

HERTFORDSHIRE COUNTY COUNCIL

School Safeguarding Practice Guidance:

Pupil Safeguarding Records for Educational Establishments¹



= new additions as of April 2018 (in line with proposed changes for Data Protection Act and GDPR 2018).



= new additions/changes as of July 2018 (in line with final Data Protection Act and GDPR 2018, DfE Keeping Children Safe In Education 2018 and HM Government Working Together to Safeguard Children 2018).

¹ This includes Maintained, Maintained Nursery, Free, Independent Schools and Academies, PRUs/ESCs and Sixth Form Colleges/ Colleges of Further Education.

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<p>Record keeping proformas /appendices to this guidance can now be found in a separate, editable word document at : http://www.thegrid.org.uk/info/welfare/child_protection/proformas/index.shtml</p> <p>This includes:</p> <ul style="list-style-type: none"> ❖ Front sheet ❖ Chronology ❖ DSP/L record of actions ❖ Transition summary document for sharing safeguarding concerns (<i>for use by Secondary Schools to FE College before confirmed enrolment</i>) ❖ Transfer of safeguarding records ❖ Record of DSP/L meetings 	

Section One: Introduction

- 1.1** The purpose of this practice guidance is to assist the Designated Senior Person/Safeguarding Lead (referred to from this point forward as DSP/L) in establishing and maintaining record keeping systems that support effective safeguarding practice. This guidance applies to **both** manual/paper and computerised records.
- 1.2** It should be followed by all educational establishments to children and young people up to the age of 18 years.
- 1.3** It is acknowledged that there is some repetition within this document; the intention being that DSP/L's can access relevant sections of the guidance independently, rather than having to read the document in its entirety.
- 1.4** There are a number of supporting forms/templates attached which cover specific issues, though this is not an exhaustive list and the school/education setting should consider any additions they may wish to make.
- 1.5** Safeguarding records have been highlighted within individual management/serious case reviews undertaken in Hertfordshire and nationally- particularly, the need for robust procedures for the recording, sharing and transfer of information within and between educational establishments.
- 1.6** For some children a one off serious incident or concern may occur and staff will have no doubt that this must be immediately recorded and reported. More often however, it is the accumulation of a number of small incidents, events or observations that can provide the evidence of harm being caused to a child.
- 1.7** Records should be factually accurate, clear, relevant, up to date and auditable. They should support monitoring, risk assessment and planning for children and young people, enabling informed and timely referrals to be made when necessary.
- 1.8** Safeguarding and promoting the welfare of children is the responsibility of **all** staff working within a school.

Section Two: Requirement to keep records

2.1 This guidance should be read in conjunction with the following documents:

- Data Protection Act and General Data Protection Regulation GDPR 2018
- Working Together to Safeguard Children (HM Government, 2018)
- Keeping Safe in Education (DFE, 2018)
- Information sharing (HM Government, 2018)
- Inspecting safeguarding in early years, education and skills from September (Ofsted, 2016)
- Section 1.6 of Hertfordshire Safeguarding Children Board Procedures- Information Sharing and Confidentiality
- EYFS statutory requirements (2017)
- The School/Setting's Child Protection Policy
- Information and Records Management Society Guidance - v.5 (Management Society Of Great Britain, Local Government Group, May 2016)
- The Education (Pupil Information) (England) Regulations 2005.

- I. No single professional can have a full picture of a child's needs and circumstances. If children and families are to receive the right help at the right time, **everyone** who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action. (Para 3)
- II. All concerns, discussions and decisions made and the reasons for those decisions should be recorded in writing. If in doubt about recording requirements, staff should discuss with the designated safeguarding lead or deputy. (Para 36)
- III. It is important for children to receive the right help at the right time to address risks and prevent issues escalating. Research and Serious Case Reviews have repeatedly shown the dangers of failing to take effective action. Examples of this poor practice include: failing to act on and refer the early signs of abuse and neglect; poor record keeping; failing to listen to the views of the child; failing to re-assess concerns when situations do not improve; not sharing information; sharing information too slowly and a lack of challenge to those who appear not to be taking action. (Para 37)

Keeping Children Safe in Education, DfE 2018

2.2 Maintained schools and any special school (whether or not maintained by a local authority) are required to keep an educational and curricular record for each pupil. The curricular record means a formal record of a pupil's academic achievements, his or her other skills and abilities, and progress in school. The educational record may also include other information about the pupil that comes from a teacher, other employee of a local authority or school, the pupil or their parents, from other parents or members of the local community. This might include health data or any information relating to the child's specific needs, e.g. Education, Health and Care Plan (EHCP) and/or any other personal education plan.

2.3 A child's safeguarding record would fall under the educational record also. Please note, information kept by a teacher solely for their own use does not form part of the official educational record. However it may still be classified as personal data and therefore be subject to access requests.

The DSP/L role

2.4 The DSP/L should ensure that all staff members are given appropriate induction and training

2.5 Ensure all staff members know when and how to record concerns about a child's welfare, however small or apparently insignificant.

2.6 Ensure all staff members, whatever their designation or role in the school, receive appropriate safeguarding and child protection training which is regularly updated. In addition all staff members should receive safeguarding and child protection updates (for example, via email, e-bulletins and staff meetings), as required, but at least annually, to provide them with relevant skills and knowledge to safeguard children effectively.

2.7 Ensure all staff has access to and understand the Continuum of Need – available at <https://www.hertfordshire.gov.uk/media-library/documents/childrens-services/hscb/professionals/continuum-of-needs-hscb-march-2017-final.pdf>

2.10 Ensure all staff know where to locate key documents such as record of concern forms/have access to an electronic recording system, have access to Part 1 and Annex A of *Keeping Children Safe in Education (2018)*, the school/setting's code of conduct, child protection policy, behaviour policy, *What to do if you are worried a child is being abused (2015)*, the role of the DSP/L and the safeguarding response to children who go missing from education. For Early Years settings, all staff should know where to locate the *Statutory framework for the Early Years Foundation Stage (2017), Section 3 - Safeguarding and Welfare Requirements*.

