

Memorandum of Understanding between Ofsted and the Department for Education on sharing information on notifiable incidents

Contents

Introduction.....	3
Role of Ofsted and the Department for Education.....	3
Statutory responsibilities.....	4
Cooperation	4
Information sharing.....	5
Operational delivery	5
Freedom of Information, press and correspondence requests.....	6
Annex A.....	7

Introduction

1. This memorandum of understanding (MOU) explains how Ofsted and the Department for Education (DfE) will cooperate with each other in order to share sensitive safeguarding information in a safe, secure and responsible manner. This includes information received by Ofsted from a local authority, which is classed as a notifiable incident, and information received by Ofsted or the DfE about the decisions made by Local Safeguarding Children Boards (LSCBs) about initiation and publication of serious case reviews.¹ Some of this information will constitute personal data and sensitive personal data, as defined by the Data Protection Act 1998 (DPA). This may include (but not be limited to) references to the physical, mental health or condition of individuals and/or the commission or alleged commission of offence(s).
2. This MOU provides a framework for Ofsted and the DfE to cooperate and communicate constructively so as to carry out their independent roles and separate functions.
3. Ofsted and the DfE will continue to monitor the operation of this MOU and review it from time to time as necessary, and at least by the 12-month anniversary of the signing of this MOU.

Role of Ofsted and the Department for Education

4. 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 Courts Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, work-based further education and skills training, adult and community learning and education and training in prisons and other secure establishments. It assesses local authority children's services and inspects services for looked after children, safeguarding and child protection.
5. The DfE is a department of the UK government. It is responsible for issues affecting children and young people in England up to the age of 18, including child protection and education, and, within this, regulates academies and free schools in England. The DfE uses safeguarding information received from local authorities by Ofsted to inform development of policy on child protection in England and any action being taken by Government to intervene in the local authority.

¹ As defined in 'Working together to safeguard children', DfE, 2015;
www.gov.uk/government/publications/working-together-to-safeguard-children--2.

Statutory responsibilities

6. Under statutory guidance included in 'Working together to safeguard children', local authorities are required to notify Ofsted of certain incidents.²
7. Ofsted, through Her Majesty's Chief Inspector (HMCI), has a number of implied powers to share information with the DfE under this MOU. Section 118(3) of the Education and Inspections Act 2006 (the 2006 Act) gives HMCI the broad power to advise the Secretary of State, at any time, "on any matter connected with any activities within his remit". Section 149 and Paragraph 8 of Schedule 13 to the 2006 Act enables HMCI, "if he thinks it appropriate to do so, to provide advice or assistance to another public authority for the purpose of the exercise by that authority of its functions". Section 112 and Paragraph 13 of Schedule 11 to the 2006 Act enables Ofsted to "do anything that it considers is necessary or expedient for the purposes of, or in connection with, its functions".
8. In exercising its functions, Ofsted must have regard for the need to promote and safeguard the welfare of children (under section 117 of the 2006 Act); and section 153 provides that information obtained by HMCI in connection with any of his functions may be used by him in connection with any of his other functions.
9. Both Ofsted and the DfE will adhere to the data protection principles as laid out in part 1 of Schedule 1 to the DPA. In relation to the first data protection principle, which requires personal data to be processed fairly and lawfully, Ofsted and the DfE consider that the condition in paragraph 5(c) of Schedule 2 to the DPA will be satisfied. Where sensitive personal data is being processed, Ofsted and the DfE consider that the condition in paragraph 7(1)(c) of the DPA will be satisfied. Both conditions apply where the processing is necessary for the exercise of any functions of the Crown, a Minister of the Crown or a government department.

Cooperation

10. Ofsted and the DfE agree that they will:
 - share information and work together to ensure a smooth delivery of their respective roles and objectives
 - meet and communicate where appropriate to discuss matters of mutual interest

² 'Working together to safeguard children', DfE, 2015; www.gov.uk/government/publications/working-together-to-secure-children-2 (Chapters 4.13 - 4.16).

- provide accurate and timely feedback to each other to support this MOU and the delivery of operational objectives.

