

Subject Access Request, Procedure, Guidance and Information

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1. Introduction

- 1.1** The Children and Families Service strives towards a spirit of partnership, where there is maximum openness and sharing between worker and service user. Records will be shared wherever possible at, or soon after, the time of writing, and restrictions on access will be kept to the minimum.
- 1.2** The Children and Families Service is committed to providing access for individuals to their records and personal information that not only meets the statutory requirements, but also seeks to expand the rights of individuals beyond what is required by law. Any restriction on rights of access will be defined by the law.
- 1.3** The Children and Families Service needs to keep records in order to provide an efficient and effective service to our users. All staff and our partner organisations
1. Keep information about service users confidential and in a secure place
 2. Keep information for specific legal purposes
 3. Ensure that the information is accurate and up to date
 4. Keep information for no longer than required for legal purposes
- 1.4** This procedure has been designed to comply and read in conjunction with both the *Data Protection Act 1998 - Guidance to Social Services* (DOH March 2000) and the Redbridge Access to Health Policy – Appendix 1.

2. Legal Context

- 2.1** The Data Protection Act 1998 (DPA) came into force on the 1st March 2000 and repealed the Data Protection Act 1984. The DPA also repealed the Access to Personal Files Act 1987 and associated regulations. The DPA enhances the rights of individual to gain access to information held about them.

2.2 The DPA applies to all requests for access to records made on or after the 1st March 2000, and to all information held about a particular individual irrespective of when it was recorded. The Department is required to keep all personal information confidential and where it wishes to disclose this information to another person, it will need to consider carefully where this is lawful. The DPA applies to all manual and electronic personal records held by the Department in the exercise of its social services functions.

2.3 It should be noted that the Children Act 1989 requires Local Authorities to give access to records to persons duly authorized by the Secretary of State such as the Social Services Inspectorate and to Guardians ad Litem appointed by the Court. Access by the local Commissioner is provided for in the Local Government Act 1974.

2.4 The statutory framework relevant to this procedure includes:

- The Data Protection Act 1998 – came into force on 1st March 2000
- The Human Rights Act 1998
- The Freedom of Information Act 2000
- The Data Protection (Subject Access Modification) (Social Work) Order 2000
- The Data Protection (Subject Access Modification) (Health) Order 2000
- The Data Protection (Subject Access Modification) (Education) Order 2000
- Subject Access Code of Practice Version 1 August 2013

3. Subject Access Request to Personal Records Guidance – Guidance Statement

3.1 The purpose of this Guidance is to set out the principles and standards in relation to subject access requests (SAR) "social services records". In particular, it seeks to provide guidance for both management and staff in order to ensure that they are clear about the Guidance and are able to carry out their work in accordance with its requirements.

3.2 ***Subject Access Request Guidance:***

In order to facilitate all Subject Access Requests (SAR's) they should be acknowledged in 5 working days. At the time of acknowledgement, individuals will be told whether any further information or a fee is required.

- 3.3 Where records are held on a joint agency basis, service users should not have to apply to both organisations for access to their records. Service users should be told that data is held jointly and a procedure must be in place to ensure that Service users can apply to either agency for access to personal records.
- 3.4 Individuals will be required to provide proof of identity and residence before information will be disclosed. This is to prevent unauthorised disclosures to third parties.
- 3.5 Where a request is made by an agent on behalf of an individual, a request will only be fulfilled where the agent can provide proof of authority to act on the individual's behalf.
- 3.6 We will produce a Subject Access Information Pack and Subject Access Forms to assist an individual in making a request. These will be made available on request and will be placed on the Councils website. ([See Appendix 2](#)) at the end of this document).
- 3.7 This Guidance and Procedure and the Subject Access Information Pack will be made available in other formats where necessary.
- 3.8 There will be a nominated Complaint's Officer / Subject Access Request Lead Officer, within the Children and Families Service, who will assist the Council's Data Controller to fulfil subject access requests.
- 3.9 Training will be provided to key staff that will be using this guidance and procedure.

4. Scope of the Guidance

- 4.1 This guidance covers personal data held electronically, or in 'relevant filing systems' or in 'accessible public records'. In other words, this guidance covers information held about a particular individual by the Council for the purpose of its Social Services functions, irrespective of when the information was recorded. It should be noted that the Access to Personal Files Act 1987 was repealed by the DPA.

- 4.2 This Guidance applies to all staff within the Social Services Department. Although the Access to Files legislation does not directly apply to voluntary organisations or other bodies, they will be expected to adhere to this Guidance when they are acting as agents of the Department, e.g. where there are contractual arrangements.
- 4.3 Where joint records are held, for example in the case of community mental health teams, the relevant organisations, i.e. the Social Services Department and NHS Trust, will each be required to notify separately, as each is a data controller in its own right. However, the data subject should not have to apply to both organisations for access to their records. Either organisation can provide access to the joint record provided the data subject is informed that the data are held jointly. The Council and its partners in joint record holding will, therefore, need to have procedures in place to ensure that the data subject is aware that he/she is not obliged to apply to all partners for access and to inform each other that access has been given.

5. Principles

- 5.1 All Children and Families Service users have the right to ask to see their personal records. The operation of this guidance will be based on the following principles:
- Personal Data shall be processed fairly and lawfully
 - Data control, processing and provision of access will be carried out with appropriate safeguards for the rights and freedoms of data subjects
 - The data subject must have given his or her explicit consent
 - The Trust data controller shall ensure that even where consent for access to records has been lawfully given, the records themselves have been fairly and lawfully obtained
 - Where the records officer responsible for giving access is authorised or required to supply information by any enactment of law, it is deemed to have been done fairly
 - The data controller shall make available fair processing information to data subjects in relation to records obtained from them and from others

- For joint health and social care records, the procedure in the document "Information Sharing Protocol between the Children and Families Service and Redbridge PCT" must be observed

- 5.2 Access:** Any person about whom the Children and Families Service holds information is entitled to know whether any information is held about them, their right of access to this information, the means by which they will be given access and the time they can expect to wait. Where records are held on a joint agency basis, services users should not have to apply to both organisations for access to their records. Service users should be told that data is held jointly and a procedure must be in place to ensure that service users can apply to either agency for access. The Children and Families Service will make every practicable effort to
- 5.3 Security:** The Children and Families Service will take all reasonable steps to ensure the security of the personal information it holds and will strive to prevent unauthorised access or disclosure.
- 5.4 Confidentiality:** personal information will not be disclosed without the consent of the individual concerned other than in circumstances where the Children and Families Service is obliged by law or where it is in the public interest. For more detail refer to *Data Protection Act 1998 - Guidance to Social Services* (DOH March 2000).

6. How to Use This Guidance

- 6.1** As mentioned previously in this document the underlying principle of this Guidance is that individuals have the right of access to information to themselves held by the Social Services Department (as was). The specific details of the legal requirements together with appropriate guidance is set out in the main part of this document. Flowcharts have been drawn up ([Appendix 5](#)) to assist managers and staff deal with SAR appropriately and as sensitively as possible. The flowcharts should however, be read in conjunction with the main details of the Guidance.
- 6.2** Staff should always seek the advice of their line manager in relation to requests for access to records. If necessary, senior manager should also be consulted. Further advice and guidance – with regard to the procedure - can be obtained from the Complaints Team. As and when necessary detailed advice can also be sought from Legal Services.

7. Subject Access Request (SAR) Procedure

7.1 Introduction

Best practice in recording is based on key principles of partnership, openness and accuracy. Effective recording is part of the total service to the user and constructing and sharing records with service users is integral to this process. Gaining clearance to share information provided by another person with service users in the normal course of day-to-day work is also an important way of ensuring that access to records is maximised.

