



## **Record of Retention**

### **TRANSFER OF CHILD PROTECTION FILES BETWEEN SCHOOLS / COLLEGES (AS PER KEEPING CHILDREN SAFE IN EDUCATION, 2023)**

#### **Key document details**

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**All young people involved with child protection services (Social Care or Police) at any time in their school life must have that information retained until the child reaches 35 years of age including pupils with Special Educational Needs. This means that the last education provider for the child will retain the file e.g. secondary phase or college. This is in line with best practice advice until further directive is given from the General Data Protection Regulations and the updated KCSIE, 2023**

There are current guidelines which state retention guidelines of 25 years of age (IRMS, 2015), 35 years of age for SEN (IRMS, 2015) and 35 years from closure of case (Children's Services records retention).

## **Introduction**

The purpose of this guidance is to provide clarity and consistency of practice regarding what information should be transferred onto the next school/provider and how this information should be transferred at each stage.

## **Stages**

- Early years to early years transfer
- Early years to primary transfer
- Primary to secondary transfer
- Secondary to post 16 transfer
- In year transfer
- Managed move

## **Child Protection Files**

- Child Protection files are records maintained by the setting, detailing a history of all concerns, incidents, involvement with agencies (including social care, early help and intervention) and communication with any professionals relating to concerns about the welfare of the child.
- A child's file must follow them to every setting that they are educated in to ensure that incidents are not dealt with in isolation and that education professionals making decisions about children have all of the information available to them. This should happen until the child is 18 years old and they are accessing further education. Please be aware that some special school settings will go up to 19 years of age. This procedure must be followed regardless of the kind of establishment the child attends e.g., state school, academy, free school or college.
- Child protection files should contain information that is accurate, factual and objective. The information as well as the organisation of the file should be easy to understand and follow. The child's voice should be thematic throughout.
- Each child protection file should contain a full and thorough chronology and a summary of significant events throughout your involvement with the child.
- **Keeping Children Safe in Education (2023) advises that all child protection files must, in their entirety, be transferred to the new school and a receipt**

**for the file must be returned to the transferring school. This file must be transferred separately to the child's school file and secure transit ensured.**

For example, if a child protection referral was made in Year 1 to Children's Services Social Care and no action was taken by Social Care and no other concerns were raised during the primary phase, then this child protection file would still be transferred to the new school as a record of involvement.

Another example may be a child protection referral made in Year 5, a Section 47 carried out and child made subject to a child protection plan. The Core group is still continuing at point of transfer to new school. It is the responsibility of the Designated Safeguarding Lead to contact the Social Worker and inform of change of school and contact the Designated Safeguarding Lead at the new school to arrange for them to attend the core group. The file should be transferred to the new school.

- **The school/college must keep the chronology for one year only of a child protection file** to ensure they have sufficient knowledge of the case and their involvement, should the case go to review or court and their involvement in the case be sought or the **case is subject to individual or multi agency review**
- All Designated Safeguarding Leads receiving current (live) files or closed files must keep all contents enclosed and not remove any material.
- Files will be destroyed only when the young person reaches 35 years of age including pupils with Special Educational Needs
- All receipts confirming file transfer must be kept until the child's 35<sup>th</sup> birthday including pupils with Special Educational Needs
- Safeguarding First would recommend that all schools distinguish a separate system for archiving and retaining information with regards to children's concerns and vulnerability. This retention guidance we would recommend is adhered to, with those children who have had a **statutory plan**. It would be GOOD PRACTICE for schools to maintain consistency in the management of transferring information regarding children who have had statutory plans.
- The sharing of information in this way does not remove the need for a thorough handover. It is GOOD PRACTICE that for all cases where children transfer or move schools that the Designated Safeguarding Lead's share information and communicate effectively about ANY vulnerable children. The DFE Information Sharing Advice for Practitioners 2015 advises that information can be shared where it can be evidenced to be in the best interests of children.
- All Designated Safeguarding Leads are responsible for the organisation, maintenance and transfer of all child protection files.
- Information should always be retained, stored and transferred in the best of interests of children. If in doubt you must seek support on an individual case by case basis.

### **Transferring files**

- The transferring of files should be organised between the designated leads of each setting. Effective handovers and good discussion of the individual case will ensure a positive transition for every child.

- The transfer of the file should take place within 15 school days of the child's attendance at the new setting being confirmed. In all circumstances the sooner the handover can occur the better. Handovers should only occur once the destination of the child is certain and confirmed.
- Wherever possible files should be transferred by hand or recorded delivery. The receipt of the handover should be kept by both parties.
- For early years settings, parents should be advised regarding the transfer of the child protection file, however lack of parental consent should not prevent the file from being transferred where it is in the best interests of the child to share information with a new setting.
- For post 16 providers information should be passed over in the same way initially through a verbal discussion and handover and then the transfer of the physical file.
- Where the destination of the child is uncertain or unconfirmed the original setting should make every effort to ascertain where the child has moved to and consider initiating their missing from education procedures in the event that the child cannot be located. For post 16 every attempt should be made by the original setting to confirm the pupil's education or employment intentions.

