that the section 48 inspection shall be postponed. In the case of a section 5 inspection taking place, where it includes the inspection of the Early Years Foundation Stage, then the section 5 inspection shall take precedence over the section 48 inspection, in that the section 48 inspection shall be postponed. Where a school directly provides registered childcare for children in the Early Years Foundation Stage there may be a further inspection. This may take the form of a first inspection of newly registered provision, or inspection of any non-compliance with the requirements of registration as a result of a previous inspection or complaint. In such circumstances, a further section 48 inspection would not take place either at the same time, or after that event.

### **Scheduling the inspection**

7. Ofsted will make available to signatory organisations to this protocol the names of all relevant faith schools to be inspected in each ISP's

geographic area, and the dates of those inspections, in the term prior to the term of inspection. Each ISP will nominate an inspection liaison officer as the contact point for faith groups, and shall also nominate a senior manager to act as a liaison point on wider section 5 & section 48 matters. Ofsted will take appropriate steps to ensure that such notifications are made on a confidential and secure basis, in line with Ofsted's policy on information assurance. The information to be shared is the names of faith schools and the proposed dates of inspection and carries the UK Government's Protective Marking of 'PROTECT-INSPECTION'. The information is issued by Ofsted and is to be used by the Catholic Education Service solely for scheduling inspections as described in relevant sections of the protocol. The Catholic Education Service's contacts shall sign the confidentiality clause (attached at the annex), undertaking to maintain confidentiality concerning the provision of the information.

8. If the date of a section 5 inspection of a faith group school is changed, then the relevant ISP shall advise the affected faith group as soon as practical after the decision has been made to change the date of the section 5 inspection.

9. This information will only be used by the lead nominated officer and other nominated employees and members of the faith groups for the purpose of scheduling section 48 inspections. Nominees will be proposed to Ofsted by the signatories to this protocol. The names of schools to be inspected and the proposed dates of inspection will be kept confidential. A school's name will not be revealed to any section 48 inspector until after the school is notified, nor will it be revealed to any member of any school, or any officer of the relevant local education authority, or any member of that school's governing body either by nominees, members or employees of the faith group or by any inspectors appointed to inspect that school under section 5 or section 48, until the school and the relevant diocesan officer have received notification from the ISP of the date of the section 5 inspection. The relevant diocesan officer may be notified by email. By signing the protocol, the signatory binds her or his organisation to maintain the levels of confidentiality outlined in this protocol.

10. Information supplied to the Catholic Education Service will not be used for any purpose other than within the terms of this protocol. This protocol, or

the supply of information, does not create any licence, title or interest in respect of any Intellectual Property Rights of the disclosing party. Where possible, information must be processed directly from the system. Where local storage, such as saving information from the system to a local computer is required, all reasonable steps must be taken to ensure only authorised individuals have access, including limiting and removing access when it is not required; careful handling and disposal of any print outs; avoiding use of removable storage where possible, and encryption of storage devices. In the event that the Catholic Education Service discovers that materials provided under this protocol have been incorrectly released, then shall inform Ofsted immediately about that breach.

11. A proportionate approach to inspection is a principle of the new school inspection framework, and will be achieved partly by adjusting the frequency of inspections. In consequence, from September 2009, Ofsted has varied the frequency of schools' inspections depending upon the results of their previous inspections and an annual assessment of their subsequent performance. Hence, in general terms, schools currently judged 'good' or 'outstanding' at their previous inspection are usually inspected once within a five-year interval unless there is cause for concern. Schools which were judged 'satisfactory' at their previous inspection are inspected within three school years from the end of the school year in which that inspection took place. The section 48 inspection will either be scheduled to take place concurrently with the school's section 5 inspection or as soon as possible after the section 5, and within the period specified by the legislation. If the faith group with linkages to the school is able to conduct a section 48 inspection at the time of the section 5 inspection, the faith group inspectorate will, first of all, confirm with the ISP that the inspection will be going ahead, and that the school has been, or will be, notified of the section 5 inspection's date by the ISP. The faith group inspectorate will then contact the school after the school has been notified of the section 5 inspection, to apprise the school of the concurrent section 48 inspection, and of the form and nature of the section 48 inspection. The faith group must check with the ISP that the school has been notified, and that a section 5 inspection will go ahead; the ISP shall advise the faith group inspectorate of the lead inspector's name.

