



Management CIRCULAR No.

64

December 2007
Management Circular No. 64

Glasgow City Council
Education and
Social Work Services
Wheatley House
25 Cochrane Street
Merchant City
Glasgow G1 1HL

To **Heads of all Educational Establishments**

Dear Colleague

Procedures Governing Parental/Carer Access to Child's or Young Person's Educational Records

Procedures for a parent/carer accessing a child's or young person's educational record are now governed by The Pupils' Educational Records (Scotland) Regulations 2003 (No. 581). This Management Circular replaces the previous Management Circular No. 64 and outlines the procedures to be followed by Education and Social Work Services staff in responding to a request by a parent/carer to access a child's or young person's Educational Record.

The Education (Disability Strategies & Pupils' Educational Records) (Scotland) Act 2002 gives authority to Scottish Ministers to introduce Regulations that reinstate an independent right for parents/carers in Scotland to access their children's school education records. These Regulations arise from that authority under statute. Previously, the School Pupil Records (Scotland) Regulations 1990 (*"the 1990 regulations"*) provided parents/carers with an independent right to access their child's school education records. The 1990 Regulations were specifically expressed as applying only to information that was not subject to data protection legislation. As the 1984 Act applied only to computerised records, this meant that the 1990 regulations allowed access to manual records. When the Data Protection Act 1998 extended data protection provisions to manual records, the 1990 regulations were effectively emptied of force. The 1990 Regulations have now been formally repealed by The Pupils' Educational Records (Scotland) Regulations 2003 (No. 581).

Where a child or young person wishes to access his or her own Educational Record it would be by a subject access request within the terms of the Data Protection Act 1998. This Management Circular does not cover these matters.

Schools, nurseries, Psychological Service or any other service within Education and Social Work Services can receive requests. This Management Circular applies to all such requests, but for ease, reference is made to Head of Establishment and schools.

The procedures outlined here must be complied with. Any divergence from these could result in a complaint to the authority.

Background

Parents/Carers have an independent in law right to access their child's educational records under the terms of The Pupils' Educational Records (Scotland) Regulations 2003. These Regulations are now incorporated within this Management Circular No. 64.

Definition of Parent

'Parent' is widely defined and includes carer, any person liable to maintain the child or young person, or who has care of the child or young person etc. This means that the unmarried father, who does not have automatic parental rights in relation to the child's or young person's welfare, does have rights in relation to the child's or young person's education and this includes the right to make a request to access the child's or young person's Educational Records.

Definition of an Educational Record

An educational record means any record of information, excluding information contained in a Record of Needs or Co-ordinated Support Plan, which:

- are processed by or on behalf of the authority;
- relate to any person who is or has been a pupil at the school;
- relate to the school education of that person; and
- originated from or supplied by a teacher; any other employee of the responsible body, the child or young person to whom the information relates; or a parent/carer of that child or young person.

Matters referred to as Educational Records

An educational record could include the Pupil Progress Report, attendance record, correspondence to and from the parent/carer, any examples of schoolwork of the child or young person etc. In short it relates to anything to do with the child's or young person's school education. This includes pre-school education in a nursery school or class for children in the year prior to a child commencing primary school. Heads of Establishment and Area Education Managers should note that the broad definition of educational record involves more than the information contained in the child or young person file held by the school. Also included would be any report from the Learning Support Teacher, information from the Psychological Service, Network Support, Education Liaison Officer and Home Link Worker etc. In addition it would include any information from Education and Social Work Services provided this relates to the child's or young person's education (although not Social Work Background Reports etc.). Where an educational record makes reference to any third party however e.g. another child or young person, consent would have to be sought from that person or his/her parent/carer or that name must be blanked out before disclosing the record.

Any information provided, however, by the NHS Greater Glasgow and Clyde or any agency external to Glasgow City Council, including voluntary agencies is not an educational record and should therefore not be disclosed even if it refers to the child's or young person's school education. The parent/carer, if seeking this information, requires making a request to the NHS Greater Glasgow and Clyde or other body under the Data Protection Act 1998. Education and Social Work Services is under no legal obligation however to direct the parent/carer to this.

In addition, any information which is kept and intended to be kept by a teacher or by an employee of the authority solely for their own use is not an educational record and need **not be disclosed**.

Education Records that should not be disclosed

Heads of Establishment **must not disclose** any information that:

- is personal data processed by a court and consisting of information supplied in a report or other evidence given to the court or a Children's Hearing;
- is sensitive personal data such as any information relating to the racial or ethnic origin, physical or mental health or condition of the child or young person;
- consists of a reference given or to be given in confidence by the authority for the purposes of the education, training or employment, or prospective education, training or employment, of the child or young person;
- is **any** information to the extent that its disclosure would, in the opinion of the authority, be likely to cause **significant distress** or **harm** to the child or young person or any other person.

