

Child protection records retention and storage guidelines

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Background

If an organisation needs to hold records about a child or adult for any reason, it must have policies and procedures in place regarding the retention and storage of that information.

As well as this, as part of its safeguarding policy and procedures, every organisation must have clear guidelines for the retention, storage and destruction of child protection records. These are records which relate to concerns about a child's welfare and safety, and/or concerns about possible risks posed by people working or volunteering with children.

Each nation of the UK has legislation and guidance about the retention and storage of child protection records. Some sectors, such as education, have their own specific guidance. Official inquiries (for example the Independent Inquiry into Child Sexual Abuse (IICSA)) may also issue instructions requiring records to be retained for longer periods of time, which must be followed.

We've put together an overview of the things organisations need to consider when deciding how to retain and store child protection records.

Guiding principles of records management

According to Data Protection principles, records containing personal information should be:

- adequate, relevant and not excessive for the purpose(s) for which they are held
- accurate and up to date
- only kept for as long as is necessary (Information Commissioner's Office, 2019).

The introduction of the General Data Protection Regulation (GDPR) in 2018 does not change the way child protection records should be stored and retained.

Your organisation must:

- know the reason why you're keeping records about children and/or adults (for example, because they relate to child protection concerns)
- assess how long you need to keep the records for
- have a plan for how and when the records will be destroyed.

To keep personal information secure, you should:

- compile and label files carefully
- keep files containing sensitive or confidential data secure and allow access on a 'need to know' basis
- keep a log so you can see who has accessed the confidential files, when, and the titles of the files they have used.

If you are creating records about the children and/or adults that take part in your services or activities, you need to make sure they understand what records you hold, why you need to hold them and who you might share their information with (for example as part of a multi-agency child protection team) (Information Commissioner's Office, 2017). If you are keeping records for child protection reasons, you don't necessarily need to get consent from the adults and/or children concerned.

Concerns about children's safety and wellbeing

If anyone in your organisation has concerns about a child or young person's welfare or safety, it's vital all relevant details are recorded. This must be done regardless of whether the concerns are shared with the police or children's social care.

Keep an accurate record of:

- the date and time of the incident/disclosure
- the date and time of the report
- the name and role of the person to whom the concern was originally reported and their contact details
- the name and role of the person making the report (if this is different to the above) and their contact details
- the names of all parties who were involved in the incident, including any witnesses to an event
- what was said or done and by whom
- any action taken to look into the matter
- any further action taken (such as a referral being made)
- the reasons why the organisation decided not to refer those concerns to a statutory agency (if relevant).

Make sure the report is factual. Any interpretation or inference drawn from what was observed, said or alleged should be clearly recorded as such. The record should always be signed by the person making the report.

Find out more about recording concerns about a child on NSPCC Learning: <https://learning.nspcc.org.uk/child-abuse-and-neglect/recognising-and-responding-to-abuse/>

Storage of child protection records

- Information about child protection concerns and referrals should be kept in a separate child protection file for each child, rather than in one 'concern log'. The child protection file should be started as soon as you become aware of any concerns.
- It's good practice to keep child protection files separate from a child's general records. You should mark the general record to indicate that there is a separate child protection file.

Retention periods: child protection records

Some agencies, for example in the education and health sectors, have their own guidance for the retention of child protection information.

Child protection files should be passed on to any new school a child attends (Information and Records Management Society (IRMS), 2016; Department of Education, 2016; Department for Education (DfE), 2018).

The file should be kept until the child is 25 (this is seven years after they reach the school leaving age) (Information and Records Management Society (IRMS), 2016).

In Northern Ireland the government recommends that child protection files should be kept until the child's 30th birthday (Department of Education, 2016).

In some cases, records should be kept for longer periods – see the 'Exceptions' section below for more information.

Recording concerns about adult behavior

Sometimes concerns might be raised about an adult who works or volunteers with children. This could be because they've:

- behaved in a way that has harmed, or may have harmed, a child

- committed a criminal offence against, or related to, a child
- behaved in a way that indicated they are unsuitable to work with young people.