7.2 For the above reasons many service users will be aware of the content of records through the ordinary work process. Where a formal request is made for access to personal records this should be made in writing wherever possible. Where a person is unable to make a written application without support or where English is not the first language, help and support should be made available, if necessary by referring the individual to an advocacy service or by arranging interpreters where required.

7.3 Application Criteria

The Children and Families Service will recognise the following criteria for application for subject access requests:

1. The application will be in writing
2. Applications must be signed and dated by the applicant
3. Where an application is made on behalf of a service user, the application must be accompanied by a signed declaration of consent or have completed the relevant section on the Subject Access Request Form
4. The application sets out a clear means of identifying the service user and associated records

Formal requests must be made in writing. If the individual is unable to write or make their mark a verbal request is acceptable.

- 7.4 Written subject access request must be referred to the Data Protection Officer within the Complaints Team. If the request is for information across services or service areas, a copy will be sent, by the Complaints Team, to all relevant Heads of Service to ensure the response is complete.
- 7.5 The Department must always reply to a request for access. If no personal information is held about the individual they should be informed. If an exemption applies the Department does not need to tell the individual this but it can do so.
- 7.6 Either the request or the request form should detail what information is required, ranging from all information, to information related to a period of time or specific condition. The relevant service manager is then required to ensure that searches are undertaken of both paper and electronic records to ensure that full data is retrieved for the requestor. If a request goes across services, the search process will need to be undertaken in each.
- 7.7 If a request is made for access to a child's health records, the request will be forwarded to Health (North East London Foundation Trust) by the Complaint's Team.
- 7.8 **Timescales:**
- Access must be given to disclosable information within 40 days of receiving the request. The timescale for dealing with a valid request is 40 days and this does not start until the Children and Families Service has received the request, the appropriate fee (if applicable), and if necessary the further information required to satisfy itself as to the identity of the person making the request and sufficient details with which to locate the information sought.
- 7.9 Timescales can only be extended with the agreement of the person requesting access. Where he or she refuses to agree an extension, access should be given to all information open to disclosure at that point
- 7.10 The Complaints Team will acknowledge all subject access requests within 5 working days of receipt and ascertain as much information as possible from the data subject to validate the request and obtain copies of all relevant identification.

7.11 Step 1: Advice and Assistance

1. There is information on Redbridge-i about an individual's right of subject access and how an individual exercises that right.
2. An Officer can either print out and send copies of the information to the individual or if appropriate direct the individual to Redbridge i or tri.x.
3. A subject access request must be made in writing. An individual must provide sufficient information to identify him or herself and the information they require, for any request to be valid.
4. The Council has 40 days in which to respond to a valid request.

7.12 Step 2: Initial Receipt of Subject Access Requests

1. All subject access requests must be made in writing.
2. A request for information can arrive in any part of the organisation.
3. The Complaints Officer / Subject Access to Records Lead will also receive requests directly.
4. The request might not specifically mention the Data Protection Act 1998 or Subject Access. It might simply state that the individual wants to see what information is held about them.
5. If the request is for non-personal data, or it is for personal data of which the individual is not the data subject (or the legal guardian of a data subject) then the request will be dealt with under the Freedom on Information Guidance and Procedure. All such requests must be forwarded to the Complaints Team within 2 working days of receipt.
6. If the request is made verbally, advice and assistance must be provided to the individual.

7. An officer who receives a subject access request must contact and forward it to the Complaint's Officer /Subject Access to Records Lead for advice.
8. If personal information requested is not held or lost, the service area concerned must write advising the data subject of the outcome of their search within 2 weeks of the original request being acknowledged. Information should be provided, what action the data subject can take where information has been reported lost.
9. Where the request is for access to an adoption file, this should be directed to the Fostering an Adoption Service who will deal with the request under a different procedure to that outlined in this document.
10. The Data Protection Officer will record all subject access requests and advise staff on how best to proceed.
11. If the request is 'easy' (for example, a copy of a single recent entry, letter or decision) staff will be advised to facilitate the request and advise the DPO of the date access was granted.
12. Where the subject access request has not provided sufficient information the request will be logged and acknowledged within **5 working days** of receipt into the Council and provided with advice and assistance (refer to Step 1 above).
13. Where the subject access request is completed to enable the appropriate search for the records the request will be logged and acknowledged within **5 working days** of receipt into the Council and move on to Step 3 below.

7.13 Step 3: Receipt by Complaint's Officer / Subject Access to Records Lead

Validate Request – The 40-day timescale does not start until the conditions in Step 1, in particular point 3 have been met.

- 7.14** If request is not valid, forward the request to the Complaints Team, within **2 working days**, for them to inform the individual of what further information is required (see Step 1).
- 7.15** A validated subject access request will be logged on to the Respond database and acknowledged by the Complaints Team – within **5 working days** of receipt – into the Council.

- 7.16** If the request is for information across services or service areas, a copy will be sent, by the Complaints Team, to all relevant managers to ensure the response is complete.
- 7.17** The relevant service manager is then required to ensure that searches are undertaken of both paper and electronic records to ensure that full data is retrieved for the requestor. If a request goes across services, the search process will need to be undertaken in each.

7.18 Service Area Responsibilities in Relation SAR's

The service area(s) concerned with the access to records request are responsible for:

- Locating the file(s) and interrogation of relevant electronic systems.
- Identifying any 3rd party information contained within the personal data.
- Where 3rd party information is identified then deciding whether any of the 3rd party information should be disclosed.
- Deciding if consent of 3rd party is required.
- Where 3rd party consent required, then writing to the 3rd party asking them to respond within 2 weeks – NB it is not always necessary to gain 3rd party consent before disclosing – see further guidance.
- Highlighting if any of the subject access exemptions are applicable – see further guidance.

7.20 Duty to Consult on a Valid Subject Access Request

Once the request has been validated the service responding to the request has a duty to consult the appropriate professional, particularly but not exclusively on the following issues:

- To confirm that the applicant is of an age and capacity to understand the nature of the application
- Where a judgement needs to be made regarding the withholding of access to all or part of a record set
- Where an applicant will need to be assisted with an intelligible explanation of any entry in a record

7.21 Service areas are required to ensure the:

- 3rd party information where consent is not agreed is removed or anonymised before access.

- Information is screened for any “privileged” information
- Information is scrutinized before access to identify any 3rd party information of individuals before access.
- Availability of an appropriate person to accompany the individual whilst they are accessing their files (if deemed necessary).
- Access/release of files to the data subject along with a description of the personal data and a list of the purpose for which it is processed, where it was obtained from and whom it will be/has been disclosed to – see further guidance.

7.22 If the service feels there is any reason why they are unable to comply with the request, for example:

- that access should be refused;
- that certain information should be withheld;
- that there are doubts about the validity of the request; or
- that they are unsure about the procedure to follow;

they should discuss the request with their line manager in the first instance. If and as necessary further guidance can be sought from the Complaints Team and or Legal Services.

7.23 Supplying the Records

Some social services records will contain information, which may be so complex that it requires explanation, or so serious that disclosure may well be a difficult, even traumatic, experience for the person. This is particularly likely if they have any mental health problems, for example, if they suffer from depression. It is good practice in these cases to offer the person the opportunity to view their file during a supportive interview with a trained social worker or counsellor. For those unable to understand English, support can be provided to help with clarifying the information.

- 7.24** Having made all the relevant checks as indicated previously, the information will be released to the Data Subject along with a description of the personal data and a list of the purposes for which it is processed, where it was obtained from and whom it will be/has been disclosed to. A copy of this covering letter must be forwarded to the Complaints Team.
- 7.25** Recent experience suggests that particular attention needs to be paid to the packaging and transportation of personal records.
- 7.26** The packaging must be appropriate so as to ensure that the papers remain inside. With this in mind, it is suggested that in the first instance, recipients are encouraged to collect their personal records rather than using the postal service as the first option. An alternative could be to give consideration to the possibility of delivering the information in person.
- 7.27** There will be instances where using the postal service is the last resort. In the event that the postal service is used, the package must be securely packaged, formally registered with the postal service so that it is easily tracked for monitoring purposes. Check with the recipient if there are any special instructions that would assist in making sure the information is easily delivered.
- 7.28** A record, by the service area(s) concerned, must be kept to indicate the details of the data subject access request (what was supplied and when).