2.8 Start and maintain a stand-alone file for children with child protection or welfare concerns.

2.9 Ensure that all visitors to the establishment know how to report concerns about other adults or for the welfare of any child.

2.10 Further information about the DSP/L role can be found in section 3.15-3.19

Section Three: Recording safeguarding information (including online systems)

Awareness raising

3.1 In line with GDPR, information should be available for children and parents highlighting that safeguarding records are kept and if you are using a third party supplier to process data, e.g. CPoms, this should also be mentioned. This should be reflected in the school/setting's child protection policy and within a general privacy notice to cover all data held and processed in the school.

3.2 If the school/setting purchases the Herts for Learning data protection toolkit, their privacy notice and data protection policy reflects the above. For other examples of privacy notices, which will need to be tweaked for your setting, please see <https://www.gov.uk/government/publications/data-protection-and-privacy-privacy-notices>

3.3 The model HCC child protection policy has been updated to reflect the processing, handling and storage of safeguarding information.

A recording system

3.4 Each school needs to determine whether these records are kept electronically or in hard copy. Regardless of whichever system is agreed, this needs to be applied consistently, thus avoiding information becoming lost between formats.

Manual/paper files

3.5 Use of a standard 'record of concern' form by all staff, irrespective of their role in school, and some guidance about completion is strongly recommended. A proforma and guidance for the record of concern form can be found on the child protection area of the Hertfordshire Grid for Learning:
http://www.thegrid.org.uk/info/welfare/child_protection/proformas/index.shtml

3.6 Blank copies of the record of concern form must be easily accessible to all staff and depending on the size and type of school, should be available in a range of places.

3.7 It is acknowledged that many schools employ a range of staff who hold specific pastoral care responsibilities and who may have their own systems for recording their ongoing work with children and their families e.g. diaries/notebooks. Where possible this should be avoided, but if necessary, the DSP/Ls should be aware of these systems and establish processes for sharing information. School staff must be advised that they must take care to ensure that no sensitive material is communicated by insecure means. This would include email, but also notes left for colleagues. In all cases where specific safeguarding concerns arise, staff must be aware of their responsibility to complete the school's formal record of concern form.

3.8 In respect of manual records which subsequently become computerised e.g. paper records that are scanned and filed electronically, disclosure of copies of the original documents would be acceptable as long as these have not been tampered with.

Online/electronic systems

3.9 Where there is an intention by a school to use an online safeguarding record system, the school must ensure the system is robust, secure and safe and has restricted access in line with GDPR requirements.

3.10 The school/setting must ensure they have an appropriate service agreement/contract, service specifications and have a means of audit and quality assurance. Good practice would be to ensure there is reference to GDPR compliance in the contract with the ICT provider. Guidance for the procurement of ICT systems is available at :<http://www.thegrid.org.uk/info/office/commissioning/index.shtml>

3.11 All paper forms (if used) should be individually scanned & uploaded to the relevant child's online/electronic file. Schools/settings should avoid a split system with some information kept in hard copy form and some electronic, as information could be missed. The only time this would be appropriate is if both systems are fully up to date with current information and any information recorded on either system is crossed referenced.

Timeliness

3.12 A record of concern form or electronic entry should be completed as soon as is reasonably possible (at the latest within 24hours) following a safeguarding concern, to ensure that no details are forgotten. .

3.13 The expectation would be that staff would ensure the DSP/L was informed of the concern in a timely manner, even if this means recording the concern after passing the information on verbally.

Quality of recording

3.14 Records relating to work with the child and his or her family should use clear, straightforward language, be concise and be accurate not only in fact, but also in differentiating between opinion, judgement and hypothesis. Staff should be mindful of the need to record information in an objective and professional manner, as it may be shared with the child, parents and other agencies, as part of an investigation or inquiry. Additionally safeguarding records may be required for disclosure in court proceedings. The CPSLO team have some activities available for use with staff around distinguishing between fact and opinion if this has been identified as an area for development.

The role of the DSP/L

3.15 When a record of concern form is passed to the DSP/L/completed electronically, it is important that the DSP/L checks that this is sufficiently detailed (checklist available on the reverse of the model record of concern form at: http://www.thegrid.org.uk/info/welfare/child_protection/proformas/index.shtml) and has been signed and dated by the staff member reporting the concern. For online/computerised systems, see section 3.9-3.11)

3.16 A body chart/ map should always be used to record injuries which can be readily

seen. **Injuries should never be photographed.** If a body chart/map has been completed or there are any other documents referred to in the record, the DSP/L should ensure these are attached and where appropriate are also dated and signed (for online/computerised systems, see section 3.9-3.11)

3.17 The DSP/L needs to consider the safety and wellbeing of the child and whether the concern raised indicates emerging/unmet needs for the child. The DSP/L needs to make a professional judgement about how the concern should be responded to. The DSP must record the action taken in response to every record of concern form, regardless of outcome.

3.18 The level of detail of this record will clearly depend on the nature and seriousness of the concern but may include:

- Requests to staff for monitoring specific aspects of the child/young person's presentation, behaviour, attendance, etc. **Be specific in your recording- give timescales /frequency.**
- Discussions and telephone calls, with colleagues, children/young people and parents, along with a record of full names and dates
- **A professional consultation with the Consultation Hub - with a record of who was consulted (full name and job title), date of consultation and advice given**
- Letters sent and received
- Recording the outcomes of any responses or action the DSP/L took, with dates (section 3.17)
- Updating the chronology
- Updating the child/young person's file as new documents are produced or received
- Filing all copies of referrals or letters sent
- Update the front sheet, if necessary
- Cross-reference to files for other children/young people within the family

