

AdvoCard Policy on Examination of Records

The Adult Support and Protection (Scotland) Act 2007 aims to protect 'adults at risk' from 'serious harm' by giving powers to local authorities to investigate situations where abuse is suspected. In a similar way to child protection legislation, the 2007 Act requires statutory and voluntary bodies to cooperate in their actions in order that effective action is to prevent abuse from taking place.

In line with Section 10 of the Act, AdvoCard recognises that Council Officers may, as part of their investigations, make requests for case records held by the organisation. AdvoCard also recognises that advocates and/or managers could be accused of an 'offence of obstruction' (Section 49 of the Act), should the organisation not comply with such a request, without a 'reasonable excuse'.

The Act states that:

- (2) Such a requirement may be made during a visit or at any other time.*
- (3) Requirements made at such other times must be made in writing.*

The Code of Practice for the Act gives the following guidance:

- 23. If a request for information is made at a time other than during a visit, it must be made in writing. If the requirement is transmitted electronically it will be treated as having been made in writing if it is received in a legible form and is capable of being used for subsequent reference.*
- 24. Usually only the relevant parts of a record will be copied for access by the council officer. It is essential that copies of records are treated with the same degree of confidentiality as the original records. Good practice would be to discourage the use of original records.*

25. It would be good practice for agreement to be reached with the record holder when records are obtained on how their records are to be treated. For example, whether copies of records should be kept for the minimum length of time necessary and then returned to the original record keeper or whether they should be destroyed.

Therefore, unless the Council Officer is visiting AdvoCard's office, a request to examine records will be received in writing (i.e. by letter, email or fax). This request will be passed to the relevant Manager (and in their absence, the Director), who will:

Verify the authenticity of the request
Consider how records will be made available to the Council Officer
Decide what portion of the service user's case records will be shared

AdvoCard will advise the service user that the request has been received, and that the organisation is legally bound to comply with it. Should the service user object to his/her case records being examined by the Council Officer, this will be noted and communicated to the Council Officer. However, any objection will not prevent the organisation complying with the Council's request.

Prior to the release of records, the following steps will be taken:

- any information obtained from a third party will be removed from the records
- the records will be reviewed by the author and/or line manager, to ensure accuracy

The advocate or manager will obtain a receipt for the records from the Council Officer.

This Policy should be read in conjunction with AdvoCard's Confidentiality Policy.