

Whistleblowing to Ofsted about local authority safeguarding services: Responses to the consultation on the revised guidance and policy

Between 19 March and 18 June 2010 Ofsted consulted on the revised draft of our whistleblowing policy and guidance. The consultation aimed to clarify what Ofsted is able to do when it receives allegations about local authority services. It also asked our stakeholders if we needed to do more to explain matters further.

This report details the results of the consultation and our proposed way forward.

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Introduction

Between 19 March and 18 June 2010 Ofsted consulted on the revised draft of our whistleblowing policy and guidance. This report details the results of the consultation and our proposed way forward.

Background to the consultation

Ofsted set up its whistleblowing hotline in April 2009 to enable front line staff working in children's services to alert us if they have serious concerns about practice that fails to ensure the safety and welfare of those they serve.

The hotline can be used by anyone who has a whistleblowing concern about services or practice in any local authority, or in a care or educational setting regulated and inspected by Ofsted, including:

- employees and former employees of local authorities
- agency staff currently and formerly working within a local authority
- current and former employees of local authority or independently run children's homes
- foster carers or adopters
- employees within secure provision for children and young people
- voluntary workers in care or educational settings
- Ofsted employees in receipt of whistleblowing disclosures from any of the above.

When people contact Ofsted using the whistleblowing hotline, email or postal address, we are able to take action if the concerns fall into one of the following categories:

- child protection concerns about a specific child/children
- concerns/allegations about wider or systemic failure in safeguarding practice in a local authority or in a care or educational setting.

In each case, our call-centre staff at the National Business Unit gather and record as much information as possible about the concerns raised and then forward this record to trained staff who will decide whether Ofsted is able to take action.

If action is possible, the disclosure will fall into one of the following categories:

Category 1: child protection concerns about a 'risk of harm' to a specific child or children. Ofsted's Compliance, Investigation and Enforcement (CIE) team immediately refer the matter to the local authority's child protection team for urgent attention.

Category 2: specific concerns or allegations about wider or systemic failure in safeguarding practice. These are referred to the Ofsted whistleblowing team which raises them with the local authority concerned.

There may be times when a whistleblowing allegation is made by an employee because an Ofsted team is currently carrying out an inspection of the local authority. In these cases, the information is also sent directly to the lead inspector for discussion with the local authority and, where appropriate, consideration during the inspection.

However, when Ofsted carried out an internal evaluation of the effectiveness of our whistleblowing arrangements in August 2009, it was established that many of the calls received did not fall into either of these categories. Instead, many callers contacted us because they had general concerns or complaints about the services that they or their children were receiving from a school, from individual staff at a number of institutions or services, or from officers working for the local authority in other capacities. Many correspondents appeared to be unaware that Ofsted has very limited powers to deal with such complaints.

We therefore consulted more widely on our whistleblowing policy and guidance in order to:

- find out if users were clear about Ofsted's role in relation to local authority safeguarding services and what action we are able to take
- gather users' views on how Ofsted uses the information gathered through these whistleblowing arrangements in our inspections
- assess whether or not our revised guidance is sufficiently clear.

The consultation methodology

The consultation included:

- a questionnaire completed by the Ofsted parents' panel which includes parents from a range of backgrounds and from different geographical areas
- an online consultation that was open to all interested members of the public. Respondents could also download a word version of the consultation which they could complete and submit to Ofsted via email or by post.

Key findings

Parents' panel consultation

We received 540 responses from parents on the Ofsted parents' panel. The key findings from these were as follows.

- Around four-fifths of all respondents (79%) were unaware of Ofsted's whistleblowing hotline before the consultation.
- Most respondents (88%) thought the hotline could be used to report systemic failures but 44% incorrectly responded that it could be used to report concerns about a local authority re-organising its services.
- More respondents incorrectly responded that the helpline was designed for use by staff in schools (86%) or childcare provision (85%) or parents (83%) than thought it was for local authority workers (72%). Sixty-one per cent incorrectly responded that it was aimed at children and learners.
- Sixty-nine per cent strongly agreed and a further 24% tended to agree that the hotline is a necessary service for local authority workers; only 4% of respondents disagreed at all with this view although three people strongly disagreed.
- Fifty-one per cent strongly agreed and 38% tended to agree that whistleblowing information should be used during an inspection of the local authority. Five per cent of the respondents tended to disagree or strongly disagreed with this view.

In addition to responding to the specific questions asked, nearly all the respondents made additional comments. Many of the comments concerned better promotion of the hotline and its uses. Other suggestions emphasised the need for feedback on what happened when whistleblowing concerns were raised, for example by using surveys or regular reports to publicise the outcomes of whistleblowing investigations.

The full results are detailed in Annex 1.

Online consultation

We received 49 responses to the online consultation. Participants included:

- Barnardo's
- the NSPCC
- the National Association of Schoolmasters/Union of Women Teachers
- three local authorities and one Local Safeguarding Children Board.

