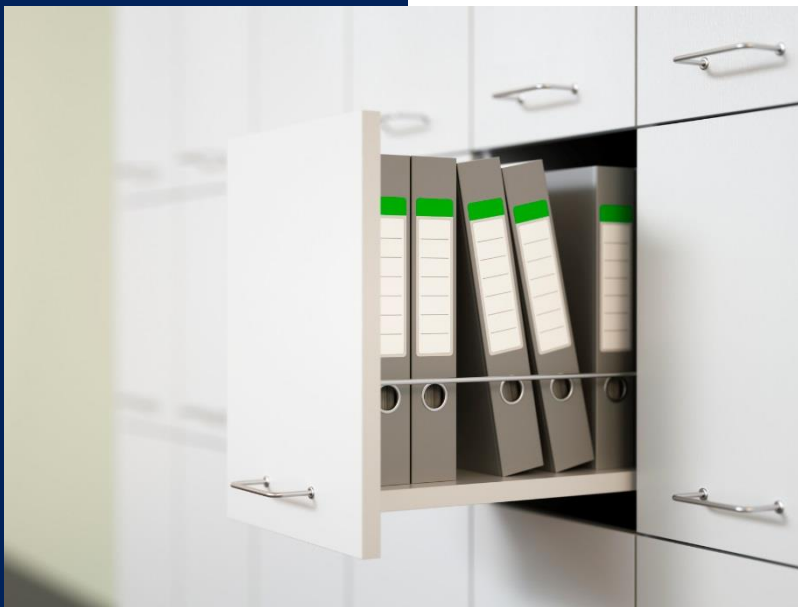


Southampton City Council

Schools and Education:

Guidance on the Retention and Transfer of Child Protection records, Child Welfare and learning records for Education, including Children Looked After



January 2022

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Including Early Years Settings, Maintained Schools, Academies, Free Schools and Independent Schools, Sixth Form Colleges and Colleges of Further Education.

Blue highlight indicates new/amended information

Contents

Introduction.....	3
Retention of Child Protection and Child Welfare Records.....	4
Transfer of Child Protection and Child Welfare Records	4
Consent.....	6
Transfer Form.....	6
Children subject to a Child Protection (CP) Plan	7
Children not subject to CP but with concerns.....	7
Learning records.....	7
Storage	8
Receiving establishment unknown.....	9
Electively Home Educated.....	9
Sharing information during investigations or practice reviews (formally Serious Case Reviews).....	10
Transfer from Early Years Settings to Year R.....	10
Transfer from Secondary to Post-16 provider.....	10
Appendix A transfer form for within and across LA boundaries.....	12

Schools and Education: Guidance on the Retention and Transfer of Child Protection Records for Education			
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Introduction