3.19 A safeguarding records auditing toolkit has been developed to assist the safeguarding team in school (DSP, Headteacher and Safeguarding Governor) in auditing record keeping systems so ensure that they support effective safeguarding practice. It has been designed to help safeguarding leads evaluate about what measures are currently in place and any developments that may be required to improve safeguarding practice. The toolkit is available at :

http://www.thegrid.org.uk/info/welfare/child_protection/proformas/index.shtml

3.20 In line with the above, good practice would be that the DSP/Ls meet regularly as a team to review and reflect on cases. Some schools have adopted a rota of children to discuss and include both live and dormant cases. These meetings should be diarised and a record kept of who and what was discussed. See '**Record keeping proformas :Appendices to School Safeguarding Records Practice Guidance**' at: http://www.thegrid.org.uk/info/welfare/child_protection/policy/local.shtml

Section Four: Organisation and Storage of Safeguarding Information

- 4.1 The amount of safeguarding information held by the DSP/L will vary from child to child.
- 4.2 An effective method for storing single or infrequent records of concern is to file these in an alphabetically divided file. It may be helpful for larger schools to use separate files for each year group (as long as this is regularly maintained and updated annually).
- 4.3 Alternatively depending on the nature, seriousness/longevity of concerns, or extent of involvement from other agencies, the DSP/L may decide that it appropriate to open a separate safeguarding file for an individual child. For example when:
- concerns for the child are ongoing and consequently records of these and actions in school are increasing
 - the DSP/L has made a referral to Children's Safeguarding and Specialist Services
 - the DSP/L is aware of the involvement of Children's Safeguarding and Specialist Services with the child/family and the school is contributing to multi agency assessments
- 4.4 Some schools have ordered their alphabetical files to follow the Continuum of Needs document- <https://www.hertfordshire.gov.uk/media-library/documents/childrens-services/hscb/professionals/continuum-of-needs-hscb-march-2017-final.pdf>, dividing files into universal/targeted/intensive/safeguarding and specialist- with individual files for children receiving support at the intensive /safeguarding level.
- 4.5 Information about the existence of a Families First Assessment (FFA) should also be kept confidentially, however does not necessarily need be stored in the child's safeguarding record. Another member of staff in the school may be leading on the FFA or need access to it, e.g. INCO/SENCO. In this instance, some sort of indicator to flag that the child has a FFA and who holds the paperwork/online access may be helpful.
- 4.6 Within individual files, if there is a lot of information in a variety of formats, it may be helpful to organise on a modular basis for ease of reference, i.e. sections entitled chronology, school record of concerns, letters, meetings, multiagency correspondence etc.
- 4.7 Family files should not be kept. Where concerns relate to a sibling group, each child should have its own individual safeguarding file. Common records e.g. child protection conference reports should be duplicated for each file where appropriate. If copies are to be made for anybody other than school staff, permission must be sought from the conference Chair.
- 4.8 If more than one file exists in relation to an individual child, this should be indicated on the file. Each file should be numbered and dated.
- 4.9 Safeguarding records must be kept separate from all other school records relating to

child. They should be held in a secure, locked cabinet with access only by those with direct child protection responsibility for pupils - namely the DSP/L, deputy DSP/L and Head Teacher. If it is appropriate for another member of school staff to have access to the records, this decision must be authorised by the DSP/L, deputy DSP/L or Head Teacher.

4.10 It is recommended that the child's educational/curricular record is marked in some way to indicate the presence of a separate confidential file. A coloured sticker is one means of doing this. Staff should be aware of who to contact in this instance.

Section Five: Content of Safeguarding Records

5.1 The information contained in a child's safeguarding record may include:

- Front sheet
- Chronology
- All records of concern
- Any notes initially recorded in the form of notebooks/diaries (see section 3.7)
- Records of discussions and telephone calls (with colleagues, parents and children/young people and other agencies or services)
- Records of professional consultations (with Consultation Hub)
- Letters sent and received
- Single service request / referral forms - both for support services and to Children's Safeguarding and Specialist Services (irrespective of outcome)
- Any early help services involved/previously involved
- Details of a Graded Care Profile-if completed
- Formal plans linked to the child e.g. child protection plan, child in need plan, Families First Assessment (FFA)
- Risk assessments
- School reports to interagency meetings and conferences
- Minutes of interagency meetings e.g. child in need, strategy, child protection conference, TAF

Completed examples of chronologies, guidance to complete a record of concern and record keeping proformas are available at:

www.thegrid.org.uk/info/welfare/child_protection/proformas/index.shtml .

5.2 Ofsted guidance (*Inspecting safeguarding in early years, education and skills from September 2016*) on evaluating the quality of safeguarding records considers:

- Are records held securely?
- Is the response and recording of concerns completed in a timely way?
- Are there comprehensive records and evidence of information sharing between relevant agencies to help protect children?
- Are written plans in place that have clear and agreed procedures to protect a child?
- Has action been taken in accordance with local procedures and statutory guidance?
- Are parents made aware of concerns and consent sought (unless doing so would increase risk of harm to child)?
- Where a child is receiving support/services from Children's Services, is there evidence of action and participation from the school, with respect to working together with external agencies?
- Is there evidence of the school making referrals when there are issues concerning CSE and radicalisation and plans and help in place to reduce risk? Are these plans regularly reviewed?

- Are children and learners protected, supported and informed appropriately about the action taken to share concerns?
- Are records of referrals retained?
- Is there evidence of any agreed actions following referrals?
- Are child protection/safeguarding concerns shared immediately with the relevant Local Authority?
- Is there evidence of appropriate local and statutory procedures being followed when children are absent, go missing from home and education (including notifying the Local Authority and parents)?

5.3 When an individual safeguarding file is started for a child, it can be helpful to use a front sheet and chronology to enable key information to be easily accessed (Appendices 1 and 2).

5.4 The importance of understanding concerns for a child in the context of history, timeliness and other known information cannot be underestimated. The chronology is also a useful tool to evaluate the level of support needed at different points in a child's life. In addition to aiding assessment, a chronology will serve as an important record of school actions and can provide evidence for the rationale for referral. A chronology should always be included with a referral into Children's Services where possible.

