

04 March 2020

## Reference – IR-054

Thank you for submitting your request for an internal review of our response to your Freedom of Information (FOI) request. We received your request for an internal review on 27 February 2020.

The date we received your FOI request was 7 February 2020, and it was assigned the reference IR-038.

I have conducted an internal review of our response and provided the findings below.

---

## Your Freedom of Information request (IR-038)

### Received 7 February 2020

*1. Under GDPR 2018 and Data Protection Act 1998, can a social worker obtain parents/guardians/foster carers personal details under a Section 47 (enquiry/investigation) or Section 17 child in need?*

*A. If yes, can you share in policies and procedures, the law and does this require informed consent?*

*2. Under GDPR 2018 and DPA 1998, can a social worker obtain information from your employer or call your workplace?*

*A. If yes, share in your policies and procedures and the law?*

*3. Under GDPR 2018 and DPA 1998, is a social worker permitted to access foster Carer/parents/guardians personal information as part of proceedings?*

*A. If yes what information are they allowed to obtain With and without knowledge?*

*4. Can a social worker be in two roles at the same time, for example be a independent reviewer and a social worker/Guardian and a social worker?*

*A. If yes can you share in your policies and procedures and the law?*

*5. Can a social worker place a child (S47) with a family member/friend/colleague under regulation 24?*

*A. If yes , can you share policies and procedures and the law?*

*B. If there is more than on child in the household and an assessment was conducted on one (eldest not the younger ones) not all children, can the child still live with the friend/family/colleague; does regulation 24 still cover this or does there need to be a separate assessment?*

*C. Does regulation allow the friend/family/colleague to become a foster Carer?*

---

## Our initial response to your Freedom of Information request (IR-038)

Sent 25 February 2020

Thank you for your request for information.

The Freedom of Information Act enables requests for recorded information held, or thought to be held, by a public authority, and not general questions or legal advice. We consider that some of your requests are general questions or requests for legal advice about how the law in England and Wales applies to the disclosure of information to social workers in specific situations, the laws under which social workers operate and general law in relation to social work.

It is not a requirement of the Act for information to be produced in order to respond to a request. Social Work England does not hold any information that provides explanations in relation to your requests.

You have also requested copies of policies/procedures. However, it is not part of Social Work England's role to formulate the policies/procedures you have requested, and we do not hold any such policies/procedures.

Although we have not been able to provide the information you requested, we are keen to assist. Whilst it is not part of our role to provide general legal advice, we have provided below links to some relevant information available online which may help. This includes further information above about our role and about the General Data Protection Regulation and the Data Protection Act 2018.

Social Work England's role is to protect the public through the regulation of social workers in England. Further information regarding our role can be found on our website here <https://www.socialworkengland.org.uk/about/what-we-do/>

Information regarding the standards that are expected of social workers can be found here <https://www.socialworkengland.org.uk/standards/professional-standards/>

If you have a concern about a social worker you can raise a concern here <https://www.socialworkengland.org.uk/concerns/raise-a-concern/raise-a-concern-about-a-social-worker/raise-a-concern-as-a-member-of-the-public/>

Information regarding the General Data Protection Regulations and the Data Protection Act 2018 can be found on the Information Commissioner's Office website here <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>

---

## Your request for an internal review

Received 27 February 2020

*I am writing to request an internal review of Social Work England's handling of my FOI request 'Social Work: S47 & S17 GDPR 2018 & Data Protection Act 1998', my request does not seek legal advice, either yes or no.*

*A full history of my FOI request and all correspondence is available on the Internet at this address:*

*[https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fsocial\\_work\\_s47\\_s17\\_gdpr\\_2018\\_da&data=02%7C01%7Cenquiries%40socialworkengland.org.uk%7Ca615eda3f0404ffa1d6508d7bb26dca6%7C687e5818d7b4485783d1ddad97154a74%7C0%7C0%7C637183647903283406&sdata=7TebfFU8LV8sqiM6kLzCg%2BlpZtveUqcaNf3HrHMh8WM%3D&reserved=0](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fsocial_work_s47_s17_gdpr_2018_da&data=02%7C01%7Cenquiries%40socialworkengland.org.uk%7Ca615eda3f0404ffa1d6508d7bb26dca6%7C687e5818d7b4485783d1ddad97154a74%7C0%7C0%7C637183647903283406&sdata=7TebfFU8LV8sqiM6kLzCg%2BlpZtveUqcaNf3HrHMh8WM%3D&reserved=0)*

---

## Our internal review findings (IR-054)

I have considered your Freedom of Information request in detail, and our initial response to that request. I can confirm that Social Work England does not hold the information you requested. I felt it may be helpful to explain this in further detail in response to the individual questions you have asked. I have added some explanations below each question, in blue text. Some of the responses I have provided are repeated below different questions; I have considered each question in turn and the same principles apply to different questions.

