

Whistleblowing to Ofsted about local authority safeguarding services

Consultation document

In April 2009, Ofsted set up a whistleblowing hotline to enable council employees and others working with children and young people to raise concerns with us about safeguarding practices and procedures.

There is evidence from the calls received by the whistleblowing hotline to date, that our stakeholders are not clear about Ofsted's powers in relation to whistleblowing.

This consultation presents a revised draft of our whistleblowing policy and guidance. These aim to clarify what Ofsted is able to do when it receives such allegations – and what it is not. It also asks our stakeholders if there is more we need to do to explain matters further.

Once we have dealt with the issues raised through this consultation, Ofsted's revised policy towards whistleblowing will be publicised through Ofsted's website.

The closing date for the consultation is 18 June 2010.

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Age group: All

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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 Support Service (Cafcass), schools, colleges, initial teacher training, work-based learning and skills training, 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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About Ofsted

The Office for Standards in Education, Children's Services and Skills (Ofsted) was established in April 2007. It has responsibility for the regulation and inspection of day care and children's social care, and the inspection of local authority children's services, schools, colleges, initial teacher education, work-based learning, adult and community learning, nextstep¹, contracted employment provision and Children and Family Court Advisory and Support Services (Cafcass).

Inspection provides an independent, external evaluation of the quality and standards of provision. It aims to raise standards and improve outcomes for children, young people and adult learners and improve the quality of their lives.

The published inspection report tells the users (learners, parents/carers, employers), the provider (training provider, local authority, charitable organisation, college, employer, school) and the wider community about the quality of education offered and whether learners achieve as much as they can. The findings from the inspection provide information to users about how well the provider compares with others locally and nationally, and sets out for providers what needs to be done to improve.

Her Majesty's Chief Inspector's Annual Report to Parliament on the quality and standards of education in England is based on all the inspections conducted in the previous year, including those that focus on themes across the system.² This 'state of the nation' report demonstrates that inspection drives improvement in policies, as well as in individual providers. Inspection also provides a unique opportunity to highlight, disseminate and validate the good practice that is found in the system.

Ofsted's role in relation to local authority safeguarding services is to evaluate and report on the extent to which children's services improve the safeguarding and well-being of children and young people.

Introduction

1. The statutory guidance *Working together to Safeguard Children* updated in 2006, makes clear that all organisations that provide services for, or work with, children, must have appropriate whistleblowing procedures, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed by the organisation.³ The term whistleblowing applies when a worker raises a concern about malpractice or wrongdoing in their workplace that has a public interest aspect to it, usually because it threatens others as well. It

¹ Nextstep offers face-to-face help and support about training, learning and the world of work, www.nextstep.org.uk.

² The Annual Reports are available via our website: www.ofsted.gov.uk/Ofsted-home/Publications-and-research.

³ www.everychildmatters.gov.uk/workingtogether

applies to raising a concern within the organisation as well as externally, to a regulator for example.

2. The Public Interest Disclosure Act (PIDA) 1998, known as the 'Whistleblowing' Act, is intended to promote internal and regulatory disclosures and encourage workplace accountability and self-regulation. The Act protects the public interest by providing a remedy for individuals who suffer workplace reprisal for raising a genuine concern, whether it is a concern about child safeguarding and welfare systems, financial malpractice, danger, illegality, or other wrongdoing. The concern may relate to something that is happening or has happened in the past.
3. Whistleblowing is the term used when someone who works in or for an organisation wishes to raise concerns about malpractice in the organisation (for example, crimes, civil offences, miscarriages of justice, dangers to health and safety or the environment), and the cover up of any of these. In the case of local authority safeguarding services, this is likely to be about a dangerous or illegal activity, or widespread or systemic failure, in relation to children and young people and/or the services they receive.
4. Ofsted set up its whistleblowing hotline in April 2009 to enable front line staff working in children's services to alert us when they have serious concerns about practice that fails to ensure the safety and welfare of those they serve.
5. The hotline can be used by anybody 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.
6. When people contact Ofsted using the whistleblowing hotline, email or postal address, Ofsted is able to take action when the concerns fall into one of the following categories:
 - child protection concerns about a specific child/children **or**
 - 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 gather and record as much information as possible about the concerns raised and then forward this record on to Ofsted's national **Compliance, investigation and enforcement** (CIE) team to categorise the call.

