

ACCESS TO RECORDS POLICY



Introduction

This policy has been produced to outline to carers, children, birth parents and social workers, Foster Care Link's policy on service user access to records. It should be read in conjunction with the policy on case recording and the retention of records.

Statutory Framework

The Data Protection Act 1998 gives users of Foster Care Link's services the right to access personal information that we hold on them.

The Fostering Services National Minimum Standards 2011 requires fostering services to ensure that carers and children know how to access their records, make additions and comments and record personal statements, including any dissent. Standard 26.6 also states that children should be encouraged to access records.

Encouraging Access

All users of Foster Care Link Services will be encouraged to access their records and contribute to the development of these records by making additions to them that reflect their own views and any dissent from the views recorded by staff.

Carers will be made aware of their rights during the assessment process and provided with written information in the Foster Care Handbook. Carer's will be asked to make contributions to their case record throughout their fostering career, but specifically at the point of the annual review of their registration. They will also be encouraged to contribute by completing feedback forms on placements and evaluation forms for training and development events attended.

Children and their parents will be informed of their rights of access to records in the Children's Guide.

In addition social workers and foster carers will be expected to remind children of their rights on a regular basis and encourage and facilitate children in accessing their records.

Services Users Entitled to Access

Foster Care Link holds information on children referred and placed and adults who have made an inquiry or application to foster or who have been approved as a carer.

All these service users have a right to request access to information held about them.

In addition a birth parent may be granted access to information on a child's behalf, provided that access is of benefit to the child as well as, or rather than, the adult.

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The underlying principle is that only the subject of the record should be allowed access to personal information held on herself or himself and that access should be granted as extensively as possible in the light of the individual's age and level of understanding.

Children have the same rights to see their records as adults so long as staff are satisfied that they understand the implications of what they are doing and that no information in the records would cause serious harm to anyone.

Parents do not have an automatic right of access to information held on their child's file since interests of the parent and child may conflict.

The child's wishes should therefore be ascertained and respected before a decision is made whether to share records with the parents. A request for access from a parent of a young child who is being accommodated would usually be granted but the decision remains at the discretion of the registered manager.

Service users who have a learning disorder or suffer from a psychiatric illness have the normal right of access to information and the right to refuse access to their nearest relative.

When a request for access by a friend or relative is made and it is considered that the service user is unable to make a reasonable response, access should be at the discretion of the registered manager.

Material to Which Access May Be Granted

Service users are entitled to access records, which were compiled after 1st April 1989.

It will be rare for Foster Care Link to hold information compiled prior to this date, although it would be possible, for example where a carer had previously fostered for another agency and Foster Care Link had obtained information pertaining to their previous approval.

Although service users have no entitlement to see material gathered prior to this date, good practice would be to allow access to earlier material unless there are strong reasons for not doing so.

Staff would need to have particular regard to third party information as the provider of such information would not have been aware at the time of providing such information, of the possibility of future disclosure.

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Material to Which Access May Not Be Granted

This will normally be restricted to information contained in the Confidential module of the case file, such as personal references.

However, such information will be kept to a minimum and that the filing of papers in this module does not in itself restrict access. Information will only be withheld where it can be demonstrated that allowing access might cause serious harm to either the service user or another person.

The written consent from the provider will be sought before third party information is disclosed. The withholding of such written consent by the provider will not in itself guarantee that the information will not be disclosed as the Courts have been used to overrule the withholding of such information.

Information may also be withheld in exceptional circumstances, where the registered manager is of the opinion that information about the judgements or actions of a particular worker should not be disclosed. It should be noted that such decisions might be challenged and overruled in the Courts.

Applications for Access

Applications for access to records will normally be expected to be made in writing.

Where the service user is unable to make a written request, verbal applications will be accepted at the discretion of the registered manager.

Applicants will be given a copy of Foster Care Link's leaflet on access to records which contains the following information for applicants:

- The law allows for access to be provided within 40 working days, but Foster Care Link will normally seek to provide access within 20 working days of receipt of the application
- Copies of extracts from records can be provided but no original material may be removed from files
- Some information contained within the confidential module may be withheld
- The service user will need to provide proof of identity before access is given
- Service users who are unable to read that they may have a friend or relative present at the access interview who may read to them
- A worker from Foster Care Link will be present at all times when records are accessed
- Permission will be sought from third parties before third party information is disclosed

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Circumstances of Access

Service users will normally only be able to see a case record at the Foster Care Link offices. In exceptional circumstances where the service user is unable to leave her/his home, permission may be granted by the registered manager for access to take place elsewhere.

A responsible member of staff will be present throughout to answer questions and to help the service user understand the information recorded. Counselling may be necessary in certain circumstances.

Service users who cannot read the records must be read to either by the allocated worker or by an accompanying friend or relative.

If it is agreed by both service user and the allocated worker that there is an error in the information held, a correction will be made which has been agreed by both parties.

Where there is a disagreement about the accuracy or content of the record, the service user has the right to have her/his account of the situation added and the fact of the disagreement recorded.

Where a service user seeks photocopies of papers from files, permission must first be sought from the registered manager. Requests will be judged on a case by case basis, but third party information should never be copied for service users without the prior approval of the provider.

At the end of the interview, the service user will be asked to sign a statement indicating that access had been given.

Record of Access Requests

So that the extent and nature of demand for access can be monitored, a central record of requests will be kept.

The fact that a record has been accessed will also be recorded on the individual case record.