5.5 Entries on a chronology should:

- Be brief
- Specify the date of the event, source of the information and date information received/recorded.
- Contain factual information or be clearly specified as unsubstantiated.
- Any decision making/action agreed
- Be in neutral, objective language, suitable for professionals and family members to read.
- Include all relevant information even if it seems contradictory.
- Specify the full name and job title of the person making the entry.

Adopted children

5.6 When starting at school, if the school are told by parents that a child has been adopted this should be recorded on the **main school file** with the parents' permission, in order to be able to give any appropriate support.

5.7 Once an adoption order has been made, records should relate only to the adoptive family and not the birth family, therefore any historical safeguarding records should be handled in line with section 8.14 -8.18 of this guidance, i.e. sent to Hertfordshire County Council for archiving.

5.8 A separate child protection/safeguarding file is not necessary unless there are additional safeguarding issues as for any other child OR the parents have agreed that the DSP can keep a summary of any historical concerns to explain any current /future intervention required. Equally, a flag can ONLY be put on the safeguarding file to identify that historical records have been sent to Hertfordshire County Council for archiving if the parents are in agreement. This should be documented accordingly.

Section Six: Confidentiality, sharing information and issues of consent (including children who are dual registered or educated off-site)

Effective sharing of information between professionals and local organisations and agencies is essential for early identification of need, assessment and service provision to keep children safe.

Serious Case Reviews have highlighted that missed opportunities to record, understand the significance of and share information in a timely manner can have severe consequences for the safety and welfare of children.

Practitioners should be proactive in sharing information as early as possible to help identify, assess and respond to risks or concerns about the safety and welfare of children, whether this is when problems are first emerging, or where a child is already known to local authority children's social care.

Fears about sharing must not be allowed to stand in the way of the need to promote the welfare, and protect the safety, of children, which must always be the paramount concern.

Practitioners must have due regard to the relevant data protection principles which allow them to share personal information, as provided for in the Data Protection Act 2018 and the GDPR. The Data Protection Act contains 'safeguarding of children and individuals at risk' as a processing condition that allows practitioners to share information.

Working Together to Safeguard Children 2018

- 6.1 Safeguarding information must always be shared with other agencies where there is a legal duty to do so e.g. Police, Courts and Children's Safeguarding and Specialist Services. For all records, a log should be kept to identify who has requested access, when and for what purpose.
- 6.2 The DSP/L also needs to give consideration to information sharing with other agencies/workers who have contact with the child, e.g. family support workers, ESC/PRU outreach workers, and DSP/Ls at other schools/ESCs/FE colleges where the child is accessing education. The principles as per section 6.3 apply and records should always be kept of what information has been shared, with whom and on what basis. If schools/settings are unsure, legal advice should be sought. More on dual registered children/children educated offsite can be found in section 6.8-6.13
- 6.3 Where concerns exist for a child in the context of a family situation and siblings attend other schools/educational settings, it may be appropriate for the DSP/L to consult with the DSP/L from another school/educational setting to share and jointly consider concerns. Generally this should be done with the consent of parents, unless it is necessary in order to carry out your role; to protect the vital interests of the individual or where it is unsafe or inappropriate to do so, i.e. where there are concerns that a child is

suffering, or is likely to suffer significant harm. A record of what has been shared/the conversation should be kept.

6.4 Within school it should only be shared with staff that need access to it, in order to work in a safe and informed way with the child and family. All staff in school should understand the importance of maintaining confidentiality and the consequences of any breach in line with GDPR.

6.5 Safeguarding records should contain any correspondence between agencies, including informal methods, e.g. email. The chronology should be updated when information is shared and for internal information sharing within school setting, the section at the bottom of the record of concern form (if using) or electronic system should be updated/completed by the DSP to indicate what information has been shared and with whom (as per *Information Sharing Advice for Safeguarding Practitioners, March 2015-www.gov.uk/government/publications/safeguarding-practitioners-information-sharing-advice*) and section 1.6 of Hertfordshire Safeguarding Children Board Procedures- *Information Sharing and Confidentiality*.

6.6 All schools/settings should have a data protection policy and privacy notice, in line with GDPR recommendations. These documents should reflect the duty of the educational establishment to keep records and emphasise that information may be shared to safeguard the child (lawful basis). See section 3.1 and 3.2 for more information.

Moving/transporting of data

6.7 If information is removed temporarily from the file for any reason (for example if going to a meeting), documents should be signed in and out of the safeguarding file. DSP/Ls will need to consider a secure means of transporting such confidential data in line with the setting's data protection policy- memory sticks should be encrypted and if a document has to be taken offsite, the DSP/L should mark it as sensitive and take steps to protect the copies (e.g. carry in a lockable bag). Any spare copies that are generated (e.g. for a Child Protection Conference), should be shredded at the earliest opportunity.

Children who are dual registered or educated off-site

6.8 Where a child is dual registered or receiving education in another establishment, the setting that maintains the most contact with the pupil or student should **hold and maintain** the main child protection file.

6.9 A **copy** of the chronology and other relevant information in the child protection file should be copied and passed to the DSP/L of the other school/education setting prior to the agreed start date to enable them to support the child appropriately.

6.10 Both settings need to liaise closely with each other on an ongoing basis and incidents that occur at either setting should be shared, dealt with effectively and communicated between the settings.

6.11 Because of the nature of such bespoke arrangements for individual pupils, the two DSP/Ls should agree on which one of them will keep the chronology updated and how best to communicate to each other significant events and issues in relation to that pupil.

6.12 A discussion will also need to take place between the DSP/Ls about how information will be shared and presented at multiagency meetings about the child (including TAFs,

CIN, child protection conferences/reviews and core groups).

6.13 See also section 8.18-8.22.

Children moving schools

6.14 When a child moves schools, it is good practice for the DSP/L to inform the receiving provider as soon as possible by telephone or in person that a safeguarding file exists and share any information that is likely to have an impact for the young person/provision. This is especially important where there is a concern that a student *may* pose a risk to other students or themselves. This enables the receiving school/setting to undertake the necessary risk assessments and ensure subsequent support is in place as soon as they start at the school/setting.

