

Information sharing protocol

The following organisations are parties to this protocol:

The Office for Standards in Education, Children's Services and skills (Ofsted)
Local Government Ombudsman (LGO)

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Named points of contact

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Purpose and Scope

1. This protocol sets out the framework for the working relationship between the Local Government Ombudsman (LGO) and Ofsted. It is intended to inform our staff and the public about how our organisations relate to each other and work together. LGO and Ofsted recognise their respective statutory responsibilities and independence but will always seek to collaborate and cooperate where relevant and appropriate to do so in furthering their shared aim of driving up standards in children's social care services.
2. This protocol cannot override the statutory duties and powers of either the LGO or Ofsted and is not enforceable in law. However, both organisations agree to adhere to the principles set out in this protocol and will show proper regard for each other's activities. There will be complete openness, transparency and honesty between the LGO and Ofsted. The interests of the people who use services will always be paramount.

Legal basis for sharing information

3. Ofsted is the Office for Standards in Education, Children's Services and Skills. It inspects and regulates services that care for children and young people, and services providing education and skills for learners of all ages. Ofsted's purpose is to achieve excellence in education and skills for learners of all ages, and in the care of children and young people. This is achieved by helping providers that are not yet of a good standard to improve, monitor their progress and share best practice with them.
4. Ofsted is enabled to inspect and regulate children's social care via the Education and Inspections Act 2006 (the 2006 Act) and the Care Standards Act 2000. Ofsted has the power to share information where the Chief Inspector thinks it appropriate to provide advice and assistance to another public authority for the purpose of the exercise by that public authority of its functions. This power is provided for in paragraph 8 of Schedule 13 to the 2006 Act. Section 153 of the 2006 Act also provides that information obtained by the Chief Inspector in connection with any of his functions may be used in connection with any of his other functions. Sections 117(2) and 119(3)(a) of the 2006 Act say that both Ofsted and the Chief Inspector are to have regard to the need to safeguard and promote the rights of children when exercising their functions. These provisions taken together enable Ofsted to share information with LGO in accordance with this protocol.
5. The role of the Local Government Ombudsman is set out in the Local Government Act 1974. This role includes investigating complaints relating to children's services and in those cases where fault is identified, recommending an appropriate and proportionate remedy.

6. The LGO has the authority to investigate complaints relating to children's social care as detailed in the 1974 Local Government Act. Section 31B of that Act allows the LGO to publish its decision statements and Reports.

General principles underlying our working arrangement

7. LGO and Ofsted agree that the following general principles underpin our approach:
 - We can make our own independent decisions.
 - We acknowledge each other's statutory responsibilities.
 - We will share information where appropriate to assist with effective regulation and complaint handling. Our purpose in doing so is to promote safe and high quality children's services and remedy injustice where it is identified.
 - We will work together to ensure we share information effectively and efficiently.
 - We will inform one another as soon as reasonably practicable of any matters that may require a response from the other.
 - Information will be shared in an agreed secure format and in a timely manner to a named contact.
 - We recognise the need to maintain public confidence in our two organisations.
 - We will meet regularly and agree actions which will be confirmed in writing.

Purpose of information sharing

8. The LGO and Ofsted will share information with each other through planned activity and when it is identified there is a need to respond to emerging, or urgent concerns.
9. Both organisations will, at all times, act in accordance with Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (right to respect for private and family life) and the principles enshrined in the Data Protection Act 1998. Sensitive personal data would only be shared in exceptional circumstances. (where for example an LGO investigation involves a child who appears to be at imminent risk of significant harm and evidence indicates systemic failings in a Council's safeguarding procedures and responsibilities leaving the child or others likewise affected at continuing risk).
10. Section 31 of the Data Protection Act allows for information to be shared where it is shared for the purposes of regulatory activities. The LGO is specifically named as being subject to this exemption in subsection 31(4). A decision to

share would be made on a case-by-case basis and only if the circumstances of a particular case led the LGO to believe Ofsted should be immediately alerted.

Process for sharing, accessing and storing information

11. The LGO will share decision statements which will name the body within jurisdiction but will be anonymised to protect the identity of the complainant. Sensitive background and personal data would not be shared on a routine basis (see para 14). The information provided would eventually be available in the public domain, but decisions would be shared with Ofsted at the point of issue. Decision statements are published on the LGO website three months after issue. All information provided in advance of the decision statement should be marked clearly to indicate its status.
12. The LGO will normally share children's services decisions with Ofsted:
 - Where fault causing injustice has been identified in the course of an investigation and/or there are concerns that the faults identified may have also affected other vulnerable users of care services.
 - Where fault has been identified and there is no evidence that this has caused a personal injustice but, the fault may have affected other users of the service.
 - Where a final decision or Report about an investigation has made recommendations to a local authority to address areas of concern.
13. The LGO may also, from time to time, share general information (while protecting the privacy of persons affected by the complaint) about any identified trends or themes arising from casework. Where the numbers, type and outcomes of complaints against a particular local authority indicate potential concerns about its performance, the LGO may choose to share those concerns in broad terms with Ofsted.
14. The LGO will only send decisions statements to the agreed named point of contact email address at Ofsted via its Coinweb system. On the rare occasions when sensitive or personal data is shared, any such document will be password protected.

How Ofsted will use LGO information

15. Ofsted will use information provided by the LGO to inform its regulatory and inspection processes by adding this (anonymised) information to other accumulated evidence it holds.
16. Ofsted will routinely review the LGO website www.lgo.org.uk prior to any inspection of a local authority. It will use details of complaints made to the LGO and the outcomes of any investigations to provide intelligence and information to its inspectors.

Information that Ofsted will share with LGO

17. If Ofsted receives any telephone calls, letters or emails from complainants whose case on interrogation should be dealt with by the LGO, they will provide the caller with details of the LGO website www.lgo.org.uk and their main telephone number.
18. Ofsted will advise the LGO of any concerns it has about failures to implement policy and procedural changes within a local authority which LGO has recommended following an investigation.
19. All information shared by Ofsted and the LGO will be kept securely by each party and retained for in line with each agency's retention policies.

Working arrangements

20. Both the LGO and Ofsted are committed to exploring ways to develop more effective and efficient working relationships to remedy injustice and promote quality and safety within their respective statutory remits. They will aim to reduce and minimise the potential gaps that currently exist between the regulator and Ombudsman with the aim of improving services for the benefit of all citizens.
 - a. LGO and Ofsted will keep each other informed about developments in their services, approach and methodologies.
 - b. LGO and Ofsted will seek to ensure that they give each other adequate warning about any planned announcements to the public that the other may need to know. This will include sharing drafts of their proposals and publications, where these have a direct impact for both.
 - c. LGO and Ofsted will hold at least half-yearly meetings for the purpose of:
 - i. Monitoring effectiveness of the arrangements set out within this document;
 - ii. Sharing relevant corporate information between organisations; and
 - iii. Individual case liaison where necessary.

Signatories to this protocol

This signed protocol came into effect on 1 October 2016

■ Ofsted	
Name of head of business area: Paul Armitage Deputy Director, Social Care Operations	Name of SIRO:

Local Government Ombudsman	
Name of head of business area: Michael King Chief Executive Officer	Name of SIRO:

The Office for Standards in Education, Children's Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children's social care, and inspects the Children and Family Court Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, further education and skills, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children's services, and inspects services for looked after children, safeguarding and child protection.

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