



Children & Enterprise Directorate

Communities Directorate

Subject Access Requests  
(Social Care Records)

Policy, Procedure and Practice

April 2012



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## INFORMATION SHEET

<b>Service area</b>	All social care staff
<b>Date effective from</b>	May 2012
<b>Responsible officer(s)</b>	<ul style="list-style-type: none"> <li>• Principal Manager, Representation &amp; Information Services</li> <li>• Caldicott Guardian</li> </ul>
<b>Date of review(s)</b>	May 2014
<b>Status:</b> <ul style="list-style-type: none"> <li>• <b>Mandatory (all named staff must adhere to policy)</b></li> <li>• <b>Optional (procedures and practice can vary between teams)</b></li> </ul>	Mandatory
<b>Target audience</b>	All social care staff
<b>Date of committee/SMT decision</b>	14 <sup>th</sup> May 2012
<b>Related document(s)</b>	Data Protection Act 1998 Freedom of Information Act 2000
<b>Superseded document(s)</b>	Access to Personal Records - 2008
<b>File reference</b>	

	<b>POLICY</b>	<b>PRACTICE</b>
<b>1.0</b>	<b>Introduction</b>	
1.1	<p><b><u>The Data Protection Act 1998</u></b></p> <p>The <i>Data Protection Act 1998</i> (“DPA”) establishes a framework of rights and duties which are designed to safeguard personal data. It enables all people who have information held about them, whether electronic or paper, to access this information. Halton Borough Council (“HBC”) has a legal duty to comply with valid requests for the release of information.</p> <p>One of the main rights the DPA gives to individuals is the right of access to their personal data. An individual may send a “Subject Access Request (“SAR”) requiring HBC to provide them with certain information.</p> <p>There are some exceptions, which mean the person making the SAR may not be entitled to see some of the information held about them, for example:-</p> <ul style="list-style-type: none"> <li>• where disclosure would be prejudicial to crime prevention and detection;</li> <li>• where data is held under legal privilege;</li> <li>• where disclosure of information concerning health or social work concerns would cause serious harm to an individual;</li> <li>• copies of certain court reports may only be provided with the leave of the specific court.</li> </ul> <p>If it is considered that granting access to a person is likely to result in serious harm to anyone, this information can be withheld but reasons for doing so must be clearly justified and recorded. The decision to exclude such information should be referred to the relevant Line Manager/Legal Services.</p> <p>The DPA relates only to <i>living individuals</i> and imposes no obligation to provide information on deceased persons.</p>	<p><i>Sections 7–9 of the Data Protection Act 1998 give the “right to subject access” to individuals in respect of personal data held about them by others.</i></p> <p><i>The Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 states, “where other enactments themselves prevent disclosure, then a data subject cannot rely on the DPA to seek access to records. These include, for example, court documents...”</i></p> <p><i>The Data Protection (Subject Access Modification) (Social Work) Order 2000 states that “personal data held for the purposes of social work are exempt from the subject access provisions, where the disclosure to the data subject would be likely to prejudice the carrying out of social work, by causing serious harm to the physical or mental health, or condition, of the data subject, or another person.”</i></p> <p><i>The Data Protection (Subject Access Modification) (Health) Order 2000 states “the authority must not disclose information about a physical or mental health or condition without first consulting an ‘appropriate health professional.’”</i></p> <p><i>Refer to the Department of Health’s report “Data Protection Act 1998: Guidance to Social Services – March 2000.”</i></p>
1.2	<p><b><u>The Freedom of Information Act 2000</u></b></p> <p>The <i>Freedom of Information Act 2000</i> (“FOI”) provides public access to information held by public authorities about their activities. The FOI does NOT give people access to their own personal data, such as health or social care records. Access to this sort of information must be obtained by making a SAR under the DPA.</p> <p>Because of the nature of the information contained within most of the records held and the complexities of the DPA and in order to ensure that legal obligations are met, it is essential that all those concerned with processing a SAR adhere to the procedures given.</p> <p>The <i>Subject Access Request Flowchart (Appendix 1)</i> shows the process to be followed. A copy of the SAR Application Form is at <b>Appendix 2</b> and Guidance Notes for completing the Form are at <b>Appendix 3</b>. If there are any doubts or concerns about how to deal with a request, advice must be sought from the Caldicott Guardian, the Data Protection Lead Officer (DPLO), the Customer Care Team (CCT) or Legal Services, as appropriate.</p>	

1.3	<p><b>Other legal duties and court ordered disclosure</b></p> <p>It should be noted that other legal duties exist under which the Council may be obliged to disclose information. These include where a court of relevant jurisdiction orders such disclosure.</p>	
1.4	<p><b>Plans for the future</b></p> <p>The electronic social care record must be developed in order to give Applicants more control over who will be able to access and use records about their care. The plan is that Applicants will be able to access their care records on the internet.</p> <p>The CCT will assist the relevant Principal Manager in working with partners in the NHS to ensure that Applicants' access to care records is secure.</p>	<p><i>"The Social Care Record Guarantee" launched 12<sup>th</sup> November 2009 indicates that electronic records should be developed.</i></p>
1.5	<p><b>Training</b></p> <p>Members of staff who may be involved in SAR requests must be given full training on the process and procedure to be followed. This may take place as part of their initial induction or as a separate course.</p> <p><b><i>An e-learning course will be available to all staff with effect from XXX</i></b>  <i>(N.B. This course is under development – the group will be advised when it will go live at a later meeting).</i></p> <p>If, after taking appropriate advice, it is uncertain whether training is necessary, the relevant Divisional Manager must make the decision.</p>	

