

Part-time Provision in Non-School AP

(or – how to meet the need of as many young people as possible without being an unregistered school!)



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.ALTERNATIVE LEARNING INITIATIVE GROUP
NETWORK

WELCOME TO ALIGN



Networking & events

ALIGN aims to bring together those working in alternative learning environments and those who support them.



Resources

We share news and resources of interest to those working in and with alternative learning settings.



Advocacy & support

We want to be a positive voice for the sector, particularly for those settings working outside of the Ofsted framework.

The current context



**Non-School
AP**

No more than
18 hours

**The
forbidden
zone**
Not PT not
full-time

Reg. School

Ofsted compliant
25 hours +

What information is there?



- Arranging Alternative Provision DfE Feb 2025.
Independent School registration guide DfE 2019
- Policy statement: prosecuting unregistered independent schools DfE 2019.
- Forthcoming legislation – ‘Strengthening protections in non-school alternative provisions’ DfE August 25
- How Ofsted handle ‘unregistered schools’
Unregistered school inspection handbook Ofsted 2015

What do we know?

“An independent school is defined as any school at which **full-time** education is provided for **five or more** pupils of compulsory school age, or for **one or more such pupils with an EHC plan or a statement of special educational needs or who is “looked after” by a local authority**” DfE

What do we know?



“There is no legal definition of what constitutes ‘full-time’ education.....we would consider an institution to be providing full-time education if **it is intended to provide, or does provide, all, or substantially all, of a child’s education.** Relevant factors in determining whether education is full-time include: a) **the number of hours per week** that is provided – including breaks and independent study time; b) **the number of weeks in the academic term/year the education is provided;** c) **the time of day it is provided;** d) **whether the education provision in practice precludes the possibility that full-time education could be provided elsewhere.** ” DfE

What do we know?

“Generally, we consider any institution that is operating during the day, for more than 18 hours per week, to be providing full-time education.” DfE

Registration of Independent Schools



"Generally, we consider any institution that is operating during the day, for more than 18 hours per week, to be providing full-time education. This is because the education being provided is taking up **the substantial part of the week** in which it can be reasonably expected a child can be educated, and therefore indicates that the education provided is **the main source of education** for that child." (2019)

Registration of Independent Schools:

Departmental Guidance for Proprietors and Prospective Proprietors of Independent Schools in England (2019)

In the last 10 years.....



There have been a total of 1414 investigations into alleged illegal schools since 2016 and the number is rising.

From 1414 investigations there have been:

- 200+ warnings
- 7 prosecutions (including custodial sentences)
- 18% of investigations were of faith settings
- The vast majority of settings were issued a warning and made adjustments
- The prosecutions brought were for very clear and obvious breaches of the law and lack of adherence to guidance - this may change with new regulations
- Convictions/prosecutions are rare, partly because Ofsted currently lacks the powers to seize evidence of breaches in the way police do not.



Key Court Cases & Prosecutions



1. DfE v Al-Istiqamah Learning Centre (2018) – ruled that 18 hours per week may still be considered full time if the hours attended were akin to a full school day (in this case 09:00–14:00) in that they preclude other education. Also established that 18 hours was not to be relied upon as a definition of part time/ not full time.
2. DfE v Ambassadors High School, Streatham (2019) – the proprietor had been unsuccessful in a previous application to register as a school and continued to operate.
3. DfE v Aisha Tuition Centre (ATC), Sheffield (2022) – the proprietor operated a registered school on the same site with shared staff and building but with multiple pupils not on roll and accessing substantial education.



Proposed changes to definitions & to Ofsted Powers



The Children's Wellbeing & Schools Bill includes proposals to give more power to Ofsted's illegal school inspection team and to expand the sorts of settings needing to register as a school:

- 18 hour upper limit will be removed and replaced by the more subjective "majority of a child's education" as the measure.
- More scope for inspectors to determine whether education is supplementary or temporary vs designed for longer term or to replace a substantive education.
- Enhanced search and seizure powers for inspectors.
- Much heavier fines for proprietors/owners who fail to meet non-school AP standards or fail to register as a school).
- Establishments with a full time offer (for example, religious instruction) that is "very narrow" in focus will be required to register.