The key findings from the online consultation were as follows.

- There was strong support for making use of whistleblowing information during an inspection (40 respondents) and bringing forward an inspection where appropriate (42 respondents).
- Thirty-seven respondents also thought that Ofsted should ask the local authority for a response to the allegations.
- More than half the respondents thought that the consultation document made the policy clear (30).
- Most respondents agreed that the document clearly explained the difference between whistleblowing and complaints and grievances (29 respondents), and between whistleblowing what Ofsted can and cannot do (27 respondents); and how we would protect the identity of correspondents who requested anonymity (27 respondents).

The full results are detailed in Annex 2.

Evaluation of responses to the consultation

The overwhelming majority of respondents to the consultation supported the whistleblowing hotline and the use of substantiated information in inspections. Comments from the online responses and parents' panel respondents will be incorporated into a revised whistleblowing policy and guidance document. Ofsted is grateful for the level and detail of responses that we have received during the consultation which will be invaluable in strengthening our policy and guidance going forward.

- Responses from both the parents' panel and the online consultation suggested that many people remained unclear about the scope of the whistleblowing hotline.
- Parents in particular assumed, or hoped, that it would also deal with complaints about individual cases or about how local authorities chose to manage their services.
- Fourteen of the respondents to the online consultation, who identified themselves as professionals working in local authorities, were particularly concerned about confidentiality, and wanted more reassurance about protecting their identity if they made allegations.
- Many respondents suggested ways to publicise the hotline. Suggestions included asking schools to publicise the hotline on their websites and in newsletters and leaflets; and displaying leaflets in libraries and council offices. Another view was that the hotline should be publicised in inspection reports.

When asked what sort of cases the hotline should be able to deal with, many respondents were confused about the differences between whistleblowing and a

complaint, and about the powers that Ofsted has to follow up either form of concern. For example, the most common issues that parents expected the hotline to be able to deal with were: systemic failings in a local authority or childcare provider that could lead to child safeguarding concerns (88%); and complaints about a local authority or childcare provider in relation to the protection of an individual child (83%).

This suggests that Ofsted needs to do more to make clear the purpose of the hotline, which is for reporting systemic failings in a local authority but not individual cases, for which there are other mechanisms.

Sixty-seven per cent of parents also thought that the hotline was for staff employed by a service that Ofsted inspects concerned about their own treatment in the workplace. This suggests that the policy also needs to make it clearer what Ofsted can and cannot deal with as we cannot intervene in how staff are treated in their own workplace.

Forty-four per cent of respondents expected the hotline to be able to deal with concerns about how a local authority re-organises its education service, for example school closures. The organisation of the education service is a matter for the local authority, and Ofsted has no role in this.

Eighty-six per cent of parents said they would expect the whistleblowing hotline to be aimed at staff working for schools, and a similar proportion expected it to be aimed at staff working for childcare providers (85%) and parents themselves (83%). Although the hotline can be used by anyone who believes they have witnessed systemic failings in the local authority, the whistleblowing legislation and associated protection is intended for people who work in the local authority. Ofsted's experience is that when parents use the whistleblowing hotline, they generally wish to complain about how they or their children have been treated, or about an individual setting, such as a school or nursery. The whistleblowing team will always refer such cases to the complaints team in Ofsted.

Seventy-two per cent of parents expected the hotline to be aimed at staff working for local authorities and 61% responded that it would be aimed at children and learners who use a service that Ofsted inspects. The hotline, however, is intended primarily for staff working for local authorities.

Only 41% of parents said they would expect the hotline to be aimed at members of the public. Anyone can use the hotline, but only if they believe they have witnessed systemic failings across some aspect of the work of the local authority children's services.

Nearly all parents (92%) agreed that the whistleblowing hotline is a necessary service for local authority workers.

Eighty-eight per cent of parents agreed that the information should be used during the inspection of a local authority. Several parents also commented that Ofsted

should find some way to report the outcomes of whistleblowing cases that had been pursued, for example by reference to them in inspection reports or by publishing summaries of cases at intervals. Ofsted is currently considering how best to refer to safeguarding matters in its inspection reports and will include local authority reports in this development. The Annual Report of Her Majesty's Chief Inspector and the Joint Chief Inspectors' Triennial report on safeguarding are possible ways to publish summary reports on whistleblowing cases.

A small number of respondents to the online consultation were very critical of Ofsted itself, and thought that it refused to consider complaints about its inspections or the work of its own inspectors. These respondents seemed to be unaware that Ofsted has an established process for people to complain about our work that is separate from the whistleblowing process.