You must keep clear and comprehensive records of all allegations made against adults working or volunteering with children, including:

- what the allegations were
- how the allegations were followed up
- how things were resolved
- any action taken
- decisions reached about the person's suitability to work with children.

Keeping these records will enable you to give accurate information if you are ever asked for it. For example:

- in response to future requests for a reference
- if a future employer asks for clarification about information disclosed as part of a vetting and barring check
- if allegations resurface after a period of time.

Storing records relating to adults

Records relating to concerns about an adult's behavior should be kept in the person's confidential personnel file (not in a central 'concerns log') and a copy should be given to the individual.

Retention periods: concerns about adults

If concerns have been raised about an adult's behavior around children, the general rule is that you should keep the records in their personnel file either until they reach the age of 65 or for 10 years – whichever is longer (IRMS, 2016; Department for Education, 2018). This applies to volunteers and paid staff.

For example:

- if someone is 60 when the investigation into the allegation is concluded, keep the records until their 70th birthday
- if someone is 30 when the investigation into the allegation is concluded, keep the records until they are aged 65.

You should keep records for the same amount of time regardless of whether the allegations were unfounded. However, if you find that allegations are malicious you should destroy the record immediately.

Information should be kept for this length of time even if the person stops working or volunteering for the organisation.

In some cases, records should be kept for longer periods.

Exceptions

In some cases, records can be kept for longer periods of time. For example, if:

- the records provide information about a child's personal history, which they might want to access at a later date
- the records have been maintained for the purposes of research
- the information in the records is relevant to legal action that has been started but not finished
- the records have been archived for historical purposes (for example if the records are relevant to legal proceedings involving the organisation).

Where there are legal proceedings it is best to seek legal advice about how long to retain your records.

Some records are subject to statutory requirements and have a specific retention period. This includes records relating to:

- children who have been 'looked after' by the local authority
- adopted children
- registered foster carers
- residential children's homes.

You should check the legislation to see which rules apply to your organisation. Links to the legislation in each of the UK nations is available below.

You should also check whether your insurance company, regulating body or local safeguarding agencies make any stipulations about retention periods.

When records are being kept for longer than the recommended period, files must be clearly marked with the reasons for the extension period.

Organisations must keep any records that could be needed by an official inquiry (for example the Independent Inquiry into Child Sexual Abuse (IICSA) (IICSA, 2018)). Inquiries will issue directions for records to be retained and these must be followed.

Schools

In England, schools and colleges have an obligation to preserve records which contain information about allegations of sexual abuse for IICSA. All other records should be retained at least until the accused has reached normal pension age or for 10 years from the date of allegation if this is longer (Department for Education, 2018).

In Northern Ireland, the Department of Education recommends that records of allegations against a member of staff should be retained indefinitely unless they are completely exonerated (Department of Education, 2015).

Schools in Scotland and Wales should follow general best practice guidance.

Disclosure and barring checks

You shouldn't store copies of disclosure and barring check certificates unless there is a dispute about the results of the check. Instead, a confidential record should be kept of:

- the date the check was completed
- the level and type of check (standard/enhanced/barring list check and the relevant workforce)
- the reference number of the certificate
- the decision made about whether the person was employed (with reasons).

If there is a dispute about the results of a check, you may keep a copy of the certificate for no longer than six months.

Destruction of child protection records

When the retention period finished, confidential records should be incinerated or shredded in the presence of a member of the organisation or entrusted to a firm specialising in the destruction of confidential material. At the same time any electronic versions of the record must be purged.

If not shredded immediately, all confidential records must be held in a secured plastic bag, labelled as confidential and locked in a cupboard or other secure place; or placed in a confidential waste bin.

If your organisation or part of an organisation (for example a club, team or project) is closed down, you must make arrangements for the ongoing management of records. This includes the review, retention and disposal of records.