6.15 If it is uncertain which school/setting they will be starting at, then legal advice should be sought about sharing of this information.

6.16 Once it is confirmed that they are on roll, the previous setting should then pass on the original file as per guidance in section 8. See further information in section 8.19 about transferring information to post 16 providers.

Section Seven: Access to safeguarding records

Requirement to keep records and right to request access

- 7.1 Personal data in general held by all types of school/education setting falls under GDPR.
- 7.2 In addition to this, for maintained schools and special schools (whether maintained by the Local Authority or not) the requirement to keep pupil records and disclose these to parents/children is set out in The Education (Pupil Information) (England) Regulations 2005. The educational record includes the curricular record in relation to a pupil's educational achievements, their abilities and progress in school, but may also include other information about the pupil that comes from a teacher or other employee of a local authority or school, the pupil, or their parents (including records of safeguarding concerns).
- 7.3 In academies/ free schools in England and independent schools, these regulations do not apply. Therefore, if a parent/child at an academy/ free school or independent school is applying for educational information, they must do so under the GDPR solely.
- 7.4 Under the GDPR, the parents will be exercising their child's right as the data subject to see his or her own educational records, on the child's behalf. An older child (aged 13+) may be entitled to refuse access to their parents and can request access to their records independently (see section 7.6 and 7.8).

Exemption to disclosure

7.5 Regardless of the above however, in any school safeguarding information can be exempt from the disclosure provisions of the GDPR, meaning that neither children nor their parents have an automatic right of access.

7.6 The main exemptions in respect of when information may be withheld relate to:

- ❖ information that might cause serious harm to the physical or mental health of the child or others
- ❖ cases where the disclosure would reveal a child is at risk of abuse, where disclosure of that information would not be in the child/young person's best interests
- ❖ information contained in adoption and parental order records (see section 8 for more information on this)
- ❖ information given to court in proceedings/prejudicing an ongoing criminal investigation
- ❖ information about the child/young person also relates to another person who could be identified from it, or the information has been given by another person who could be identified as the source, e.g. a member of the public/another child (unless the person has consented to the disclosure or the person providing the information is an employee of the school or the local authority)

Process when dealing with subject access request

7.7 If a parent makes a request to access the file held on their child, you must:

- ✓ verify their identity- check the parent has parental responsibility (see http://www.thegrid.org.uk/info/welfare/child_protection/policy/national.shtml#parental)
- ✓ stipulate the school/setting's preference for how this request is received , i.e. in writing to the DPO- however education settings cannot insist that a requester follows this request, as the GDPR does not specify how to make a valid request. Therefore, an individual can make a subject access request to you verbally or in writing. It can also be made to any part of your organisation (including by social media) and does not have to be to a specific person or contact point. Therefore if a request goes to a different email/person, it would need to be forwarded on. Your DPO must be aware of the request to ensure the processes are then followed by the relevant staff and that the requester is satisfied with the outcome , although they are unlikely to be involved in the process when the subject access request pertains to child protection data.
- ✓ explain your lawful basis for processing personal data when you answer a subject access request
- ✓ seek (and record) any views the child or young person has on whether their parents should have access to information about them (age 12+)
- ✓ consult with a legal advisor as necessary to ensure correct procedures are followed e.g. attempt to seek the consent of any third parties referred to or otherwise redact. **Please note, this is not necessary for employees.**

7.8 As a general guide, a child of 12 or older is expected to be mature enough to understand the request they are making. A child may, of course, be mature enough at an earlier age or may lack sufficient maturity until a later age, and so requests should be considered on a case by case basis. When a request is received from a child, those responsible for responding should take into account whether:

- the child wants their parent (or someone with parental responsibility for them) to be involved in the request; and
- the child properly understands what is involved in making the request and the type of information they will receive.

Timescales for responding to subject access requests

7.9 Currently, there are two different timescales for responses, depending on the type of school:

Requests to **non-maintained schools (including academies and free schools)** must be satisfied **within a month**, in accordance with Article 12(3) of the GDPR.

Requests to **maintained and special schools**, for access to safeguarding records ONLY (which form part of a request for an educational record) must receive a response **within 15 school days**.

Regulation 4

The governing body shall make a pupil's educational record available for inspection by the parent, free of charge, within fifteen school days of receipt of the parent's written request for access to that record.

The Education (Pupil Information) (England) Regulations 2005

7.10 In most cases you will not be able to charge for complying with a request, unless excessive.

7.11 Schools/education settings will be able to extend the period of compliance by a further two months where requests are complex or numerous. If this is the case, you must inform the individual within one month of the receipt of the request and explain why the extension is necessary.

7.12 Requests can be refused if they are deemed to be manifestly unfounded or excessive. Legal advice should be sought in these circumstances. The individual must be told why and that they have the right to complain to the supervisory authority and to a judicial remedy. You must do this without undue delay and at the latest, within one month.

7.13 For more information, see <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>.

Other Access Requests

7.14 Safeguarding files should not ordinarily be shared with agencies other than these statutory agencies e.g. information should not be released to solicitors. Where such a request is made advice should be sought from the school's legal advisor.

Section Eight: Transfer and retention of safeguarding records

- 8.1 Information about the process of transferring information should be included in the school/setting's child protection policy. By stating that you have a duty of care to share information, ensures that parents understand that this is your practice.
- 8.2 Parental consent is not required to transfer this data, since it is held to prevent harm to a child. Where parents object, the fact should be recorded and the reasons to transfer should be noted.
- 8.3 When a child ceases to be registered at one school/setting (including PRUs/ESCs) and becomes registered at another (either maintained or independent) in England, the governing body of the old school is overall responsible for ensuring the school transfers their educational record (including safeguarding records) to the new school. As Governors have a strategic role, the task of transferring safeguarding records will be down to the DSP/L/. This must be completed **as soon as possible** and **preferably within 15 days** after the day when the child ceases to be registered at the old school/setting.