The way forward and timetable for further work

1. Given the strong support for the continuation of the hotline and the use of whistleblowing information to inform inspections, we intend to continue developing the guidance and policy to take account of the consultation findings and ensure that it is as clear as possible and helpful to those who wish to contact us. We plan to publish the revised whistleblowing guidance on the Ofsted website in September 2010. When the guidance is published, we will also inform local authorities through our regular newsletters and bulletins. In particular, we will:
 - further emphasise the purpose of the whistleblowing hotline in relation to local authority children's services and clarify Ofsted's powers in relation to these
 - better explain the difference between complaints and whistleblowing concerns
 - include more information about how Ofsted deals with complaints about individual schools
 - explain in more detail how we will protect the identity of whistleblowers for those requesting confidentiality
 - include some examples and frequently asked questions to illustrate the type of concerns that Ofsted can deal with.
 - set out a table of detailed responses explaining what we can and cannot do in response to the comments provided through the consultation
 - explore how best to publish the outcomes of whistleblowing cases that are pursued by Ofsted.
2. Some of the responses to the consultation raised wider issues about the way in which service users can raise their concerns about individual cases. For example, one suggestion made by a number of respondents was to publicise suitably anonymised cases where the whistleblowing policy had been applied

successfully and the impact on children that this had achieved. This is something that Ofsted will consider for inclusion in the revised policy and guidance. Another suggestion was to include a reference to the hotline and its purpose in relevant Ofsted reports; again, this is a suggestion that Ofsted will consider before the revised policy is published.

3. There were also suggestions for action that Ofsted is not able to take. For example, one third of the parents who said there should be better publicity for the hotline thought that Ofsted should require anyone that it inspects to publicise it; Ofsted does not have the authority to make this a requirement.

Annex 1. Analysis of parents' panel consultation

Ofsted's Parents' Panel is an online panel of over 1,600 parents and carers whose children attend state schools, and/or use registered childcare in England. The panel is managed on Ofsted's behalf by TNS-BMRB.

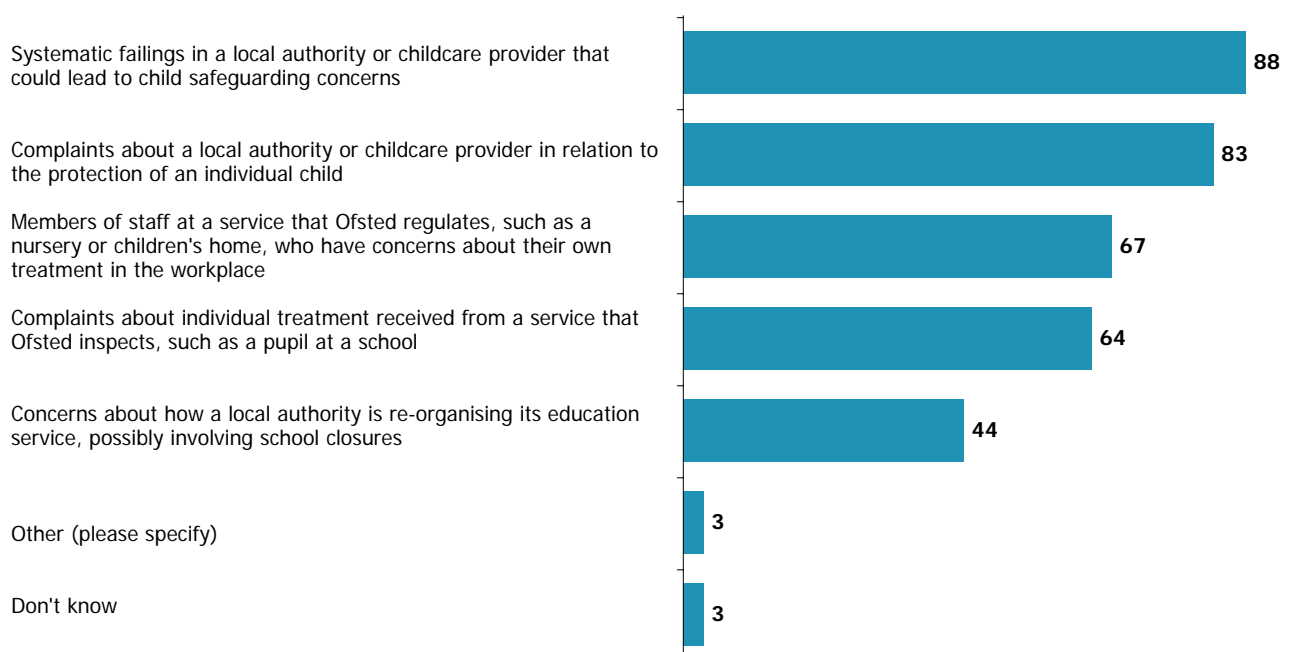
All questions were asked of all parents on the panel. A total of 540 responded to the consultation.

Figure 1: Percentage of parents responding to the question 'Before taking this survey, were you aware that Ofsted operates a whistleblowing hotline?'