2.0	<b>Key Points</b>	
2.1	<p><b>Rights of access to information</b></p> <p>The DPA specifically states that a person is only entitled to access <b>their own</b> information. SARs must be made in writing, but note that:-</p> <ul style="list-style-type: none"> <li>• a request sent by email or by fax is as valid as a hard copy;</li> <li>• whilst there is no obligation to respond to an oral request, it may (depending upon the circumstances) be reasonable to do so, so long as the applicant's identity is not in doubt;</li> <li>• if a disabled person finds it impossible or unreasonably difficult to make a SAR in writing, a reasonable adjustment for this may need to be made under the <i>Disability Discrimination Act 1995</i> or <i>Equality Act 2010</i>.</li> </ul> <p>A SAR Application Form is available from Customer Services/Contact Centres/Halton Direct Link. All requests must be legible and contain sufficient information to identify the client's record(s). Whilst verifying the Applicant's identity, and until the SAR has been completed, the Notes box on the SAR system must be updated, logging dates, times and the content of all contact with the Applicant. The Applicant may only see information which they have a right to view. For further details see <b>Appendix 4 - Criteria for Sharing Information Checklist</b>.</p> <p>A record must be retained of everyone who has permission to look at an Applicant's care information. The Applicant will be able to ask for a list of everyone who can look at their records.</p> <p>There may be times when information about the Applicant needs to be disclosed without the Applicant's permission to do so, e.g. if they need emergency care. If this happens the Principal Manager of the relevant team will keep a record of the request and the response and inform the Applicant.</p>	<p><i>It is not compulsory to make a SAR in writing if it is impossible or unreasonably difficult to do so because of disability (Disability Discrimination Act 1995 and Equality Act 2000).</i></p> <p><i>There is no obligation to use the Subject Access Request form, which is available on the website <a href="http://www.halton.gov.uk">www.halton.gov.uk</a></i></p> <p><i>"The Social Care Record Guarantee", launched on 12<sup>th</sup> November 2009 and outlines the need to keep a note and/or list of people who have permission to access an Applicant's care information.</i></p>
2.2	<p><b>Confirmation of identity</b></p> <p>The identity of the person making the SAR must always be confirmed, particularly if the SAR relates to old information from closed records/cases. Where a record/case is open, the identity of the person making the SAR must be confirmed with the Lead Professional dealing with the case. It is important to confirm their identity with original personal documents, e.g.:-</p> <ul style="list-style-type: none"> <li>• a passport;</li> <li>• a photographic driving licence (Parts 1 <u>and</u> 2);</li> <li>• a bus pass;</li> <li>• a recent (less than 3 months' old) utility bill;</li> <li>• the Electoral Roll.</li> </ul>	<p><i>"Often you will have no reason to doubt a person's identity, for example if a person with whom you have regular contact sends a letter from their known address it may be safe to assume that they are who they say they are." (Source: (Information Commissioner's Office, Data Protection Good Practice Note – Checklist for handling requests for personal information (subject access requests), V1.0 09.01.07)</i></p>
2.3	<p><b>Parents requesting access to child(ren)'s information</b></p> <p>The foremost consideration when a parent requests access to a child's records is the wellbeing of the child. Disclosure of information may have a detrimental effect on the relationship between parent and child.</p> <p>If the practitioner believes that the child is old enough to understand both the nature of the request being made by the parent and the type of information which would be disclosed, careful consideration must be given to any instructions received from the child. In this situation, the parent must provide proof that they are acting with the consent of the child.</p>	<p><i>The Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 states "where other enactments themselves prevent disclosure, then a data subject cannot rely on the DPA to seek access to records. These include, for example, adoption records, reports and court documents, and parental order records and reports."</i></p>

2.4	<p><b>Other interested parties</b></p> <p>If the information is being requested by another person, clear evidence of their authority to act (such as a letter of instruction/Power of Attorney) must be provided. There is no automatic right for a person to see someone else's information. Such requests will be processed as a Third Party Request and dealt with on a case-by-case basis.</p>	
2.5	<p><b>Third parties</b></p> <p>Information in a person's record which identifies, or has been provided by, a third party, must be protected. This information may only be released if consent is given by the third party.</p>	
2.6	<p><b>Out of borough requests</b></p> <p>If the person making the SAR lives out of borough and is unable to provide the originals of the documents referred to in 2.2 above in person to an HBC office, they must have their identity verified by a solicitor.</p>	
2.7	<p><b>Deceased individuals</b></p> <p>In the case of a relative requesting to access records of a deceased relative, the Data Protection Act does <u>not</u> oblige an organisation to supply this information, as the Act relates to living individuals. If it is decided not to supply the information requested, the requester may have right of access to a deceased person's data through the Access to Health Records Act (see <a href="http://www.dh.gov.uk">http://www.dh.gov.uk</a> website or under the FOI Act. If it is decided to supply the information, the person making the request must provide documentation for appraisal by the Council i.e. a copy of the deceased person's Will appointing them as Executor to the Estate or, in the case of a person who died Intestate, original documentation which has been verified by a solicitor.</p>	
2.8	<p><b>40 day response period</b></p> <p>The Applicant must be given access to their information within 40 calendar days of a <b>valid</b> request being received. The 40 day response period begins when the identity of the person making the SAR/their representative has been confirmed; and/or all necessary information has been received to enable the information to be found.</p> <p>This applies only to eligible requests under the DPA.</p>	<p><i>The Data Protection 1998 Act requires disclosure of records within 40 consecutive (calendar) days)</i></p>
2.9	<p><b>Disclosing Sensitive Information</b></p> <p>The Criteria for Sharing Information Checklist (see <b>Appendix 4</b>) must be used by the Principal Manager/or a delegated person to ensure that it is appropriate to share the information. In particular, Eligibility, Consent, Capacity and Best Interest need to be considered.</p> <p>Once information is ready for sharing, the Principal Manager of the relevant team must give consideration to what services can assist the Applicant in understanding the information being shared (if required) or if a referral to a counselling agency should be made. In some cases, the information being disclosed could cause extreme distress (i.e. in adoption cases).</p> <p>It is recommended that a Psychologist be with the subject when reading files because of the technical information they contain. The Psychologist acts in the role of facilitator. Obviously, this role cannot be undertaken if the subject refuses or asks for a copy of the file to be sent to them.</p>	