Generally speaking, the Freedom of Information Act facilitates requests to public authorities to disclose information that they already hold. Whilst any information disclosed may potentially be useful to the public, the Act is not designed to cause public authorities to put together a response where they do not already hold the information. If a public authority already held information (i.e. information which did not need to be put together from scratch) which would provide an answer to a question, then it could potentially disclose it – but that is not the case in relation to the information you have requested.

You may be able to obtain the advice you are looking for from your local authority, or the Citizen's Advice Bureau (CAB). The CAB can be contacted here:

<https://www.citizensadvice.org.uk/>

*1. Under GDPR 2018 and Data Protection Act 1998, can a social worker obtain parents/guardians/foster carers personal details under a Section 47 (enquiry/investigation) or Section 17 child in need?*

Section 17 of the Children Act 1989 is about the provision of services for children in need, their families and others. It sets out the duties of local authorities. Section 47 of the Act is about the duty of a local authority to investigate.

Social Work England is not itself a local authority, and we do not regulate local authorities. Our role is to regulate social workers; so, for example, if a social worker's fitness to practise is called into question, we would investigate this and we may issue sanctions against the social worker, up to and including removal from the public register.

As to whether Sections 17 and 47 of the Children Act 1989 permit a social worker to obtain parents'/guardians'/foster carers' personal details, this is in essence a legal question, because it is about what the law allows people to do. It is not part of our role to provide legal advice on this matter to social workers or members of the public, and we cannot do so. It is also not a matter upon which we have had to obtain legal advice. We might have to do so in the future, for example if it is relevant to a social worker's fitness to practise case. However, in that case it may be fact-specific depending on the circumstances, and it is likely that we would obtain it under legal privilege. As such, it would be exempt from disclosure under Section 42 of the Freedom of Information Act.

As to whether the General Data Protection Regulation and the Data Protection Act 2018 (which replaced the Data Protection Act 1998) would have any bearing on whether a social worker could obtain parents'/guardians'/foster carers' personal details, this is also a question of law, and we do not hold any information which would provide an answer.

*A. If yes, can you share in policies and procedures, the law and does this require informed consent?*

Social Work England does not hold this information. It does not have any policies or procedures relating to the information requested.

The relevant law is available here:

Children Act 1989: <http://www.legislation.gov.uk/ukpga/1989/41/contents>

General Data Protection Regulation: <https://gdpr-info.eu/>

Data Protection Act 2018: <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

We cannot provide any further interpretation of this for you. To do so would amount to giving legal advice.

*2. Under GDPR 2018 and DPA 1998, can a social worker obtain information from your employer or call your workplace?*

Social Work England does not hold this information. This is in essence a legal question, because it is about what the law allows people to do. It would be for each employer to determine whether or not to release information, if a social worker requested it.

It is not part of our role to provide legal advice on this matter to social workers or members of the public, and we cannot do so. It is also not a matter upon which we have had to obtain legal advice. We might have to do so in the future, for example if it is relevant to a social worker's fitness to practise case. However, in that case it may be fact-specific depending on the circumstances, and it is likely that we would obtain it under legal privilege. As such, it would be exempt from disclosure under Section 42 of the Freedom of Information Act.

*A. If yes, share in your policies and procedures and the law?*

Social Work England does not hold this information. It does not have any policies or procedures relating to the information requested.

The relevant law is available here:

General Data Protection Regulation: <https://gdpr-info.eu/>

Data Protection Act 2018: <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

We cannot provide any further interpretation of this for you. To do so would amount to giving legal advice.

*3. Under GDPR 2018 and DPA 1998, is a social worker permitted to access foster Carer/parents/guardians personal information as part of proceedings?*

Social Work England does not hold this information. This is in essence a legal question, because it is about what the law allows people to do.

It is not part of our role to provide legal advice on this matter to social workers or members of the public, and we cannot do so. It is also not a matter upon which we have had to obtain legal advice. We might have to do so in the future, for example if it is relevant to a social worker's fitness to practise case. However, in that case it may be fact-specific depending on the circumstances, and it is likely that we would obtain it under legal privilege. As such, it would be exempt from disclosure under Section 42 of the Freedom of Information Act.