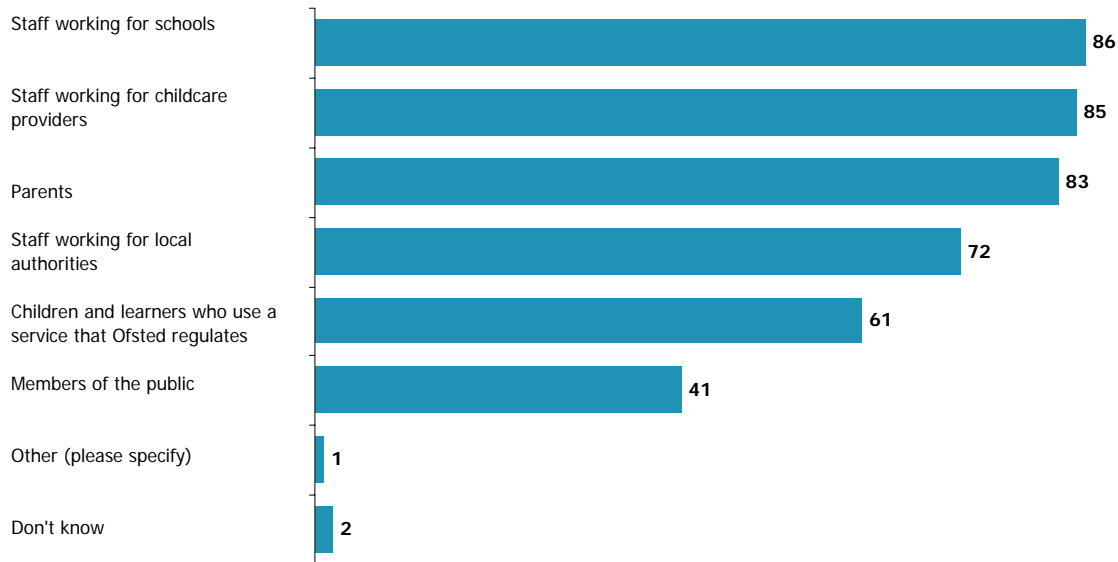
Figures are rounded and may not add up to 100.
Based on the responses of 540 parents.

Figure 2: Percentage of parents responding to the question 'What kind of concerns would you EXPECT a whistleblowing hotline run by Ofsted to be able to deal with?'



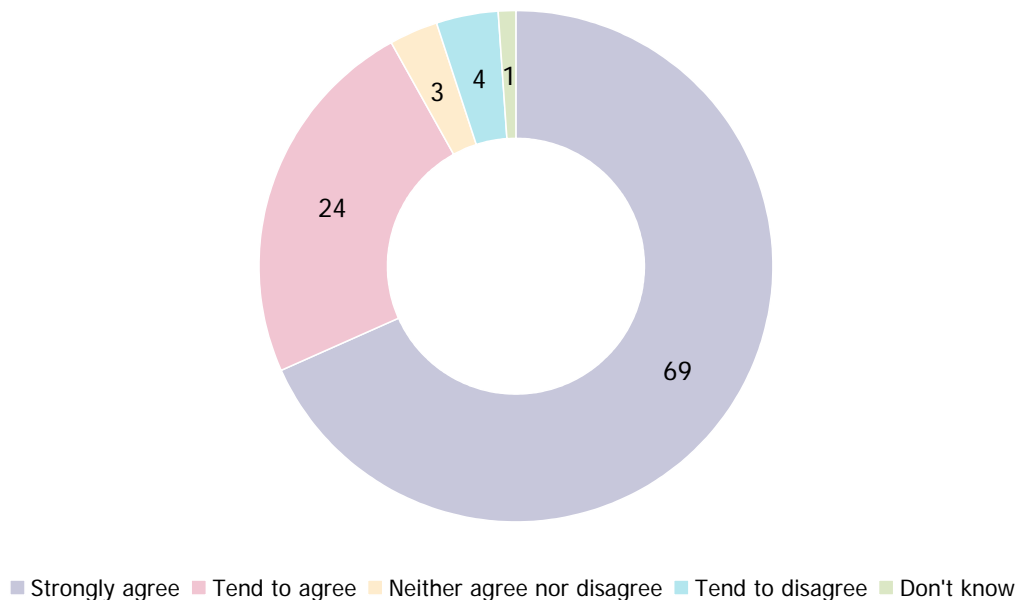
Figures do not add to 100 due to each respondent providing multiple responses to this question.
Based on the responses of 540 parents.

Figure 3: Percentage of parents responding to the question ‘Who do you EXPECT a whistleblowing hotline run by Ofsted should be aimed at?’



