**Briefing: DfE: Draft Coasting Schools (England) Regulations 2016**

**Summary**

The [draft Coasting Schools (England) Regulations 2016](http://www.legislation.gov.uk/ukdsi/2016/9780111150498/contents) are the final stage of the legislative journey of implementing the Government’s commitment to identify “coasting schools”. These are ‘affirmative’ regulations and will need to be approved by each House of Parliament before they come into effect. The 2016 draft regulations update the outline regulations published in 2015 with thresholds based on data from the provisional 2016 test results at KS2 and GCSE.

The Government have also published [Coasting schools in England: November 2016 (provisional data)](https://www.gov.uk/government/publications/coasting-schools-in-england-november-2016-provisional-data) which starts to identify schools to which the regulations may apply. This briefing provides:

1. policy and research background (see also Related Briefings)
2. coasting schools criteria for Primary and Secondary schools
3. early indications of the characteristics of schools identified
4. reflections on the role of school commissioners in implementing the regulations and the impact they are likely to have.

This briefing will be of interest to elected members and officers with responsibility for school performance, and also school governors and the leadership teams of schools and groups of schools.

**Background**

The term ‘coasting school’ was first used formally under the last Labour government which saw them as schools “at risk of failure” in the 2007 [Children’s Plan: Building brighter future](https://www.gov.uk/government/publications/the-childrens-plan) although the term had been in use since the late 1990s. The intention was to target schools for support where achievement was reasonable or even high, but where progress was less good. The proposal at that time was to use Ofsted judgements as a way of defining such schools. The Conservatives’ concern with coasting schools can be traced back to a David Cameron [speech](http://www.ukpol.co.uk/tag/2011/page/13/) in 2011 where he identified coasting schools broadly as “the ones whose results have either flat-lined or where they haven’t improved as much as they could have.”

This had an impact on Ofsted’s grading system. From 2012, the “satisfactory” rating became “requires improvement” and resulted in a significant shift in tone. HMCI Sir Michael Wilshaw said “schools judged in this new category would be subject to earlier re-inspection, within 12-18 months, rather than up to three years … Schools will be given up to two inspections within that three year period to demonstrate improvement”. The term ‘coasting school’ became immediately significant for headteachers and governors.

Following the General Election in 2015, and as part of the Conservative Party’s election manifesto, the Government introduced the Education and Adoption Bill into Parliament in June 2015. The definition of a coasting school in the Bill and the subsequent [Education and Adoption Act 2016](http://www.legislation.gov.uk/ukpga/2016/6/contents) (March 2016) is driven by data on progress and not Ofsted judgements with the final definition being subject to regulations. Outline regulations for coasting schools were published in June 2015 (see Related Briefings). [The Coasting Schools (England) Regulations 2016 (PDF document)](http://www.legislation.gov.uk/ukdsi/2016/9780111150498/pdfs/ukdsi_9780111150498_en.pdf) were published in November 2016.

There has been significant debate on the difficulties of identifying coasting schools using performance data alone, including the problem that all pupils do not make the same rate of progress as judged by the former national Curriculum levels. Those from lower starting points (often from disadvantaged backgrounds) tend to make slower progress than those from higher starting points (often from advantaged backgrounds). Rates of progress in schools with high proportions of lower achieving pupils tend to be lower for all pupils in the school. This can lead to a ‘wrong’ designation of coasting and schools with highly advantageous intakes, including grammar schools, escaping the coasting designation. See Related Briefings for a literature review focusing on how coasting schools could be defined. There is also the problem that schools with small numbers of pupils, particularly rural Primary schools, may be subject to wide variation in performance.

**Briefing in full**

The Draft Coasting Schools (England) Regulations 2016 build on previous floor standards for schools. They introduce both an attainment threshold and a minimum rate of progress. For Secondary schools the measure will progressively become solely based on rates of progress achieved. Schools must meet the criteria in “each school year of the most recent three successive school years.” Because of changes to National Curriculum assessments the progress measures changed in 2015/16 with the new measure gradually replacing the old ones over the next two years.