7.29 Simple/Fast Track Access

Some subject access requests may be limited in nature and easy to fulfil. i.e. the individual is requesting a specific piece of information that he/she clearly has a right of access too.

- 7.30** In these cases, service areas are expected to comply quickly and advising the Complaint's Officer / Subject Access to Records Lead once access has been granted.

7.31 Amendments of Records

According to the Redbridge Children and Families Service Recording Policy information “should not be deleted because subsequent records will have been written based on, or in light of, that information and to remove it could render subsequent records incomprehensible.”

7.32 If the subject disputes the accuracy of records any amendments or corrections will not be deleted but will be added to a new case note and recorded by the Team Manager with the correct information and reason for case being amended in accordance with the Case Recording Policy.

7.33 Appeals Process

The person concerned has the right to apply to the Court for an Order to disclose or correct information held. They also have the right of appeal to the Information Commissioner.

7.34 Disputes Regarding the Application of an Exemption

Where a decision has been made to apply an exemption and the subject wishes to dispute or have the decision revisited they should be asked to direct such communication to the Chief Children and Families Officer.

7.35 They should be given the contact details of the Chief Children and Families Officer and advised to write to him outlining their concerns within 20 working days of having received a letter.

7.36 In addition, if the data subject has sent all the necessary information (including any fee) and we:

- Fail to respond to their request within 40 days; or
- They are not satisfied with their response; or
- They are of the view the information they have received is wrong or incomplete

7.37 We should advise them to contact the Information Commissioner’s Office by writing to:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AG

Or by calling their helpline on: **08456 30 60 60** or **01625 54 57 45**

Or by visiting their website at: <http://www.ico.gov.uk/>

8. General Guidance and Information

8.1 Introduction

This guidance and information will need to be read in conjunction with the *Data Protection Act 1998 - Guidance to Social Services* (DOH March 2000). On specific points of law or where there is any doubt then guidance must be sought from Legal Services.

8.2 *Records Subject to the DPA*

This guidance covers personal data held electronically, or in "relevant filing systems", or in "accessible public records". Electronically held data applies to (but not exclusively) computer databases, email and other mechanically processed information. A "relevant filing system" refers to (but not exclusively) manual files, card indexes, binders, archived records and filing cabinets. An "accessible public record" refers to any record kept by the Department in the exercise of its social services functions.

8.3 *Joint Records*

Where joint records are held, for example in the case of community mental health teams, the relevant organisations, i.e. the Social Services Department and NHS Trust, will each be required to notify separately, as each is a data controller in its own right. However, the data subject should not have to apply to both organisations for access to their records. Either organisation can provide access to the joint record provided the data subject is informed that the data are held jointly. The Council and its partners in joint record holding will, therefore, need to have procedures in place to ensure that the data subject is aware that he/she is not obliged to apply to all partners for access and to inform each other that access has been given.

8.4 *Health Records*

A health record is defined as a record consisting of information about the physical or mental health or condition of an individual made by or on behalf of a health professional in connection with the care of that individual. It can be on computer or paper (or both) and may include hand written notes, letters, lab reports, x-rays etc. See [Appendix 2](#).

8.5 *Rights of Access*

Any living person who is the subject of personal information processed by the Department has a right of access to the data concerned (subject to a limited number of exemptions). This includes factual information, expressions of opinion, and the intentions of the Department in relation to the individual. The term "processed" refers to the obtaining, recording, holding or carrying out of any operation, in respect of the data concerned.

8.6 *Family Access*

In general, an individual does not have the right to know what is recorded about someone else. Where for instance the Department receives a request to access a file held on an entire family, one family member is not entitled to see information about another member of the family without that person's consent. However, the Department has discretion in these matters as detailed under "Exceptions".

8.7 *Requests by, or on behalf of, a child or a young person under eighteen*

Rights of access to Children and Families Service records extend to children and young people under eighteen who understand what it means to exercise that right. Where a child or a person under eighteen makes a request for access to their records, the receiving manager must decide whether or not a child or young person has sufficient understanding to justify agreement to the request.

8.8 If a child or young person under eighteen does not have sufficient understanding to make his or her own request, the person with parental responsibility can make the request on the child's behalf. Where a parent applies on behalf of a child, the receiving manager must be satisfied that the child lacks capacity to make a valid application or has capacity and has authorised the parent to make the application. Where the child does not have capacity, the receiving manager also needs to be satisfied that the request made by the parent on the child's behalf is in that child's interest.

8.9 *Third Party Disclosure*

A person does not have the right to know what is recorded about someone else, e.g. one family member is not entitled to see information about another member involved in the same piece of work without that person's consent. However, there may be circumstances where it is reasonable to disclose such information without consent.

8.10 In circumstances where disclosure of the data requested is not possible without disclosing information about another person, the request can normally be denied unless the other person has given consent to the disclosure. In such circumstances, as much of the information requested should be disclosed where this is possible without revealing that person's identity, whether by omission of names or other identifying particulars.

8.11 There may be occasions where it is 'reasonable in all circumstances' to comply without that other persons consent. This includes the disclosure of identifiable details about a 'source' who has contributed information to the record.

8.12 When disclosing information which identifies another person without that persons consent it is necessary to determine what is 'reasonable in all circumstances' to comply with the request. Factors to consider are:

1. Any duty of confidentiality owed to that person
2. Any steps taken with a view to seeking consent of the other person to the disclosure

3. Whether the other person is capable of giving consent; and/or
4. Any express refusal of consent by another person

8.13 Where it is considered that granting access to a parent is likely to result in serious harm to anyone, including the child, the receiving manager will need to decide whether to refuse access in consultation with the Complaint's Officer/ Subject Access to Records Lead (Complaint's Team).

8.14 *Requests made through another person (an agent)*

If a service user has capacity and if she or he has appointed an agent, that person can make a valid request for access on behalf of the service user. The receiving manager must ensure that suitable evidence of the agent's authority is given and that their identity and relation to the individual is also confirmed; such evidence would normally be provided in writing. Should the requester wish to see records first that facility would be made available to them. Where the receiving manager is satisfied that the data subject has authorised the agent to make the request, she/he must deal with the request in the same manner as if it had been made by the service user.

8.15 A service user who is profoundly physically disabled may not be able to give written consent for an agent to seek access on their behalf. Where the service user is unable to give such consent, a manager responsible for the case should give the individual as much assistance as possible where they believe the service user wishes to instruct an agent to seek access on their behalf.

8.16 *Duty to consult on a valid subject access request*

Once the request has been validated the person responding to the request has a duty to consult the appropriate professional, particularly but not exclusively on the following issues:

1. To confirm that the applicant is of an age and capacity to understand the nature of the application.
2. Where a judgement needs to be made regarding the withholding of access to all or part of a record set.

3. Where an applicant will need to be assisted with an intelligible explanation of any entry in a record.

8.17 *Denial of access*

Access to all or part of a service user's record will not be given:

- Where the access to personal information would prejudice the prevention or detection of a crime or would cause serious harm either to the subject or another person.
- Where the information is the subject of legal professional privilege, customarily in the form of communication between the Children and Families Service and its legal representatives, whether or not those representatives are Trust
- Where the record relates to or has been provided by an identifiable third party, unless that third party consents to the disclosure. Health/social care professionals will not be considered as a third party particularly where they have contributed to the record – it is not a lawful reason to withhold access to the data subject or their representative.
- Where the information has previously been disclosed within a reasonable period of time.