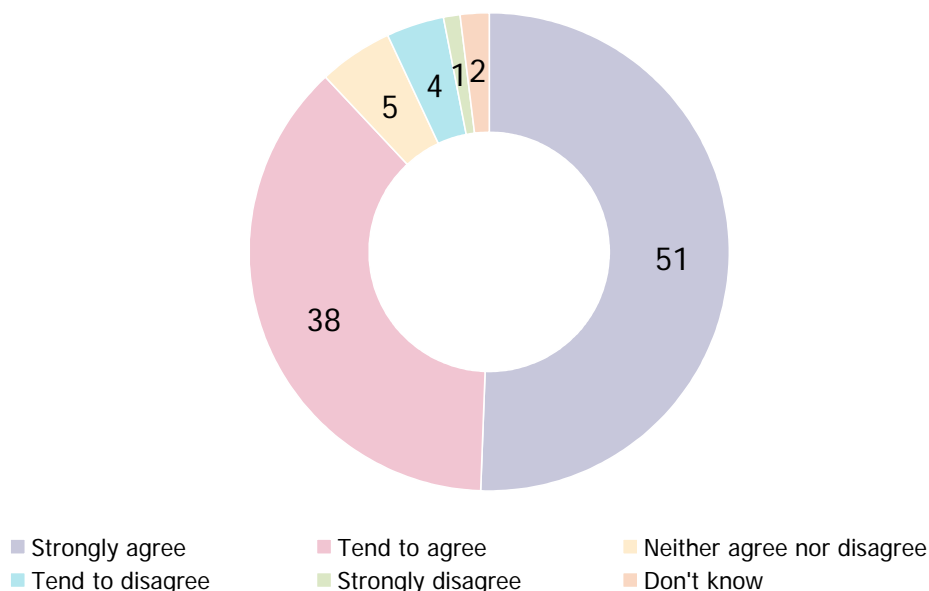
Figures do not add to 100 due to each respondent providing multiple responses to this question. Based on the responses of 540 parents.

Figure 4: Percentage of parents agreeing or disagreeing that the whistleblowing hotline is a necessary service for local authority workers



Figures are rounded and may not add up to 100. Three respondents strongly disagreed with this statement. Based on the responses of 540 parents.

Figure 5: Percentage of parents agreeing or disagreeing that Ofsted should use the information gathered through the hotline during an inspection of a local authority.



Figures are rounded and may not add up to 100.
Based on the responses of 540 parents.

Q6. Ofsted recently revised its whistleblowing policies and guidance to try to clarify what it can and cannot do in relation to the allegations that it receives.

What else do you think Ofsted could do to inform parents and other stakeholders about the correct use of the whistleblowing hotline?

Results

This was an open question, asking for comments and suggestions. Of the 540 parents who responded, 516 made additional comments. The main comments received can be grouped into two principal areas:

- better publicity for the whistleblowing arrangements (297 responses); of these responses, 100 thought it should be a requirement for settings that are inspected by Ofsted to make parents aware of the Ofsted hotline; 11 suggested that Ofsted should refer to it in the questionnaires that are sent to parents during a school inspection, and 10 thought it should be mentioned in inspection reports
- clearer explanations of the differences between complaints and whistleblowing (26 responses specifically mentioned this, but comments from other contributors indicated that this was a more widespread need).

Most respondents referred to better publicity or advertising as the best way to make people aware of the hotline. Suggestions included placing leaflets, posters or

pamphlets in schools, children's centres and nurseries, links from targeted websites or items in the local press. Some thought that schools ought to be encouraged to include a link to the Ofsted hotline from their websites or school newsletters. Other respondents suggested including a reference in the letters to parents when schools are inspected, or in the subsequent inspection report.

Most respondents also mentioned the need for a clearer explanation of what Ofsted treats as whistleblowing. Some thought the name should be changed to make its purpose clearer. A few suggested including some examples of what Ofsted would treat as whistleblowing as opposed to a complaint. Other respondents suggested including some case studies of what has been achieved through the process, suitably anonymised.

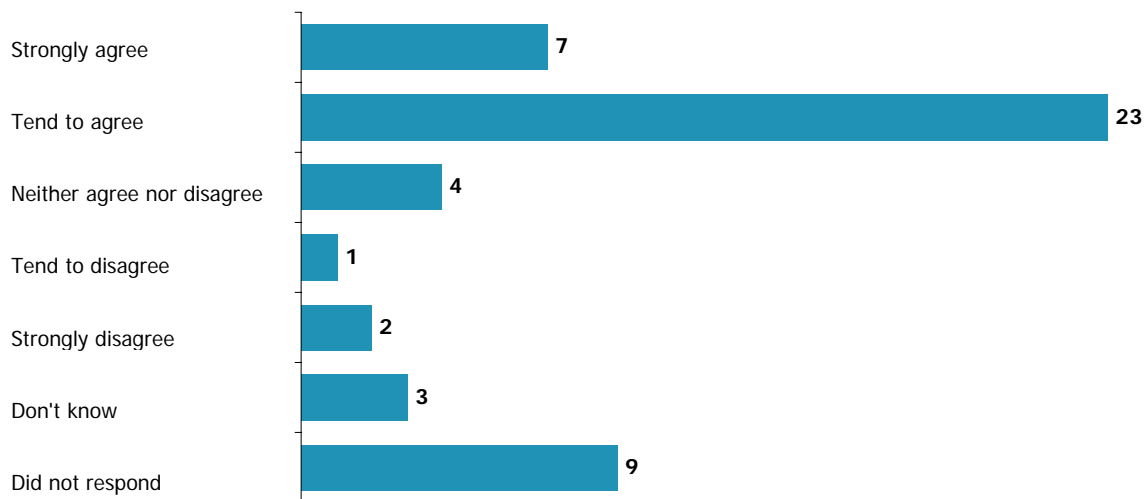
A number of respondents thought that the hotline should also be used to report educational concerns that affected more than their own children.