The draft regulations were laid before Parliament on 20 October 2016 and will come into force once approved by both Houses of Parliament. They will apply to all mainstream local authority maintained schools and mainstream academies with the relevant key stage 2 or key stage 4 outcomes. They will not apply to Pupil Referral Units, special schools and special academies, alternative provision academies or maintained nursery schools. The regulations will also be dis-applied to schools with small numbers of eligible pupils (fewer than 11 pupils at KS2), and/or with fewer than 50% of pupils having tests or assessments that can be used as prior attainment in the calculations of progress. The regulations are about local authority maintained schools although data from children in academies are included in the calculations which define coasting schools. Academies which meet the definition will be so labelled. New sponsored academies and free schools will not be included until sufficient data are built up which could be as long as seven years because three years of progress measures, over which five years of progress is measured, are required.

**Coasting Schools regulations - Primary 2016**

Coasting Schools are those that meet the criteria in each of the three previous years.

**In the 2013/2014 year**: schools where fewer than 85% of pupils achieved level 4 or above in reading, writing and maths, and fewer than the national median percentage of pupils made 2 levels or more progress in each of the core subjects (i.e. below 94% in English reading, 96% in English writing, and 93% in mathematics).

**In the 2014/2015 year**: schools where fewer than 85% of pupils achieved level 4 or above in reading, writing and maths, and fewer than the national median percentage of pupils made 2 levels or more progress in each of the core subjects (i.e. below 94% in English reading, 97% in English writing, and 93% in mathematics).

**In the 2015/2016 year**: schools where fewer than 85% of pupils achieved the expected standard in reading, writing and maths, and the progress measures for the school are below -2.5 in English reading, -3.5 in English writing, and -2.5 in mathematics. In addition, for any progress measure which is below the figure mentioned “the corresponding upper confidence limit is below zero”. See Related Briefings for further information on how progress measures are calculated.

The expected standard is a combined measure across the three subjects which counts the scaled score of pupils attaining 100 or more in reading and mathematics, and a teacher assessment in writing that is ‘working at the expected standard’ or ‘working at a greater depth than the expected standard”.

The DfE published [Primary School Accountability](https://www.gov.uk/government/publications/primary-school-accountability) in October 2016 (see Related Briefings) which provides both a broad overview and which gave technical details on the new measures. [Primary Progress Measures (PDF document)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560969/Primary_school_accountability_summary.pdf.pdf) explains how the KS1 to KS2 progress measure is calculated.

**Coasting Schools regulations - Secondary 2016**

Coasting Schools are those that meet the criteria in each of the three previous years.

**In the 2013/2014 year**: schools where fewer than 60% of pupils achieved 5 or more A\*-C or equivalents at GCSE, including A\*-C in both English and mathematics, and the percentage of pupils making expected progress is less than 74% in English and less than 67% in mathematics.

**In the 2014/2015 year**: schools where fewer than 60% of pupils achieved 5 or more A\*-C or equivalents at GCSE, including A\*-C in both English and mathematics, and the percentage of pupils making expected progress is less than 73% in English and less than 68% in mathematics. In addition, for a school which is a Progress 8 early opt-in school, the school’s Progress 8 measure for that year is below -0.25 and the school’s upper confidence limit for that year is below zero.

**In the 2015/2016 year**: schools where the Progress 8 measure for the school year is below -0.25 and the school’s upper confidence limit is below zero.

Progress 8 captures the progress a pupil makes from the end of Primary school to the end of Secondary school. For each pupil, actual progress will be compared with expected progress across eight subjects, including English and maths. A school’s Progress 8 score will be made up of all their year 11 pupils’ scores. [School performance tables: about the data](https://www.gov.uk/government/collections/school-performance-tables-about-the-data#2016-data-key-stage-4) published by the DfE provides greater technical detail about how Secondary school measures are calculated. In future years the Progress 8 measure for the school will form the basis, but the threshold figure and upper confidence limit could be amended. (See Related Briefing.)

