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Corporate report

# Information-sharing protocol: Ofsted and LGSCO

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## Contents

[Purpose and scope](#)

[Purpose of information-sharing](#)

[Process for sharing, accessing and storing information](#)

[How Ofsted will use LGSCO information](#)

[Information that Ofsted will share with LGSCO](#)

[Working arrangements](#)

[Signatories to this protocol](#)

[Named points of contact](#)

## Purpose and scope

This protocol sets out the framework for the working relationship between the Local Government and Social Care Ombudsman (LGSCO) and The Office for Standards in Education, Children's Services and Skills (Ofsted). Its purpose is to inform our staff and the public about how our organisations relate to each other and work together. Both LGSCO and Ofsted recognise their respective statutory responsibilities and independence. However, they will always seek to work together, if relevant and appropriate to do so, to further their shared aim of improving standards in children's social care services.

This protocol cannot override the statutory duties and powers of either the LGSCO or Ofsted and is not enforceable in law. However, both organisations agree to follow the principles set out in this protocol and will respect each other's activities. There will be complete openness, transparency and honesty between the LGSCO and Ofsted. The interests of the people who use these services will always be paramount. Legal basis for sharing information

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. Ofsted achieve this through the inspection and regulation of providers and through the monitoring of their progress and by sharing best practice with them.

Ofsted is enabled to inspect children's social care under the Education and Inspections Act 2006 (the 2006 Act) and is the regulator of those registered to provide or manage children's social care services under the Care Standards Act 2000. Also, under section 87 of the Children Act 1989, Ofsted has powers to inspect the welfare of children accommodated in residential special schools, boarding schools and further education colleges. In regard to local authority inspections, Ofsted under section 136 of the Education Inspection Act 2006 and section 20 of the Children Act 2004 has powers to inspect local authority children's services (ILACS) and to carry out joint targeted area inspections (JTAs) of arrangements and services for children in need of help and protection in local authorities. In addition, for the purposes of this information-sharing protocol, Ofsted, together with the Care Quality Commission, has powers under section 20 of the Children Act 2004 to inspect local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities (SEND).

Ofsted has the power, as outlined in paragraph 8 of Schedule 13 to the 2006 Act, to share information if Her Majesty's Chief Inspector (HMCI) 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. Section 153 of the 2006 Act also states that information gathered by HMCI in connection with any of HMCI's functions may be used in connection with any of their other functions. Section 117(2) of the 2006 Act states that Ofsted should promote the rights of children and the need to safeguard children when exercising its functions. These provisions taken together enable Ofsted to share information with LGSCO in accordance with this protocol.

The role of the LGSCO is set out in the Local Government Act 1974 (the 1974 Act). It has the authority to investigate complaints relating to children's social care and SEND. In those cases when fault is identified, the LGSCO recommends an appropriate and proportionate remedy. Section 31B of the 1974 Act allows the LGSCO to publish its decision statements and reports. General principles underlying our working arrangement

LGSCO 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, if appropriate, to assist with effective regulation and complaint handling. Our purpose in doing so is to promote safe and high-quality education and the provision and management of children's social care services. It is also to remedy injustice when it is identified.
- We will work together to ensure that we share information lawfully, fairly, in a

transparent manner, effectively and efficiently.

- We will inform each other as soon as reasonably practicable of any matters that may require a response from the other.
- We will share information 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 we will confirm in writing.

## **Purpose of information-sharing**

The LGSCO and Ofsted will share information with each other through planned activity. They will do so urgently when either party has reasonable cause to believe that, unless they do so, any person will or may be exposed to the risk of harm.

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 EU General Data Protection Regulation 2016/679 (GDPR) and the Data Protection Act 2018. Personal data and special categories of personal data as defined in the GDPR will be shared both between the LGSCO and Ofsted under this agreement when either party has reasonable cause to believe that, unless they do so, any person will or may be exposed to the risk of harm.

## **Process for sharing, accessing and storing information**

The LGSCO will share decision statements that will name the public body within the jurisdiction. The LGSCO will anonymise decision statements to protect the identity of the complainant and others as necessary. The information provided would eventually be available in the public domain, but the LGSCO would share decisions with Ofsted at the point of issue. Decision statements are published on the LGSCO website three months after issue. All information provided in advance of the decision statement should be marked clearly to indicate its status. Personal data and special categories of personal data as defined in the GDPR will be shared between the parties only in the circumstances outlined in paragraph 8 above.

The LGSCO will share children's services and SEND decisions with Ofsted:

- if 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 or those with SEND

- if 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
- if a final decision or report about an investigation has made recommendations to a local authority to address areas of concern.

The LGSCO 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. If the numbers, type and outcomes of complaints against a particular local authority indicate potential concerns about its performance, the LGSCO may choose to share those concerns in broad terms with Ofsted. The LGSCO may also send information about compliance with recommendations following the issue of a decision if there are ongoing systemic concerns with the local authority.

The LGSCO will only send decision statements to the agreed named point of contact's email address at Ofsted via its online system. Any document containing personal data and special categories of personal data will be password protected and will be shared by encrypted government email.

## **How Ofsted will use LGSCO information**

Ofsted will use information provided by the LGSCO to inform its regulatory and inspection processes by adding the anonymised information to other accumulated evidence it holds.

Ofsted will routinely review the LGSCO website before any inspection of a local authority. It will use details of complaints made to the LGSCO and the outcomes of any investigations to provide intelligence and information to its inspectors.

## **Information that Ofsted will share with LGSCO**

If Ofsted receives any telephone calls, letters or emails from complainants whose case on interrogation should be dealt with by the LGSCO, it will provide the caller with details of the LGSCO website and its main telephone number.

Ofsted will advise the LGSCO of any concerns it has about failures to implement policy and procedural changes within a local authority that the LGSCO has recommended following an investigation.

Each party will securely keep all information shared by Ofsted and the LGSCO, and retain it in line with each agency's retention policies.

# Working arrangements

Both the LGSCO and Ofsted are committed to exploring ways to develop more effective and efficient working relationships to promote quality, justice and safety within their respective statutory remits. They will aim to reduce the potential gaps that currently exist between Ofsted and the LGSCO with the aim of improving services for the benefit of the public.

LGSCO and Ofsted will keep each other informed about developments in their services, approach and methodologies.

LGSCO 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 of. This will include sharing drafts of their proposals and publications, when these have a direct impact for both.

LGSCO and Ofsted will hold at least biannual meetings for the purpose of:

- monitoring effectiveness of the arrangements set out within this document
- sharing relevant corporate information between organisations
- individual case liaison, if necessary

# Signatories to this protocol

 **This renewed protocol came into effect on 1 October 2019.**

## **Ofsted**

Christine Williams, Deputy Director, Social Care Operations

## **LGSCO**

Michael King, Local Government and Social Care Ombudsman

# Named points of contact

## Ofsted

Christine Williams Deputy Director, Social Care Operations Ofsted Piccadilly Gate  
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[ProtectionOfChildren@ofsted.gov.uk](mailto:ProtectionOfChildren@ofsted.gov.uk)

Phone: 030 0123 1231

## Local Government and Social Care Ombudsman

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