Many respondents seemed unaware of the separate arrangements that Ofsted has for parents to complain about schools, or the arrangements for complaining about Ofsted itself.

Annex 2. Analysis of whistleblowing online consultation

A total of 49 participants responded to the online consultation.

Figure 6: Number of respondents agreeing or disagreeing that the draft policy explains clearly our approach in handling and responding to whistleblowing concerns

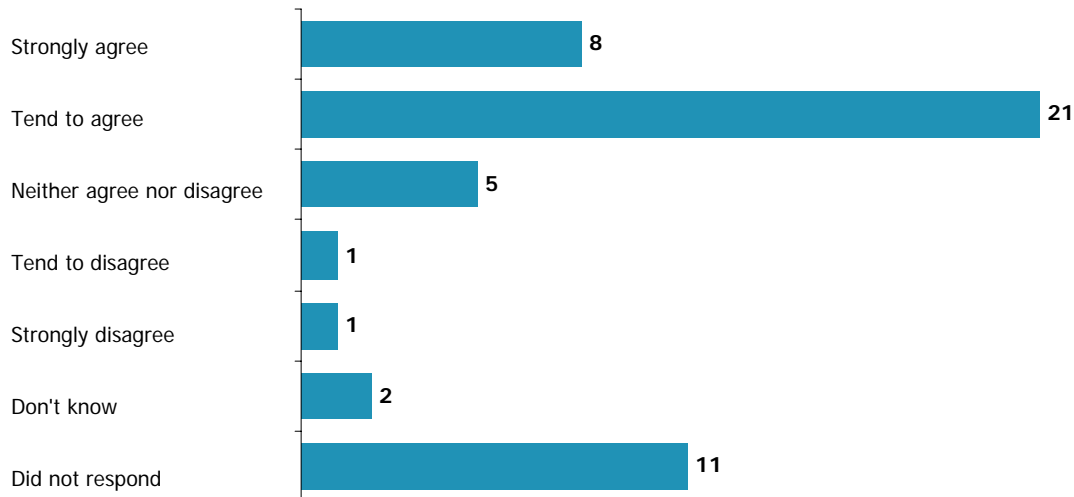


Main comments

The main focus of the comments offered was on anonymity for the whistleblower. Respondents clearly articulated the concerns that potential whistleblowers often have about being unfairly treated by their employer or other services if they raise concerns.

A second theme emerged around the need for more clarity about what would count as a complaint rather than as whistleblowing, which reflects the comments from the parents' panel.

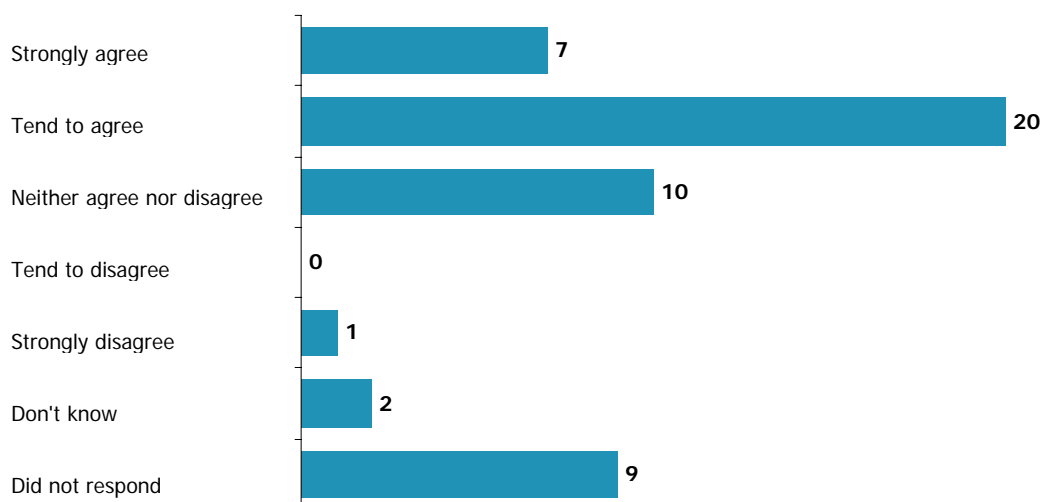
Figure 7: Number of respondents agreeing or disagreeing that the draft policy explains clearly the differences between a complaint, a grievance and a systemic or structural failing that meets the whistleblowing criteria



Main comments

One respondent made a suggestion of producing a flow chart which outlined the processes and could direct people to the appropriate service for their needs.