1. This guidance should be read in conjunction with guidance for Safeguarding policies issued by SCC and SCC guidance for Child Protection policy. It should also be considered in light of individual organisations context, national statutory guidance Working Together (2018) and Keeping Children Safe in Education (2021), SEND Code of Practice (2014). Establishments will need to ensure that they fully comply with GDPR, Data Protection act 2018, statutory safeguarding and child protection requirements.
2. It should be implemented in line with any other Information Sharing agreements such as for Op Encompass or Op Endeavour and due regard for the carrying out of public task.
3. This guide is for all educational settings in the city, including Early Years Settings, Maintained Schools, Academies, Free Schools and Independent Schools, Sixth Form Colleges, Colleges of Further Education and transfer to apprenticeship providers where applicable.
4. The guidance makes reference to Child Protection, Child Welfare Files, learning and SEND records.
 - Child Protection files relate to records about when a child has been subject to Child Protection Planning, Child in Need plan or Section 47 enquiries as outlined in Working Together to Safeguard Children 2018.
 - Child Welfare Files are all other safeguarding documents which may be held in relation to the child, including records of concerns. The guidance covers records held for all vulnerable pupils. This includes Looked After/ previously looked after children, Child/ren in need or children deemed vulnerable for other reasons.
 - Learning and SEND records are records of a child's learning, this could include workbooks relevant to the next educational setting, needs assessments and outcomes, support provision and provision maps, information about successful strategies and triggers, and EHCP information.
5. This guidance does not cover the transfer of the CTF file, a statutory file which is transferred separately – when a child is on roll at another school.
6. Southampton City Council model pupil registration form was updated (June 2019) to ensure that parents are aware that CPP and Child Welfare records will be shared on transfer. Our school (add name) will use the SCC form/ own form which includes this from _____ add date. We will seek to obtain consent for permission to share welfare and learning records by _ (add how).
7. Communication with parents will clearly set out the schools position on its intention to share welfare and learning records with any setting the child moves on to so as to support the welfare and development of the child.
8. Settings should ensure that they have consent to share records unless failure to do so would likely cause impairment to a child's development or wellbeing or the setting is clear of the public task they are carrying out. Alternatively, if consent is not given but a professional decides the information should be passed on relating to a public task to protect the child (under 18) or to continue to support their development or wellbeing in order to thrive a professional can decide to do so. Any decision to share records with / without consent should be recorded together with receipt of transfer both the files sent and received should be retained by both settings. This is in accordance with Schedule 1, Part 2, Paragraph 18 of the Data Protection Act 2018, which permits the sharing of information without consent in order to protect the physical, mental, or emotional well-being of an individual under 18, where:

- in the circumstances, consent to the processing cannot be given
- in the circumstances, the controller cannot reasonably be expected to obtain consent
- the processing must be carried out without consent because obtaining consent would prejudice the provision of the protection
- It is also in line with the duty to perform statutory obligations and duties (e.g. in respect of the safeguarding / wellbeing of children or SEND code of practice)

8. The school needs to ensure that its Privacy Notice reflects the most recent DfE issued templates, and includes post-16 information transfer if applicable to the setting.

Retention of Child Protection, Child Welfare and SEND Records

9. When child protection concerns about a child arise, all educational establishments should maintain and retain child protection records for as long as the child continues to attend the establishment; the records should then be transferred and retained as described below, with due regard to the requirements of the Jay Inquiry in addition.
10. Child protection records (for non-looked after children) are to **be transferred securely when the child (U18) moves setting and then retained until a child's 25th birthday** (6 years after the subject's last contact with an Authority).
For children who are looked after records must be retained until the child's 75th birthday. SEND records must be retained until 33rd Birthday.

NOTE: Currently all records relating to relating to vulnerable children, child protection, looked after children, children in need **cannot be destroyed**. Transfer of records is not destruction if a robust transfer and receipt system is followed. The Inquiry into historical sexual abuse, commonly known as the Jay Inquiry, has issued this embargo across the country. The Jay Inquiry has now been underway since July 2015. Hearings of various strands of the Jay Inquiry were scheduled until the end of December 2020. However, this does not mean the Inquiry will conclude hearings then nor finish its reports on various strands by then. The Inquiry has set a deadline for Truth Survivors to make any submissions to them by the end of *October 2021* and indicated it expects to issue its final report in **2022** (no specific month has been provided at present). Any further updates to this timetable will be communicated in an update to this guidance.

Because of the wide-ranging scope of the inquiry it had directed that:

"The Terms of Reference are extremely broad. As such, it is not yet clear exactly what files, records and documents we will be requesting from your organisation. This will become clearer as the work of the Inquiry progresses. In the meantime we must ensure that no line of investigation is curtailed by the premature destruction of files or records that later become required as evidence".

These terms still apply and whilst the Inquiry has not specifically said Southampton will be asked to provide or give evidence, we must be alert to this possibility and adhere to the requirement **to ensure no destruction of potentially relevant records**.