Determining if disclosure will cause *significant distress* or *harm* to the child or young person or any other person

That is a matter that the Head of Establishment has to determine on the basis of the information available and following advice where appropriate from Area Education Manager and/or Chief Executive's Department Legal and Administration Services Section. The presumption would be, however, that educational records be disclosed to the parent/carer making the request. An establishment cannot refuse to disclose records simply because one parent/carer and/or child or young person does not want the other parent/carer to have such access. Consent is not required from one parent/carer for disclosure of information to any other parent/carer.

Procedure to be followed when a Request is received

Any parental/carer request must be in writing or some other permanent form and state the name of the applicant and an address for correspondence and describe the information requested. The school must within **15 school days of receipt of the request**, make the educational records available for inspection free of charge, to that parent/carer. The parental/carer request applies to information held at the date of receipt of the request, but if any correction, addition or erasure is made between that time and the time when the information is supplied or inspected, the parent/carer must be supplied with the amended information. Heads of Establishment should also note that the 15 days refers only to days when the school is open. Should a request be received prior to the holidays, the counting of the 15 days should stop on the day the school closes and would only recommence after the school re-opened.

Upon receipt of the request, the Head of Establishment should therefore:

- Establish that it is a competent request e.g.
 - i. it is in writing (this can include e-mail, fax);
 - ii. the school can satisfy themselves as to the identity and address of the person making the request;
 - iii. it describes the information requested.
- Calculate the 15 day timescale.
- Acknowledge the request in writing, within two working days, using Letter 1 in the Annex.
- Ascertain if there is a need to refer the matter to Area Education Manager for guidance on whether the request is a matter that needs to be co-ordinated from headquarters.

- If the request need not be referred to Area Education Manager, the Head of Establishment should appoint a member of the SMT to draw together from within the school and/or other sources e.g. Psychological Service etc. any educational records held in relation to the child or young person within the 15 school days.
- Determine if there are grounds for not disclosing any or all of the educational records.
- Liaise with the parent/carer regarding arrangements for the inspection of the records using Letter 2.
- To ensure that the original documents are maintained, establishments may wish to make an inventory of the records being made available for inspection and/or provide the parent/carer only with photocopies for inspection.
- Maintain a record of all requests.

Inspection of the records

This would normally be undertaken in the establishment that a child or young person is attending and a room should be set aside for this purpose. Where in the opinion of the Area Education Manager the matter should be co-ordinated by headquarters then inspection would be there. The parent/carer is allowed to request a photocopy of any educational records they inspect and a nominal charge can be made for this. Advice on this can be obtained from Chief Executive's Department Legal and Administration Services Section.

Request by a parent/carer to have Educational Records in an alternative format

Where a parent/carer requests that the information is supplied in an alternative language or form, this must be complied with, unless the request is not reasonable.

Responding to Repeated Requests

The school is not obliged to comply with subsequent identical or a similar request by a parent/carer unless there has been a change in circumstances or a reasonable interval has elapsed since compliance with the previous request.

Retention of Educational Records

For a period of five years following the child or young person having ceased receiving school education.

Correction of the records

Where following inspection, a parent/carer draws to the attention of the Head of Establishment any inaccuracies in the educational records of that child or young person, there is a requirement, if found to be the case, that such matters are corrected and the parent/carer, who made the request, must be provided with a copy of the rectified information.

Advice

Heads of Establishment should seek advice from their appropriate Area Education Manager and/or Chief Executive's Department Legal and Administration Services Section on any matter referred to in this Management Circular. Where a request is received from a solicitor acting for a parent/carer, Heads of Establishment are in particular advised to contact Chief Executive's Department Legal and Administration Services Section.

Yours sincerely

Margaret Doran
Executive Director: Education and Social Work Services



**Executive Director
Education and Social Work Services**
Margaret Doran

Name of Educational Establishment
Address of Educational Establishment
Continuation Line
Glasgow G0 0AA
Phone 0141 000 0000
Fax 0141 000 0000
Email headteacher@establishment.glasgow.sch.uk
Web www.establishment.glasgow.sch.uk

Head of Establishment
Name of Head of Establishment

Name of Addressee
Address
Continuation Line
GLASGOW
G0 0AA

Our ref Your ref
Date

Draft Letter 1 to Parent/Carer acknowledging Request

Dear Parent/Carer

YOUR CHILD'S EDUCATIONAL RECORDS

Thank you for your written request to access your child's educational records received on *(date)*. Any such request must comply with The Pupils' Educational Records (Scotland) Regulations 2003 and where the request is competent, Education and Social Work Services has 15 school days from receipt of the request to comply with the request.

Accordingly, your child's educational records will be made available for inspection free of charge by *(date)*. I am required to liaise with my Area Education Manager before I can confirm where the records will be available for inspection.

I shall contact you shortly to finalise the arrangements for inspecting the records.

