



Department
for Education

The Children Act 1989 guidance and regulations

**Volume 3: planning transition to
adulthood for care leavers**

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- 4.17. For example, given the serious implications for a young person's future, the responsible authority, or a relevant or former relevant young person's PA, might usually make sure that a review should take place:
- Where a young person has been charged with an offence and there is a possibility of their being sentenced to custody, which will risk losing their (suitable) accommodation.
 - Where a young person is at risk of being evicted from their accommodation or otherwise threatened with homelessness.
 - Where professionals are concerned about the parenting capacity of a relevant or former relevant young person, with there being a possibility that their own child may need to become the subject of a multi-agency safeguarding plan.
 - Where a young person asks for a review of their plan.
- 4.18. Each local authority will need to have a policy about how reviews for relevant and former relevant young people will be chaired.
- 4.19. The young person must be engaged in making the arrangements about how their pathway plan is to be reviewed. Young people may suggest that some key professionals are not invited to their review meeting, and, if so, these wishes should generally be respected. However, where professionals not invited to a review are making an important contribution to the pathway plan, they would still have to be consulted.
- 4.20. Young people might be encouraged to take increasing responsibility for the review of their personal pathway plan and it will be good practice, if the young person wishes, to support them so that they chair their own pathway plan reviews with support from the chairperson, if appropriate.

Access to Records

- 4.21. Over the course of their life time, people who have spent all or part of their childhood and adolescence in local authority care may want to access information about this period in their lives. There can be a range of reasons why people who have left care want to do this, including curiosity about why they came into care; what happened and when; a need to make sense of difficult memories and life events; to clarify disparate explanations; a desire to trace family members; seeking medical information in reference to hereditary illness/disease and also to obtain photos/certificates.
- 4.22. The relevant legislation for accessing personal information (by making a Subject Access Request) is the Data Protection Act 1998 (DPA). The DPA is an enabling framework allowing people to have access to personal information held about them and should not be misunderstood and applied as a legal barrier

preventing an individual from having this information. Guidance on this area can be found at:

http://ico.org.uk/Global/fags/~//media/documents/library/Data_Protection/Detail_d_specialist_guides/subject-access-code-of-practice.pdf

- 4.23. Regulation 5(3) of the Care Leavers Regulations requires that the responsible authority keep a written record of the information obtained during an assessment; of the deliberations of any meeting held in connection with any aspect of an assessment; of the identity of the people whose views were sought for the purposes of the assessment; and the outcome of the assessment.
- 4.24. Regulation 6(4) of the Care Leavers Regulations requires that the pathway plan must be recorded in writing; regulation 4(3) requires that the responsible authority keep a written record of the child's views; and regulation 7(5) requires that the results of any review are recorded in writing.
- 4.25. Regulation 10 establishes a duty to maintain a case record which should include any assessment of needs, any pathway plan, and any review of a pathway plan.
- 4.26. It is important that people who have spent time in care receive comprehensive information about their family background and time in care to enable them to make informed decisions about their lives. Statutory guidance underlines the principles and processes that should be in place in response to requests for access to care records.
- 4.27. Although care leaver support extends to age 25, legislation requires that a child's case record must be kept until the 75th anniversary of his/her date of birth. We would therefore expect the principles of good practice on accessing records to apply to any care leaver regardless of their age. For the purposes of this section, the term care leaver denotes a person who is no longer looked after by the local authority.
- 4.28. It is important that local authorities have processes in place for the recording and storing of information in care and pathway plans. Some consistent messages from looked after children and care leavers about what they want when accessing their records include:
 - Good quality records to be kept by local authorities;
 - Guidance given to care leavers about how they can access their care records with publically accessible relevant policy, procedures and application form;
 - Local authorities responding quickly to formal requests for access to care records and to be told without delay if records are mislaid or no longer exist;
 - Sensitivity and support provided during the access to records process;
 - Understanding by front line staff of the importance to care leavers about knowing what is in the records especially concerning family background, family members, time in care and decisions made;

- The importance of establishing with the care leaver what they already know about their history and connections to ensure crucial family information and childhood experiences are not redacted. Where there are redactions in the records, clear explanations given as to the reasons for these.

Values and principles

Care leavers' needs

- Care leavers have a fundamental right to access information that affects their lives, and the services that are available to enable them to make informed decisions;
- Local authorities need to have clearly written policies and procedures, kept under constant review and regularly updated.

Support Services and Standards

- Local authorities should publicise their access to records policy, with clear information about how care leavers can apply for their records and access support services;
- Local authorities should provide services that consider the welfare of the care leaver, taking into account the implications of decisions and actions for the care leaver and anyone else involved;
- Systems should be in place within the local authority to ensure that service users can submit feedback. Care leavers should be informed about details of the authority's complaints procedure, and what help and advice the Information Commissioner's Office (ICO), the regulator for data protection in the UK, can provide;
- User feedback, up-to-date knowledge of research and the available accumulated evidence and experience of best practice should inform services, policy and procedures;
- The effectiveness of the service should be monitored and evaluated taking account of care leavers' views. Their experiences, both positive and negative, can help in improving the services offered;
- Local authorities should ensure that all staff involved in providing services are suitably qualified and supervised with access to appropriate training
- Decision-making must be an agency function, not an individual responsibility. However, individuals should be trained to make decisions in a practical, helpful manner with support from senior management personnel as necessary
- Local authorities should support the care leaver to locate family members if required and/or sign post them to an agency that offers tracing and intermediary services

- Local authorities need to acknowledge and take account of and respect the individual's circumstances in their service delivery, consistent with the Equality Act 2010. Non-discriminatory policy and processes to meet the different needs and situations of the care leaver should be provided.