Transfer of Child Protection and Child Welfare Records

11. When children transfer from one educational establishment to another, either at normal transfer stage (e.g. from Early Years setting to School or from School to Further Education) or as the result of a move (e.g. to another setting within Southampton, to an Independent School or to another Local Authority), and records of child protection or welfare concerns exist, these should be transferred to an appropriate member of staff such as a DSL, SENCO or member of senior leadership as soon as possible at the new setting, **within 5 days of confirmation of transfer of roll**. This transfer should be arranged separately from the main pupil file and CTF in line with DfE Guidance in 'Keeping Children Safe in Education' 2021.

Child Protection records must always be passed directly and securely to the Designated Safeguarding Lead or Head teacher in the receiving establishment and record of transfer and receipt needs to be held by both establishments. It is the responsibility of the setting the child is leaving to transfer in a timely manner and retain as per the status of the child as set out in this policy or as advised by the Records and retention team. The record must be retained until the child's 25th birthday, or longer if looked after or SEND (see earlier dates)

12. If there is information that should be known to the receiving school in order to have provision in place for day 1, this should be shared before the child starts so that this can happen. The designated safeguarding lead should consider if it would be appropriate to share any information with the new school or college in advance of a child leaving (KCSiE 2021). For example, SCC would consider information that would allow the new school or college to continue supporting victims of abuse and have that support in place for when the child arrives, or MAPPA (multi-agency public protection arrangements) information to ensure adjustments can be made from a child's/ren's first day on roll.
13. Other Child Welfare **or learning** information should be transferred in the same way. Parents/ Carers should be made aware that these records will be transferred and should have agreed for this information to be shared with the new establishment. If the information (regarding child welfare concerns) is shared without the parents' consent, the parents should still be made aware of the disclosure, unless doing so would likely result in a risk to the child's protection, or not enable suitable provision to be put into place to support identified needs that may be personal, social, health or educational. The reason for sharing/not sharing child welfare/learning information should be recorded on the record with the name of the person taking the decision and date as well as if consent was given or not (see appendix).
14. The Designated Safeguarding Lead or the Head teacher (**or SENCO if SEND information**) should oversee the process and ensure that this demonstrates a safe and consistent practice in line with the guidance – including the signing of the receipt of transfer of record form. KCSiE 2021 states, "Fears about sharing information **MUST NOT** be allowed to stand in the way of the need to safeguard and promote the welfare and protect the safety, of children". If the serious harm test is met, schools should withhold certain information in compliance with the schools' obligations under the Data Protection Act 2018 and the GDPR. Where in doubt schools should seek advice from their legal team and record advice and decisions made as a result. This would relate to when a child is in refuge, or another form of emergency accommodation and the serious harm test is met. **The harm test is explained on the disclosure and barring section of .gov.uk**
15. Where children are dual registered (e.g. on roll at a mainstream school, but receiving education in another establishment, any existing child protection **information**/records/ welfare concerns should be shared with the new establishment **prior to the child starting**, to enable the new establishment to risk assess appropriately in line with the process outlined above. The home school will retain the record, but share all information with the dual establishment who in turn will share information with the home school in an agreed secure manner.
16. In order to safeguard children **Under 18's** effectively it is important that when a child moves to a new educational establishment the receiving establishment is immediately made aware of any **current** child protection concerns that they need to know on or before arrival of the child. This should also include the expectations outlined in any current Child Protection Planning for the Education Setting and the named workers contact details should be shared. Preferably this should be carried out via a face to face meeting or telephone call **prior** to the transfer of records so as to plan to ensure the child is safeguarded.

17. It is important that all child protection records are transferred at each stage of a child's education, up until the age of 18, or in some cases (SEND), beyond. **The responsibility for transfer of records lies with the originating setting, as the receiving setting might not otherwise know that child protection concerns, welfare concerns or educational assessments to support academic development exist. The onus is therefore on the originating setting to facilitate the secure transfer of records to a suitable person, not on the receiving setting to make contact and collect the records. A signed, record of the receipt of transfer should be obtained by the transferring setting, and stored securely. The date of receipt and name of receiver (DSL, Senior leader, SENCO) should be added to the child record by the new setting (or dual establishment).**

It is advisable that any organisation checks with the most recent educational establishment if there are any Child Protection/ welfare concerns when a new pupil starts at their establishment so as to ensure information has not been left out of any transfer.