3.0	PROCEDURE	PRACTICE
3.0	<p><b>Procedure</b></p> <p>This procedure sets specific arrangements which must be followed and timescales within which personal information must be made available.</p>	
3.1	<p><b>Receipt of a Subject Access Request</b></p> <p>A Subject Access Request (“SAR”) may be received by:-</p> <ul style="list-style-type: none"> <li>• a letter, received by the CCT;</li> <li>• a Subject Access Request Form received by email to HDL;</li> <li>• a personal request at HDL.</li> </ul> <p>As soon as a SAR is received, it must be logged on the SAR system and sent immediately to the CCT.</p>	<p><i>It is not essential to make a SAR using the form at Appendix 2 – so long as all the relevant information is provided in a written form (i.e. a letter or an email), officers must provide the requested information.</i></p> <p><i>“Access to your Record” leaflet and application form available from Office Services, the Council’s website, the Contact Centre or Halton Direct Link.</i></p>
3.2	<p><b>Recording contact</b></p> <p>The comments section of the SAR system must be updated with full details of any contact with the Applicant/any other interested or third parties. The comment should include details of the date and time of the contact, the relevant party/ies to the contact and the nature of the content. Any letters/documents which are produced will be saved onto the SAR system for the relevant, authorised staff to view.</p>	
3.3	<p><b>Requests from other interested parties</b></p> <p>If the request is from someone requesting access to another person’s files, the <i>Dealing with Other Interested Parties</i> procedure (<b>Appendix 5</b>) must be followed.</p>	
3.4	<p><b>Verifying the request</b></p> <p>The CCT will determine the request’s validity by:-</p> <ul style="list-style-type: none"> <li>• verifying whether the case is open or closed;</li> <li>• verifying any ID documents which are attached;</li> <li>• determining the time frame to which the request relates or what, in particular, the applicant wants information about.</li> </ul> <p>If either the applicant’s identity or any ID documents cannot be verified, the CCT will write to the applicant (<b>Appendix 6</b>) requesting the relevant proof/documents.</p> <p>The CCT will establish the location of the file, or obtain the file if archived, and advise the Divisional Manager of receipt of a request. The Divisional Manager will identify which Principal Manager will oversee the request.</p> <p>When a request which meets the criteria for disclosure is received, this will be recorded on the Subject Access Request Database by the CCT who will then forward the file to the relevant Principal Manager. <b>At this point, the 40 days’ time limit will commence.</b></p>	<p><i>The standard set by the Data Protection Act 1998 requires disclosure of records within 40 consecutive (calendar) days.</i></p> <p><i>The 40 days’ response time is the maximum time. The Information Commissioner’s guidance makes it clear that, if some of the information could be released earlier, it should be released. It should not be queued up and only sent as a complete bundle when the last document has been traced and is ready to be sent.</i></p>

