Information sharing agreement between Her Majesty’s Chief Inspector of Education, Children’s Services and Skills and the Association of Chief Police Officers
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Background

This agreement is between Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (HMCI) and the Association of Chief Police Officers (ACPO). The roles of Ofsted and ACPO are summarised in Annex 1 to this agreement.

Our shared aim is to protect and promote the interests and rights of children and young people. Both organisations are committed to partnership working in order to safeguard children and young people.

Working together to safeguard children 2013 makes clear that all organisations should have arrangements in place which set out clearly the processes and the principles for sharing information between each other, with other professionals and with Local Safeguarding Children’s Boards, to ensure effective safeguarding arrangements.¹ This agreement is aligned with this statutory guidance.

Fears about sharing information cannot be allowed to stand in the way of the need to promote the welfare and protect the safety of children.

Purpose

This agreement sets out the areas in which Ofsted and the police may work together and share information. It is intended:

- to enable both Ofsted and the police to communicate better and perform more effectively in order to safeguard and protect the lives and well-being of children and young people, and to support improvement in the care and welfare of children and young people.
- to facilitate a coordinated approach that ensures timely and consistent information sharing
- to set out clear expectations concerning the way information is shared.

This will help regulated bodies and those being inspected to be clear about how and when the two organisations work together. It will also clarify to our staff when and how to coordinate our work.

Principles

In working together, our approach will be built on four core principles.

Protecting the public and improving care

The primary purpose of this agreement is to enable both organisations to perform more effectively in order to protect the lives and well-being of children and young people, and to support improvement in the care and welfare of children and young people.

¹ www.education.gov.uk/aboutdfe/statutory/g00213160/working-together-to-safeguard-children
Good regulation

We are committed to the principles of good regulation, set out by the Better Regulation Executive. These are that regulation should be: transparent, accountable, proportionate, consistent and targeted. Working together enables us to put these into practice more successfully than if we acted alone and helps us to be more cost-effective overall.

Understanding each organisation and its independence

Joint working and information-sharing is in the context of our two organisations’ different remits and statutes. Our different systems of accountability and responsibility remain separate, but we will work together whenever this is needed in order to safeguard children, protect the public and improve lives.

Clarity and transparency

We have set out in this agreement the areas we will prioritise for working together and information-sharing, and we will review them regularly. This agreement will be made available to the public on both ACPO’s and Ofsted’s respective websites.

Context for information sharing

Any decision to share information (apart from the sharing of children’s homes’ names and addresses) will be judged on a case by case basis. All information-sharing is subject to compliance with the Data Protection Act 1998 and any other legal obligations, as well as applicable codes of practice and guidance.

The police may share information with Ofsted, and Ofsted may share information with the police, in the circumstances set out below.

Nothing in this agreement should interfere with local procedures that allow for an escalation of response working within local partnerships, unless there is a clear need to do so. It is recognised that in most instances local relationships and practices are the best way to manage concerns.

This agreement does not supersede the parties’ obligations to comply with legislation relating to safeguarding and information sharing. It is not a statutory or contractual document and is not intended to constrain the freedom of either Ofsted or ACPO to carry out their statutory functions.

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2 This includes relevant statutory obligations under the Children Act 2004, the Safeguarding Vulnerable Groups Act 2006 and the Childcare (Supply and Disclosure of Information) (England) Regulations 2007.
Areas for information sharing – when the police may share information with Ofsted

To refer any concerns, the police will initially contact Ofsted via the central helpline number 0300 123 1231 and be forwarded to the appropriate person who will supply an appropriate secure email address where it is necessary to transfer confidential information. The police may follow up any verbal communication in writing via email and Ofsted will confirm receipt, also in writing. The information will where relevant be passed to inspectors. To ensure that information is dealt with promptly the police will not contact individual inspectors directly until contact has been established.

Information relating to police investigations and notifying Ofsted about convictions and other relevant information

Prior to being employed in a children’s home all members of staff are eligible for, and should have been subject to, a Disclosure and Barring Service (DBS) Enhanced Criminal Record Certificate (ECRC) in accordance with the provisions of Part V of the Police Act 1997 as amended. Where the role satisfies the definition of "Regulated Activity" the DBS check will also include a check of the barred list(s) (previously POCA, POVA and/or List99).

On the 17th June 2013 the DBS launched the Update Service which allows an employer, or regulatory body, to check whether a subscriber’s ECRC is current and up to date. Following the launch of the Update Service employers and regulatory bodies should not place any reliance on the proactive notification of issues by the Police Service under the provisions of HOC 6/2006 - the Notifiable Occupations Scheme.