14. If a school is/ becomes aware that a parent or guardian, or other family member who attends school, is under MAPPA, schools should have a confidential discussion with those concerned to agree reasonable adjustments so that they may ensure the safety of all pupils and staff on transfer.

15. Paper or electronic records containing child protection information must be transferred in the most secure method available to the establishment. Clear receipt of transfer obtained for both establishments and recorded by both:

- By hand if possible;
- If paper records are posted, out of area this should be by 'signed-for' trackable delivery; thus enabling receipt of transfer arrival to be held
- Electronic records must be carefully selected and only be transferred by a **secure** electronic transfer mechanism or after the information has been encrypted. No archived information should be retained if a pupil is no longer on roll and has moved to another setting.
- Any information subject to an Information Sharing Agreement must be considered in line with that agreement.

Consent

16. It is always the recommended position to share information with consent. For pupils over the age of 13, it is generally considered that they are able to be competent enough to understand their privacy rights. If consent is being relied on as the legal basis for sharing, it therefore may be relevant to seek the child's consent as well as parental consent, if the school is satisfied that the pupil is competent to understand the reason for the sharing of information. If any information is shared without consent there must be a legal basis identified for doing so.

17. Where the information is shared to the Local Authority – in Year 11-12 transition and when a child becomes EHE - this should be included in the information to parents and pupils about how the information will be used and who it will be shared with.. Where relevant the school should be satisfied that the parent has discussed the sharing of the information with the pupil (if over 13 years)

Transfer Form

18. Whether CP or welfare concern files are passed on by hand, by post or electronically, written evidence of this transfer (e.g. the forms at Appendix A of this document) appropriately signed and

dated, should be retained **by both** the originating and receiving setting. It is recommended that the originating establishment securely stores **a signed copy of the form on record**.

19. The person who is signing the form to evidence the receipt of CP/ welfare concern/ educational files (appendix A) should be a member of Senior Leadership Team, Designated Safeguarding Lead or SENCO; a person who it would be appropriate to have access to Child Protection Information or SEND information.

Children subject to a Child Protection (CP) Plan

20. If a child is the subject of a Child Protection Plan at the time of enrolment the originating establishment must speak to a Designated Safeguarding Lead Officer of the receiving establishment giving details of the child's key Social Worker from Children's Social Care Services and ensuring the establishment is made aware of the requirements of the CP Plan and dates of any upcoming/ recent meetings and minutes.
21. If a child subject of a CP Plan leaves an establishment and the name of the child's new education placement is unknown – the Child Protection Lead should contact the child's Social Worker to discuss how and when records should be transferred as well as informing the Child Protection administration team in order to ensure that all key dates for key child protection meetings are shared. Any files should be retained until such point as the details of the new setting are known, or if EHE record should be retained as the last education setting attended. Under the EHE processes the notification to the LA will identify there is a file/ information that should that child re-register at a school should be then passed on. **If a child is subject to any planning or has identified SEND needs the file will be requested to be shared to the Local Authority inclusion team**.

Children not subject to Child protection plan with concerns

22. Some schools may have children about whom they have welfare or educational concerns – recorded and stored securely. This information can be transferred to a new establishment with permission from the parent/carer.

Note: There must be a 'good reason' for permission to not be obtained (i.e. a legal basis for sharing without consent), and this should be recorded. This legal basis could include:

- The performance of statutory obligations and duties (e.g. in respect of the safeguarding / wellbeing of children or SEND code of practice)
- Protecting the vital interests of the child

23. If the information is shared without the parents' permission, the parents should still be made aware of the sharing, unless doing so would likely result in a risk to the child's protection. The reason for sharing child welfare/ education information without parental permission should be recorded on the record with the name of the person taking the decision and date.