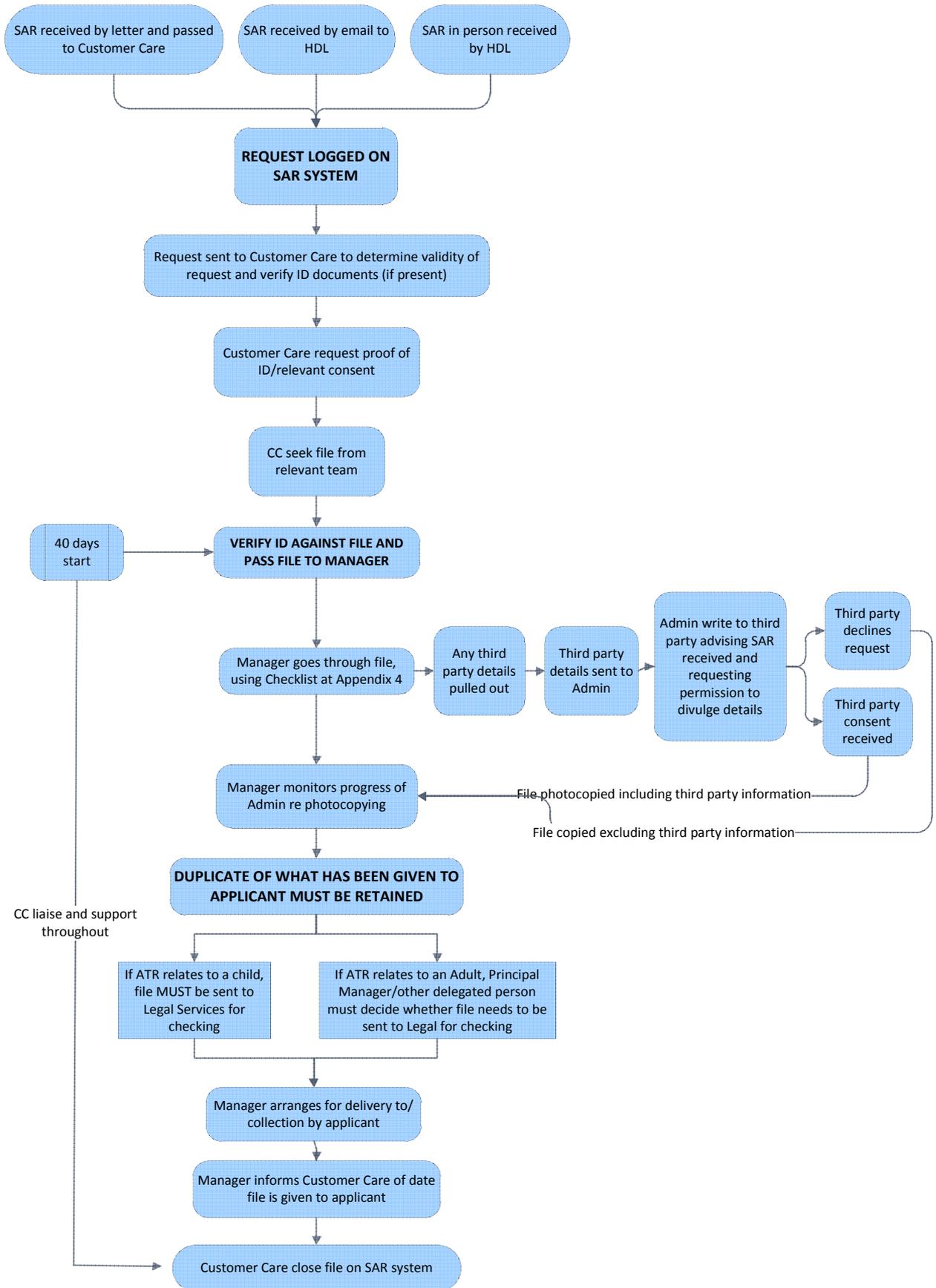
3.5	<p><b>Setting reminders</b></p> <p>The SAR system will set automatic reminders for 20, 10 and 5 days before the deadline.</p>	
3.6	<p><b>Acknowledgement of receipt of request</b></p> <p>If all the required evidence has been provided by the Applicant, the CCT will send the acknowledgement letter (<b>Appendix 7</b>) includes a <i>Request for Information Options</i> slip (<b>Appendix 8</b>) giving the options for the method of delivery of the information.</p> <p>Upon receipt of the Applicant's completed Information Options slip, CCT will inform the Principal Manager of their preferred choice of receipt of the file.</p>	<p><i>The requested information can be delivered to the applicant:-</i></p> <ul style="list-style-type: none"> <li>• <i>in person (signature required);</i></li> <li>• <i>by recorded delivery; or</i></li> <li>• <i>during an appointment made at a convenient Social Care establishment.</i></li> </ul>
3.7	<p><b>Duplicate File</b></p> <p>The Principal Manager or a delegated person (e.g. Practice Manager, Social Worker), will liaise with Admin Shared Services (ASS) to photocopy the file in duplicate format.</p>	
3.8	<p><b>Professionals and other interested parties</b></p> <p>The Principal Manager, or delegated person, of the relevant team will go through the file and make a note of any GPs, Mental Health Specialists etc. who have provided any documentation/correspondence or any other parties identified within the file, where it is reasonable to assume this information is accessible.</p> <p>The Principal Manager, or delegated person, will liaise with ASS who will send out a <i>Third Party Permission Request letter</i> (<b>Appendix 9</b>) and <i>Third Party Permission Form</i> (<b>Appendix 10</b>) together with a copy of the original request and the information proposed to be shared.</p> <p>The Principal Manager, or delegated person, will apply the <i>Criteria for Sharing Information</i> but there are some exceptions, which mean that the person making the SAR may not have the right to see some of the information held about them.</p>	
3.9	<p><b>Consent to disclose information</b></p> <p>If the professional/other interested party returns the Form agreeing to the disclosure of the relevant details to the Applicant, these details will be included in the file ASS is to photocopy. ASS will maintain a system to track these requests.</p>	
3.10	<p><b>No consent to disclose information</b></p> <p>If the professional/other interested party refuses the request to disclose the details, the relevant documentation/details will be removed from the file by the Principal Manager or delegated person.</p>	

3.11	<p><b>Refusing disclosure in order to prevent harm</b></p> <p>If consideration is being given to refusing disclosure on the basis that disclosure of the information would cause harm to the individual to whom it is disclosed, advice must be sought from Legal Services. It is likely that an independent qualified medical opinion will be necessary before such an exemption can be used.</p>	
3.12	<p><b>No reply received</b></p> <p>ASS will maintain a system to track replies.</p> <p>If no reply is received with 10 days, ASS will send a <i>Reminder Letter (Appendix 11)</i> to the professional/other interested party giving them a further 5 days to respond. If, after a further 5 days, no response has been received from the professional/other interested party, ASS will inform the Principal Manager or delegated person and the relevant information is not photocopied.</p> <p>The Principal Manager or delegated person will send to ASS what they have permission to share. It will be explained to the Applicant that some information has not been photocopied as permission to share it has not been received.</p>	
3.13	<p><b>All replies received</b></p> <p>Once all responses have been received from the professional/ other interested party, the file will be sent to ASS for photocopying.</p> <p>In disclosing information, officers must keep an exact copy of what has been sent to the data subject. If the disclosure comes under scrutiny, the Council will have a completely reliable version of what was actually sent.</p>	
3.14	<p><b>Removal of information from documents</b></p> <p>It may well be that personal data about people other than the data subject is included in documents that need to be disclosed.</p> <p>Such personal data about other people must not be disclosed to the enquirer unless the permission of the individual(s) to whom it relates has been given.</p> <p>In a case where there is personal data about other people, either their permission must be obtained or the document must be redacted so that it is removed. Typically, this is done by blocking out the information with a black liner pen. It must be checked that the blocked out information cannot be read by holding the copy up to the light.</p>	
3.15	<p><b>Legal Scrutiny</b></p> <p>For ATRs relating to Children, the file/information to be disclosed to the Applicant must be sent to Legal Services, who will advise on the disclosure of the information.</p> <p>For ATRs relating to Adults, the file/information to be disclosed to the Applicant may need to be sent to Legal Services for advice. This will be at the discretion of the Principal Manager/other delegated person.</p>	