12. Where a school is subject to a further inspection within the inspection interval under section 5 (for example, a second inspection of a school with a

notice to improve), a further section 48 inspection would not normally take place at the same time. Should a faith group decide to conduct a section 48 inspection at the same time as the further section 5 inspection, the faith group should consult with Ofsted and the Department for Education.

13. Breaches of confidentiality over the scheduling of inspection will result in withdrawal of access to Ofsted's information over scheduled dates of inspection for a period at the discretion of Ofsted. The determination of a breach of confidentiality will be made after the views of the relevant faith group have been taken into account: that process, and the decision on a withdrawal of access to that source of information, will be the responsibility of the National Director, Inspection Delivery, Ofsted. The decision letter will be issued to the relevant faith group inspectorate and copied to the Department for Education.

### **Relationship between inspectors**

14. Ofsted's framework for inspection, its inspection guidance and instruments used under section 5, are available to section 48 inspectors, through access to Ofsted's website.

15. Where a section 48 inspection takes place concurrently with a section 5 inspection the section 48 inspector will, if it is requested, make available to the section 5 lead inspector the evaluation schedule to be used for the section 48 inspection and any supporting guidance.

16. The school may make its self evaluation form (SEF) available to the section 48 inspector without prior reference to the section 5 inspector. This may be done by the school providing a paper or electronic copy of the SEF.

17. Where either the section 48 or section 5 inspector, having read the SEF and/or having been in contact with the school, believes that a section 48 inspection has been wrongly scheduled, or a section 48 inspection has not been scheduled when one is needed, s/he should immediately seek advice from the relevant ISP to establish what action, if any, is needed.

18. Although the section 48 inspector will inspect acts of collective worship or those lessons designated as providing denominational religious education,

section 5 inspectors and section 8 inspectors who monitor groups of schools, such as those causing concern, may attend acts of collective worship, and may observe lessons in which denominational RE is provided. In such cases, the section 5 inspector will not inspect or report on matters which are the responsibility of the section 48 inspector. Finally, section 5 and section 48 inspectors should jointly take steps to avoid over-inspection of particular teachers.

19. In the case of concurrent inspections, to support their understanding of the school and its standards and provision, section 5 and section 48 inspectors may discuss, within the terms of the Ofsted Code of Conduct for inspectors, inspection evidence and emerging judgements, providing that no inspector from either inspection shall seek to take part in decisions or influence judgements made by inspectors from the other.

20. In the case when the inspections take place within the same term, but with the section 48 inspection taking place after the section 5 inspection, the lead inspector on the later inspection will consider the report of the earlier inspection.

### **Feedback and reporting**

21. Where section 5 and section 48 inspections are undertaken concurrently, feedback on both inspections may take place at the same meeting, with the agreement of those receiving feedback, and provided that the feedback and subsequent discussion are conducted under the terms of the Ofsted Code of Conduct for inspectors. The timing of the feedback should be agreed beforehand by the inspection teams and the school's leadership.

22. The existence of a section 48 inspection report on a school shall be acknowledged in the *Information about the school* section of a section 5 inspection report.

### **Quality assurance and performance management**


23. Section 48 inspection reports shall not be subject to scrutiny by Ofsted or the ISP for the purposes of quality assurance, and section 5 inspection reports shall not be subject to scrutiny by section 48 inspectors or their faith groups for the purposes of quality assurance.

24. The work under section 48 of the Education Act 2005 of any section 48 inspector who also inspects under section 5 shall not be admissible in support of her or his performance management by Ofsted or his or her ISP.

### **Review of Protocol**

25. This protocol will be subject to collective review and amendment by Ofsted and other signatories from time to time.

*Signed and dated by:*

 22 July 2010

*Representative of the Catholic Education Service*

*Signed and dated by:*

 02.09.10

*National Director, Inspection Delivery, Ofsted*



### Confidentiality Clause

Each signatory shall:

- (a) treat the other party's confidential information on inspections as confidential, and safeguard it accordingly; and
- (b) not disclose the other party's confidential information on inspection to any other person without the owner's prior written consent, other than disclosures permitted within the terms of the section 5/section 48 protocol.

Signed, as designated faith group officer of the Catholic Education Service  
:

*Una Hammond*

Position: *Chief Executive & Director.*

Date *22 July 2010.*

Signed, National Director, Inspection Delivery, Ofsted

*S. Bae*

Date: *02. 09. 10*

