

BREACH OF THE CODE OF PRACTICE FOR OFFICIAL STATISTICS

A breach of the Code of Practice for Official Statistics occurs where one or more provisions of the Code were not followed in situations where an exemption or exception had not been approved by the UK Statistics Authority's Head of Assessment, as required in paragraph (xii) of the Code's preamble. Rules on pre-release access to statistics are covered in the relevant Pre-Release Access to Official Statistics Orders; the Code applies as if it includes these orders.

1 Background Information

Name of Statistical Output (including web link if relevant)

Maintained school inspections and outcomes, 2011/12 (final)
<http://www.ofsted.gov.uk/resources/official-statistics-maintained-school-inspections-and-outcomes>

Name of Producer Organisation

Ofsted (Office for Standards in Education, Children's Services and Skills)

Name and contact details of person submitting this report, and date of report

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2 Circumstances of Breach

Relevant Principle/Protocol and Practice

Protocol 2, Practice 8: Ensure that no indication of the substance of a statistical report is made public, or given to the media or any other party not recorded as eligible for access before publication. Report to the National Statistician immediately any accidental or wrongful release, and investigate the circumstances.

Date of occurrence

Thursday 22 November 2012

Nature of breach

On 22 November, The Times newspaper carried a headline story entitled 'Improve schools or be stripped of powers, town hall chiefs told'. A full transcript of the article is provided in section 5 below. Most of the article was about the statements of policy within the Annual Report of Her Majesty's Chief Inspector, due to be laid before Parliament at 10:30 on 27 November.

However, it did include 'He will state that overall standards are improving...'. This could be construed as a comment on the direction of travel of official statistics about the most recent inspection outcome for all open schools, not due to be published until 09:30 on 27 November. However, standards can also mean the examination and test results of schools and these are quoted elsewhere in the report.

It is also relevant that Ofsted publishes official statistics about the outcomes of inspections every quarter, and that statistics had already been published covering ten of the twelve months covered in the Annual Report.

The Chief Inspector was interviewed on Radio 4's Today programme on the morning of 27 November in advance of the publication of his Annual Report and the official statistics. Although he quoted one or two numbers in that interview, they were not figures within the official statistics release. He did not comment on the direction of travel of the statistics, although the presenter did when introducing him.

Reasons for breach

The Annual Report is shared with the Department for Education (DfE) and the Department for Business, Innovation and Skills (BIS) prior to release. Ofsted is a non-ministerial department but has a close relationship with both departments, particularly the DfE. The report is shared as a courtesy to share the main messages prior to launch and to allow these departments to carry out a factual accuracy check on any data within the report which they own. The official statistics releases are not shared more than 24 hours in advance of release.

All four sections of the report were shared with DfE on 22 October, and on the same day the learning and skills section was shared with BIS. This was before the Ofsted-owned data within the reports was finalised. The covering emails explained that we were still in the process of updating the internal data and evidence and highlighted the need for sensitivity in handling. They were marked PROTECT – DEPARTMENTAL.

A near final version of the entire report was shared with two officials within DfE on 15 November for the purpose of briefing ministers. The covering email reminded them not to share more widely, although of course the briefing based on the report would be shared with ministers, their advisors and the private office, and was again marked PROTECT – DEPARTMENTAL.

Assurances have been sought, and received, from the two DfE officials receiving the near-final version of the report that they had only used the report for ministerial briefing and that they personally had not had a conversation with the Times.

3 Reactions and Impact

There is just one statement, towards the end of the article, which could be construed as commenting on the direction of travel of an official statistic prior to release, but is not explicitly or unambiguously doing so. It is not the main focus of the article. All other facts and figures within the article are published information.

Her Majesty's Chief Inspector (HMCI) spoke briefly with the Secretary of State for Education on 22 November about the apparent leaking of some key elements of his Annual Report. No other reaction has been received in relation to the comment on statistics.