*A. If yes what information are they allowed to obtain With and without knowledge?*

Social Work England does not hold this information. It does not have any policies or procedures relating to the information requested.

*4. Can a social worker be in two roles at the same time, for example be a independent reviewer and a social worker/Guardian and a social worker?*

Social Work England does not hold this information. It appears that a local authority may be better placed to answer this question. You may wish to contact your local authority to ask them about it.

*A. If yes can you share in your policies and procedures and the law?*

Social Work England does not hold this information. It does not have any policies or procedures relating to the information requested.

*5. Can a social worker place a child (S47) with a family member/friend/colleague under regulation 24?*

Section 47 of the Children Act 1989 is about the duty of a local authority to investigate.

Social Work England is not itself a local authority, and we do not regulate local authorities. Our role is to regulate social workers; so, for example, if a social worker's fitness to practise is called into question, we would investigate this and we may issue sanctions against the social worker, up to and including removing them from the public register.

As to whether Section 47 of the Children Act 1989 permits a social worker to place a child with a family member/friend/colleague under regulation 24 of The Care Planning, Placement and Case Review (England) Regulations 2010, this is in essence a legal question, because it is about what the law allows people to do. It is not part of our role to provide legal advice on this matter to social workers or members of the public, and we cannot do so. It is also not a matter upon which we have had to obtain legal advice. We might have to do so in the future, for example if it is relevant to a social worker's fitness to practise case. However, in that case it may be fact-specific depending on the circumstances, and it is likely that we would obtain it under legal privilege. As such, it would be exempt from disclosure under Section 42 of the Freedom of Information Act.

*A. If yes , can you share policies and procedures and the law?*

Social Work England does not hold this information. It does not have any policies or procedures relating to the information requested.

The relevant law is available here:

Children Act 1989: <http://www.legislation.gov.uk/ukpga/1989/41/contents>

The Care Planning, Placement and Case Review (England) Regulations 2010:  
<http://www.legislation.gov.uk/uksi/2010/959/contents/made>

We cannot provide any further interpretation of this for you. To do so would amount to giving legal advice.

*B. If there is more than one child in the household and an assessment was conducted on one (eldest not the younger ones) not all children, can the child still live with the friend/family/colleague; does regulation 24 still cover this or does there need to be a separate assessment?*

Social Work England does not hold this information. This is in essence a legal question, because it is about what the law allows people to do.

It is not part of our role to provide legal advice on this matter to social workers or members of the public, and we cannot do so. It is also not a matter upon which we have had to obtain legal advice. We might have to do so in the future, for example if it is relevant to a social worker's fitness to practise case. However, in that case it may be fact-specific depending on the circumstances, and it is likely that we would obtain it under legal privilege. As such, it would be exempt from disclosure under Section 42 of the Freedom of Information Act.

The relevant law is available here:

The Care Planning, Placement and Case Review (England) Regulations 2010:  
<http://www.legislation.gov.uk/uksi/2010/959/contents/made>

We cannot provide any further interpretation of this for you. To do so would amount to giving legal advice.

*C. Does regulation allow the friend/family/colleague to become a foster Carer?*

Social Work England does not hold this information. This is in essence a legal question, because it is about what the law allows people to do.

It is not part of our role to provide legal advice on this matter to social workers or members of the public, and we cannot do so. It is also not a matter upon which we have had to obtain



legal advice. We might have to do so in the future, for example if it is relevant to a social worker's fitness to practise case. However, in that case it may be fact-specific depending on the circumstances, and it is likely that we would obtain it under legal privilege. As such, it would be exempt from disclosure under Section 42 of the Freedom of Information Act.

The relevant law is available here:

The Care Planning, Placement and Case Review (England) Regulations 2010:

<http://www.legislation.gov.uk/uksi/2010/959/contents/made>

We cannot provide any further interpretation of this for you. To do so would amount to giving legal advice.

## Your right to complain

We hope that this information has been helpful. We are committed to being an open and transparent organisation and aim to proactively publish as much information as possible.

If you are not satisfied with the way in which we have handled your request, you are entitled to ask the Information Commissioner to assess whether we have complied with our obligations under the Freedom of Information Act. You can contact them using the details below:

Online:

[www.ico.org.uk](http://www.ico.org.uk)

Post:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Kindest regards,

**Greg Lawton**

**Head of Data Protection and Information Governance**

1 North Bank, Blonk Street, Sheffield, S3 8JY