<b>4.0</b>	<b>File ready</b>	
4.1	<p><b>Notifying the Applicant</b></p> <p>The Principal Manager will advise the Applicant by letter that the file is ready (see <b>Appendices 12, 13 and 14</b>). The letter includes:-</p> <ul style="list-style-type: none"> <li>• a Completion Form (<b>Appendix 15</b>);</li> <li>• a Record Amendment Form (<b>Appendix 16</b>); and</li> <li>• a pre-paid self-addressed envelope.</li> </ul> <p>If appropriate, the Principal Manager will advise the Applicant that there are some pieces of information which have not been disclosed, e.g. where a professional/other interested party has not given permission for disclosure.</p> <p>Any information which has been withheld should be clearly recorded on the file together with the reasons for withholding it. This is in the case of any future challenges from the Information Commissioner's Office.</p>	
4.2	<p><b>Duplicate of information sent to Applicant</b></p> <p>A duplicate file of everything which is to be sent to the Applicant will be made by ASS and stored in the record management system in case of any future query.</p>	<p><i>In disclosing information, officers must keep an exact copy of what has been sent to the data subject. If the disclosure comes under scrutiny, the Council will have a completely reliable version of what was actually sent.</i></p>
4.3	<p><b>No amendments requested</b></p> <p>If the Applicant does not request any amendments to the records, this must be noted upon the file.</p>	
4.4	<p><b>Performance Targets</b></p> <p>The CCT will update the database and monitor the process to ensure performance targets are met. If the Applicant is not satisfied with the outcome, Section 5.0 "Disputed Information" must be followed.</p>	

<p><b>5.0</b></p>	<p><b>Disputed Information</b></p>	
<p>5.1</p>	<p><b>Request to Amend Details</b></p> <p>If the Applicant considers any of the personal information on the file to be factually inaccurate, they must complete the <i>Record Amendment Form</i> and return it to the CCT.</p> <p>When a Record Amendment Form is received, the CCT must immediately send it to the Principal Manager and the Divisional Manager using the <i>Memorandum</i> at <b>Appendix 17</b>.</p> <p>Recorded opinions cannot be changed on the grounds of inaccuracy, but it must be clearly recorded on the file that the Applicant does not agree with them.</p> <p>If the Divisional Manager, Principal Manager and/or Legal Services agree that the personal information is inaccurate, it must be corrected or removed from the file and the existing records should be reviewed. The Applicant should be informed of any alterations made and a copy of the corrected record sent to them.</p> <p>If the Divisional Manager, Principal Manager and/or Legal Services do not agree that the information is inaccurate, this should be recorded on the file with the original written request from the Applicant, which indicates that they regard the information to be incorrect.</p> <p>A Divisional Manager must make decisions about the correction/removal of information from a file. It must include consultation with staff involved and, wherever possible, with the Applicant. Any further advice required must be sought from Legal Services/DPO.</p>	<p><i>It is not essential to make a Request to amend records using the form at Appendix 16 – so long as all the relevant information is provided in a written form (i.e. a letter or an email), officers must consider the request.</i></p>

**SUBJECT ACCESS REQUEST (SAR) FLOWCHART**





## DATA PROTECTION ACT 1998 SUBJECT ACCESS REQUEST APPLICATION FORM

*If you are **only** requesting **CCTV images**, do not use this form: telephone 0303 333 4300 Ext. 3140*

Please refer to the guidance notes before completing this form.

This form is to be used when an individual (The Data Subject) wishes to access personal data held by Halton Borough Council. There is currently no fee payable for this service.

### PLEASE USE BLOCK CAPITALS

#### SECTION 1 - APPLICANT (TO BE COMPLETED IN ALL CASES)

Please place a tick in the box for one of the following:

I am the Data Subject. I am requesting access to my personal information

I am not the Data Subject. I am requesting information on behalf of the Data Subject

#### SECTION 2 - THE DATA SUBJECT (TO BE COMPLETED IN ALL CASES)

Surname:	
Forename(s):	
Title: Mr/Mrs/Miss/Ms/Other (please specify):	
Previous name(s):	
Date of birth:	
Address:	
Post code:	
Telephone number:	
Email address:	

If you have lived at this address for less than two years please provide previous address below:

Previous Address:	
Post code:	

**SECTION 3 - REPRESENTATIVE'S INFORMATION**

**(to be completed if you are applying as the Data Subject's representative)**

Relationship to the Data Subject:	
Surname:	
Forename(s):	
Title: Mr/Mrs/Miss/Ms/Other (please specify)	
Date of birth:	
Address:	
Post code.	
Telephone number:	
Email address:	

Please use the sections below to explain your entitlement to receive the Data Subject's personal data (for example, Data Subject's signed authority, Lasting Power of Attorney or Parental Responsibility)

What authorisation documents have you enclosed?

**SECTION 4 – SERVICE AREA**

Please tick to select the service area you require information from:-

- Social Care (Adults)       Social Care (Children)       Housing Benefits
- Council Tax       Other (please specify below)

If 'Other' selected, please include details in the box below

Please provide details of the specific information you require, together with any relevant dates.

Details of specific information required	Date(s) information relates to	Service area (if more than one selected above)	Officer name/ social worker	Date of last contact with area

**SECTION 5 - IDENTIFICATION**

You must provide **two original** forms of identification to confirm the identity of the Data Subject, one which confirms their identity and one which confirms their current address. Please provide one document from each list below. Photocopies are not acceptable.

You can take your original documents into any of the Halton Direct Link offices listed below or alternatively if you are not from the area, via a Solicitor, to be verified.

**Note: If you are a representative applying on behalf of the Data Subject, you must also provide two forms of identification which confirm your identity and current address.**

Acceptable proof of identity:-

- Current Passport
- Birth certificate
- Unexpired photo card driving licence (full or provisional)

Acceptable proof current address:-

- Utility bill dated within the last three months
- Council Tax bill for current year
- Unexpired old style paper driving licence
- Bank statement dated within the last three months
- Benefits Agency/State Pension correspondence (on letter-head) dated within the last three months

## SECTION 6 - DATA SUBJECT'S DECLARATION

Please select one of the following statements:

- I confirm I am the Data Subject. I wish to receive a copy of my personal records
- I confirm I am the Data Subject and I give my consent for my representative to receive a copy of my personal records on my behalf

Signed:

Date:

## SECTION 7 - REPRESENTATIVE'S DECLARATION

**WARNING – it is a criminal offence to obtain another person's information by deception**

I confirm I am the appointed representative of the Data Subject. I wish to receive a copy Data Subject's personal records.