Information sharing

11. Ofsted and the DfE agree that, when sharing information under this MOU, they will:
 - disclose and share information to enable Ofsted and the DfE to carry out their powers, duties and operational objectives, which relate to safeguarding children and young people
 - use agreed, secure methods for communicating such information
 - ensure that any shared personal data and sensitive personal data is held securely and is only accessed and used by staff who have been trained in the handling of such information and by those that need to view it
 - ensure that, as the agent of the DfE, the secretariat to the national panel of independent experts on SCRs has full access to the notification data spreadsheet, which it can share subject to its arrangements with the panel, so that the panel can fulfil its functions as set out in 'Working together to safeguard children'.

Operational delivery

12. Ofsted agrees that:
 - it will monitor and maintain the Ofsted Online portal to ensure local authorities are able to log information regarding notifiable incidents easily and securely.
 - all information submitted by local authorities will be stored securely, using Meridio, and analysed by Ofsted's Applications, Regulatory and Contact (ARC) team.
 - information in each notification will be identified and a summarised data spreadsheet will be transferred to the DfE, to guard against unnecessary transfer of personal data. The information headings for the spreadsheet can be found in Annex A.
 - the data spreadsheet will be password protected and transferred through the secure online platform to DfE each working day.
13. The DfE agrees that:
 - the secure online account used to receive data from Ofsted will be frequently monitored and efficiently maintained.

- all data covered by this MoU will be stored securely by the DfE. No information relating to safeguarding concerns must be deleted or destroyed while the Independent Inquiry into Child Sexual Abuse is in progress.³ At the end of the inquiry, this MoU will be reviewed to consider the retention of the data.
 - the DfE will provide a weekly update to Ofsted about decisions by Local Safeguarding Children Boards regarding initiation and publication of reports of serious case reviews.
14. In the event of any data loss or wrongful disclosure, both parties agree to consult each other about the approach to the public response to ensure that recovery strategies are consistent and effective.

Freedom of Information, press and correspondence requests

15. Where Ofsted or the DfE receive correspondence, press interest or requests for information made under the Freedom of Information Act 2000 (FOI) about information shared between the parties to this MOU:
- each party will be responsible for the information it holds for the purposes of this MoU.
 - the DfE will be responsible for the information that is in its possession, and will handle FOI requests made to the DfE in relation to that information.
 - Ofsted will be responsible for the information that is in its possession and will respond to FOI requests received by Ofsted concerning that information. Each department will keep the other informed of any FOI requests that relate to any of the information shared under this agreement.

³ Letter to Sir Jeremy Heywood, Independent Inquiry into Child Sexual Abuse, June 2015; www.iicsa.org.uk/key-documents?page=36.

Annex A

Information on notifiable incidents that Ofsted will share with the DfE daily

<p>Reference number</p> <p>Local authority</p> <p>Child's initials</p> <p>Gender</p> <p>Ethnicity</p> <p>Nationality</p> <p>Date of birth</p> <p>Date of incident</p> <p>Age</p> <p>Date notification was received</p> <p>Local authority contact</p> <p>Nature of notification</p> <p>Death of child: yes or no</p> <p>Death: whether natural causes</p> <p>Main cause</p> <p>Legal status of child</p> <p>Whether child was subject to child protection plan at time of incident, or previously</p> <p>Any prior disability</p> <p>Where child was living</p> <p>Involvement of agencies</p> <p>Any other settings attended and their name</p> <p>Whether an incident occurred at other setting</p> <p>Unique reference numbers</p>	<p>Case information</p> <p>Child protection database reference</p> <p>CIE date</p> <p>Serious case review (SCR) status</p> <p>Date of SCR panel</p> <p>SCR decision date</p> <p>SCR report received date</p> <p>Report author</p> <p>Date SCR to be published</p> <p>Linked cases</p>
---	---



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.

If you would like a copy of this document in a different format, such as large print or Braille, please telephone 0300 123 1231, or email enquiries@ofsted.gov.uk.

You may reuse this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This publication is available at www.gov.uk/government/organisations/ofsted.

Interested in our work? You can subscribe to our monthly newsletter for more information and updates: <http://eepurl.com/iTrDn>.

Piccadilly Gate
Store Street
Manchester
M1 2WD

T: 0300 123 1231
Textphone: 0161 618 8524
E: enquiries@ofsted.gov.uk
W: www.gov.uk/ofsted

No. 160024

© Crown copyright 2016