Learning records

24. It is essential on transfer at any point in a child's education that their educational provision is able to continue as smoothly as possible. Therefore, any work or assessment information that would be relevant for the next setting to receive e.g. work books/ assessment information for primary or secondary pupils in order to support pupils who may have needed **specific support, assessments or intervention** must be passed on.
25. In addition, information pertaining to SEND - assessments carried out, support plans, any reasonable adjustments made with/without an EHCP must also be passed on so that the next setting is able to continue planning for the child's education in an informed, supportive manner.

24. The SEND Code of Practice states:

6.57 SEN support should include planning and preparation for the transitions between phases of education and preparation for adult life (see Chapter 8, Preparing for adulthood from the earliest years). To support transition, the school should share information with the school, college or other setting the child or young person is moving to. Schools should agree with parents and pupils the information to be shared as part of this planning process. Where a pupil is remaining at the school for post-16 provision, this planning and preparation should include consideration of how to provide a high quality study programme, as set out in paragraph 8.32.

8.22 It is important that information about previous SEN provision is shared with the further education or training provider. Schools should share information before the young person takes up their place, preferably in the spring term prior to the new course, so that the provider can develop a suitable study programme and prepare appropriate support. Where a change in education setting is planned, in the period leading up to that transition schools should work with children and young people and their families, and the new college or school, to ensure that their new setting has a good understanding of what the young person's aspirations are and how they would like to be supported. This will enable the new setting to plan support around the individual. Some children and young people will want a fresh start when leaving school to attend college and any sharing of information about their SEN should be sensitive to their concerns and done with their agreement.

26. Neglect is defined as, “**The persistent failure to meet a child’s basic physical, emotional, and/or psychological needs, likely to result in the serious impairment of the child’s health or development**” Working Together 2018.

The definition agreed for Southampton and included in the Safeguarding Partnership Neglect Strategy is:

“Neglect is the most common form of child abuse. In Southampton we recognise neglect as the ongoing failure to meet a child’s basic needs in order for them to thrive. Neglect means that a child may be left hungry or dirty without adequate clothing, shelter, supervision or medical care. A child may be put in danger or not protected from harm. Neglect also includes psychological and emotional harm; a child needs care and attention and opportunities to relax, play and learn”. <http://southamptonlscb.co.uk/wp-content/uploads/2019/05/Neglect-Strategy-2019-1.pdf>

37. It is SCC view that to fail to share information regarding concerns or identified educational needs for all pupils would be neglectful and could contribute to a failure to ensure the child receives the proper care and attention in line with their identified needs. If need is identified this would be against the statutory SEND Code of Practice 2014. Therefore settings, including Early Years settings, need to identify a process to ensure parents are aware this information will be shared on to next settings. Share in a proportionate way and not receive information with the intention of refusing a school place but with the intention of planning provision for the child arriving **and supporting their ongoing education effectively and in line with the child’s needs.**

Storage

28. All child protection records are sensitive and confidential so should be kept in a secure (locked at all times) filing cabinet, **or protected electronic storage**, separate from other education records and only accessible to staff who are involved in the safeguarding process of the child.

29. The child's education file should be marked in some way to indicate that a child protection file exists. All staff that may need to consult a child's file should be made aware what the symbol means and to speak to the safeguarding lead if they have concerns.

30. Electronic Child Protection Records should be password protected with access strictly controlled in the same way as paper records.
31. **No records should be destroyed/ or retained post-transfer to another setting** – the current embargo relating to the Inquiry into Historical Sexual Abuse, commonly called the Jay Inquiry identifies that records relating to vulnerable children, child protection, looked after children, children in need etc. cannot be destroyed. The Inquiry has issued this embargo across the country. The secure transfer of record **is not** destruction of the file. The transfer and receipt record **must** be kept by both parties it should be retained (setting left) or recorded on the file (receiving setting).