Signed:

Date:

### Where to send your application and appropriate ORIGINAL identification

#### By hand - to Halton Direct Link :-

Concourse Level, Rutland House, Halton Lea Shopping Centre, Runcorn WA7 2ES  
Church Street, Runcorn WA7 1LX  
7 Brook Street, Widnes WA8 6NB  
Queens Avenue, Widnes WA8 8HR (within Ditton Library)

**By post – to** Information Governance Team, ICT Services, Halton Borough Council, Municipal Buildings, Kingsway, Widnes, WA8 7QF

**By email - to** [hdl@halton.gov.uk](mailto:hdl@halton.gov.uk)

### How to get further information, to comment or complain

If you need further help with your application, or with understanding any information you receive in response, please contact the member of staff who supplied you with the application or who contacted you about your application.

If you do not receive a reply within 40 days from the date your application was acknowledged or the date you supplied any further information requested, contact the member of staff who acknowledged your application.

If you have any queries regarding this form, if you wish to appeal about the information to which you have been given access, or if you wish to make a complaint about the service you have received, please call 0303 333 4300 or visit a Halton Direct Link office.



## DATA PROTECTION ACT 1998 - SUBJECT ACCESS REQUEST

*Guidance notes on completing an Application Form for access to your records*

The Data Protection Act 1998 gives you right of access to your personal information held by Halton Borough Council.

### COMPLETING THE FORM

#### **Section 1 – Applicant**

Place a tick in the appropriate box to confirm whether the applicant is the individual who wishes to access their own personal data (the data subject) or whether the applicant is a representative of the data subject.

#### **Section 2 – The Data Subject**

This section must be completed in all cases. Current contact details must be provided and if you have been known by any other names please provide this information. If you have lived at your current address less than 2 years, please provide your previous address.

#### **Section 3 – Representative's Information**

If a representative is applying on behalf of the data subject, then this section must be completed by the representative, including an explanation of their entitlement to receive the data and authorisation documents which are being provided. Authorisation documents could be a letter of instruction, power of attorney signed by the data subject, parental responsibility order.

#### **Section 4 – Service Area**

If information is required from a specific service area then this should be indicated in this section. Providing as much information as possible, and being specific about the information required (including date ranges), will assist the Council in dealing with the request.

#### **Section 5 – Identification**

Proof of identity and proof of residence for the data subject and representative must be verified by the Council in order for the request to be processed. Original documentation must be produced; photocopies of documents will not be accepted. Lists of evidence types are included on the application form.

#### **Section 6 – Data Subject Declaration**

The individual who is requesting access to their information should select the statement as appropriate, sign and date the declaration.

#### **Section 7 – Representative's declaration**

This section is only to be completed by a representative confirming they are appointed by the data subject to receive a copy of their personal records.

## **SUBMITTING THE APPLICATION**

### **By Hand**

The application form and evidence can be produced at a Halton Direct Link office\* where evidence will be verified.

### **By Post**

Postal applications will be accepted however it is not recommended sending original identity documents in the post. You can produce evidence of identity, proof of residence and, where applicable representative's authorisation documents, at a Halton Direct Link Office\*.

Applications by post should be sent to Customer Care Team, Runcorn Town Hall, Heath Road, WA7 5TD

### **By Email**

Email applications will be accepted however you will still need to produce original evidence of identity, proof of residence and where applicable representative's authorisation documents. These can be produced at a Halton Direct Link Office\*.

Applications by email should be sent to [hdl@halton.gov.uk](mailto:hdl@halton.gov.uk).

## **DEALING WITH YOUR APPLICATION**

We may need to ask you for further information to deal with your application. Once we have all the information we need **and** we have verified your identity and any authorisation documents, we will normally deal with your application within 40 days.

You may not have the right to see some of the information held about you. For example:-

- where disclosure would be prejudicial to crime and detection;
- where data is held under legal privilege;
- where disclosure of information concerning health or social work concerns would cause serious harm to the individual; and/or
- copies of court reports can only be provided with the leave of the specific court.

**Please note that evidence of identity may need to be produced again if information is being collected. This will be confirmed by the officer dealing with your application.**

## **HALTON DIRECT LINK OFFICES**

**\*Halton Direct Link Offices are located at:-**

### **Runcorn**

Halton Lea Shopping Centre (next to the library)  
Church Street

### **Widnes**

Brook Street  
Queens Avenue (within Ditton Library)



**Children & Enterprise Directorate  
Communities Directorate**

**Criteria for Sharing Information - Checklist**

		Yes	No	Initials
1.	Do we hold any records?			
2.	<p><u>Eligibility</u></p> <p>Are they eligible to access this information?</p> <p>Has evidence of this been provided (letter of authority/power of attorney, etc.)?</p> <p>Refer to the "right to access" test for further details.</p>			
3.	<p><u>Consent</u></p> <p>Is the Data Subject mentally/emotionally capable of giving informed consent?</p> <p><u>Considerations</u></p> <p>Have they the capacity to make a particular decision?</p> <p>Have they received sufficient information to make a decision?</p> <p>Are they acting under duress?</p>			
4.	<p><u>Capacity</u></p> <p>Whoever is dealing with the request for disclosure should be satisfied that the Applicant "has capacity" to make this request and understand the implications of it.</p> <p>(If there is any doubt this question should be addressed to the Applicant's Social Worker or appropriate medical advisor).</p> <p>(A person has capacity if they are able to understand the nature and implications of their request and appropriately retain the information provided).</p>			