8.18 The Data Protection (Subject Access Modification) (Social Work) Order 2000 – this provides that personal data held for the purposes of social work are exempt from the subject access provisions, where the disclosure to the data subject would be likely to prejudice the carrying out of social work, by causing serious harm to the physical or mental health of the person. Professionals will bear in mind the potentially harming effect of the denial of access.

8.19 The Data Protection (Subject Access Modification) (Health) Order 2000 – this provides that the authority must not disclose information about physical or mental health condition without first consulting an “appropriate health professional” (as defined in the Order). This would normally be the person responsible for the data subject's current clinical care in connection with the matters to which the information relates. This might, for example, be a GP or psychiatrist.

- 8.20** The Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 – where other enactments themselves prevent disclosure, then a data subject cannot rely on the DPA to access records. These include, for example, adoption records and reports, and parental order records and reports under section 30 of the Human Fertilisation and Embryology Act 1990.
- 8.21** Where the Secretary of State has examined the information and so decided. At present these relate to adoption records and reports and statements and records of the special education needs of children.
- 8.22** Where the matter involves the prevention or detection of crime, it is not necessary to inform a service user:
1. That personal data is held about her/him for the purposes of the prevention or detection of crime, or to apprehend or prosecute offenders.
 2. That information about her/him has been disclosed to other organisations where it is required for any of these purposes (e.g. the police)
 3. That it has received information from an organisation which had it in its possession for any of these purposes that it is holding personal data about him/her if the provision of such information would be likely to prejudice disclosure or would be likely to prejudice any of these purposes.
- 8.23** Requests should be treated on a case by case basis and use of the exemption should be the exception rather than the rule. Where any doubt exists, the service manager should consult the Complaint's Officer / Subject Access to Records Lead.
- 8.24** In practice, restrictions on the right of access should be exceptional and confined to cases where there is serious potential for serious harm e.g. where there is sufficient risk to the safety of a child, e.g. where a child protection plan is in place and where disclosure would prejudice that plan.
- 8.25** ***Decisions to Refuse Access***
- Any notification of refusal to disclose personal data should be given as soon as practicable and in writing, even if the decision has also been given in person.

- 8.26** Clear documented reasons for decisions not to disclose should be recorded and these explained to the data subject, unless there is good reason not to, for example where reliance is made on the exemptions in relation to the prevention and detection of crime.
- 8.27** The Children' Trust should explain why some of the information requested has not been given. Where the other person's consent is not or cannot be given and the Children and Families Service considers it reasonable to comply with the request without it, it may do so. However, it may later be required to justify its actions if the person in question later says the particular disclosure was a breach of their rights under the DPA.
- 8.28** Access can be refused where a similar request from the same individual was recently granted. In deciding what amounts to a reasonable interval, the following factors should be considered:
1. The nature of the information
 2. The purpose for which the information is processed
 3. The frequency with which the information is altered

8.29 *Information the data subject considers inaccurate – amendments*

If a person considers that the Children and Families Service holds personal information which is inaccurate in any way, she or he can take the following action;

- Ask the data controller Children and Families Service to correct the data;
- The Children and Families Service will verify that the information is inaccurate and make the necessary correction or amendment– if unable to verify the inaccuracy the data controller will note in the record the submission of the information.
- If an amendment is agreed the data controller will provide the applicant with a written copy of the correction or note.
- Approach the Commissioner if he/she considers the controller has not made the requested correction.
- Apply to the courts for an order requiring the data controller to rectify, block, or amend the data.

8.30 *Recognised applicants*

Decisions concerning access to personal records must be taken by the relevant service area Manager in consultation with the Complaint's Officer / Subject Access to Records Lead where necessary.

8.31 Information about access to personal records must be available in all Children and Families Service premises where there is contact with members of the public and all service users must be provided with a copy of the leaflet '*Want to See Your Records?*'

8.32 *Right of access*

Subject to a limited number of exemptions defined by part four of the Data Protection Act, any living person who is a subject of personal information held and processed by the Children and Families Service may access records containing information about them. The information comprising this data includes factual information, any expressions of opinion and the intentions of the Children and Families Service in relation to the individual. Where access is refused, the service user may appeal to the courts or the Information Commissioner.

8.33 *Information that includes details about another person*

If any other person is mentioned in the record and disclosure would allow her or him to be identified, the person's consent must be obtained before disclosure. Alternatively it is possible to decide that it is reasonable in all the circumstances to disclose without obtaining the person's consent. This provision is likely to be of particular relevance when a request is received for access to very old files and the possibility of tracing other identified persons is remote. Where a decision is required to disclose without consent, the Data Protection Officer should be involved.

8.34 Where the Children and Families Service does not hold the personal information requested, the receiving manager should inform the applicant as quickly as possible.

8.35 *Information to be disclosed*

The information to be disclosed is all the data held about the service user unless the data is subject to any exemptions or another person has refused to consent to the disclosure of data identifying them. On no account must the record be altered to make it acceptable to the service user.

- 8.36 Information disclosed must be that held at the time the request is received. Account may be taken of any amendment or deletion made between the time of the request and when it is supplied in practice.
- 8.37 Wherever possible the service user should be provided with a permanent copy of the information requested unless the service user says that this is not necessary.
- 8.38 Some of the material to be disclosed may already be known to the service user, however consideration should still be given to making a member of staff available to assist the service user 'take in' the material or explain anything that she or he does not understand.

8.39 *Where the service user considers that information is inaccurate*

Simple factual corrections, e.g. to names or dates of birth can be made to the record immediately and should be signed and dated by the practitioner facilitating access. The correction and the circumstances in which it was made i.e. during the provision of access should be recorded.

- 8.40 If the service user wishes to query or comment on a judgement or opinion about him/her, a written record of the query/comment should be appended to the original recordings. This should then be signed and dated by the practitioner involved and cross-referenced.
- 8.41 If the person seeking access feels that part of the record is not accurate then a new case note, recorded by the Team Manager, with the correct information and reason for case being amended in accordance with the Case Recording Policy.
- 8.42 A copy of any corrected data should be sent to the service user.

8.43 *Internal access to services for children and young people records*

Personal information relating to service users should only be disclosed to staff directly involved in the case and their line managers. Relevant information can be disclosed to the Complaint's Officer/ Subject Access to Records Lead when she/he is assisting with an access to records request.

- 8.44** Any member of staff who does not work within the Children and Families Service requiring access to personal records held by the Children and Families Service must address their request to:

Patrick Power

Chief Children and Families Officer

Children and Families Service Ley

Street House,

497-499 Ley Street,

Ilford, Essex, IG2 7QX

- 8.45** Volunteers and informal carers may also need to be given some personal information about a service user. Any disclosure of personal information should take place in accordance with established guidance and procedures and wherever possible with the consent of the subject.
- 8.46** On occasions it may be necessary to disclose personal information about service users to senior managers responsible for quality assurance and service planning. This may also be necessary where a formal complaint has been made and an investigation is required.
- 8.47** It may be necessary to disclose records to students and trainees on placements within the Children and Families Service and for them to have contact with service users to gain practical experience. It is the responsibility of the service manager to ensure that anyone who is given access to personal information is made aware of the need to treat this information as confidential.

8.48 *Disclosure of information to other agencies*

Requests for disclosure of information to other agencies should be considered with reference to:

- Service Requests and Recording
- Confidentiality and Information Sharing (Children and Young People)
- Service users should be told why and when information is to be transferred or exchanged between different parts of the service and with other agencies.