4 Corrective Actions Taken (include short-term actions, and long-term changes made to procedures)

As noted above, the Principal Officer with responsibility for the statistics within the Annual Report has spoken to the lead official in the DfE's Ofsted sponsor unit about the incident, where the leak might have come from and about the need to report this as a breach to the National Statistician. It was clear that the team understand that HMCI's Annual Report is to be handled sensitively.

In the medium term, a lesson's learnt session will be held following the publication of the Annual Report. It will pick up a range of issues including improving the process for sharing the report with external bodies, although this is an established part of the production process and has not resulted in difficulties in previous years.

It is clear that the communications when sharing the report could have been stronger in relation to the status of the statistics within the report, particularly when the almost-final report was shared on 15 November. Internal guidance for the handling of official statistics requires a marking of PROTECT – PERSONAL within the document itself, not just in the covering email, but this guidance was not made available to the individual sharing the report. There should also be a standard paragraph of text about the nature of the statistics and how they must be handled. This lesson has already been noted and will be implemented next year.

Guidance has recently been issued to communications colleagues within Ofsted to improve handling of requests for data and information, providing an opportunity to remind colleagues across Ofsted about their obligations under the Code. This will be strengthened in light of this issue, and colleagues will be offered a training session with a representative from the National Statistician's Office alongside Ofsted's Chief Statistician to ensure they are quite clear on the requirements of the Code.

5 Any other relevant supporting material (including link to published statements about this breach)

Text of the article (The Times, 22 November). The relevant statement is highlighted

in yellow.

Improve schools or be stripped of powers, town hall chiefs told

Local education chiefs face being ousted or stripped of their powers under radical plans to boost school standards. Ofsted is to “name and shame” councils in charge of under-performing schools in its annual report, the first under its chief inspector Sir Michael Wilshaw, The Times has learnt. Local authorities that failed an inspection could have senior officials removed or school improvement services out-sourced to a not-for-profit trust or private company. The regulator may also inspect academy chains, a new breed of charity running groups of schools. Ofsted and the Department for Education have held talks on the change. A source told The Times: “This is something that is clearly coming.”

Sir Michael is appointing eight regional Ofsted directors to identify under-performing council education departments or academy chains. He will use his first annual report next week to challenge local authorities to tackle under-performing local schools. The good record of authorities such as Wigan, where this summer 64 per cent of teenagers achieved five good GCSEs, including maths and English, will be contrasted with councils in similar areas whose results are much poorer. Better school results in many London boroughs, such as Hammersmith and Lewisham, will also be highlighted. This will put pressure on councils such as Coventry, where last year 15 primary schools failed to achieve the Government’s minimum threshold that 60 per cent of children reach the expected level in English and maths. Other authorities with weak school improvement records include Labour-controlled Hull, Grimsby, Barnsley, Leicester, Derby, City of Durham and Haringey in North London, as well as Lancashire, North Yorkshire, North Lincolnshire and East Sussex which are Conservative-run.

Sir Michael will launch a web-based search engine that will allow parents to compare the performance of schools across their borough with those in a similar authority. It marks a change in approach by Ofsted which until now has allowed parents to compare the performance of individual schools. School improvement services in Hackney, North London, were transferred by David Blunkett in 1999 to a private company, Nord Anglia, after damning Ofsted inspections and then to the not-for-profit Hackney Learning Trust. Ofsted reports critical of local authority children’s services have also triggered radical changes, notably when Ed Balls instructed Haringey council to sack Sharon Shoesmith, its children’s services director, over failings highlighted by the death of a 2-year-old child, Peter Connelly, in 2007.

Sir Michael regards the publication of his report this month as a significant moment in which he will give a state-of-the-nation analysis of standards in England’s schools. **He will say that overall standards are improving** but will demand that all children are taught in good or outstanding schools. It will include an attack on the poor quality of some further education colleges. The scope of his criticisms will raise further questions about the provision of post-16 education beyond school sixth forms, whose funding is widely seen as too complex. A report last year by Professor Alison Wolf, of King’s College London, said that 400,000 teenagers took vocational qualifications that were worthless or could even damage their chances of getting a job.