If advice is required this should be sought from:

records.management@southampton.gov.uk

It is recommended that any consultation is done by e-mail for audit and retention purposes for transparency and confirmation of what the authority has done. The SRO has only a small team for support, hence e-mail contact is preferred. The SRO will maintain a central record of all such enquiries and decisions

Receiving establishment unknown

32. Where records of child protection concerns have been kept and details of the receiving establishment are not known, settings should inform the named Social Worker **if the case is open**. If there is no allocated social worker the setting should retain until the child's 25th birthday, 33rd birthday for SEND records, or 75th birthday for a child looked after. Child Protection files should be transferred to the new setting, once known, as should welfare concerns or learning records. Currently no record should be destroyed until the embargo on destruction of records relating to all vulnerable children is lifted at the conclusion of the Inquiry into historical sexual abuse – date not known, possible 2022 following the issuing of legal guidance following any recommendations made.

33. Schools should follow their absence processes in the first instance if a child on roll is not attending school. The Local Authority Children Missing Education guidance for schools may need to be used if a child has moved, schools may need to inform the Local Authority's Children Missing Education Officer if efforts made to locate a child who is likely to have moved fail. Records should be held as per dates set out earlier in the guidance and until a new setting is known.

School/ setting Closure

34. Where a school/ setting closes, all efforts should be made to ensure that the closing school/setting finds out which school a child is transferring to and undertake the transfer of all relevant records in line with this policy.
35. They should inform the CME officer in a timely manner if, despite their best efforts they fail to establish the next setting or have a child who will become EHE

Elective Home Education

36. If a pupil is removed from the roll to be electively home educated, the educational establishment should make the Local Authority aware that they have a CP/concerns or learning records file and

retain the file. They should notify the Officer responsible for EHE who will take a decision which may be:

- place an indication on the system that there is a file to transfer should a child take up a school place in the future that we are aware of. Transfer or retention of records should then be carried out in the same way once next setting is known.
- Request files are transferred to the Local Authority for ongoing support and engagement of education within planning processes

Sharing information during child protection investigations or safeguarding practice reviews (previously Serious Case Reviews)

37. If it is requested that an investigation requires the original establishment who contributed to the child protection/welfare concern record to participate in providing information for the purposes of an investigation/review the current educational establishment may share the current record with previous contributors to support the information required for the investigation/serious case review/child safeguarding practice review. This will be by means of secure method of transfer within the timeframe set for the review or request- likely **within two working days** of the request.
38. The school that the child is on roll for will be responsible for sharing the record securely within two working days of the request being made to the organisations named in communication. A record of sharing, and reason for sharing should be made and kept confidentially by both settings
39. The record copy shared should be securely destroyed at a date agreed with the SSCP review process.

Transfer from Early Years to school for Year R

40. Transfer of information should be carried out in the same way when children move into Year R at school – using the transfer of information pro forma in the appendix.
 - The responsibility lies with the sending setting to share information and transfer it securely. Permission to share must be obtained. Where permission is not obtained the professional responsible for sharing must be clear why they have decided to do this and record the decision, date it was taken and by whom. **It may be the decision is in line with the duty to perform statutory obligations and duties (e.g. in respect of the safeguarding / wellbeing of children or SEND code of practice) or other public interest task.**
41. A copy of the signed receipt must be retained by the sending setting and the receiving setting.
42. Information likely to transfer would include any concerns or child protection information, any learning needs identified, aspects of development that have been supported and any agreed communication with parent/ carer.

Transfer from Secondary to Post-16 setting or education provider

43. All Southampton schools will share to the Local Authority post-16 team information on the agreed template which includes indication that there are CP/ welfare / learning records or information to share with the next setting. This information will be sent to the Local Authority post-16 team by the Year 11 leaving date, and all pupils and parents will be made aware that this information will be shared for the ongoing support for the child to the Local Authority and onto the next setting.