8.49 *Children and Family Court Advisory and Support Service (CAFCASS) Guardian /Child's Solicitor*

A CAFCASS Children's Guardian has a legal right of access to Children and Families Service files

- 8.50** A CAFCASS Guardian can appoint a solicitor to represent a child and the latter would usually obtain access to the case file via the CAFCASS Guardian. If there is any doubt about the appointment, confirmation should be sought from the CAFCASS Guardian before access is provided.
- 8.51** The CA '89 s.41 (3) and (4) sets out the circumstances, including those where a CAFCASS Guardian has not been appointed, in which the court may appoint a solicitor to represent the child. Where no CAFCASS Guardian has been appointed and the child's solicitor requests access, it should be given.
- 8.52** Access by a CAFCASS Guardian/child's solicitor should take place at premises operated by the Children and Families Service. A practitioner should be present. Copies of case records may be provided subject to the restrictions on:
1. Revealing the identity of the referrer and other third parties and
 2. Disclosure of documents without consent, e.g. letters from members of the public, minutes etc.
- 8.53** If consent is refused, the CAFCASS Guardian/solicitor should be advised that the individual/agency concerned has information relevant to his/hertask.

- 8.54** The child's solicitor has a duty in law to disclose to his/her client any information obtained about his/her circumstances. Information about the referrer and other third parties **must** therefore, be transferred to the restricted section of the file before access takes place, unless consent to disclose has been obtained.

8.55 Bulk Requests

The Children and Families Service generally receives individual Subject Access Requests(SAR's) to personal records. However, if there are any instances of bulk requests (e.g. a representative makes a request on behalf of multiple individuals) each request will be dealt with individually and in accordance with this guidance.

Appendix 1

Technical Guidance Note – Information Commissioner’s Office (January 2009)

Subject Access Requests and Social Services Records

This guidance is aimed at practitioners dealing specifically with subject access requests (SAR) for information in social services records. In Scotland these are referred to as social work records. This includes both electronic and paper records and both open or closed records.

The Information Commissioner has already issued general guidance on Subject Access Requests for data subjects and on dealing with information in records, which relates to professional opinions.

Section 7 of the Data Protection Act 1998 (the Act) gives individuals the statutory right, subject to some exemptions, to see information which organisations hold about them. SARs must be made in writing and accompanied by the statutory fee, if charged, currently set at a maximum of £10. There is a 40-day statutory maximum period allowed for responding to a SAR.

Organisations should have procedures for handling SARs; staff should be trained to recognise them and to deal with them promptly and in any case within 40 days. It is good practice to record all incoming SARs and track them through to completion. They should be acknowledged and the individual should be advised when they can expect a response. Some organisations use electronic systems or require the individual to fill in a form to track SARs. It is acceptable to ask an individual to fill in a form to make a SAR, but it is not a legal requirement and you cannot make responding to a SAR dependant on filling in a form.

Verifying Identity

You should always satisfy yourself as to the identity of a person making a SAR. Where the record is open and there is an ongoing relationship between professionals and the person making the SAR then you should consult with the lead practitioner about the identity of the person.

It is particularly important to confirm their identity if the request is for old information from closed records and there is no ongoing relationship which can be relied on to help with identification. In these circumstances personal documents, for example, a passport, a photographic driving licence, or a bus pass can be used to establish identity and the electoral roll can be used to confirm postal addresses. Some local authorities will accept a copy of a utility bill, which shows a current address.

SARs Made by a Representative

Anyone can authorise a representative to help them with a SAR. In some cases it will be enough to have a letter from the person nominating the individual as their representative.

However, many people who have accessed social services need representatives because they have physical, mental or emotional difficulties. Sometimes this can make them vulnerable. If you have reason to believe that someone is falsely claiming to act on behalf of a person making a SAR, you should investigate this before you disclose any information.

When considering if someone is acting as a legitimate representative you should consider asking for any legal documents which may be relevant, such as a power of attorney or a parental responsibility order. If the social services record is open, consult the lead practitioner.

If the person is no longer receiving social services then you should consider asking for a history of the relationship between the person and their nominated representative. For example, is the representative a member of the person's family or from an organisation offering advocacy services, or a member of staff from a supported living organisation? If the representative claims a professional relationship of this nature, you should make checks with the relevant organisation before responding to the SAR.

Parents will often exercise subject access rights on behalf of their children. If a practitioner believes the child is mature enough to understand the nature of the request and the nature of the information, which may be disclosed, then careful consideration must be given to any instructions received from the child. For example, has the child given some information to a practitioner and specifically asked for this to be withheld from a parent? The child's wellbeing should also be taken into account if information disclosed to the parent might have a detrimental effect on this, or might undermine the ability of a practitioner to work with that child. This is particularly important if the file contains details of a child's concerns or allegations about parental abuse.

In all cases where a practitioner believes that a child is mature enough to exercise their rights, the parent should be asked to provide proof that they are acting with the child's consent.

Finding the information

An individual may have spent many years receiving social services especially if they have been a 'looked after child' or if they have ever been 'in care'. The relevant records are likely to be both extensive and complex. The Act allows you to ask the person making the SAR for any further information you might reasonably require to locate the information they are looking for. This information should be requested promptly. You are not under an obligation to deal with the SAR until the person has responded to your request.

In some cases the information given to you by the person will not be enough for you to locate the records. Where this is the case you are not obliged to respond to the SAR and should inform the person as soon as possible.

However, if the person has been able to supply some information then every effort should be made to locate as many records as possible to make as full a response as possible to the SAR with the information you have.

The 40 day response period

This begins when you have:

- Confirmed that you are dealing with the person making the SAR or their representative;
- Received the relevant fee (if charged); and
- Received any necessary information to assist you in finding the information requested.

The 40 day response period is a statutory requirement and there are no exemptions from this.

The Content of the Records

Social services records will often contain information from a wide range of sources, for example, from schools, doctors, the police or the probation service. The practitioners who supply this type of information are usually referred to as 'relevant professionals'. Records will often contain information about these relevant professionals, such as their names and business addresses.

Records are also likely to contain information about other individuals, for example, the person's parents, siblings or other family members. In the context of social services these individuals are often referred to as 'third parties'. Information about relevant professionals and third parties, as described above, is their personal information and should be treated as such.

Relevant professionals

Information about the person, which has been received from a relevant professional, may often represent that professional's opinion. It is likely to contain their name and business address. It is good practice to have guidance for dealing with this type of information. If the record is recent you may wish to check with other named relevant professionals about what information from their contribution to your records could be disclosed and which information they would not wish to be disclosed. If you do check you should record this. You should also explain clearly that while you will consider their views, the final decision about disclosure rests with you as the data controller.

A professional opinion about the data subject is their personal information and must be released except where any exemptions apply. In most cases professionals are likely to expect their name and business contact details to be disclosed. However, you should carefully consider any objections a professional makes to the disclosure of these details. This is especially important if there is a real risk that disclosure of this information would be likely to cause them, or any other individual, harm.

Other individuals

If you cannot respond to a SAR without disclosing information about another individual (a third party) who could then be identified from that information, you are not obliged to disclose it, unless the other individual consents, or if you think it is reasonable in all the circumstances to disclose it without consent.

Many data controllers are unsure whether they can release information about other individuals without consent. Decisions about whether to disclose information about third parties will always rest with the data controller. These decisions should always be taken on a case-by-case basis, after careful consideration and in the light of all of the relevant circumstances surrounding each case.

When making this decision, you should refer to section 7 (6) of the Act, which gives a brief list of some of the things you should consider when deciding whether to disclose.

You should also consider what the person making the SAR is already likely to know. It may be helpful to meet with them or their representative to determine whether they are in contact with any siblings, other relatives or family friends who are mentioned in their records. For example, if they are an older person who has already established contact with some family members, then it may not be necessary to redact (remove) all the information about family members, which is contained in the records. You might also be able to get contact details for some individuals in this way and this may help you to get consent to disclose. It is better to carry out interviews of this kind at the beginning of the SAR process, if possible, as this will save time.

