07.3 Parent access to records

Under the General Data Protection Regulations there are additional rights granted to data subjects which must be protected by the setting.

The parent is the ‘subject’ of the file in the case where a child is too young to give ‘informed consent’ and has a right to see information that the setting has compiled on them.

- If a parent wishes to see the file, a written request is made, which the setting acknowledges in writing, informing the parent that an arrangement will be made for him/her to see the file contents, subject to third party consent.
- Information must be provided within 30 days of receipt of request. If the request for information is not clear, the manager must receive legal guidance, for instance, from Law-Call for members of the Alliance. In some instances it may be necessary to allow extra time in excess to the 30 days to respond to the request. An explanation must be given to the parent where this is the case. The maximum extension time is 2 months.
- A fee may be charged to the parent for additional requests for the same material, or any requests that will incur excessive administration costs.
- The setting manager informs their line manager and legal advice is sought.
- The setting manager goes through the file with their line manager and ensures all documents are filed correctly, entries are in date order and that there are no missing pages. They note any information, entry or correspondence or other document which mentions a third party. The setting manager should always ensure that recording is of good quality, accurate, fair, balanced and proportionate and should have quality assurance processes in place to ensure that files are checked for quality regularly and that any issues are addressed promptly.
- Each of those individuals are written to explaining that the subject of the file has requested sight of the file which contains a reference to them, stating what this is.
- They are asked to reply in writing to the setting manager giving or refusing consent for disclosure of that material.
- Copies of these letters and their replies are kept on the child’s file.
- Agencies will normally refuse consent to share information, and the parent should be redirected to those agencies for a request to see their file held by that agency.
- Entries where you have contacted another agency may remain, for example, a request for permission from social care to leave in an entry where the parent was already party to that information.

- Each family member noted on the file is a third party, so where there are separate entries pertaining to each parent, step-parent, grandparent etc, each of those have to be written to regarding third party consent.
- Members of staff should also be written to, but the setting reserves the right under the legislation to override a refusal for consent, or just delete the name and not the information.
    - If the member of staff has provided information that could be considered ‘sensitive’, and the staff member may be in danger if that information is disclosed, then the refusal may be granted.
    - If that information is the basis of a police investigation, then refusal should also be granted.
    - If the information is not sensitive, then it is not in the setting’s interest to withhold that information from a parent. It is a requirement of the job that if a member of staff has a concern about a child and this is recorded; the parents are told this at the start and in most cases, concerns that have been recorded will have been discussed already, so there should be no surprises.
    - The member of staff’s name can be removed from an entry, but the parent may recognise the writing or otherwise identify who had provided that information. In the interest of openness and transparency, the setting manager may consider overriding the refusal for consent.
    - In each case this should be discussed with members of staff and decisions recorded.
- When the consent/refusals have been received, the setting manager takes a photocopy of the whole file. On the copy file the document not to be disclosed is removed (e.g. a case conference report) or notes pertaining to that individual in the contact pages blanked out using a thick marker pen.
- The copy file is then checked by the line manager and legal advisors verify that the file has been prepared appropriately, for instance, in certain circumstances redaction may be appropriate, for instance if a child may be damaged by their data being seen by their parent/carer, e.g. if they have disclosed abuse. This must be clarified with the legal adviser.
- The ‘cleaned’ copy is then photocopied again and collated for the parent to see.
- The setting manager informs the parent that the file is now ready and invites him/her to make an appointment to view it.
- The setting manager and their line manager meet with the parent to go through the file, explaining the process as well as what the content records about the child and the work that has been done. Only the persons with parental responsibility can attend that meeting, or the parent’s legal representative or interpreter.
- The parent may take a copy of the prepared file away, but it is never handed over without discussion.

- It is an offence to remove material that is controversial or to rewrite records to make them more acceptable. If recording procedures and guidelines have been followed, the material should reflect an accurate and non-judgemental account of the work done with the family.
- If a parent feels aggrieved about any entry in the file, or the resulting outcome, then the parent should be referred to section 10.2 Complaints procedure for parents and service users.
- The law requires that information held must be accurate, and if a parent says the information held is inaccurate then the parent has a right to request it to be changed. However, this only pertains to factual inaccuracies. Where the disputed entry is a matter of opinion, professional judgement, or represents a different view of the matter than that held by the parent, the setting retains the right not to change the entry but can record the parent's view. In most cases, a parent would have had the opportunity at the time to state their side of the matter, and this should have been recorded there and then.
- If there are any controversial aspects of the content of a client's file, legal advice must be sought. This might be where there is a court case between parents or where social care or the police may be considering legal action, or where a case has already completed and an appeal process is underway.
- A setting should never 'under-record' for fear of the parent seeing, nor should they make 'personal notes' elsewhere.

Further guidance

The Information Commissioner's Office https://ico.org.uk/ or helpline 0303 123 1113.