**Children & Enterprise Directorate**  
**Communities Directorate**  
**Criteria for Sharing Information Checklist**

		Yes	No	Initials
5.	<p><u>Best Interest</u></p> <p>Is it in the best interests of the Client to release this information? Will the information cause serious harm to the Data Subject or any other person?</p> <p><i>For example, in a mental health/learning difficulty situation where an individual may not fully understand what is being said in the papers disclosed. Another situation would be when an adult requests information regarding their childhood e.g. why they were in care. This may disclose all sorts of information regarding the family, which is new and potentially distressing.</i></p> <p>Could it prejudice police enquiries or crime prevention?</p> <p><i>For example, if there is an ongoing Police investigation involving the individual and the Police have yet to complete it, interview the person, etc., the investigation could be undermined by such disclosure.</i></p> <p>Has consent been obtained on all third party information?</p> <p><i>For example, usually professionals have provided reports without expecting them to be disclosed to the individual concerned they should be asked for their consent before the report is disclosed. In addition, sometimes report(s) appear on our files and we are not sure how they got there or why. If they are disclosed the author should be asked to consent.</i></p> <p>Will it affect the exercise of Social Care’s functions?</p>			

## **Eligibility Criteria**

The Compliance Advice to the Data Protection Act 1998 states, that: -

*“Subject access requests may be made by the individuals to whom the data relate irrespective of age or any other criteria. A data subject can make a request through agents such as a solicitor or advice worker, although they may be asked for evidence that they are acting on behalf of the data subject.*

*In cases where data subjects are not able to understand or exercise their rights, then subject access requests may be made by parents or other persons who are legally able to act on behalf of the data subjects.*

*In many cases a Social Services Department may choose to disclose information about a client who is not able to exercise his or her rights to a parent or other third party. However, it cannot be compelled to make the disclosure if the third party does not act on behalf of the data subject in law.”*

(From “Compliance Advice” – Data Protection Act 1998 – The Information Commissioner).

## **Key Definitions**

Personal Data	Information relating to a living person who may be identified from it.
Client	The person who is the subject of the information.
Record(s)	Information held in manual files or computer systems.
Representative	A person acting on behalf of the client.
Third Party	Any person other than the client or person employed by Social Care.

## Children & Enterprise Directorate Communities Directorate

### Dealing with Other Interested Parties

#### Introduction

Section 7 of the Data Protection Act 1998 specifically gives an individual the right to see their own information (subject to conditions). The key words are *“their own”*. There is no automatic right for a person to have access to someone else’s information - this includes a person who wishes to see their partner’s or close relative’s record.

There are circumstances when a person may not be able to make the request themselves, because of their age or condition. The procedures that must be adopted to deal with Subject Access Requests (“SAR”) by a representative are outlined herein.

#### Dealing with SARs from Other Interested Parties

All SARs made by another interested party will be dealt with in accordance with the criteria in Section 3 of the SAR procedures.

#### Right to Access Test

All SARs made by another interested party will need to satisfy the “right to access test” that will be used by the relevant Principal Manager in consultation with the Customer Care Team and Legal Services.

**If a “right to access test” is undertaken, a comprehensive record must be maintained of all decisions made and by whom.**

If the application is made by a legal representative or a recognised organisation e.g. solicitor, attorney, CAB etc., a check must be made to confirm the authenticity, if this has not been supplied with the application (letter of authorisation).

If authentication of other interested party is satisfactory, the application may be processed in the normal manner (see Section 4 of the SAR procedure).

When the Customer Care Team confirms receipt of the data access request to the other interested party, a copy of the letter must also be sent to the client.

All SARs from other interested parties will be “tested”.

## Considerations

### Consent

Careful consideration must be given to this matter, regardless of the Applicant's age. The key question must be "is he/she mentally/emotionally capable of giving informed consent of his/her own free will".

### Guidance

"Consent" is a person's agreement for something to happen and that the person:-

- has the capacity to take a particular decision;
- has received sufficient information to make a decision; and
- is not acting under duress.

Consent is given orally or in writing depending on the needs of the person requesting access. Actions taken will be in accordance with the Council's Equal Opportunities Policy.

### Capacity (for a request for disclosure)

A person is always considered to have capacity to make a 'request for disclosure' unless a specific capacity test has demonstrated otherwise. However, if there is any doubt, the person's next of kin and/or responsible professional needs to be involved.

If the person is likely to regain capacity then the request for disclosure can be delayed.

### **Best Interest**

When considering best interest you should:-

- encourage the person (who lacks capacity) to participate;
- try to identify things the person would take into account if they were acting for themselves;
- try to find out the person's views (past, present) as a means of assessing whether they would be likely to 'release the information';
- not make assumptions about the person's best interests based upon their age, behaviour, appearance or condition;
- consult others if it is practical and appropriate to do so, e.g. someone previously named by the person, their carer, close relative and/or friend, any attorney appointed under a Lasting Power of Attorney/Enduring Power of Attorney made by the person, any Deputy appointed by the Court of Protection to make decisions for the person;
- ensure that, if nobody fits any of the above criteria, an Independent Mental Capacity Advocate is consulted.

NB. It is not correct to share information with everyone.

### **Public Interest Immunity Issues (PII)**

Solicitors acting for a person (usually, but not always, a defendant in criminal proceedings) will sometimes apply to the Local Authority for disclosure of an individual's records. Such disclosure is **never** appropriate without a Court order.

If you suspect this is the situation you must immediately refer the matter to Legal Services. If it is a PII, Legal Services will deal with the application and Court procedures.

*Ref*

*Tel No*  
*Name*

*Date*

*Name@halton.gov.uk*

Dear

**Re: Subject Access Request**

Thank you for your letter of **date** asking for copies of all personal files relating to you.

In order to process your request, we need the following information from you:-

- xxx
- xxx

Please provide me with any additional information you may have, e.g. your date of birth, any previous addresses, any reference numbers, which may assist us to locate your records.

I look forward to hearing from you further.

In the meantime if you need any more information, please ring me on 01928 704534 or write to me at the address below.