Older, closed records present particular difficulties. Third parties may have changed their names or contact details or they may have died. You should consider the age of the records in these cases. If an individual is dead then their personal information is no longer covered by the Act, however, you might wish to consider whether any duty of confidence requires you to keep any of their personal information confidential.

You should make reasonable efforts where appropriate to get consent. It would be good practice to have a procedure for this, which covers possible sources of information to be used for tracing third parties and a means of recording the efforts made to do this in particular cases.

It may not be possible to make the same enquiries in all cases. For example, if information in a record relates to a sibling who is known to have moved to another area in the UK, then it might be reasonable to check the most likely electoral rolls for an address. However if it is known that the sibling emigrated then it is less likely to be reasonable to attempt to trace them in another country.

Some individuals may not consent to the disclosure of their personal information. However this does not mean that this information cannot be disclosed. The Act makes it clear that information about a third party must be disclosed if “it is reasonable in all the circumstances” to do this without their consent. You should consider the impact that disclosure will have on the third party and weigh this against the impact that non-disclosure will have on the person making the SAR.

Before you make the final decision about what information about other individuals should be disclosed, you should review all the matters you have considered and all of the efforts you have made to get consent. You should also record your decisions on whether to disclose or not and the reasons behind them.

Medical or Health Information

Medical or health information contained within social services records is particularly difficult to deal with. In some cases this is because the information relates to both the person making the SAR and another individual. For example, a file may contain information about a parent, which indicates that a child may inherit an illness or medical condition. In these cases the information is joint personal information for both the parent and the child. In these cases the rights of each individual must be balanced when determining what information to disclose.

Determining When to Disclose Medical or Health Information

Medical or health information is the only type of information in social services records where the decision to disclose will not always rest entirely with the data controller. Statutory Instrument 413/2000, the Data Protection (Subject Access Modification) (Health) Order 2000 sets out additional requirements in respect of SARs for medical information.

It defines medical or health information as “consisting of information relating to the physical or mental health or condition of the data subject”. This will include any medical or health information, which is contained within social services records.

It exempts from disclosure any information of this nature, which has been included in reports made to courts dealing with children and young people. It also exempts from disclosure any information of this nature where disclosure "would be likely to cause serious harm to the physical or mental health or condition of the data subject or any other person."

The statutory instrument prohibits a data controller who is not a health professional from withholding this information under this exemption unless they have first consulted with the "appropriate health professional" to determine whether the exemption applies. This exemption will only apply in the most serious cases. For example, it is unlikely that information about a record of childhood inoculations, or the usual childhood illnesses such as measles or mumps, could be withheld under this exemption.

The statutory instrument also allows the disclosure of medical information that the person making the SAR is likely to be aware of.

In open or recent records it is likely to be possible for you to identify the relevant health professional and get their opinion on the possibility of harm as a result of disclosure. Where records are closed the relevant practitioner may not be available because they have moved to a new post or retired. In these cases it may be possible to get an opinion from the person's general practitioner, or from another practitioner known to you as a specialist in a particular medical discipline.

Where it is not possible to consult with a medical practitioner without disclosing some information about the person, the information should, as far as is practicable, be anonymised. It will not be necessary to get the person's consent to consult in this way, as the consultation is necessary for you to fulfil your legal obligation to respond to the SAR. However, depending on the circumstances of a particular case or your relationship with the person, you may wish to discuss this with them.

Disclosing distressing information

Some social services records will contain information, which may be so complex that it requires explanation, or so serious that disclosure may well be a difficult, even traumatic, experience for the person. This is particularly likely if they have any mental health problems, for example, if they suffer from depression. It is good practice in these cases to offer the person the opportunity to view their file during a supportive interview with a trained social worker or counsellor.

Disclosure of category “e” data as defined by the Act

Section 68 of the Freedom of Information Act 2000 amends the definition of 'data' in the Data Protection Act 1998. The amendment creates a new category of data: category 'e'. This covers any recorded information held by a public authority, which is not already covered by the categories defined in section 1 (1) (a) to (d).

This means that you must make sure that any personal information, which is in the possession of the authority, but which has not been entered into the records, is considered for disclosure. This might include, for example, information held by social or care workers on laptops or paper reports, which have been received but are not yet filed.

Recording SAR Handling

It is good practice to keep a record of exactly what information you have sent in response to a SAR, together with a note of information you have withheld and redactions made. It is also good practice to make notes relating to how you reached these decisions and notes on any exemptions in the Act you relied on. These notes should also be kept with this record.

Keeping records on SAR handling will allow you to determine what information should be disclosed if a further SAR is received in the future and it will also help you in the event that you need to explain or justify the decisions made in respect of any SAR.

More information

If you need any more information about this or any other aspect of data protection, please contact us.

Phone: 08456 30 60 60

Notification helpline: 01625 545740

E-mail: please use the online enquiry form on our website

Website: www.ico.gov.uk

Appendix 2

Subject Access Request Information Pack – “Want to See Your Records?”

Introduction

Redbridge Children and Families Service encourages its service users and/or carers to participate in the recording of information. To do our work effectively we must have accurate information about your circumstances whether you have asked for a service or we are undertaking an investigation.

Our aim is to support you in reading your files, correcting errors and omissions and recording personal statements. All staff are given guidance on record keeping which should ensure that all records give a clear account of staff's involvement; gives an account of any decision making and reflects the service provided. This information helps us to decide what services you need. It also provides the evidence that we need to keep children and other vulnerable people safe.

Who has right of access to personal information held by the Children and Families Service?

Any living person who is the subject of personal information held and processed by us has a right of access to that information. You have the right of access to information held about you but not about anyone else.

The Data Protection Act 1998 gives you, the individual, the right to see what information an organisation holds about you?

This information note will explain your general rights in respect of access to your data, and how to exercise your right to see what information the Children and Families Service holds about you.

What information am I entitled to see?

You are entitled to see information of which you are the Data Subject and which comprises your personal data.

For information to be your personal data you have to be identifiable from the data and you should also be the focus of it.

You are not entitled to see information about third parties. In some circumstances 3rd party details may be removed from your personal data. Where we have a duty of confidentiality to those 3rd parties, we may contact them to obtain their consent for us to disclose their information to you.

What is a subject access request?

Under Section 7 of the Data Protection Act 1998 you are entitled to be told by a data controller if any personal data is held about you AND, if so:

1. To be given a description of the data;
2. To be told for what purposes the data are processed and
3. To be told the recipients or the classes of recipients to whom the data may have been disclosed. You are also entitled;
4. To be given a copy of the information with any unintelligible terms explained; and
5. To be given any information available to the controller about the source of the data.

Can a third party make a subject access request on my behalf?

Yes, but only with your written authorisation. There is no reason why an individual cannot make a request through an agent; however, it is the agent's responsibility to provide satisfactory evidence that he has the authority to make a request on behalf of the individual.

How much does a request cost?

There is currently no charge for accessing records.

How long does a subject access request take?

The 1998 Act requires data controllers to comply with subject access requests, within forty days from receipt of the request or, forty days from the day on which the data controller has both the required fee (if charged) and the necessary information to confirm your identity and to locate the data.

How can you be sure the information recorded about you is accurate?

You can ask to see that information and if the details are factually wrong you can ask for it to be changed. If you disagree with an opinion or believe that something you have said or done has been misinterpreted this can be noted on the file but will not be changed.

Can some or all of someone's personal data be exempt?

Yes - Whilst every attempt will be made to provide full and comprehensive access to personal records there are occasions, as defined in the relevant legislation, where access may be either denied or restricted.

If your file contains information that has not already been shared with you and was provided by someone else, for example, a doctor or teacher, we may need to seek his or her permission before we can show it to you. However, by law you still have the right to ask to see the information recorded in your file. This would include both written and computer form records that we keep about you.

What information is exempt from disclosure?