Yours sincerely

Name
Head of Establishment

**If phoning or visiting please ask for
Direct phone 0141 000 0000**



**Executive Director
Education and Social Work Services**
Margaret Doran

Name of Educational Establishment
Address of Educational Establishment
Continuation Line
Glasgow G0 0AA
Phone 0141 000 0000
Fax 0141 000 0000
Email headteacher@establishment.glasgow.sch.uk
Web www.establishment.glasgow.sch.uk

Head of Establishment
Name of Head of Establishment

Name of Addressee
Address
Continuation Line
GLASGOW
G0 0AA

Our ref Your ref
Date

Draft Letter 2 to Parent/Carer regarding arrangements to inspect Records

Dear Parent/Carer

YOUR CHILD'S EDUCATIONAL RECORDS

I have arranged that your child's educational records will be available for inspection at (*venue/location*) on (*date*) at (*time*).

You should report to the school office.

Yours sincerely

Name
Head of Establishment

**If phoning or visiting please ask for
Direct phone 0141 000 0000**

Regulation 7(5)

Schedule

Health Professionals

Statutory Derivation (where applicable)	Description
Any medical practitioner registered under the Medical Act 1983(a)	Medical Act 1983. Parts II, III and IV
Registered Dentist	Dentists Act 1984(b), Section 53(1)
Registered Optician	Opticians Act 1989(c), Section 36(1)
Registered Pharmaceutical Chemist	Pharmacy Act 1954(d), Section 24(1)
Registered Nurse, Midwife or Health Visitor	Nurses, Midwives and Health Visitors Act 1979(e), Section 10
Registered Chiropodist, Dietician, Occupational Therapist, Orthoptist or Physiotherapist (subject to the note below)	Professions Supplementary to Medicine Act 1960(f), Section 1(2)
Clinical Psychologist, Child Psychologist or Speech Therapist	
Art Therapist or Music Therapist employed by a Health Board	
Scientist employed by such a board as head of department	

Note

This category shall be construed as not including any person belonging to a profession specified in the first column which, by virtue of an Order under Section 10 of the Professions Supplementary to Medicine Act 1960, is for the time being treated as if it were not mentioned in Section 1(2) of that Act and as including any person belonging to a profession not specified therein which is for the time being treated by virtue of such an Order as if it were mentioned therein.



Access to Children's and Young People's Records

Formal Access Request

PLEASE USE BLACK INK AND BLOCK LETTERS

To: Head of Establishment/Area Education Manager

1	Name of Child/Young Person
	Date of Birth
	Address
	Postcode
	Phone
	Name of Establishment

2	If you are not the child/young person named above, please complete the following:	
	Name of person making request	
	Address	
	Postcode	
	Phone	
	Relationship to child/young person	<input type="checkbox"/> Parent <input type="checkbox"/> Carer <input type="checkbox"/> Other (please specify) _____

3	I would like to have access to any record which Education and Social Work Services holds on the child/young person named in Section 1.	
	I confirm that there is no court order preventing me from obtaining access to this information.	
Signature	Date	

Data Protection Act: The Council is under an obligation to manage public funds properly. Accordingly information that you provide will be used to ensure all sums due to the Council are paid timeously, e.g. by identifying persons who are non-payers of Council Tax and to improve uptake of Benefits. The information may also be used to prevent and detect fraud. It is also possible that this information may be shared for the same purpose with public bodies, including neighbouring Councils or other organisations, which handle public funds.

The School Pupils Records (Scotland) Regulations 1990 and the Further Education Student Records (Scotland) regulations 1990 incorporates and widens the meaning given in the Education (Scotland) Act 1980 to the term “*Parent*”.

“*Parent*” therefore includes:

- a) any person who has actual custody of a child or young person;
- b) any person who is liable to maintain a child or young person;
- c) any person who has been appointed a carer of a child or young person;
- d) any person who is legally entitled to administer the affairs of a child or young person;
- e) any person who appears to the education authority to have assumed actual responsibility for the child or young person.

1. Non Custodial Parents

In general, rights under the Regulations extend to both parents whether they remain together or whether they are separated or divorced. Even if one parent has been granted sole custody, the other spouse retains full rights under the Regulations. It should be noted that even if the non-custodial spouse has been divested of access to the child or young person, the right of access to the child’s or young person’s record remains.

Exceptions

- i. The Courts have power to divest parents of their rights under the Regulations. This will be an extremely unusual occurrence. The formal access request (Appendix 2) asks for confirmation that no such court order is in existence.
- ii. The father of an illegitimate child or young person who does not come within the definition of parent under 1 a) to e) above does not have an automatic right of access but disclosure of the child’s or young person’s progress record may be made at the discretion of the authority in terms of Paragraph 10(3) of the Schools General (Scotland) Regulations 1975. Entitlement to access may arise by virtue of such a parent appearing to have assumed actual responsibility for the child or young person.