### **Pupils who are dual registered or educated off-site**

- Where a pupil is dual registered or educated off site, the setting that maintains the most contact with the pupil should maintain the child protection file.
- Both settings need to liaise closely with each other to ensure positive communication is maintained and incidents that occur are shared and dealt with effectively and communicated between the settings.
- A decision should be made between the settings about how the chronology is kept up to date and shared and how information will be shared and presented at both child protection conferences/reviews and core groups.
- In any circumstance where a child may have access to other settings e.g. breakfast/after school clubs, consideration must be made to ensuring effective communication between the settings to share information and concerns.

### **The IICSA Enquiry**

Due to the ongoing independent enquiry into institutional sexual abuse, the current recommended advice regarding allegations from children towards adults in school is that the CHILDREN's files are retained until the year 2020 (when the enquiry is due to end). This is to maintain records of the child's viewpoint regarding the incident. All other records should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer (KCSIE, 2023)

### **Archiving**

Child Protection files need to be stored in their entirety in hard copy or electronically with appropriate levels of security and access until the child's **35<sup>th</sup> birthday**

(Secondary/College settings). **The decision of the storage of the files needs to be made by the school via the governing body.**

In schools who use CPOMS or similar electronic recording software systems, the system archives the files once electronic transfer has occurred or in their final education setting at statutory leaving age. The files will be archived within the system till the retention date identified within the retention scheduled agreed by governing body and the provider. (The Child's 35<sup>th</sup> birthday inclusive of files of children with SEN)

### **Access to files**

A pupil or their nominated representative have the legal right to see their file at any point during their education and even until the record is destroyed (when the pupil is 35 years old including for pupils with special educational needs) This is their right of subject to Access under the Data Protection Act 1998.

It is important to remember that all information should be accurately recorded, objective in nature and expressed in a professional manner. Information that is sensitive in nature, involves other pupils or staff should be redacted if a pupil wishes to view their file. (Please also see **appendix 1** for more detail)

### **Responsibility for the pupil record once the pupil leaves the school**

The school which the pupil attended until statutory school leaving age (or the school where the pupil completed sixth form studies) is responsible for retaining the pupil record until the pupil reaches the age of 35 years including if the child had Special Educational Needs. This retention is set in line with the Limitation Act 1980 which allows that a claim can be made against an organisation by a minor for up to 7 years from their 18th birthday (e.g 25<sup>th</sup> Birthday). The Information and Records Management Society Toolkit for Schools also recommends that information is retained until the child's 25<sup>th</sup> birthday (see link below). However best practice advice is to retain child protection records until the child's 35<sup>th</sup> birthday following the GDPR and KCSIE, 2018 update until further directive is given.

### **Safe Destruction of the pupil record**

The pupil record should be disposed of in accordance with safe disposal of records guidelines. The documents may be shredded (cross shredded) or disposed of by an approved contractor, a record should be kept of all information destroyed including any records or information you may hold that belongs to another organisation.

## **Escalation Protocol**

Where a school discovers that a child protection file was in existence but was not transferred or identified to the school, the matter should be brought to the attention of the Local Authority as soon as possible. (see **escalation protocol**)

## **Appendix 1**

### **Children's and parents' access to child protection files**

Under the Data Protection Act 2018, any child who has a child protection file has a right to access it. The Education (Pupil Information) (England) Regulations 2005 give parents the right see their child's school records. However, neither the child nor the parent has an automatic right to see all the information held in child protection records. Information can be withheld if disclosure:

- could cause serious harm or is likely to cause serious harm to the physical or mental health or condition of the child or another person; or
- could reveal that the child or another person has been a subject of, or may be at risk of, child abuse, and the disclosure is not in the best interests of the child; or
- is likely to prejudice an ongoing criminal investigation; or
- the information about the child 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, unless the person has consented to the disclosure or the person providing the information is an employee of the establishment or the Local Authority.

It is best practice to make reports available to the child or their parents unless the exceptions described above apply. If an application is made to see the whole record, advice should be sought from the child's social worker (for CP or LAC cases), the Children's Services Information Governance Officer (Local Authority) or legal advice.

When disclosing information, all third-party information must be removed, or consent sought for its disclosure from the person concerned. For example, all identifying information about other children or members of the public who have shared information about the child must be removed before disclosing information.

This is in line with the GDPR, 2018.

## **Supporting Documents**

<http://irms.org.uk/page/SchoolsToolkit>

<https://www.farrer.co.uk/News/Briefings/CPU-Update---High-Court-Rules-on-Retention-Period-for-Child-Protection-Information/>

[http://www.proceduresonline.com/barnet/fs/t\\_retention\\_records.html](http://www.proceduresonline.com/barnet/fs/t_retention_records.html)

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>