Reviewing your child protection records retention and storage policy

You should review your child protection records retention and storage policy regularly to make sure it is effective and continues to comply with current legislation and guidance. This should be carried out as part of a wider review of safeguarding policies and procedures.

If you make changes to your child protection records retention and storage policy, it's best practice to keep a copy of the original version, including a record of the changes you made and why. You should clearly mark the old version so it's clear it has been superseded.

Summary: key points to consider

You must consider the following questions when developing or reviewing your child protection records retention and storage policy.

- Is our record-keeping in line with data protection principles?
- What records will we retain and for what purpose?
- How will the records be stored and who will have access to them?
- How long should we retain records for?
- Do we need to follow any statutory requirements about the retention of our records?
- What arrangements do we need to review records?
- What arrangements do we need to destroy them?
- Does our insurer stipulate anything about record retention periods?
- Does our regulatory/inspection body (if applicable) set out any minimum expectations about record keeping, retention and destruction?
- Do our local safeguarding agencies provide guidance on record retention and destruction that we are expected to follow?

Further information

NCVO provides further guidance on data protection for the voluntary sector:
<https://www.ncvo.org.uk/practical-support/information/data-protection>

Key legislation affecting the retention and storage of child protection records includes:

UK:

The Information Commissioner's Office provides a guide to the GDPR to help organisations comply with its requirements: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr>

England:

Data Protection Act 2018:

<http://www.legislation.gov.uk/ukpga/2018/12/contents>

The Fostering Services (England) Regulations 2011:

<http://www.legislation.gov.uk/uksi/2011/581/contents/made>

The Children's Homes (England) Regulations 2015:

<http://www.legislation.gov.uk/uksi/2015/541/contents/made>

Statutory Guidance on Adoption for local authorities, voluntary adoption agencies and adoption support agencies:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270100/adoption_statutory_guidance_2013.pdf

Northern Ireland:

Data Protection Act 2018

<http://www.legislation.gov.uk/ukpga/2018/12/contents>

The Adoption Agencies Regulations (Northern Ireland) 1989: <https://www.health-ni.gov.uk/articles/adoption-agencies-regulations-northern-ireland-1989>

The Foster Placement (Children) Regulations (Northern Ireland) 1996:

<https://www.health-ni.gov.uk/articles/foster-placement-children-regulations-northern-ireland-1996>

The Children (NI) Order 1995 – guidance and regulations – volume 4 – residential care: <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/childrenorder1995-residential-care.pdf>

<https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/childrenorder1995-residential-care.pdf>

Scotland:

Data Protection Act 2018:

<http://www.legislation.gov.uk/ukpga/2018/12/contents>

Guidance on Looked after children (Scotland) regulations 2009 and the Adoption and Children (Scotland) Act 2007:

<https://www2.gov.scot/Resource/Doc/344490/0114631.pdf>

Wales:

Data Protection Act 2018:

<http://www.legislation.gov.uk/ukpga/2018/12/contents>

Adoption agencies (Wales) regulations 2005 guidance:

<https://gov.wales/caec/publications/childrenandyoungpeople/adoptionagencies/guidance.pdf?lang=en>

The Fostering Service (Wales) Regulations 2003:

<https://www.legislation.gov.uk/wsi/2003/237/contents/made>

The Children's Homes (Wales) Regulations 2002:

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Independent Inquiry into Child Sexual Abuse (IICSA) (2018) Guidance Note:

Retention Instructions and Data Protection Requirements (PDF)

<https://www.iicsa.org.uk/key-documents/115/view/2018-07-25-guidance-note-retention-instructions-data-protection-requirements-version-2.pdf> [Accessed 07/03/2019].

Information and Records Management Society (IRMS) (2016) Information management toolkit for schools version 5 (PDF)

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Information Commissioner's Office (2019) Guide to the General Data Protection Regulation (GDPR) <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/> [Accessed 07/3/2019].

Contact the NSPCC's Knowledge and Information Service with any questions about child protection or related topics:

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