Where children leave the school or college ensure their child protection file is transferred to the new school or college as soon as possible. This should be transferred separately from the main pupil file, ensuring secure transit and confirmation of receipt should be obtained.

In addition to the child protection file, the DSL should also consider if it would be appropriate to share any information with the new schools or college in advance of the child leaving.

Keeping Children Safe in Education 2018- Annex B: Role of the Designated Safeguarding Lead)

- 8.4 Please see appendix five within **'Record keeping proformas :Appendices to School Safeguarding Records Practice Guidance'** at: http://www.thegrid.org.uk/info/welfare/child_protection/policy/local.shtml for a suggested proforma to use when confirming transfer of records. It is good practice to keep a copy of the safeguarding record until the receiving school acknowledge receipt. At this point, the copy should be destroyed sensitively. It is also good practice to talk concerns through with DSP/L in advance of sending safeguarding records.
- 8.5 The safeguarding records should not be weeded before transfer. Information which may seem unnecessary to the person weeding the record, may be a vital piece of information required at a later stage. The only exception to this is the redaction of third party information, which is not linked in any way to the child whose record is being transferred (see section 7.6, 7.7 and 8.6 for further information).

8.6 **Redacting other children's names from safeguarding records**

The DSP/L will need to give consideration at the time of transfer of safeguarding files to a new educational setting, as to whether it is relevant, necessary and proportionate to include the names of other children mentioned within safeguarding records or whether these will need to be redacted.

The school can justify the sharing of such information, provided that the information being processed meets the Article 5 GDPR principles- that information should be "adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed" i.e. if the information supports the new education setting to carry out its safeguarding responsibilities then sharing can be justified.

Unfortunately no further definitive guidance can be given on this point; it would need to be considered on a case by case basis and will depend on factors such as:

- how recent the concerns have arisen
- the role of the named child- i.e. were they a witness; victim; perpetrator
- under what circumstances the child is transferring school
- whether both children are transferring to the same school
- if the disclosure by /involvement of another child would likely to be used in a future course/as part of legal action

The sharing of information should be considered under Article 9(2)(g)¹ of GDPR and in conjunction with Part 2 (Substantial Public Interest Conditions) and Paragraph 1² of Schedule 1 to the Data Protection Act 2018.

Legal advice should be sought if the DSP is unclear what information, if any, should be redacted.

¹ Article 9(2)(g) GDPR reads:

"processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and interests of the data subject."

² Paragraph 18 Schedule 1 of the 2018 Act defines that processing information for the purposes of safeguarding children and other individuals at risk is substantially in the public interest:

Safeguarding of children and of individuals at risk

(1) This condition is met if—

- (a) the processing is necessary for the purposes of—
 - (i) protecting an individual from neglect or physical, mental or emotional harm, or
 - (ii) protecting the physical, mental or emotional well-being of an individual,
- (b) the individual is—
 - (i) aged under 18, or
 - (ii) aged 18 or over and at risk,
- (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
- (d) the processing is necessary for reasons of substantial public interest.

(2) The reasons mentioned in sub-paragraph (1)(c) are—

- (a) in the circumstances, consent to the processing cannot be given by the data subject;
- (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the

data subject to the processing;

(c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in subparagraph (1)(a).

(3) For the purposes of this paragraph, an individual aged 18 or over is "at risk" if the controller has reasonable cause to suspect that the individual—

(a) has needs for care and support,

(b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and

(c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.

8.7 Any information held about safeguarding concerns should be passed to the receiving educational setting, whether or not there has been formal social care/specialist service involvement. This applies to concerns both current and historical. Past safeguarding concerns and the response to these can be significant, should concerns arise for the child at a later time. Actions and outcomes should be clearly recorded and it should be made clear what is factual and what is unsubstantiated information.

8.8 The DSP/L is responsible for ensuring that a safeguarding record is transferred for the attention of the DSP/L at the receiving educational establishment. Where no safeguarding records are held for a child, it is good practice at the time of transfer to include written confirmation of this to the receiving school. Similarly where no information is received regarding safeguarding records following transfer from another school/setting, the DSP/L should not assume that safeguarding concerns do not exist. Contact should be made with the DSP/L at the previous school to clarify whether there have been concerns and request the records where necessary

Manual written records

8.9 The records should be placed in a sealed envelope, addressed as CP/safeguarding record, marked confidential for the attention of the DSP/L.

8.10 The record should be transferred in what the school i.e. the data handler, considers to be the most secure and appropriate manner to minimise the risk of any data breach. We advise against the internal post bag. The data handler is accountable for any data breach. Appropriate methods could include:

- ❖ hand delivery by an identified member of school staff
- ❖ Royal Mail recorded/special delivery

Online safeguarding recording systems/electronic transfer of data

8.11 Where schools/settings are using reciprocal systems, transfer of data is possible where a child is transferring to/from the school/setting.

8.12 The expectation is that where schools/settings do not have reciprocal electronic systems, the data held on the pupil/student is printed then forwarded to the receiving school/setting or alternatively arrangements are made for the secure electronic transfer of this information (see 8.13).

8.13 Where schools are transferring and receiving records electronically, an electronic receipt of this occurrence should be kept by both parties as if it were done face to face.

8.14 Guidance for schools on secure transfer of computerised data can be accessed here:<http://thegrid.org.uk/info/dataprotection/index.shtml#securedata>. Please also see guidance on use of HertSFX (a secure, web based file transfer system, allowing files to be sent securely between HCC and other approved partner organisations)www.thegrid.org.uk/info/welfare/child_protection/policy/index.shtml#sfx

Transfer and retention guidance

8.15 ***PLEASE NOTE***

Due to the on-going Independent Inquiry into Child Sexual Abuse (IICSA/Jay) Inquiry, schools have been directed as below:

Your organisation is asked to retain any and all documents; correspondence; notes; emails and all other information – however held – which contain or may contain content pertaining directly or indirectly to the sexual abuse of children or to child protection and care. It is recommended that all records relating to child abuse are retained until the Inquiry is completed. The original file should be retained by the school and legal advice sought as to when it is prudent to transfer the original file or seek advice if a copy should be transferred in the meantime.