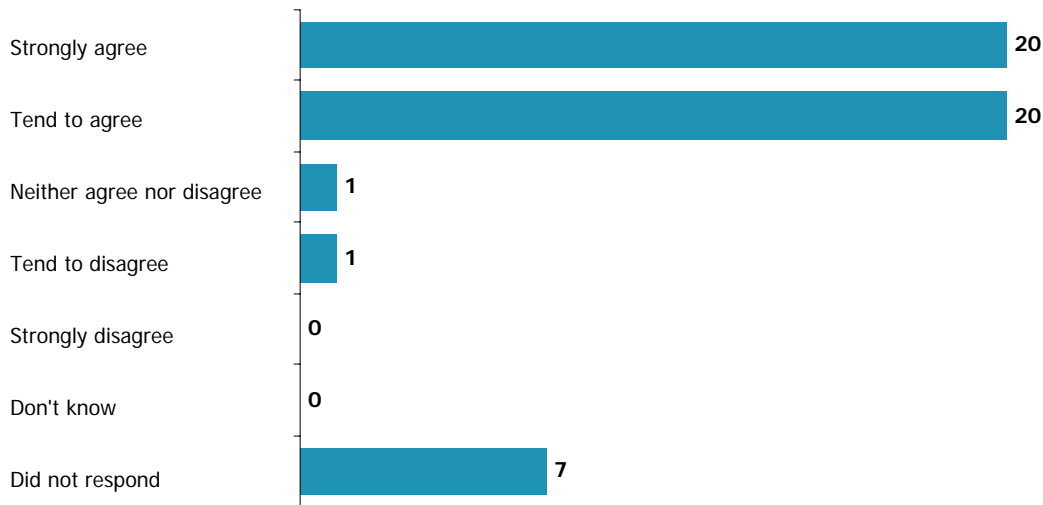
Figure 8: Number of respondents agreeing and disagreeing that the policy makes clear what Ofsted can and cannot do in respect of a whistleblowing allegation



Main comments

Despite the number of respondents who seemed unclear about this question, few offered suggestions or comments to indicate why they might feel that the policy was not clear.

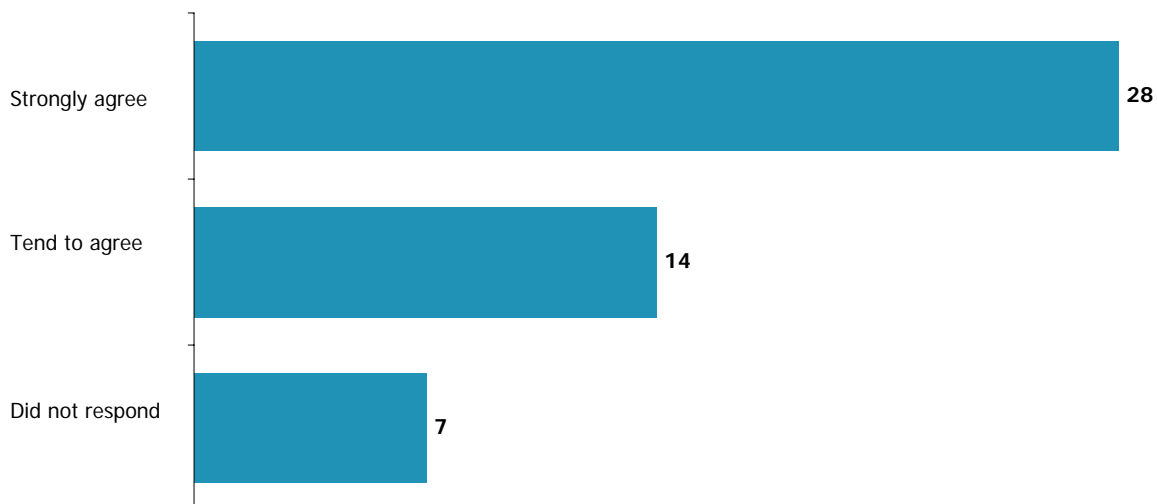
Figure 9: Number of respondents agreeing and disagreeing that Ofsted should use information gained from whistleblowing during an inspection where this is relevant



Main comments

Eight of the comments referred to the need to substantiate allegations if they were going to be used in inspections, but all of the respondents who commented agreed that they should be.