There is some information that is exempt from disclosure. We will ensure you can read as much of your records as possible. However, there may be legal reasons for not giving you all the information that you want to see. Here are some of the reasons why we may not always be able to disclose information:

- The information relates to other people, including members of your family, who have not given their consent.
- The information we have received about you is from a 3rd party who has not given their permission for the information to be disclosed;
- The information is likely to cause or lead to serious harm to the physical or emotional health of yourself or another person.
- The information relates to work where legal proceedings are under way.
- The information is held for the purposes of the protection or detection of crime, or the apprehension or prosecution of offenders where your request for the information is likely to prejudice either or both of these purposes.

- The information is connected with the adoption of children.

What happens if permission is refused or there are other problems about access to your files?

We can reserve the right to refuse you access to your records. For example, this might happen in those rare cases where a person is making very frequent, repeated requests to see their records. However, you will be given an opportunity to discuss any problems and hopefully it can be sorted out. If we are not able to sort out the problem then you can make a complaint. This can be made to either the Children and Families Service Complaints Team; the Information Commissioner or to the Courts.

How long are your records kept?

This will vary depending on the service. Some records are kept much longer than others. Usually, records/files are kept for 5 years after the last time a service is provided. For children in care or who have been adopted then we are required to keep your records for as long as 75 years.

What is the first step if you wish to request access to your records?

Your request to access your personal records must be in writing and you can use the enclosed form. If you need help with your request you can:

- Ask your social worker (if you have one) or the member of staff you normally deal with;
or
- Contact the Complaints Team, their contact details are shown later on.

What happens next?

After we receive your request we will tell you within 7 working days if we have information about you on file. We will then arrange for you to be given a copy of the information within 40 days of a validated request.

What information do I need to provide?

Data controllers may ask you for any information they reasonably need to verify your identity and to locate the data.

This means you should provide the data controller with proof of your identity and information, which will assist the data controller in locating your personal data. For instance any relevant reference numbers, or account numbers, dates of correspondence and details of employees you have dealt with.

It is important to note that a data controller does not have to respond to a request until they are provided with sufficient information necessary to confirm your identity and to locate the information you seek, so it is important to provide this information from the outset.

How do I make a request to the Children and Families Service?

If you are making a request to the Children and Families Service, you can use the '*Subject Access Request Form*'. You will find it enclosed in this pack.

You need to provide identification. In cases where sensitive personal data is involved, you may be required to visit our offices and provide further identification. Information and examples of identification can be found on the "Subject Access Request Form" enclosed.

If an agent is making a request on your behalf then you will need to complete an '*Agent Authorisation Form*'. We will not respond to third party requests unless this form is completed. In order to ensure confidentiality we reserve the right to make further enquires to check the authorisation given.

You will usually be asked to collect any personal data once your records are ready. However, before reading your records, and as appropriate we may recommend that you speak with a member of staff in order to help you understand and prepare for the content.

All completed forms should be returned to:

The Children and Families Service
Complaint's Officer / Subject Access to Records Lead
(Complaints Team)
Ley Street House
497-499 Ley Street
Ilford, Essex
IG2 7QX
Email: CTCM@redbridge.gov.uk
Phone: 020 8708 5268

How much will it cost you?

There is currently no charge for accessing records.

What can you do if you think the information is wrong or you have not been given all the information you have asked for?

Tell the person who shows you your file why you think it is wrong and what you think we should do to correct it. If an alteration to your record is not made you must write to us, within 21 days of seeing or receiving your records, telling us what information is incorrect or missing asking for it to be corrected. We will tell you what we have done within 21 days of receiving your request.

If you disagree with the information provided, you can appeal to the Information Commissioner.

Who and what is the Information Commissioner?

The Information Commissioner enforces and oversees the Data Protection Act 1998 and the Freedom of Information Act 2000. The Commissioner is a UK independent supervisory authority reporting directly to the UK Parliament and has an international role as well as a national one.

The Information Commissioner can be contacted at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 700. Alternatively, you may want to visit their website: **www.dataprotection.gov.uk**

Department of Health

For more information you can visit the Department of Health's website <http://www.doh.gov.uk/>. There are also some guidance notes which you may find useful "Data Protection Act 1998 – Guidance to Social Services" published in March 2000 also available from this website

Appendix 3

Guidance in Relation to “Health Professionals”

“The appropriate health professional” means:

- (a) The medical practitioner or dental practitioner who is currently or was most recently responsible for the clinical care of the individual in connection with the matter to which the information which is the subject of the request relates; or
- (b) Where there is more than one such professional, the professional who is the more suitable to advise on the matters to which the information which is the subject of the request relates; or
- (c) Where there is no health professional available falling within sub-paragraph (a) or (b) above, a health professional who has the necessary experience and qualifications to advise on the matters to which the information which is the subject request relates:
 - 1. A registered medical practitioner
 - 2. A registered dentist as defined by section 53(1) of the Dentists Act 1984
 - 3. A registered optician as defined by section 36(1) of the Opticians Act 1989
 - 4. A registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954
 - 5. A registered nurse, midwife or health visitor
 - 6. A registered osteopath as defined by section 41 of the Osteopaths Act 1993
 - 7. A registered chiropractor as defined by section 43 of the Chiropractors Act 1994
 - 8. Any person who is registered as a member of a profession to which the Professions Supplementary to Medicines Act 1960 for the time being extends
 - 9. A clinical psychologist, child psychotherapist or speech therapist
 - 10. A music therapist employed by a health service body
 - 11. A scientist employed by such a body as head of a department

Subject Access Request Form

If you would like to request access to your personal records (in relation to what was the Children's & Families or the newly formed Children and Families Service) please complete the relevant sections below. Please be advised that we will need to have proof of identity before the release of any documentation.

If you wish to access Health or Medical records you can use this form to start that process and we will arrange for a copy of this to be sent to Redbridge NHS.

Section A: (Details of person whose file(s) is being requested)

Full Name:

Date of Birth:

Current Address:

Daytime Telephone Number:

Previous Address:

Please indicate the type of record that you would like access to? (please tick **one** of the following boxes)

- Personal records held within the Children and Families Service Δ [move on to **Section B**]
- Health records from Redbridge NHS Δ [move on to **Section D**]
- Both personal records from Children and Families Service and health records Δ [move on to **Section B**]

In which section or department of the Children and Families Service do you think the information is held? (For example; Fostering and Adoption, Special Educational Needs, Adolescent Services, Early Years, Child Protection) – Please indicate below

Section B: (About information required)

Please tell us the name of the office and the person who normally deals with the person whose file(s) is being requested.

Office:

Person:

If you are no longer receiving a service from us, please tell us which office dealt with the person whose file(s) is being requested and the date service was being received.

Office:

Date/Year:

Section C: (Please fill in **one** of the three statements below that applies to you)

1. If you are making a personal subject access request:

I, (your name).....would like to make arrangements to see any personal information you may have recorded on myself.

2. If you are authorising someone else to make a request on your behalf for example a friend or relative:

I, (your name) would like you to arrange for my representative (their name.....) to have access to any personal information you have recorded on myself:

Full Name of Representative:

Full Address of Representative:

3. If you have legal authority to act on someone's behalf:

I, have legal authority to act on behalf of (name).....

Full Name:

(e.g. solicitor)

Full Address:

Signature:

I am a:

- Parent, legal guardian, or other person with parental responsibility Δ
- Person acting under an order of the Court of Protection Δ
- Person who holds Power of Attorney Δ
- Person who holds Enduring Power of Attorney Δ

Section D: *(Signature of person whose file(s) is being requested)*


I understand that I will have access to my Children and Families Service records within forty (40) days and that this is subject to the Data Protection Act 1998.

I also understand that if I require access to health records a copy of this form will be sent to Redbridge NHS, Information Governance Team in order to start the course of action.