7. Ofsted categorises all disclosures into one of the following:

Category 1: child protection concerns about a 'risk of harm' to a specific child or children. Ofsted's 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 liaises over contact with the regional Government Office and the local authority. The local Government Office has day-to-day oversight of the work of local authorities. There may be times when a whistleblowing allegation is made by an employee because an Ofsted team is currently in the authority carrying out an inspection. 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.

8. However, when Ofsted carried out an internal evaluation of the effectiveness of our whistleblowing arrangements in August 2009, we established that many of the calls received did not fall into either of these categories. Instead, many callers contacted us because they had 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.
9. Many of these people appeared to be unaware that Ofsted has limited powers to deal with complaints. We do, for example have powers to consider complaints about the overall effectiveness of schools, but not about how they support or make provision for individual children. Our responsibilities in relation to local authorities are also general. Ofsted does not have the authority to investigate or follow up complaints relating to individual cases in either situation. Although we can respond to individual complaints by explaining the best route through which to pursue concerns, Ofsted cannot investigate or take action on individual users' dissatisfaction with local services.
10. Nonetheless this evaluation suggested that many callers trusted Ofsted as an independent body and assumed that we can hold schools or local authorities to account over their individual concerns or complaints. Callers were often understandably disappointed and sometimes frustrated when we are unable to take the action they wanted or expected.
11. We are therefore clarifying our whistleblowing policy and guidance in order to:
 - make clearer our role in relation to local authority safeguarding services and what action we are able to take, and

- explain how we use information that has been gathered through the whistleblowing arrangements in our inspections.
12. In making these revisions, we wish to consult as widely as possible with all our stakeholders on two resulting topics:
- how clearly does the revised policy and guidance explain Ofsted's role and responsibilities in relation to local authorities, and
 - how widely should Ofsted use information received through the whistleblowing arrangements.

The consultation

13. We believe it is important that those whose work we inspect, those who use a service we inspect, and those who represent them have a chance to give their views on the things that we do.
14. If you have any questions about the consultation, please call 0300 1231231.
15. We expect the initial feedback from the consultation to be available during July 2010 with a full report on the results available on our website by August 2010. If you would like a hard copy of the results, please contact us on 0300 1231231 or by email to whistleblowing@ofsted.gov.uk.
16. When we have finished the consultation, we will finalise our new whistleblowing procedure and publish this on our website.

Annex A. Stakeholders consulted

The organisations listed below have also been specifically invited to respond:

- The Who Cares Trust
- Care Leavers Association
- National Association of Probation Officers
- British Association of Social Workers
- Barnardo's
- Children's Commissioner/11 Million
- General Social Care Council
- National Society for the Prevention of Cruelty to Children
- The Child Exploitation and Online Protection Centre
- 4 Children
- National Centre for Excellence in Residential Child Care
- Children's Workforce Development Council
- Save the Children
- ChildLine
- Association for Child and Adolescent Mental Health
- Independent Safeguarding Authority
- Mencap
- NCVO, The National Council for Voluntary Organisations

Annex B. The consultation

Consultation questions

We welcome your responses to this consultation paper. The consultation remains open until 18 June 2010.

There are three ways to complete and submit the questionnaire and any other comments:

- online electronic questionnaire
- print and post
- download and email.

Online electronic questionnaire

Visit our website to complete and submit an electronic version of the questionnaire: <http://85.234.135.179/index.php?sid=62913>.

Print and post

Visit our website to print a Word version of the questionnaire that can be filled in by hand: www.ofsted.gov.uk/publications/100035. When you have completed the questionnaire, please post it to:

Ofsted Whistleblowing Team consultation
c/o Derek Turnbull
Cross-remit Safeguarding Team
7th floor
Ofsted
Aviation House
125 Kingsway
London
WC2B 6SE.

Download and email

Visit our website to download a Word version of the questionnaire that you can complete on your computer: www.ofsted.gov.uk/publications/100035. When you have completed the questionnaire, please email it to: consultations@ofsted.gov.uk. Please put 'Whistleblowing consultation' in the subject line.

What happens next?

Who will be involved in developing the proposals and how?

These revisions to Ofsted's current whistleblowing policy and procedures have been informed by an evaluation of the success of the pilot whistleblowing hotline that was set up in April 2009, and discussions with stakeholders and partners.

The consultation will remain open until 18 June 2010. We will encourage and involve in the consultation representative bodies, government departments, agencies and other organisations with an interest in local authority children's services.