Figure 10: Number of respondents agreeing and disagreeing that Ofsted should bring forward a planned inspection or trigger a special inspection if a whistleblowing allegation warrants this

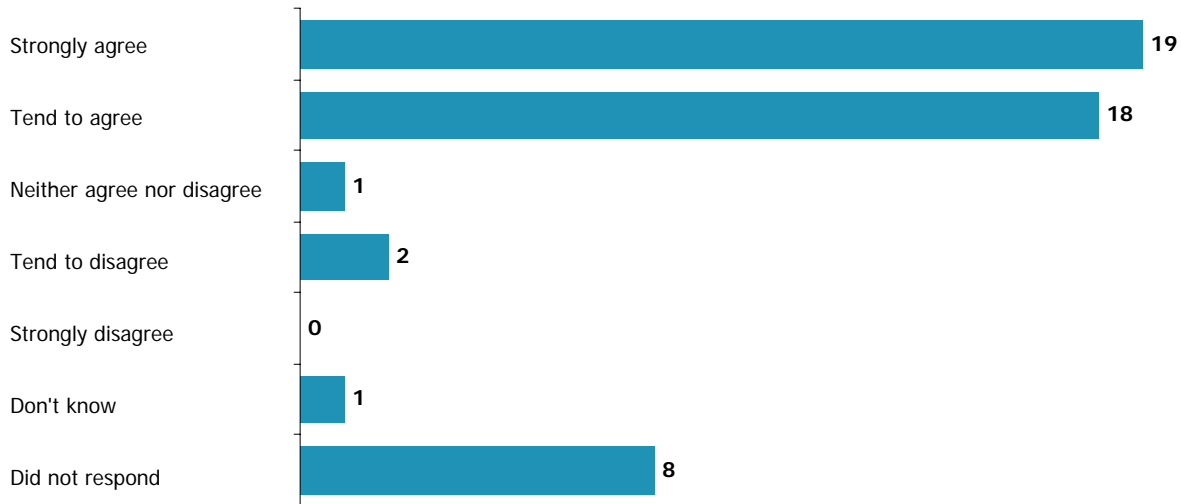


Main comments

Again, there were a few concerns that bringing forward an inspection or triggering a special one should only happen if allegations were serious and substantiated.

However, there was also a comment that Ofsted should conduct more unannounced inspections to obtain a more accurate view of services.

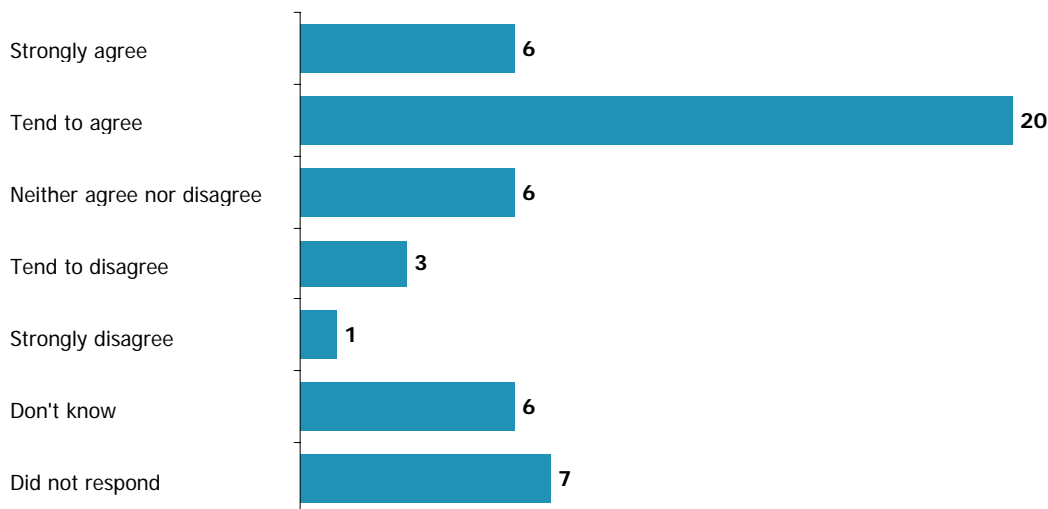
Figure 11: Number of respondents agreeing and disagreeing that it is right to ask local authorities for their response to whistleblowing allegations as part of the process



Main comments

Only one respondent thought that writing to the local authority would alert them and enable them to cover up their failings, but five others commented that it was an important part of the process if handled carefully.

Figure 12: Number of respondents agreeing and disagreeing that arrangements for protecting the anonymity of 'whistleblowers' are sufficiently clear



Main comments

Few respondents commented on this question, despite the range of responses. One respondent thought that Ofsted seemed to be free to decide whether or not to share the identity of a whistleblower.

Q9. What else do you think we could do with whistleblowing information – within Ofsted's statutory powers [please see the whistleblowing draft policy if you are unsure what these are]?

Main comments

There were few comments in response to this question. One respondent wanted Ofsted to refer information to other agencies if it is outside our remit, while another suggested publicising the outcomes of whistleblowing investigations to help authorities learn from each other.

Q.10. Is there anything further you would like to say about our proposed approach to whistleblowing?

Main comments

Few additional comments were made in response to this question that had not already been made.