Access

- The records that are provided should be legible, coherent and well-ordered and enable the care leaver to understand their family background, reason for being in care and what took place during their period in care;
- Local authorities should respond to requests from a direct descendant of a care leaver if information about family history is being sought;

Pathway Planning

- 4.29. The pathway plan, and the assessment informing it, must provide a full, accurate and meaningful (narrative style) record of the young person's needs with explicit information about their wishes and feelings for their future. Life Story work with each child and young person is essential if they are to understand what has happened in their childhood. This should include photos and other significant memorabilia. A copy of the whole life story work record should be kept securely.
- 4.30. Each young person must have a copy of their pathway plan and understand which professionals have access to it and the arrangements made by the local authority for secure filing and storage. Similarly, where other agencies have a copy of their contribution to the plan, then the responsible authority must assure itself that the agency understands their responsibility to maintain confidentiality and make arrangements for secure storage of documents containing personal information about care leavers. Authorities need to ensure that they have their own data protection policies in place and satisfy themselves that they are complying with the Data Protection Act when processing personal information.
- 4.31. Where young people have complex needs and a range of agencies are involved in supporting their pathway plan, it may be helpful to agree arrangements for information sharing at a multi-agency meeting to confirm or to review the pathway plan.

Responding to the request for information

- 4.32. Requests for access to care files must be made in writing and, if necessary, the care leaver should be supported to do so. When an application has been received from a care leaver, it is important that the request is acknowledged promptly and in writing, or other appropriate forms of communication if required. The care leaver should be informed about the process and procedure,

timescales for dealing with such requests and the services that the authority is able to provide.

- 4.33. An acknowledgement should be sent to the care leaver within ten working days confirming that records exist. If the authority knows that the care records do not exist, there should be no delay informing the care leaver. The letter should also indicate when they are likely to receive information from the care records and that:
- The local authority will locate all existing records relating to the care leaver, including registers from children's homes;
 - Under data protection legislation, a local authority has a statutory duty to respond to a request for personal data (i.e. a subject access request) within 40 calendar days, providing the information requested. If the response takes longer, the authority may be in breach of the DPA;
 - If the local authority is not able to meet this requirement, this should be explained to the care leaver, giving reasons and the timescale when the records will be available;
 - The care leaver will need to produce proof of their identity before the organisation can disclose any personal information however, if the person is already known the proof of formal ID is not required;
 - If the records cannot be located, the care leaver needs to be informed as soon as possible with information about the steps that will be taken to try to locate them. If records have been transferred to another local authority, perhaps as the result of boundary changes, the individual should be put in touch with the relevant organisation if this can be done.

When records have been destroyed or mislaid

- 4.34. Sometimes, organisations may not have retained records relating to all the children who have been in their care and there will be situations where the care leaver has to be informed that no records exist due to having been destroyed or mislaid. The distress this may cause should not be underestimated. It may have taken the care leaver a lot of courage to apply for information and it can then be deeply upsetting and frustrating when they are told that records have been destroyed or mislaid. A prompt response informing the care leaver of this will reduce the harm caused. It is also important in these circumstances to assist the care leaver to locate other information and registers that may be available, such as, health and education records, which may help answer some of the questions the person may have. If records have been destroyed or mislaid the care leaver should be informed of the searches the local authority intends to make and how long this is likely to take.

Contact with care leavers

4.35. Following the Subject Access Request, it is important the case worker on behalf of the Data Controller has telephone or direct contact with the care leaver to introduce themselves and explain the process. It provides an opportunity for the care leaver to discuss what they are hoping to obtain from their records, how s/he would like these to be shared and what they already know about their family and history. As the DPA is an enabling Act this phone call will ensure no unnecessary redactions are made based on information already known about significant others. The case worker can also offer and identify what support the care leaver would like to receive. The care leaver should be assured that s/he will receive comprehensive information about their family background and time in care including information already known to them. It is important to offer to telephone the care leaver after they have received and read their records and to inform them that the case worker is available to try and answer any questions or concerns they may have.

Monitoring and Quality Assuring

- 4.36. The local authority should ensure that their looked after children and care leavers are aware of the authority's complaints process so that they can log their concerns when they have not been provided with an appropriate service.
- 4.37. Children in Care Councils should undertake on-going reviews of how their local authority provides this service to their looked after children and care leavers of all ages and report back to senior management and corporate parenting boards with their findings.

Keeping in touch

- 4.38. The responsible authority must continue to keep in touch with the young person. This contact should take place as specified in the pathway plan and at least within the specified intervals (see para. 3.38). As with relevant young people, it will be necessary for some visits to take place at the accommodation where the young person is living, so that the PA can assess whether their accommodation remains suitable. Keeping in touch between visits might involve a range of communication methods, for example: email, phone and text message contact.
- 4.39. It will of course be important that the responsible authority respects the privacy of a young adult and their right to decline support. However, the responsible authority will remain under a duty to attempt to remain in contact with a young person in the same way that a reasonable parent might try to resume contact with an estranged adult child. The best guarantee to maintain contact with care leavers who have reached legal adulthood is for their PA to have established a positive and meaningful relationship with them. Individual local authorities as

good corporate parents will need to develop services that are flexible to the needs of young care leavers that ensure they remain engaged.