

Supplementary Guidance: Care Experienced Young People Accessing Their Records

1. Introduction:

This supplementary guidance has been developed to support the Council's Subject Access Request process as it relates to care experienced people. This is to ensure that full and proper consideration of any additional safeguarding and/or welfare concerns are considered to provide care experienced young people with the correct support at the right time.

2. Subject Access Request (SAR) and Exemptions:

Requests to access personal information and data, is an important aspect of the General Data Protection Regulation (GDPR) and Data Protection Act (DPA) 2018, which sets out how personal data and information is collected and processed by organisations and services, including Local Authorities. SAR applies to paper and electronic information and records.

A SAR allows people the right to know whether their information is processed, know why their information is processed, and who it has been shared with, as well as being able to see their information in a way that is easy to understand. For example, any abbreviations, professional terms, short hand or jargon need to be broken down and explained.

A SAR response provides individuals with a copy of all the information that is held about them. For care experience people this will mean all forms, letters and attachments together with all case notes. Where paper records are held, these will also be provided, whether they have been uploaded to Mosaic (the electronic recording system) or not. On occasions, some requesters will ask for copies of emails between specific people so these will also be provided if they have not been uploaded to case notes.

Not all personal information is covered in the above rights as there are some exemptions that the Council may need to apply to ensure compliance with its statutory functions. For example:

- Where information about the care experienced person has been provided by someone else, that person may have the right for this to be kept confidential
- The care experienced person will not usually have the right to see information referring to someone else, referred to as a 'third party', and this will usually be redacted, which means it will be obscured or censored
- Where a response would risk serious harm to the care experienced person and/or other people, including staff
- Correspondence with lawyers where legal professional privilege applies

3. Making a Request:

Like all members of the public, care experienced young people have the right to request and receive access to records that are held by the Council about them, unless an exemption applies (see above). Children who are of sufficient age, maturity and ability to make a request are treated in the same way as adults as it's their information and it belongs to them. A 12 year old is generally considered to be able to make a SAR them self.

Social Workers, Personal Advisors and relevant others who are part of the support network for care experienced young people should assist by helping the request to be made, verbally or in writing, and providing information and support about what this will entail. It is most helpful if requests state clearly what information is being asked for and provide clarity about the timeframe. Being as clear as possible about the information and the timescale may

assist the process and ensure that the most relevant information is shared more quickly. For example, "I would like to see my social care records when I first came into care in 1997."

This request should be sent via email to InformationGovernance@herefordshire.gov.uk. If officers have been working with the care experienced person, it is important to confirm their identity. If the care experienced person has not been met by the officer however, this cannot happen.

4. Requests from Care Experienced Young People:

During their lifetime, young people who have spent all or some of their childhood and adolescence in the care of the Council may wish to access information about their history which is held by the Council. There can be a number of reasons why people who leave care may wish to do this, including:

- Curiosity about the reasons why they became or remained / cared for
- Clarification about their experiences whilst in care
- A need to make sense of a difficult period(s) in their life
- Clarifying memories and confirming life events, including happy and positive times
- Understanding explanations and the rationale for decisions that were taken
- Tracing family members and / or carers who looked after them
- Other important information, about their health and education for example

Any one of the above reasons, or combination of reasons, may relate to deeply personal, sensitive, unresolved and potentially traumatic issues for a care experienced young person. All SARs from a care experienced person should therefore be treated with due regard for how this may trigger, or re-trigger, a trauma response, especially if there is insufficient or inappropriate support provided.

5. Life Story Work:

Best practice evidence shows the benefits of life story work with children and young people whilst they are being cared for. This approach generally helps children and young person have a better understanding about what is happening in their life and the rationale for the decisions being taken about them. An important aspect of engaging children and young people in the assessment, planning, review and decision making process about them should include ascertaining their views, wishes and feelings. In this way, as they grow up, children and young people are more likely to have a clearer appreciation of what happened during their childhood and adolescence and the reasons for this.

An honest, transparent and supportive approach is more likely to help children and young people process and reconcile what has happened to them and why, although worries, gaps, uncertainty and/or disagreement may prevail. It is helpful therefore to check what recollection a care experienced person has about the information they are requesting in order to assess the likely impact and support that is going to be most helpful and to plan accordingly in collaboration with them and relevant others.

