**Birmingham Children’s Trust Legal Team Disclosure and Redaction Guidelines and Resources.**

**Reducing the risks of accidental disclosure of confidential information.**

Our Practice Manual contains key advice and guidance in relation to the basics of security and redaction. (Paragraphs 73- 75)

Key Points

1. Drawers in use must all be clearly and labelled with a lawyer name.
2. When a case completes in court if a paper bundle exists this should be shredded and not await the closure of the file. A full digital bundle should be on the IKEN file.
3. Now that we have almost universal digital working in court it is there is little need for printing where any document is printed it must be securely stored. Any documents which need to be signed ought to be signed digitally without printing off.

Police and other evidence is stored by the BST. These are reviewed regularly and where a case has completed the evidence is destroyed and logged.

Due to the potentially large costs and reputational damage and personal liability of individuals particular care must be taken with:

1. Photocopying – leaving papers – using local printers
2. Redacting addresses out of court documents
3. Paper documents being taken home must be stored securely
4. Redacting foster carer names out of documents
5. Use of OME encryption
6. Copying others in to emails to court
7. Careful use of CC in emails

The Legal Team will ensure that where drawers are in use all drawers and cabinets are locked at the end of the normal working day and the keys are stored securely.

Our Guidance for new Legal Assistants contains further specific instructions.

## Requesting information from third parties

In situations whereby the allocated social worker does not have the required correct details or in scenarios such as the second example. Requests for information must be sent to the generic inboxes of the relevant agency. This contact information can be found in the SocShare drive in the folder “BCT Legal Contact Information.”

All requests for information must be sent via email and have the **redacted** case management order attached.

You must ensure that all confidential information, such as the parties’ positions, recitals and court directions (apart from the information you are requesting at that time), are redacted using the Adobe Acrobat “Redact” tool. The order should only contain the parties’ names and the information you are requesting. Where you receive a pre redacted document redact again using adobe pro.

**Your solicitor may ask you to ensure that documents are appropriately redacted so as not to contain any confidential information.** What is confidential will vary on a case-by-case basis and should be discussed with your solicitor, as for example a matter may have parents with a history of domestic violence within their relationship and therefore mother’s address is not to be disclosed. As a rule, it is vital that foster carers addresses are always redacted.

Our “internal procedures at a glance” document contains the following warning and guidance.

|  |  |  |
| --- | --- | --- |
| 3rd Party Data in all documents lodged with the court | This **mus**t be redacted by solicitor or a legal assistant with guidance | All identifying information in relation to non-family members who are not party to the proceedings must be edited out. **THIS IS ULTIMATELY THE SOLICITOR’S RESPONSIBILITY NOT THE LEGAL ASSISTANT.**  **Sometimes this has been completed by the social work team. Always redact again using Adobe Pro to ensure redaction and prevent a data breach.** |

Other Key Points from Practise.

In some specialist cases (Inquests are an example) there will be a redaction and anonymisation schedule agreed by parties. Great care will be needed by the Lawyer and Legal assistant in ensuring compliance before finalisation of the disclosure

On occasion we receive documents from other agencies or from internal services which have already been redacted. This may have taken a redaction approach which is not in accordance with the interests of the administration of justice to include material that is material and relevant. It will be necessary in some of these cases to request unredacted material from the agency/service so that the legal team is able to form a view on this and to agree the level of redaction.

The Trust has published general guidance on redaction and an important presentation on data protection following a serious information breach in 2024.

It is important that we are all familiar with this guidance and training which will form part of our induction process and ongoing training programme.

|  |  |  |
| --- | --- | --- |
| Trust Redaction Guidance | General guidance in respect of  SAR requests  FOI Requests  Court ordered disclosure  Mailing documents |  |
| Anatomy of a data breach | Contains:  Examples of how mistakes can be made  Actions which must be taken in the event of an internal or external |  |

To understand our duties and responsibilities in relation to Disclosure and Redaction it is necessary for lawyers to have knowledge in our key areas of practise. This ensures an understanding of our duties of disclosure and how far documents may be redacted.

|  |  |  |
| --- | --- | --- |
| Disclosure of Evidence in Family Proceedings | Extract from Hershman and McFarlane: Children Law and Practice.  Includes  Full and frank disclosure of all relevant material.  PII  Medical records  LA records – positive duty to disclose relevant material which might assist the parent in rebutting allegations.  Other specific circumstances  Withholding evidence from a party.  Disclosure from Family Proceedings to third parties. |  |
| Publication of Judgments Practice Guidance | Updated guidance in June 2024.  Gives detailed guidance on publication and anonymisation of Judgments. |  |
| Disclosure and Redaction in Judicial Review cases. | Practical Law Guidance updated July 2024.  Covers  The duty of Candour  Specific effects of the duty of candour on defendants  Withholding documents from disclosure and redaction  Excluding Evidence |  |

These guidelines will be subject to review every 12 months.

The guidelines to not cover guidance in general civil litigation as this is not an area of Practise for the Team.

Legal Team

October 2024