**Coasting all through Schools**

The regulations state that if an all through school meets the criteria at one stage, but not another, it will still be deemed a ‘coasting’ school.

**Coasting Schools Provisional Data**

[Coasting schools in England: November 2016 (provisional data)](https://www.gov.uk/government/publications/coasting-schools-in-england-november-2016-provisional-data) provides the first overview of schools that look likely to meet the coasting criteria. No school will be formally identified as coasting until the 2016 results are finalised and published on 15 December 2016 (ONS confirmed) for key stage 2 or January 2017 for key stage 4. The provisional estimate includes 479 schools at key stage 2 (3.5% of all eligible schools) and 327 schools at key stage 4 (10.7% of all eligible schools). See Tables 1 and 2 below.

**Table** 1: Number of KS2 coasting schools by school type

|  |  |  |  |
| --- | --- | --- | --- |
| **School type** | **Eligible schools in 2016** | **Coasting** | **%** |
| **Academies** | **2,477** | **106** | **4.3** |
| Academy Converter | 1,638 | 66 | 4.0 |
| Academy Sponsor Led | 818 | 39 | 4.8 |
| Free School | 21 | 1 | 4.8 |
| **Local authority maintained** | **11,024** | **373** | **3.4** |
| Community School | 6,243 | 269 | 4.3 |
| Foundation School | 573 | 26 | 4.5 |
| Voluntary Aided School | 2,672 | 41 | 1.5 |
| Voluntary Controlled School | 1,536 | 37 | 2.4 |
| **Total** | **13,501** | **479** | **3.5** |

Source: DfE analysis of provisional key stage 2 results School type is shown as recorded on 11 September 2015.

**Table 2:**Number of KS4 coasting schools by school type

| **School type** | **Eligible schools in 2016** | **Coasting** | **%** |
| --- | --- | --- | --- |
| **Academies** | **1,945** | **176** | **9.0** |
| Academy Converter | 1,314 | 63 | 4.8 |
| Academy Sponsor Led | 555 | 108 | 19.5 |
| Free School | 25 | 1 | 4.0 |
| Studio School | 25 | 4 | 16.0 |
| University Technical College | 26 | 0 | 0.0 |
| **Local authority maintained** | **1,090** | **151** | **13.9** |
| Community School | 527 | 71 | 13.5 |
| Foundation School | 259 | 58 | 22.4 |
| Voluntary Aided School | 270 | 20 | 7.4 |
| Voluntary Controlled School | 34 | 2 | 5.9 |
| **Other** | **15** | **0** | **0.0** |
| City Technology College | 3 | 0 | 0.0 |
| Further Education | 12 | 0 | 0.0 |
| **Total** | **3,050** | **327** | **10.7** |

Source: DfE analysis of provisional key stage 4 results School type is shown as recorded on 11 September 2015.

For Primary schools, a higher proportion of academy schools (4.3%) than local authority maintained schools (3.4%) meet the coasting criterion whilst at Secondary the proportion of academy schools meeting the criterion (9.0%) is smaller than the proportion of local authority maintained schools (13.9%). In both sectors the proportion of voluntary aided schools meeting coasting criteria is relatively small. Schools already converted into academies after government intervention (sponsor-led academies) are most likely to fall within the scope of the coasting schools regulations.

There are also significant regional differences, particularly in Secondary. The percentage of KS2 schools meeting the criteria ranges from 2.1% in the North of England to 4.7% in the West Midlands. In Secondary the range is from 5% in North East London and East of England to 16.8% of schools in Lancashire and West Yorkshire. Use of Regional Schools Commissioner regions preclude, for example, an understanding of how the coasting schools definitions apply to London schools. Lancashire and West Yorkshire appears to have a divide between relatively few coasting schools at KS2 and a high proportion at KS4.