Full Name (please print):

Signature:

Date:

 Please complete and return this request form using the pre-paid envelope provided.

List of Valid Identity Documents

You will need to supply at least one item of identification from those shown in Group 1 in addition to at least one item shown in Group 2. (At least one document must confirm the applicant's current address and at least one document must confirm the applicant's date of birth).

Group 1

Passport	EU National Identity Card
Driving Licence (UK) (Full or provisional) -England/ Wales/ Scotland/ Northern Ireland/ Isle of Man ; either photo card or paper (a photo card is only valid if the individual presents it with the counterpart licence)	Birth Certificate (UK) - issued within 12 months of date of birth – full or short form acceptable including those issued by UK authorities overseas, such as Embassies, High Commissions and HM Forces
HM Forces ID Card (UK)	Firearms Licence (UK)
Adoption Certificate (UK)	

Group 2

Marriage/Civil Partnership Certificate	Financial Statement ** - e.g. pension, endowment, ISA
Birth Certificate	Vehicle Registration Document (Document V5 old style and V5C new style only)
P45/P60 Statement (UK) **	Mail Order Catalogue Statement *
Bank/Building Society Statement *	Court Claim Form (UK) ** - Documentation issued by Court Services
Utility Bill* - electricity, gas, water, telephone – including mobile phone contract/bill	Exam Certificate e.g. GCSE, NVQ, O Levels, Degree
TV Licence **	Addressed Payslip *
Credit Card Statement *	National Insurance Card (UK)

Store Card Statement *	NHS Card (UK)
Mortgage Statement **	Benefit Statement* - e.g. Child Allowance, Pension
Insurance Certificate **	Certificate of British Nationality (UK)
Council Tax Statement (UK) **	Work Permit/Visa (UK) **
	One of the following documents from the United Kingdom Borders Agency (UKBA) (formerly the Immigration and Nationality Directorate – IND) (UK):
A document from Central/ Local Government/ Government Agency/ Local Authority giving entitlement (UK)*: e.g. from the Department for Work and Pensions, the Employment Service , Customs & Revenue, Job Centre, Job Centre Plus, Social Security	<i>Do not use more than one of the following documents</i> Convention Travel Document (CTD) - Blue Stateless Person’s Document (SPD) - Red Certificate of Identity (CID) - Brown Application Registration Card (ARC) Immigration Status Document (ISD)
CRB Disclosure Certificate **	Letter from a Head Teacher *
Connexions Card (UK)	

*documentation should be less than three months old

**issued within past 12 months

Important Information:

• • ~~Copies~~ of identification documents will be destroyed and not kept. We will only record that valid

documents have been sent and accepted as proof of identity.

• • ~~Copies~~ will be accepted if posted but we reserve the right to have sight of original documentation.

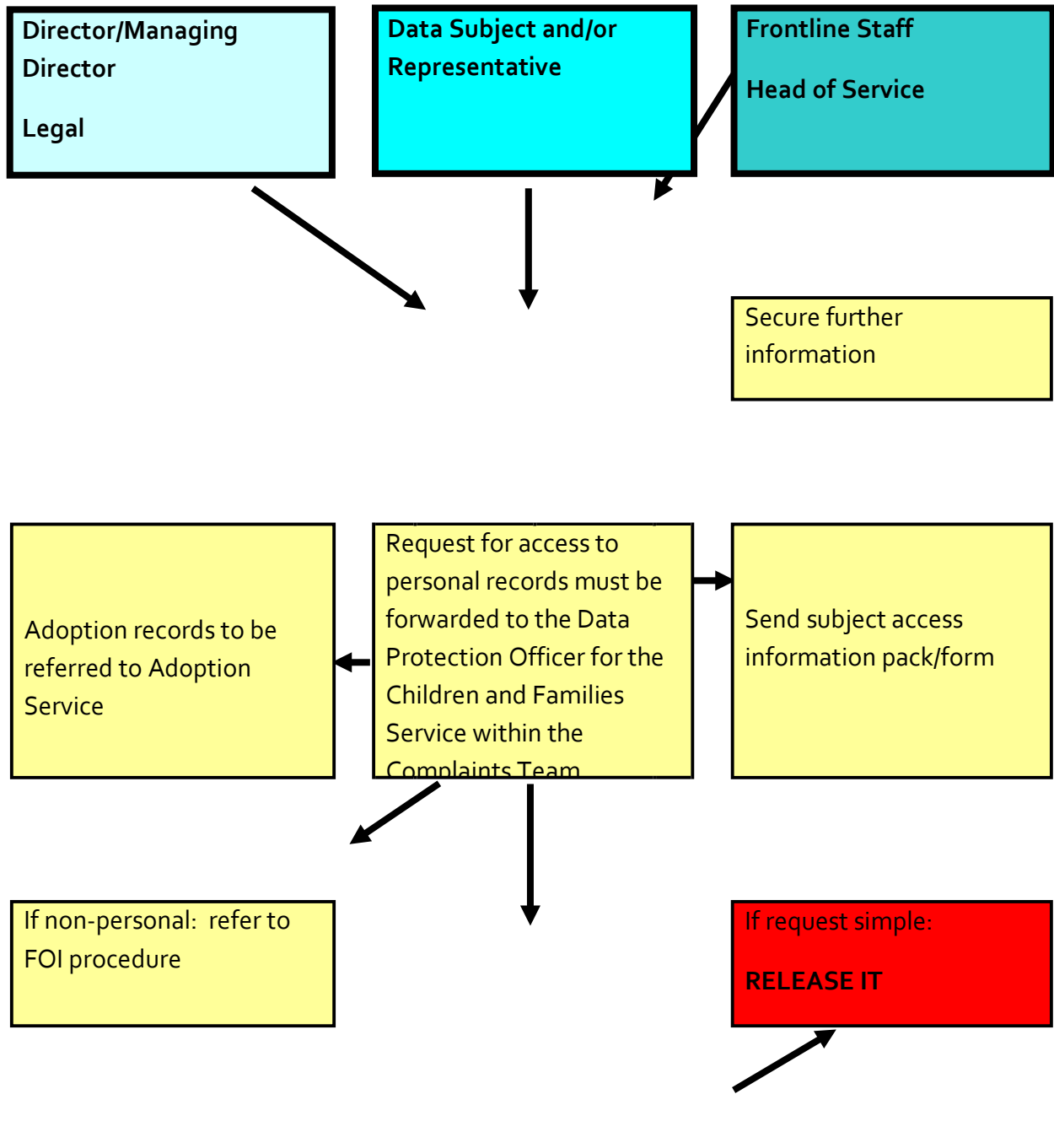
• • ~~Please~~ note: Section 7(3) of the Data Protection Act 1998 states, "A data controller is not obliged to

comply with a request under this section (Subject Access) unless he is supplied with such information as he may reasonably require in order to satisfy himself as to the identity of the person making the request”.

Appendix 5

Dealing with Subject Access Requests within the Children and Families

Service Flowchart



The details of the request are forwarded to the appropriate Head of Service for action or delegation. The Head of Service determines the nature of the request and type of action required.

If data not traceable or lost, service must write advising data subject within **2 weeks** of acknowledgement

Validated request forwarded to Head of Service for action or delegation. The Head of Service determines the nature of the request and type of action required

The service area has 35 days to prepare the file(s) and advise the Head of Service and Complaints Team once files ready for collection

Review identification arrange collection date and time

Consult internally age/mental capacity. Contact 3rd parties. Anonymised/redaction. Removal of 3rd party. Legal privilege

Prepare letter to a advising on description of the personal data, list of the purposes for which it is processed, where it was obtained from and whom it will be/has been disclosed to

Consider if any exemptions apply. Seek legal advice

**Release information
within 40 days**

← Personal data must be
signed off by Head of
Service

Advise Complaints
Team once request
completed