Case Study #1

Context



- Non-School Alternative Provider with pupils in 4 days per week, 4 hours per day (max 16 hours per pupil)
- 20 pupils aged 11-16 accessing the provision in total, some EOTAS but mostly permanently excluded and awaiting a placement in a registered school (not on roll).
- 6 pupils have EHCP
- The day operates 09:00-13:00 for most pupils, with some flexibility
- Mixture of therapeutic sessions delivered by non teachers (equine & animal therapy) targeted PHSE and Maths/English Functional Skills provided by qualified 1:1 tutors with subject expertise.



Case Study #1

Outcome



The setting was deemed to be providing “full time” education to more than 5 pupils, and to more than 1 with an EHCP based on the following:

- A high preponderance of Maths & English sessions (hour per week of 6+ in some cases) which were higher than might be provided/expected in a school.
- Maths & English sessions delivered at a level of intensity that amounted to more focussed/extensive provision than would be expected in a school (where 2–3 hours per week spread across a large class would be typical).
- The spread of sessions (09:00–13:00 over 4 days) precluded the possibility that substantial education might be otherwise provided elsewhere.



Case Study #1

Potential Changes?

- Reducing the number of hours to 15 and spreading across 3 days?
- Adapting the curriculum offer?
- Pupil-specific justifications around the way that provision is organised to operate in the spirit of “part time” rather than “substantive”?
- Pupil-specific justifications for curriculum planning that is bespoke/individualised?
- Tension between too narrow/intensive a focus and too “broad and balanced”?