Justice Goddard, Chair of the Independent Inquiry into Child Sexual Abuse

This request supersedes any existing retention schedule. Further information can be obtained at <https://www.icsa.org.uk>.

8.16 If a copy is sent to the new school, this decision should be recorded against the pupil's file with the reason(s) why the copying and transfer of the copy was necessary and proportionate. Alternatively, a letter could be sent to the school explaining why the records are not being transferred at this time.

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

8.17 Please see table 1, section 8.18 for information on retention periods, as per *Keeping Children Safe in Education (DfE 2016)* and the *Information and Records Management Society* (<http://www.irms.org.uk/resources/information-guides/199-rm-toolkit-for-school>). The guidance below will still indicate a retention period (in the 'Retention/Transfer Action' column), but in those cases where records should **not be** destroyed, this has been denoted with ***. **This section will then be reviewed again to take into account any recommendations the Inquiry might make concerning record retention.**

8.18 Table 1- Transfer and retention of CP files

Description of Records	Scenario	Retention/Transfer Action
Primary school safeguarding files	Child moves to another primary school***	<ul style="list-style-type: none"> • Do not destroy. • Transfer to receiving primary school <u>within 15 working days</u> • If the Integration Officer contacts you as part of an In-Year admission to complete the Integration Team’s ‘Request for Information’ form, then alert the Integration Officer that you have safeguarding records for that child and record any relevant information on the form as requested.
	Primary schools do not need to keep copies of safeguarding records unless there are ongoing legal proceedings when the child leaves the school. Custody of, and therefore responsibility for, the records passes to the school the pupil transfers to.	
	Child moves onto secondary school***	<ul style="list-style-type: none"> • Do not destroy. • Transfer to receiving secondary school <u>within 5 working days</u> • If the Integration Officer contacts you as part of an In-Year admission to complete the Integration Team’s ‘Request for Information’ form, then alert the Integration Officer that you have safeguarding records for that child and record any relevant information on the form as requested.
	Child is permanently excluded and removed from roll	<ul style="list-style-type: none"> • Do not destroy. • Inform Integration team (or SEN team if child has EHCP) that a safeguarding file exists/there are safeguarding concerns for this child. • Make arrangements for archiving until it can be passed on to another establishment***.
	Child leaves the school - unclear where child has moved to /child missing from education/ EHE***	<ul style="list-style-type: none"> • Do not destroy. • Make arrangements for archiving until the ‘child’ reaches 25 years or until it can be passed on to another establishment.³ • Inform social worker (if open) or attendance/CME/EHE team that a file exists/to clarify where child has moved to and then follow school procedures as above once confirmed.
	Child becomes	Contact your CPSLO – any historical child protection

	adopted whilst at your school ²	information leading up to child's adoption will need to be sent to Hertfordshire County Council for archiving. Your CPSLO will facilitate this with records management team.
Secondary school, ESC/PRU safeguarding files	Child moves to another secondary school***	<ul style="list-style-type: none"> • Do not destroy. • Transfer to receiving Secondary School <u>within 15 working days</u> • If the Integration Officer contacts you as part of an In Year admission to complete the Integration Team's 'Request for Information' form, then alert the Integration Officer that you have safeguarding records for that child and record any relevant information on the form as requested.
	Child moves onto college (if under 18)***	<ul style="list-style-type: none"> • Do not destroy. • Transfer to receiving College <u>within 15 working days</u> • See also section 8.19-8.22
	If a child is moving to another school/setting, secondary schools do not need to keep copies of safeguarding records unless there are ongoing legal proceedings when the child leaves the school.*** Custody of, and therefore responsibility for, the records passes to the school the pupil transfers to.	
	Child leaves secondary school, is under 18 years old with no FE place identified. ***	<ul style="list-style-type: none"> • Do not destroy. • Make arrangements for archiving until the 'child' reaches 25 years or until it can be passed on to another establishment. ³
	Child leaves secondary school and is 18 years old (or will be this academic year)	<ul style="list-style-type: none"> • Do not destroy. • Make arrangements for archiving until the 'child' reaches 25 years.³

²When starting at school, If the school are told by parents that a child has been adopted this should be recorded on the **main school file** with the parents' permission, in order to be able to give any appropriate support. **A separate child protection/safeguarding file is not necessary unless there are additional safeguarding issues as for any other child.** Once an adoption order has been made, records should relate only to the adoptive family and not the birth family, therefore any historical safeguarding records should be sent to Hertfordshire County Council for archiving (please contact your CPSLO for support in doing this).

³ A claim can be made against an organisation by minor for up to 7 years from their 18th birthday. For those settings not using HCC insurers / risk protection, they may wish to contact their provider regarding this retention timescale to ensure it is consistent with their insurance policy.

	with no FE place identified.	
	Child is permanently excluded and removed from roll ***	<ul style="list-style-type: none"> • Do not destroy. • Inform Integration team (or SEN team if child has EHCP) that a safeguarding file exists/there are safeguarding concerns for this child. • Make arrangements for archiving until the 'child' reaches 25 years or until it can be passed on to another establishment.³
	Child leaves the school - unclear where child has moved to /child missing from education/ EHE ***	<ul style="list-style-type: none"> • Do not destroy. • Inform CME/EHE team that a file exists. • Make arrangements for archiving until the 'child' reaches 25 years or until it can be passed on to another establishment.³ • Inform social worker (if open) or attendance/CME/EHE team that a file exists/to clarify where child has moved to and then follow school procedures as above once confirmed.
	Child becomes adopted whilst at your school/setting ²	Contact your CPSLO – any historical child protection information leading up to child's adoption will need to be sent to Hertfordshire County Council for archiving. Your CPSLO will facilitate this with records management team.
College safeguarding files (for children under 18)	Child leaves college to move onto another education setting and is under 18***	<ul style="list-style-type: none"> • Do not destroy. • Transfer to receiving education setting <u>within 15 working days</u> • See also section 8.19-8.22
	Child leaves the college and is under 18 years old - unclear where child has moved to /child missing from education/ EHE ***	<ul style="list-style-type: none"> • Do not destroy. • Inform CME/EHE team that a file exists. • Make arrangements for archiving until the 'child' reaches 25 years or until it can be passed on to another establishment.³ • Inform social worker (if open) or attendance/CME/EHE team that a file exists/to clarify where child has moved to and then follow school procedures as above once confirmed.
	Child is under 18, permanently excluded and removed from roll***	<ul style="list-style-type: none"> • Do not destroy. • Inform Integration team (or SEN team if child has EHCP) that a safeguarding file exists/there are safeguarding concerns for this child. • Make arrangements for archiving until the 'child' reaches 25 years or until it can be