Publication of responses

We will publish the outcome of the consultation together with a summary of responses in August 2010. We will finalise our new whistleblowing policy and procedures and publish this on our website in September 2010. The revised arrangements will be subject to a further evaluation at the end of three months.

Annex C. Whistleblowing to Ofsted about local authority safeguarding services

A copy of the draft whistleblowing policy can be accessed from the following link:
www.ofsted.gov.uk/publications/100035.

The consultation questionnaire

Confidentiality

The information you provide will be held by us. It will only be used for the purposes of consultation and research to help us to become more effective, shape policies and inform inspection and regulatory practice.

We will treat your identity in confidence, if you disclose it to us. However, we may publish an organisation's views.

Are you responding on behalf of an organisation?

No please complete Section 1
please complete the 'Additional questions about you' section at the end if you wish as it provides us with useful information

Yes please complete Section 2

Section 1

I am:

- a carer
 - a child
 - a childcare provider
 - a governor or board member
 - a manager
 - a parent
(please tick if you are a member of our parents' panel)
 - a teacher/lecturer/trainer
 - a young person
 - an adult learner
 - an employee
 - an employer
 - a social worker
 - an education/childcare professional
 - another employee of a local authority
 - other
(please specify)
-
- prefer not to say

Section 2

If you are filling in the consultation on behalf of an organisation and would like us to consider publishing the views of your organisation, please say so below.

Organisation: Barnardo's

I represent:

- adult learners
- childcare providers
- childminders
- children
- further education or adult learning providers
- head teachers
- local authorities
- parents
- school governors or board members
- social care providers
- teachers
- young people
- local authority
- another type of organisation (please specify)

Voluntary Organisation providing a range of children's services some regulated by Ofsted. Publishing the views of the organisation about Ofsted's Whistleblowing Policy is OK. Additional qualification to question below - I am not aware of a whistleblowing referral in the past 3 months

Have you made a whistleblowing referral to us within the past three months?

- Yes
- No

If yes, did you contact your employer about your concern before referring it to Ofsted?

- Yes
- No

Please read the detailed policy and guidance in Annex C before completing this survey.

Q1. Do you agree that the draft policy explains clearly our approach in handling and responding to whistleblowing concerns?

Strongly agree <input type="checkbox"/>	Agree <input checked="" type="checkbox"/>	Neither agree nor disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>	Strongly disagree <input type="checkbox"/>	Don't know <input type="checkbox"/>
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Comments

section 11 add ---- NSPCC Helpline 0808 800 5000 and NSPCC http://www.nspcc.org.uk/help-and-advice/worried-about-a-child/are-you-worried-hub_wdh72939.html

make section 12 part of section 11 for clarity about the information in section 12 relating to teachernet

section 18 add ----- Workers in non Local Authority services regulated and inspected by Ofsted and change existing bullet point to Volunteers and workers from the voluntary sector in LA care and education settings

Q2. Do you agree that the draft policy explains clearly the differences between a complaint, a grievance and a systemic or structural failing that meets the whistleblowing criteria?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

Q3. Do you agree that the policy makes clear what Ofsted can and cannot do in respect of a whistleblowing allegation?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

Q4. Do you agree that Ofsted should use information gained from whistleblowing during an inspection where this is relevant?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

<p>Bearing in mind that it may not be known during the course of an inspection if the allegation is founded or not.</p> <p>The inspection can take place with the facts of the allegation in mind and may find evidence to uphold or not</p> <p>Can the inspection process supercede the agency's own Whistleblowing Process?</p>

Q5. Do you agree that Ofsted should bring forward a planned inspection or trigger a special inspection if a whistleblowing allegation warrants this?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

<p>see response to Q4</p>

Q6. Do you agree that it is right to ask local authorities for their response to whistleblowing allegations as part of the process?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

Q7. Do you agree that Ofsted should also share whistleblowing allegations with the local Government Office – the agency with the day-to-day responsibility for the oversight of local authorities?

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments

Barnardo's is not against copying information to the Local Government office but would like clarity of the function of that office re such information.

Is there a reporting procedure between LAs and the regional government office covering their area? Does the Local Government office have any function in seeing that a LA carries out and concludes a whistleblowing referral in a satisfactory manner? Are Whistleblowing and complaints with organisational implications on regional government office agenda and in which section? Does Ofsted currently copy letters about breach of regulation complaints to to the government office?

Q8. Do you agree that arrangements for protecting the anonymity of 'whistleblowers' are sufficiently clear?