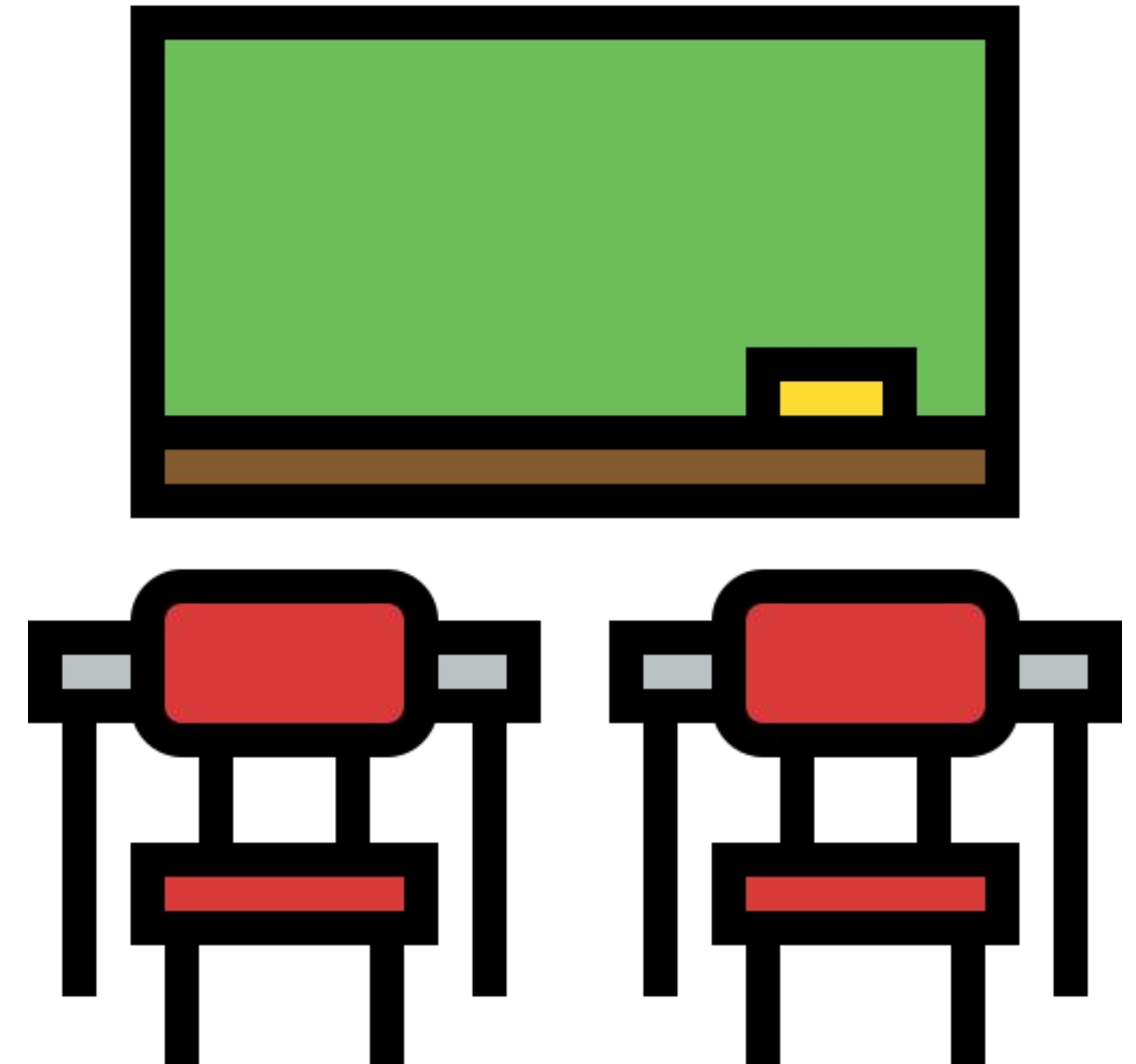


Case Study #2

Context



- Non-school alternative provider offering 1-5 days per week (AM **or** PM) to supplement mainstream school placements for primary & secondary pupils
- Also some children accessing via EOTAs
- Also some children awaiting a school placement
- Predominantly Maths & English with SEMH support
- Employs highly skilled subject specialists and tutors
- Organisation owns and operates a separate tutoring business with same directors and registered address
- Had applied to become an Independent Special School and had Inspection in previous 12 weeks – feedback had been excellent but had been told should stay as non-school AP.