		passed on to another establishment. ³
	Child leaves college and is 18 years old or over	<ul style="list-style-type: none"> • Do not destroy. • Make arrangements for archiving until the 'child' reaches 25 years.³
	Child becomes adopted whilst at your setting ²	Contact your CPSLO – any historical child protection information leading up to child's adoption will need to be sent to Hertfordshire County Council for archiving. Your CPSLO will facilitate this with records management team.

Sharing information with post 16 providers

8.19 When a young person transfers to a post 16 provider, it is good practice for the DSP/L to inform the receiving provider as soon as possible by telephone or in person that a safeguarding file exists and share any information that is likely to have an impact for the young person/provision. This is especially important where there is a concern that a student *may* pose a risk to other students or themselves. This enables the post-16 provider to undertake the necessary risk assessments and ensure subsequent support is in place- see example transition summary document within '**Record keeping proformas :Appendices to School Safeguarding Records Practice Guidance**' at: http://www.thegrid.org.uk/info/welfare/child_protection/policy/local.shtml

8.20 Due to the uncertainties of final enrolment, the new post-16 setting should also locate previous school details and contact them to directly ask if there are any safeguarding records on the named individuals that need to be shared if they have not heard anything from the previous setting.

8.21 Once final enrolment has been confirmed, the previous setting should then pass on the original file.

8.20 If a child moves on to post 18 education (FE or HE provision), there is no legal requirement to transfer records. However, consideration should be given to contacting a named person at the university/college if the DSP/L feels that information needs to be shared to help keep students safe and protected as they transition from vulnerable children to potentially young adults at risk. This may include for the support of the young person due to vulnerabilities relating to safeguarding concerns, their mental or general health or for the prevention of crime.

8.21 Information sharing in this context should be in that's persons best interest, should be reflected in the school/setting's data protection policy and consideration should be given to the pupil's wishes and feelings on their child protection information being passed on. For more information see <https://www.farrer.co.uk/News/Briefings/Freshers-from-vulnerable-children-to-adults-at-risk-What-schools-and-universities-need-to-know-about-the-transfer-of-safeguarding-information-between-institutions/>

8.22 The original records should be retained and archived by the school/college.

Families First Assessment (FFA) transfer process

8.23 If the school is currently involved in a live FFA, then information relating to this (keyworker etc.) must be passed on to the receiving school. Subsequently, there may be a need to identify a new keyworker and parents will be required to consent to the changes and to sharing the information in the FFA. Liaison between schools prior to transition to another school/setting will be key here to ensure continuity of support to the family- if possible the receiving school/setting should ideally be invited along to a TAF before the child moves.

8.24 If the FFA has been closed, the FFA helpdesk must be informed. It should be documented in the child's safeguarding record that a FFA was in place and the reasons for this. This information should include dates and the name of the previous keyworker, in the event that the FFA needs to be reopened at a later date.

8.25 If the FFA has been closed, the new school/setting will need permission from the parent and the child (if appropriate) to access the FFA information. If they are in agreement, the DSP/L can either contact the previous school (if they still have FFA details) or otherwise contact the FFA helpdesk to obtain this (01438 737575). The child's safeguarding record will however, include the concerns raised prior to initiation of the FFA and this should have been transferred to the new school. If this has not been received, the DSP/L should make contact with their counterpart at the previous school to request it. See Section 8.7.

Disposal of records

8.26 Records that have reached the end of the minimum retention period allocated, should then be shredded at the end of the academic year (or as soon as practical before that time).

8.27 For audit purposes, in line with The Freedom of Information Act 2000, the school/setting should maintain a list of records which have been destroyed and who authorised their destruction. This can be kept in either paper or an electronic format.

8.28 The DSP/L should record at least:

- File reference (or other unique identifier)
- File title (or brief description)
- Number of files
- The name of the authorising officer
- Date of destruction
- Manner of destruction

Section Nine: Escalation routes

9.1 There may be situations where:

- there has been no prior communication about the pupil/student being admitted which may get in the way of keeping that child safe.
- a child's file from another school/setting has not been sent.
- a child's file from another setting has not arrived in a timely way.
- a school has appeared to have lost the file having made enquiries.
- on receiving a file, you have concerns about safeguarding activity/recording.
- a receiving school does not appear to have robust systems in place which reassures you that you are able to send the file safely and knowing it will be retained.
- you only become aware that the pupil/student has a history of concerns and or safeguarding file at the previous school having made enquiries due to an emerging need or safeguarding incident.

9.2 Communication is the key to resolving issues like this. The DSP/L should pursue and attempt to resolve. A record should be kept of this activity along with the forms and information kept by the school office on the receipt and transfer of the safeguarding file.

9.3 If there is no resolution:

- Contact CPSLO team for support regarding Nursery schools/Nurseries within Primary schools in Hertfordshire-details at:http://www.thegrid.org.uk/info/welfare/child_protection/about.shtml

- For queries regarding independent EYFS settings , contact Caroline Chalke, Herts for Learning:

Tel: 01438 844299/Mobile: 07770 637146
Caroline.Chalke@hertsforlearning.co.uk

- For out of County schools, the DSP/L should alert the Children's Safeguarding Board Manager for that Local Authority- the information should be available on the relevant Local Authority's website and use the escalation process.