Where life story work has not been a feature of the child / young person's care experience, for whatever reason, or where the child / young person's recollection is incomplete, muddled or difficult for them to recall, it is important to make sure they are well prepared prior to accessing their information and data. Where a care experienced person remains in care at the time of their SAR this ought to be incorporated into their Pathway Plan and life story work should be started without delay.

Information that can be accessed may be very sensitive, emotionally charged and potentially traumatic. The process of accessing this may act as a trigger for trauma, or may re-traumatise the care experienced young person, so this will require care and consideration. A SAR request should not be responded to by simply sharing information and data without proper consideration of the potential impact of this on the care experienced young person.

6. Serious Safety and Welfare Concerns:

Where there are serious concerns about safety and/or welfare and where sharing information may pose a serious risk of harm to the care experienced person, or others, the Council's Information Governance Team are able to temporarily withhold information. Withholding information temporarily should allow time to make a plan with the care experienced person and key members of their support network so that information can be shared at an agreed point in time when arrangements to safeguard and support them are in place. This should include consideration of a formal safety plan.

Where these concerns exist they must be formally communicated via email to InformationGovernance@herefordshire.gov.uk to determine if the Serious Harm Test can be applied to the request.

7. Process:

When a SAR is made by a care experienced young person, the following process should help to ensure that their needs, risks and circumstances are taken in account and responded to appropriately:

- a) The Information Governance Team will liaise with the Personal Advisor and Team Manager for the Care Leaver's Team to confirm receipt of the SAR. Where a Personal Advisor is not currently allocated, the Team Manager will make arrangements for one to become allocated as soon as possible.
- b) This will provide an opportunity to discuss the nature of the request, identify any concerns about the potential for serious harm and agree how the request will be progressed
- c) An acknowledgement letter / communication will be sent to the care experienced person by the Information Governance Team to confirm receipt of their SAR and clarify the timeframe for completion. This will be copied to the allocated / nominated Personal Advisor from the Care Leaver's Team will make contact with them
- d) The Personal Advisor will meet with the care experienced person to explain the full process. This will provide an opportunity to:
 - Confirm details of the information being requested from the care experienced young person's perspective
 - Explain the process and timescale
 - Clarify the nature and level of any serious risk and/or vulnerability associated with accessing this information
 - Explore details of a safety plan to make sure appropriate support is in place
- e) The Personal Advisor will consult with their Team Manager and advise the Information Governance Team about any serious risk or vulnerability and consider the need for an exemption, if this is deemed necessary and appropriate

- f) Where necessary and appropriate, the Personal Advisor should also seek advice from a suitably qualified and experienced mental health professional, ideally one who has had involvement, historically or currently, with the care experienced young person making the SAR.
- g) Where the care experienced young person has experienced a severe and enduring mental health difficulty, mental health advice should always inform the safety planning process with the young person and should engage relevant others, including the GP where necessary.
- h) The Personal Advisor, having become familiar with the details of the care experienced person's information, will advise the Information Governance Team of any concerns.
- i) Timescales and the way in which information and data will be shared with the care experienced person will be confirmed between the Personal Advisor in consultation with the Team Manager, Information Governance Team and any relevant other(s)
- j) The care experienced person will receive confirmation about the response to their SAR including details of the timescale, the proposal for sharing information and an outline of the support / safety plan that will be provided
- k) In practice, it may be necessary to convene a series of appointments with the care experienced person, particularly if there is a lot of information to share and this is upsetting and difficult to process. Building a rapport and trust will help with the planning to decide what information to share when and the duration of each session should be tailored to assess the impact of what is being shared, with adequate time for questions, queries and discussion. There should also be sufficient opportunity to adjust the safety plan if required.
- l) The pace, duration and regularity of these sessions should allow the care experienced young person to digest and process information they may not have known before, consider what this means for them and reflect on the broader ramifications of what they have discovered.
- m) Care experienced young people should be able to pause or take a break during a scheduled meeting, or from the schedule of appointments that has been agreed, if needed. There should be an arrangement for the Personal Advisor to contact the care experienced person after a meeting to check on how they are and talk through any immediate thoughts and feelings they may have following the meeting.
- n) Any concerns about the immediate safety or welfare of the care experienced young person should trigger the agreed safety plan, although a 999 call should be made in the case of any concern about imminent risk of harm.
- o) A written summary of the response to the SAR should be prepared by the Personal Advisor for the care experienced young person to confirm the response that was provided and a copy of this should be added to the care experienced young person's record by the Personal Advisor

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