Strongly agree <input type="checkbox"/>	Agree <input checked="" type="checkbox"/>	Neither agree nor disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>	Strongly disagree <input type="checkbox"/>	Don't know <input type="checkbox"/>
--	--	--	--------------------------------------	---	--

Comments

Q.9 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]?

Comments

section 24 asks if issue has been raised(..... or an ombudsman).

The LGO would not deal with a purely Whistleblowing issue and would refer an inquirer to the agency's own Whistleblowing process. The LGO will look at the process of an unsatisfactory dealt with complaint. This means that LGO could only deal with Whistleblowing if the Whistleblower came to them because there was scope to make a complaint to the LA re an unsatisfactorily dealt with Whistleblowing allegation. This is rather tenuous and again LGO could only look at process not the Whistleblowing allegation itself.

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

Comments

Sections 40 and 41 should be amalgamated or 40 lose its number and become a heading for clarity

What did you think of this consultation?

One of the commitments in our strategic plan is to monitor whether our consultations are accessible to those wishing to take part.

Please tell us what you thought of this consultation process by ticking the box for that which most closely represents how you feel about each of the statements below.

I found the consultation information accessible and easy to find.

- Agree
- Neither agree nor disagree
- Disagree
- Don't know

I had enough information about the consultation topic.

- Agree
- Neither agree nor disagree
- Disagree
- Don't know

I would take part in a future Ofsted consultation.

- Agree
- Neither agree nor disagree
- Disagree
- Don't know

How did you hear about this consultation?

- Ofsted website
- *Ofsted News*
- *talisman*
- Ofsted's email alerts service
- Ofsted conference
- Another organisation (please give details if you know them)
- Other (please give details)
Barnardo's internal contacts_____

Is there anything you would like us to improve on or do differently for future consultations? If so, please tell us below.

Thank you for taking part in our consultation.

Additional questions about you

Your answers to the following questions will help us to evaluate how successfully we are communicating messages from inspection to all sections of society. **We would like to assure you that all responses are anonymous and you do not have to answer every question.**

Please tick the appropriate box.

1. Gender

Female <input checked="" type="checkbox"/>	Male <input type="checkbox"/>	Prefer not to say <input type="checkbox"/>
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Are you currently living in the same gender as stated on your birth certificate?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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2. Age

Under 14 <input type="checkbox"/>	14-18 <input type="checkbox"/>	19-24 <input type="checkbox"/>	25-34 <input type="checkbox"/>	35-44 <input type="checkbox"/>	45-54 <input type="checkbox"/>	55-64 <input type="checkbox"/>	65+ <input type="checkbox"/>
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3. Ethnic origin

(a) How would you describe your national group?

British or Mixed British	<input type="checkbox"/>
English	<input type="checkbox"/>
Irish	<input type="checkbox"/>
Scottish	<input type="checkbox"/>
Welsh	<input type="checkbox"/>
Other (specify if you wish)	<input type="checkbox"/>

(b) How would you describe your ethnic group?

Asian		Mixed ethnic origin	
Bangladeshi	<input type="checkbox"/>	Asian and White	<input type="checkbox"/>
Indian	<input type="checkbox"/>	Black African and White	<input type="checkbox"/>
Pakistani	<input type="checkbox"/>	Black Caribbean and White	<input type="checkbox"/>
Any other Asian background (specify if you wish)	<input type="checkbox"/>	Any other mixed ethnic background (specify if you wish)	<input type="checkbox"/>
Black		White	
African	<input type="checkbox"/>	Any White background (specify if you wish)	<input type="checkbox"/>
Caribbean	<input type="checkbox"/>	Any other ethnic background	
Any other Black background (specify if you wish)	<input type="checkbox"/>	Any other background (specify if you wish)	<input type="checkbox"/>
Chinese			
Any Chinese background (specify if you wish)	<input type="checkbox"/>		

4. Sexual orientation

Heterosexual <input type="checkbox"/>	Lesbian <input type="checkbox"/>	Gay <input type="checkbox"/>	Bisexual <input type="checkbox"/>
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5. Religion/Belief

Buddhist	<input type="checkbox"/>	Muslim	<input type="checkbox"/>
Christian	<input type="checkbox"/>	None	<input type="checkbox"/>
Hindu	<input type="checkbox"/>	Any other, please state:	<input type="checkbox"/>
Jewish	<input type="checkbox"/>		

6. Disability

Do you consider yourself to have a disability?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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