44. The Local Authority will also use the information to support with any advice and support that is required for young people who do not enrol in education, employment or training as required post-16, or who need support to move to a different setting.
45. Colleges and education providers should confirm pupil enrolment to the LA post-16 team at agreed timeframes set (for example, first confirmation within 10 working days of the start of the academic year).
46. The LA post-16 team will then share enrolment information with Southampton schools, the school will then arrange transfer of information by the school to enable a young person's start at their next phase of education to be as smooth and supported as possible.
47. Transfer of information should be carried out in the same way, as expected for school to school when children move into Year 12 at school / college or to an education provider and also if moving between providers before their 18th birthday (or longer if SEND or EHCP is in place) – using the transfer of information pro forma in the appendix.
48. The responsibility lies with the sending setting to share information and transfer it securely. Consent to share must be obtained. Where consent is not obtained, the information should not be shared unless an alternative legal basis is identified. If a decision is taken to share without consent, the professional responsible for sharing must be clear why they have decided to do this, what the legal basis is, and record the decision, date it was taken and by whom.
49. A copy of the signed receipt must be retained by the sending setting and the receiving setting.
50. Where a young person enrolls but does not commence in their place, the provider/college should establish that the young person is not taking up the place within 5 days. The college/provider must then follow the same transfer of records process to share back all records transferred to the last known educational setting, or onwards to a new, known setting. They should retain evidence of the transfer and receipt of it to the last known/next education setting. It is recommended that settings use the transfer form template in the appendix. This should occur within 10 working days of the confirmation of non-take up or move.

Appendix A – Transfer and receipt Form for Child Protection Records, child welfare records and/or learning records between Educational Establishments for children up to the age of 18 **or beyond if have EHCP** – within and across local authorities:

(Not to be used where relocation / transfer is due to safety needs)

TRANSFER OF RECORDS FORM **ADD School/setting Headed paper**

(School to ensure all aspects are covered in Privacy notices, Please use capitals)

Yes No N/A

Has parental consent been gained to share Child Protection information?	
Has parental consent been gained to share Child welfare concerns information?	
Has parental consent been gained to share Child work and learning information?	
Has pupil consent been gained to share this information, or is the school satisfied that the parent has discussed privacy rights with the pupil where relevant.	

If yes, give details:

If no, give reasons for sharing and decision taken by whom _____

If the information is shared without the parents', the parents should still be made aware of the disclosure, unless doing so would likely result in a risk to the child's protection. This also applies to the pupil if relevant.

Has this been done: Yes/No/ NA

Transfer of Records from		Transfer of Records to	
School Name:		School Name:	
Address:		Address:	
Tel No:		Tel No:	
Name of contact:		1. Name of contact:	

Student Details

Name of child:			
Date of Birth:		UPN:	
Name of Parent/Guardian:			
Address inc postcode:			
Post code:		Tel No:	
Current Emergency contact info:			

Transferred information includes (please indicate)

	Yes	No
Child protection Planning information		
Mash or professional's meetings documents		
Welfare concern documents		
Work, learning or educational assessments record		
Admission and attendance record		
CPOMs/ Electronic system document vault		
Other: please specify in line with Privacy notice or safeguarding identified		

Delivery method

Hand Delivery	
Taken by (Print name):	
Date:	

By Post	
Recorded post, Special delivery or Courier	
Tracking number:	
Posted by (Print name):	

Receiving establishment acceptance of records as set out above:

Received by (Print name):	
Signature on receipt:	
Position	
Date	

NOTES FOR Settings:

Originating establishment

- **Keep a record of transfer as set out in document**
- **Retain fully completed receipt (contact setting transferred to if not received receipt in timely manner) in line with SCC guidance on the transfer and retention of Child Protection, welfare record and work/learning records – January 2022**

Upon receipt of file, the receiving setting should

- **Sign this form, keep a copy securely with the child's record - CP records/ Welfare concerns, note date of receipt in any applicable internal system. If learning records only keep with pupil file and ensure relevant staff are made aware if the information regarding learning support needs or concerns.**
- **Ensure a signed copy of the form is returned to the originating establishment without delay for their record (Unless relocation to safety- take legal advice if this arises).**