**Coasting Schools and school improvement - the law**

*Under amendments made by the Education and Adoption Act 2016, a coasting local authority maintained school may (not must) be informed by the Regional Schools Commissioner (acting on behalf of the Secretary of State) that it is eligible for intervention (s.60AB, Education and Inspections Act 2006). Once the school is notified, then the RSC (or the LA with the RSC’s permission) may exercise one of the four forms of intervention: accept external help, appoint additional governors, governing body become interim executive board, and suspend right to a delegated budget. In addition, the RSC may under s.4(1)(a) Academies Act 2010 require the school to convert to an Academy.*

*Similarly, under amendments made by the Education and Adoption Act 2016, a coasting Academy school may(not must) be issued by the Regional Schools Commissioner (acting on behalf of the Secretary of State) with a Termination Warning Notice* *requiring the Academy Trust to take specified action to improve the Academy by a specified date, and to respond to the RSC by making representations, or by agreeing to take the specified action, by a (different) specified date (s.2B, Academies Act 2010).*

***House of Lords Secondary Legislation Scrutiny Committee***

*It is expected that there will be little role for the local authority.*[Additional information](http://www.publications.parliament.uk/pa/ld201617/ldselect/ldsecleg/62/6202.htm)*provided through a DfE memorandum (26 October 2016) to the House of Lords Secondary Legislation Scrutiny Committee says that even though “the legislation allows local authorities to take action in a coasting school that they maintain” they expect this to have little impact on the public sector as “it will be the Regional Schools Commissioners who predominantly take action when maintained schools are regarded as coasting”. They continue “we do not, therefore, expect the additional power to be burdensome for local authorities”.*

*On the RSC power to make a maintained school eligible for intervention, or issue an Academy with a Termination Warning Notice, the DfE memorandum notes:*

*schools that fall within the coasting definition will not automatically be subject to formal action. Rather, Regional Schools Commissioners will carry out conversations with schools that fall within the coasting definition to determine whether any additional support is needed … [RSCs] will have the flexibility to factor in and take account of local intelligence and knowledge that they and their Headteacher Board members bring as part of their decision-making process.*

*However, “To ensure that the decision-making process and types of evidence considered are broadly consistent across each region, the Department will centrally moderate a selection of cases from each RSC region - reviewing the evidence considered and the decision that has been reached in each case”.*

*In conclusion, the Lords committee has reported to the House* that information supplied by the DfE about the draft regulations “*provides insufficient information to gain a clear understanding about the instrument’s policy objective and intended implementation”.*

**Coasting schools - Schools Causing Concern Guidance**

The [Schools causing concern: Intervening in failing, underperforming and coasting schools](https://www.gov.uk/government/publications/schools-causing-concern--2) (effective 18 April 2016) describes the roles, functions and processes underpinning the regulations. See Chapter 3, and Related Briefings.

The new guidance, reflecting Government amendments to the original Bill, remove nearly all distinctions made between academy and local authority maintained schools which are found to be coasting. Regional Schools Commissioners (RSCs), acting on behalf of the Secretary of State, will engage with each school defined as coasting under the regulations to consider its wider context, and decide whether additional support and challenge is needed to help current leaders improve the school. *“Schools that have fallen within the coasting definition will have the opportunity to demonstrate their plans to improve”.* Ultimately, if the school is not able to demonstrate sufficient capacity to improve then the RSC can enforce conversion of maintained schools or terminate the funding agreement of academies and hand the school to a new trust. The guidance contains the factors which the RSC may consider in determining a course of action and detailed information on the actions that can be taken.

The position was summed up by an RSC who is [quoted](http://www.edp24.co.uk/news/education/i_won_t_force_all_coasting_schools_to_become_academies_regional_schools_commissioner_tim_coulson_says_1_4696913) in the local press as saying that in the event of a school falling into the ‘coasting’ category he would then have “three options: tell them to become an academy, say he was happy with their improvement plan, or link them up with some support to improve”. In the same article the RSC also says that the “Expectations [is] also on coasting academies to improve or face change”. This would support the position that all schools, irrespective of funding status, should be treated the same.