The Police Service may make appropriate and proportionate disclosures using common law powers on an ad hoc and discretionary basis, however such disclosures will only be in exceptional circumstances where a pressing social need or immediate risk of harm exists. The chief officer will determine to whom such a common law disclosure is made on a case by case basis.

Referrals made to Ofsted may trigger an inspection or a specific investigation into the concern or inform an ongoing investigation.

Missing children

Police forces may share with Ofsted any concerns they have about children’s homes and in particular about the incidence of children going missing or being absent. Arrangements for sharing this information will be agreed between police forces and Ofsted at a local level.
Informing routine inspections

Ofsted sends out on-line questionnaires on an annual basis, to seek feedback from a range of professionals about individual children’s homes. The police will complete the questionnaire, on request, where they hold specific information about the children’s home in relation to policing matters and the provision of that information accords with the above information sharing principles. This will help to inform the next inspection of the home.

Areas for information sharing – when Ofsted will share information with the police

Children’s homes’ names and addresses

Ofsted will disclose the names and addresses of children’s homes from its register to the police in accordance with the Care Standards Act 2000 (Registration) (England) Regulations 2010 (‘the Registration Regulations’). The legal context for disclosure by HMCI of that information to the police and practical arrangements and expectations about the disclosure and use of that information are set out in a joint protocol, available on the Department for Education website at this link:


Ofsted will supply the names and addresses of children’s homes to local Police Forces by email through an agreed core of Force leads (individual Force ACPO offices and leads for Public Protection Departments/Units). Requests for information regarding the names and addresses of children’s homes will only go through these routes to ensure confidentiality is maintained.

Further details of the practical arrangements for the sharing of the list of children’s homes’ names and addresses with police forces are attached to this document in Annex 2.

Children at risk of harm

When Ofsted receives information that suggests children are at risk of harm or likely to be at risk of harm, or in response to a written request, it will disclose that information to the relevant police force for the purpose of protecting children from harm or neglect. This can be any information Ofsted obtains in the course of an investigation, inspection, as part of an assessment on the suitability of a person to register with Ofsted or work with children, or any information provided to Ofsted by any other source. For example this may include the following:

- the person’s date of registration

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- any conditions attached to the person's registration
- information obtained or received by Ofsted in the course of ascertaining the suitability of a person for registration
- information about any child receiving childcare from that person, or in the setting in which the person works, or
- information connected with any enforcement action taken against the person by HMCI.

Ofsted will also share with the relevant police force information which it receives in relation to the welfare of individuals other than children, for example, childminders or other household members, including information in respect to risks related to suspected criminal activity.

Date of commencement

This agreement commences on 30 May 2013. It will continue to remain in force until such times as it is revoked by the parties.

The agreement will be reviewed after 12 months and may otherwise be reviewed at any time at the request of either signatory.
Annex 1: The role of Ofsted

Ofsted is responsible for regulating and inspecting:

- children’s homes
- residential family centres
- independent fostering agencies
- voluntary adoption agencies
- adoption support agencies
- early years and childcare providers
- childminder agencies.

Ofsted also inspects schools including residential special schools and boarding schools, local authorities, secure establishments, the Children and Family Court Advisory Support Service (Cafcass), children’s centres, and a range of adult learning and skills providers.

More information is available on the website: www.ofsted.gov.uk.

The legal framework under which Ofsted regulates

The legislation, together with any subsequent regulations and standards under which Ofsted regulates children’s social care and childcare providers, includes the following:

- Adoption and Children Act 2002
- Education and Inspections Act 2006
- Care Standards Act 2000
- Children Act 1989
- Children Act 2004
- Childcare Act 2006.

The role of ACPO

The Association of Chief Police Officers (ACPO) brings together the expertise and experience of chief police officers from the United Kingdom, providing a professional forum to share ideas and best practice, co-ordinate resources and help deliver effective policing which keeps the public safe.
Annex 2. Arrangements for sharing the list of children’s homes’ names and addresses

The ACPO Lead for Missing People will make an annual request for disclosure of the list of children’s homes’ names and addresses on behalf of all Forces in England.

ACPO will provide Ofsted with a secure email address for each police force in England, to which the list can be sent.

Ofsted will send the relevant list to the designated secure email address for that police force. Ofsted will send an updated list to the police force on a monthly basis thereafter.

Public Protection Leads will prompt ACPO offices to pass the list on to them to ensure timely dissemination to relevant staff. Any requests for access to the list should go through Public Protection Leads.

The police are responsible for any onward sharing of the list to colleagues within that police force and/or to any neighbouring police forces.

Any queries about the list should be sent to enquiries@ofsted.gov.uk for the attention of Sarah Matthews in the first instance.