Yours sincerely

Customer Care Team

*Ref*

*Tel No*

*Name*

*Date*

*Name@halton.gov.uk*

Dear

**Re: Subject Access Request**

Thank you for your letter of date asking for copies of all personal files relating to you.

I am dealing with your request. When I receive your file(s) I may have to write to any third party providers of information to ask for permission to disclose it to you.

We are required by the Data Protection Act to provide you with this information within 40 days of receiving your request. However, there are times when it may take longer, e.g. if the information is complex or a third party does not want us to share the information with you.

No fee is charged for access to view the records, but a charge may be made if you want copies of the information (5 pence per copy), for folders and for delivery if required. If it is necessary to charge you, you will be told how much it will cost.

Please indicate your preference on the enclosed Request for Information Slip and return it to me in the enclosed stamped, addressed envelope. When the information is ready we will send it or give it you as per your preferred option.

In the meantime if you need any more information, please ring me on 01928 704534 or write to me at the address below.

Yours sincerely

Customer Care Team



### Request for Information - Options Slip

I would like my information sent by Recorded Delivery	<input type="checkbox"/>
I would like to collect my information in person	<input type="checkbox"/>
I would like to meet to share my information (Please tick <b>one</b> box)	<input type="checkbox"/>
<b>DAYS AND TIMES CONVENIENT:</b>	
<hr/>	
<hr/>	
<hr/>	
<hr/>	

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel No: \_\_\_\_\_

**Form to be returned to: Customer Care Team, Runcorn Town Hall, Heath Road, Runcorn, WA7 5TD**





Children & Enterprise Directorate  
Communities Directorate  
Permission Form for Release of Information

Access Request By (*Name of requester*) \_\_\_\_\_

I, the undersigned (*third party*) \_\_\_\_\_

Position/Relationship to Applicant \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

\* Please delete as appropriate

- **give/do not give\*** permission for enclosed third party information to be shared.

**If permission is not granted**, please give reason for non-disclosure, as this information will be shared with the Applicant.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed \_\_\_\_\_ Dated \_\_\_\_\_

PRINT NAME \_\_\_\_\_

**PLEASE RETURN TO NAME & ADDRESS of relevant PRINCIPAL MANAGER**



*Name and address of client  
Requesting info*

*Ref*

*Tel No  
Name*

*Date*

[\*Name@halton.gov.uk\*](mailto:Name@halton.gov.uk)

**RECORDED DELIVERY**

Dear

**Re: Subject Access Request**

The information you requested is enclosed, in accordance with your request to post it to you by Recorded Delivery. I hope that all of the information you want is included.

I also enclose:-

- a Completion Form;
- a Record Amendment Form; and
- a pre-paid, addressed envelope.

If you are happy with the information which has been provided, please complete and return the Completion Form in the prepaid envelope.

If you believe that your records need to be altered or corrected, please complete and return the Record Amendment Form in the pre-paid envelope.

I enclose a self-addressed envelope for your use.

Yours sincerely

Principal Manager  
Encs.

*Name and address of client  
Requesting info*

*Ref*

*Tel No  
Name*

*Date*

[Name@halton.gov.uk](mailto:Name@halton.gov.uk)

Dear

**Re: Subject Access Request**

The information you have requested is now available.

In accordance with your request to collect the information in person, I have arranged an appointment for you on XXX(date) at XXX (time) at:-

ADDRESS

If this date/time is not convenient for you, please telephone me on XXX to arrange an alternative appointment.

Yours sincerely

Principal Manager,  
Encs.

*Name and address of client  
Requesting info*

*Ref*

*Tel No  
Name*

*Date*

[Name@halton.gov.uk](mailto:Name@halton.gov.uk)

Dear

**Re: Subject Access Request**

The information you have requested is now available.

In accordance with your request to meet with a social worker to go through the file, I have arranged an appointment for you to meet XXX (social worker) on XXX(date) at XXX (time) at:-

ADDRESS

If this date/time is not convenient for you, please telephone me on XXX to arrange an alternative appointment.

Yours sincerely

Principal Manager,  
Encs.



**Children & Enterprise Directorate**

**Communities Directorate**

**Completion Form**

Name \_\_\_\_\_

Address \_\_\_\_\_

I have received the information requested from Social Care records

at \_\_\_\_\_ on \_\_\_\_\_

Worker involved \_\_\_\_\_

**\* Delete where applicable.**

\* I am satisfied with the information released to me.

\* I would like to request further information, as follows:

\_\_\_\_\_  
\_\_\_\_\_

\* I need to discuss this further with Social Care, because:

\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_ Dated \_\_\_\_\_

Any comments regarding the way in which your request and interview have been dealt with would be appreciated.

\_\_\_\_\_  
\_\_\_\_\_

**The information provided is your information and was requested by you. The Council cannot be held responsible should this information be disclosed to others once it is in your possession.**

**If you have received your information by recorded delivery or by hand, please return this form in the stamped addressed envelope provided.**

**Form to be returned to: Customer Care Team, Runcorn Town Hall, Heath Road, Runcorn, WA7 5TD**



**Children & Enterprise Directorate**

**Communities Directorate**

**Record Amendment Form**

Name: \_\_\_\_\_ ID No. \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Reason(s) for alteration: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Alteration: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(attached extra sheets if necessary)

Signed \_\_\_\_\_

Date \_\_\_\_\_

**Form to be returned to: Customer Care Team, Runcorn Town Hall, Heath Road, Runcorn, WA7 5TD**



**MEMORANDUM**

To <b>Divisional Manager</b>	Date
From	Ref.
	Copies:

**Amendments to a client’s record on their Case File**

The attached is a request for information contained within the client’s case file to be altered.  
 The Applicant has viewed their file and wishes to add the enclosed statement to their file.  
 Please authorise this and return it to me as soon as possible.

Customer Care Team  
 Encl.

I am satisfied with the circumstances of this request and authorise the inclusion of this amendment to the file.

**Divisional Manager:** \_\_\_\_\_ **Date:** \_\_\_\_\_