**Comment**

*The DfE memorandum to the House of Lords Scrutiny Committee confirms a minimal role for local government on supporting schools causing concern, with the duty effectively transferring to the Regional Schools Commissioners. While DfE*[Schools Causing Concern Guidance](https://www.gov.uk/government/publications/schools-causing-concern--2) *suggests that local authorities will continue to receive provisional performance results, no actions are suggested about what the local authority should do with these data prior to schools being formally identified as coasting under the regulations by the RSC. (However, the Ministerial statement on*[Primary Education](https://www.gov.uk/government/speeches/primary-education)*(19 October 2016) does state RSCs should work with their local authorities to determine actions for coasting schools, although the*[Coasting schools in England: November 2016 (provisional data)](https://www.gov.uk/government/publications/coasting-schools-in-england-november-2016-provisional-data)*(19 November 2016) omits this aspiration).*

*However, local authorities may wish to assess the capacity and performance of their Regional School Commissioner as to whether an additional 800 schools can be managed early in 2017 albeit some of these schools will already be eligible for intervention or in the process of converting to an Academy.*

*In addition, the DfE publication*[Coasting schools in England: November 2016 (provisional data)](https://www.gov.uk/government/publications/coasting-schools-in-england-november-2016-provisional-data)*would appearto confirm the proposal in the March 2016 Schools National Funding Formula consultation that the school improvement support (approximately £250 million a year) in the Education Services Grant will terminate in September 2017 (See Related Briefing). It is regrettable that the DfE has not confirmed this position so late in the 2017-18 budget making cycle.*

*Some Regional School Commissioners have already been using their powers to identify schools eligible for intervention using performance data from the 2013-2015 school years. See*[Letters to LA-maintained schools about poor pupil performance](https://www.gov.uk/government/publications/la-maintained-schools-letters-about-poor-pupil-performance)*(30 June 2016). Interestingly, like with the definition of coasting schools, there is an imbalance between the RSC regions. The North East London and East Anglia RSC has issued 48 of the 79 (61%) warning notices, with two RSCs issuing zero, and a further two issuing one each.*

*Government policy continues to*require local authority maintained schools to convert to Academy status when difficulties arise with no acknowledgement of the criticisms in the House of Commons Education Committee report [Academies and free schools (PDF document)](http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/258/258.pdf) (see Related Briefings), which found that there is still no evidence that academies, especially Primary academies, are a positive force for change. The recently released statistics for Primary schools suggest the Education Committee was right to be cautious about the effectiveness of the academy model. Previous research from Education Datalab published in the SchoolsWeek article [One in ten Secondary schools set to be labelled as “coasting”](http://schoolsweek.co.uk/one-in-ten-secondary-schools-set-to-be-labelled-as-coasting/) has also highlighted poor rates of progress in Primary sponsor led academies saying it shows the sponsorship model hasn’t worked for these pupils.

The relationship between the role of RSCs and that of Ofsted about schools identified as coasting is still not clear. Data that relies on progress over a 4 or 5-year period, is by its very nature backward looking, whilst judgements made in an inspection can focus more easily on the key factor of capacity to improve that will almost certainly be of interest to RSCs although there is no public encouragement on RSCs to consult their Ofsted colleagues (or local authority colleagues as mentioned above for maintained schools) before intervening in a school found to be coasting. The other contextual factor that could be of interest to RSCs is the socio-economic context of the school. For some researcher organisations, such as Education Datalab, understanding this may also be helpful in identifying improvement strategies that are likely to work.

Research tends to suggest that the traditional school improvement strategies of creating a self-improving institution, creating school networks and alliances, and benchmarking against best practice is the key to improvement. For a school joining an academy chain this may happen as a result, but it can also happen in successful local authorities and there is no guarantee that becoming an academy on its own creates improvement.