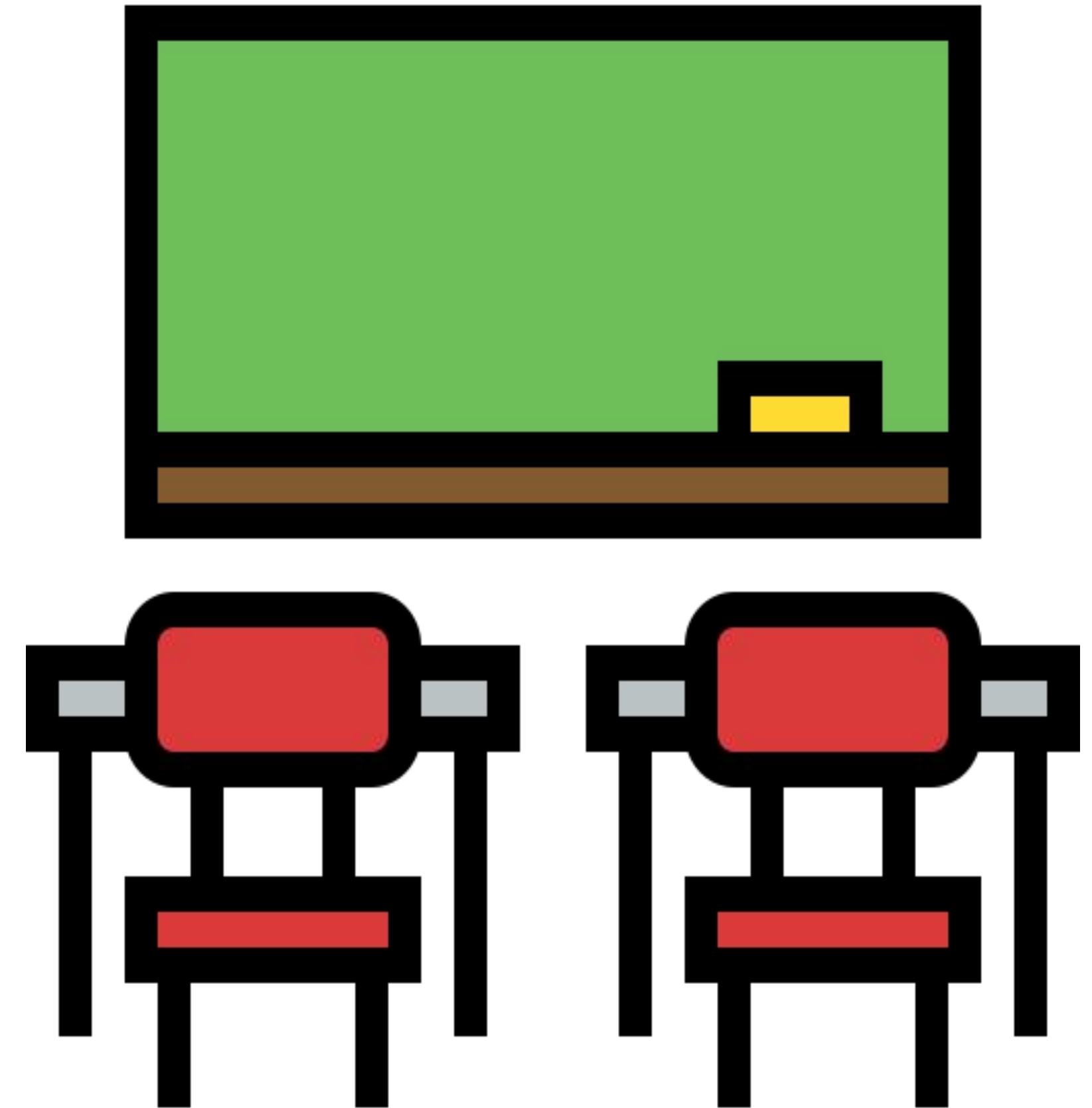


Case Study #2

Section 97

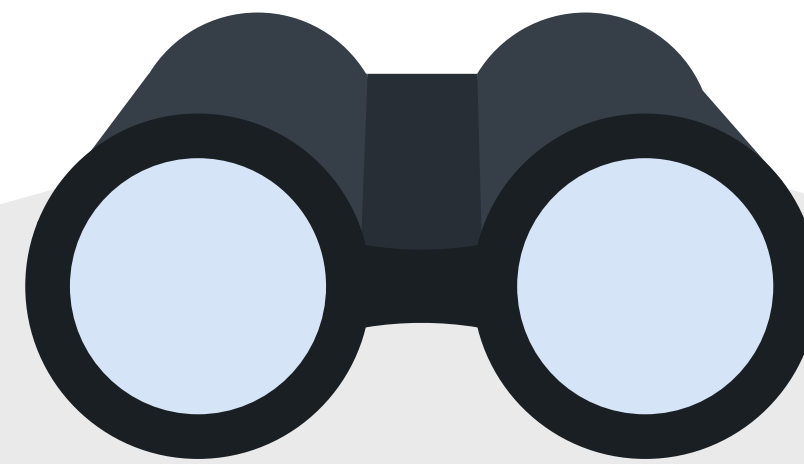


- Inspectors arrived unannounced and cautioned the business owner
- Inspection had been triggered by a link to an old website page that described the tutoring offer as “9am–2pm”
- Inspectors had investigated and found that multiple businesses were linked to the owner and that they needed to be satisfied that the pupils receiving tuition were not the same as those receiving non-school AP.
- Intense inspection that looked at all timetables, session notes, registers as well as H&S and Safeguarding. Owner was compelled to produce evidence to show they were not running an illegal school.



Looking forward

Future probable legislation



Full-time placements

Limited to 12 weeks

Part-time hours

2 days or 4 sessions (am/pm)

Non-school standards

Checked by LA's = more oversight.

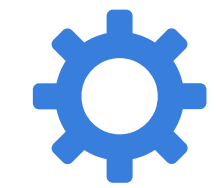
Key questions



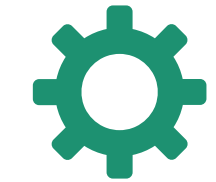
1. How many hours do my students do?
2. How many weeks is a placement?
3. What time of day do I run?
4. What else are my students doing?
5. Does my safeguarding and H&S meet the Independent School Standards?



Protecting yourself



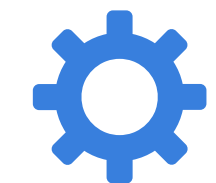
Keep to the rules



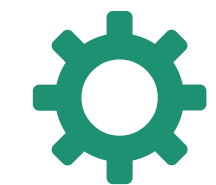
Don't use the LA/Schools as your guide



Think about what you portray to others



Keep up-to-date with your young people



Keep the paper trail

The paper trail



- Pupil details
- Registers
- Timetables
- Commissioning agreements
- What does a child's week look like?
- Policies
- Curriculum offer

Any questions?

