

1.2.2 Access to Records

Contents

1. **Rights of Access**
2. **Placing Information in the Confidential Section of a Child's File**
3. **Children Gaining Access to their Files/Records**
4. **Changing a Record**
5. **Revision History**

Regulations and standards

England

- Regulation 36: Children's case records
- Regulation 37: Other records
- Regulation 38: Storage of records, etc.
- Schedule 3: Information to be included in the case records of children accommodated in children's homes
- Schedule 4: Other records with respect to children's homes

Wales

- Regulation 59: Records
<https://www.legislation.gov.uk/wsi/2017/1264/regulation/59/made>
- Regulation 78: Duty to ensure there are systems in place for keeping records
<https://www.legislation.gov.uk/wsi/2017/1264/regulation/78/made>
- Schedule 2: Records to be kept in respect of regulated services
<https://www.legislation.gov.uk/wsi/2017/1264/schedule/2/made>

1. Rights of Access

The provisions for access to personal information or records held by Children's Services are contained in the Data Protection Act 2018. Under this legislation, those in respect of whom personal information is held in any form have a right of access to the information, unless one of the exceptions set out below applies.

The Data Protection Act applies to both paper and manual records and records held electronically. It is important that electronic recording systems comply with the requirements for children and their families to easily find their story in a logical narrative.

The Freedom of Information Act 2000 gives people the right to see all types of other non-personal information held by children's services. Local authorities should publicise their access to records policy with clear information about how care leavers and others can apply for their records and access support services.

2. Placing Information in the Confidential Section of a Child's File

Certain information held on children should be placed in the confidential section of their file; this information would not normally be accessible to the child.

Any decision to place information or material in the confidential section must be taken by the manager of the home.

Before giving approval the manager must be satisfied that one of the following apply:

1. That there is a serious risk of injury to the child or others if the information is disclosed;
2. That an offence may be committed if the information/material was accessible to the child;
3. That there is a legal requirement, for example, in relation to Adoption Records;
4. That there is a Court Order or Direction in force in relation to the information/material.

Where the author/originator of a report or correspondence requests that it should not be shared with the child, the manager must come to a decision about whether it should be placed in the confidential section of the child's file. In coming to a decision the manager must consult the author/originator and the child's social worker.

If the decision is made to place the record/correspondence in the confidential section of the child's file this must be communicated to the author/originator and the child's social worker. The manager must ensure that a cross referencing note is placed in the main body of the file, or the location where the record/ correspondence would normally be kept, so that it may be found/accessed when required.

Where information/materials are too bulky to be held in the confidential section of the child's file, they may be kept in another secure location, as agreed by the manager, and a note placed in the confidential section stating where it may be found.

Once placed in the confidential section the information may only be disclosed with the manager's approval, in consultation with the author/originator and the child's social worker.

When it has been approved to make a disclosure of information contained within the confidential section the disclosure must be recorded at the front of the confidential section of the child's file.

3. Children Gaining Access to their Files/Records

Except for records/correspondence held in the confidential section of their files, children should be actively encouraged to take an interest in all records held in their files, and be given the opportunity to read and comment on them.

Before records or files are shown to children, consideration should be given to the likely effect of sharing the information. However, all information contained outside the confidential section is normally accessible. If in doubt or if there are concerns about the likely effect on the child, the supervisor or manager must be consulted.

Should staff need to share information provided by previous carers or third parties they are strongly advised to ensure that they:

- Read the records/reports beforehand;
- Speak to the authors if possible;
- Collate the records in chronological order;
- Give thought to what questions the young person may ask;
- And/or possible responses that the young person may make;
- And/or what other information may be required;
- A note should be placed on the Daily Record each time a child has access to records or his/her file.

4. Changing a Record

If a child claims that information contained in the record/file is inaccurate, incorrect or misleading about a matter of fact, s/he may ask for it to be corrected or changed.

If there is disagreement between the originator and the child, the Home Manager should make a decision on whether or how the record should be amended.

This may result in the original record remaining the same and an additional record of the child's views being made.

Where the record is approved to be amended the originator should make any changes.

Any changes made must be signed and dated by the author of each written entry.

5. Revision History

Date last updated: May 2020

Date of next review: May 2021

Date of release: December 2018

End