**External Links**

* Legislation.gov.uk: [draft Coasting Schools (England) Regulations 2016](http://www.legislation.gov.uk/ukdsi/2016/9780111150498/contents) (November 2016)
* DfE: [Coasting schools in England: November 2016 (provisional data)](https://www.gov.uk/government/publications/coasting-schools-in-england-november-2016-provisional-data) (November 2016)
* Parliament; Secondary Legislation Scrutiny Committee Twelfth Report: [Appendix 1: Draft Coasting Schools (England) Regulations 2016](http://www.publications.parliament.uk/pa/ld201617/ldselect/ldsecleg/62/6207.htm) (November 2016)
* SchoolsWeek: [One in ten Secondary schools set to be labelled as “coasting”](http://schoolsweek.co.uk/one-in-ten-secondary-schools-set-to-be-labelled-as-coasting/) (November 2016)
* DfE: [Primary School Accountability](https://www.gov.uk/government/publications/primary-school-accountability) (updated October 2016)
* DfE: [Primary Progress Measures (PDF document)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560969/Primary_school_accountability_summary.pdf.pdf) (October 2016)
* Eastern Daily Press: [‘I won’t force all coasting schools to become academies’, regional schools commissioner Tim Coulson says](http://www.edp24.co.uk/news/education/i_won_t_force_all_coasting_schools_to_become_academies_regional_schools_commissioner_tim_coulson_says_1_4696913) (September 2016)
* DfE: [Progress 8 school performance measure in 2016, 2017 and 2018](https://www.gov.uk/government/publications/progress-8-school-performance-measure) (September 2016)
* DfE: [Letters to LA-maintained schools about poor pupil performance](https://www.gov.uk/government/collections/letters-to-la-maintained-schools-about-poor-pupil-performance) (June 2016)
* DfE: [Schools Causing Concern Guidance](https://www.gov.uk/government/publications/schools-causing-concern--2) (June 2016)
* DfE: [School performance tables: about the data](https://www.gov.uk/government/collections/school-performance-tables-about-the-data#2016-data-key-stage-4) (April 2016)
* House of Commons Education Committee: [The role of Regional Schools Commissioners](http://www.publications.parliament.uk/pa/cm201516/cmselect/cmeduc/401/40102.htm) (April 2016)
* Parliament: [Education and Adoption Act](http://services.parliament.uk/bills/2015-16/educationandadoption.html) (March 2016)
* DfE: [Intervening in failing, underperforming and coasting schools](https://www.gov.uk/government/consultations/intervening-in-failing-underperforming-and-coasting-schools) (March 2016)
* DfE: [Coasting schools: illustrative regulations](https://www.gov.uk/government/publications/coasting-schools-illustrative-regulations) (July 2015)
* House of Commons Education Committee: [Academies and free schools (PDF document)](http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/258/258.pdf) (January 2015)
* RSA: [Satisfactory Schools](https://www.thersa.org/discover/publications-and-articles/reports/satisfactory-schools) (December 2011)

**Related Briefings**

* Primary education assessment arrangements and school accountability - update (November 2016)
* [Progress 8 school performance measure: Revised DfE Guidance](http://www.lgiu.org.uk/briefing/progress-8-school-performance-measure-revised-dfe-guidance/) (October 2016)
* [Schools causing concern: April 2016 DfE guidance](http://www.lgiu.org.uk/briefing/schools-causing-concern-april-2016-dfe-guidance/) (April 2016)
* [DfE Consultation - Schools national funding formula](http://www.lgiu.org.uk/briefing/dfe-consultation-schools-national-funding-formula/) (March 2016)
* [Coasting Schools: Draft regulations](http://www.lgiu.org.uk/briefing/coasting-schools-draft-regulations/) (July 2015)
* [Coasting Schools - a literature review](http://www.lgiu.org.uk/briefing/coasting-schools-a-literature-review/) (June 2015)
* [DfE consultation - Intervening in failing, underperforming and coasting schools](http://www.lgiu.org.uk/briefing/dfe-consultation-intervening-in-failing-underperforming-and-coasting-schools/) (November 2015)

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