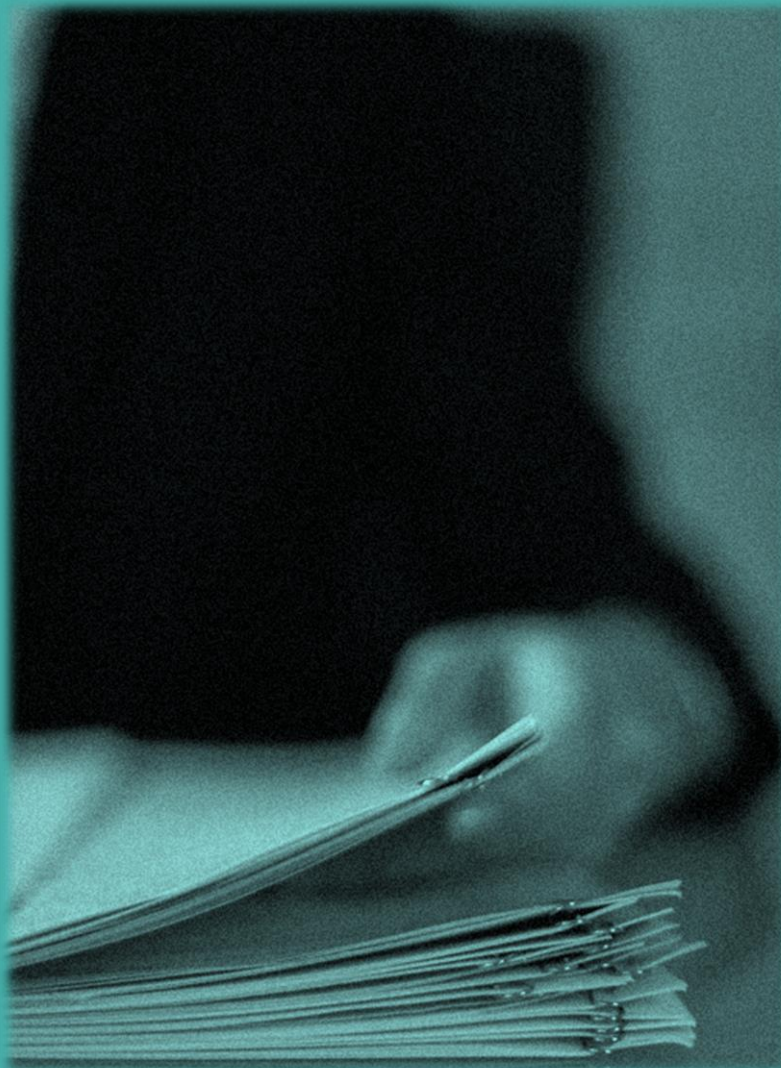


Domestic Abuse: Record Keeping: Professional Responsibilities



A briefing for professionals by the Equally Safe Edinburgh Committee

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Image Credit: [Katrin Bolovtsova](#)

Domestic Abuse: Record-Keeping Responsibilities

When working with people, confidentiality and privacy are paramount in building a trusting, trauma-informed and supportive working relationship. Keeping records is an essential part of accountable professional practice. Records must be accurate, accessible, complete and compliant to your organisation’s policies. All staff should ensure that they keep appropriate records of their work. They must manage those records per the Code of Practice and the policies and guidance of their organisation.

As professionals, we must always inform people that we will be keeping notes, as well as how far confidentiality extends and when we may need to disclose information to help people to stay safe. We also have a duty to inform people that they have a right to access information we hold about them, and how to request this.

Depending on your work setting and case management system, the records you keep might be subject to a range of laws. However, **all records** are subject to the Freedom of Information (Scotland) Act 2002 and the UK General Data Protection Regulation/Data Protection Act 2018. This briefing outlines workers’ professional responsibilities in record-keeping, confidentiality, disclosure and information sharing with people who use services as well as partner organisations and services.

The Freedom of Information (Scotland) Act 2002

The Freedom of Information (Scotland) Act (FOISA) gives everyone the right to ask for recorded information held by a Scottish public authority within twenty working days of them submitting the request. The FOISA applies to all public authorities in Scotland. It generally does not apply to charities unless they are designated as a public authority or carrying out a public function on behalf of a public authority. Unless these exemptions apply, charities do not need to respond to FOI requests. However, FOI requests can be made to public authorities that fund charities. Charities funded by public authorities have a duty to respond to requests for information made to them by public authorities. A list of those bodies that fall under the jurisdiction of FOI can be found here - <https://www.foi.scot/public-authorities>.

If you have received a request for information that you believe would be a freedom of information request you must forward it to informationrights@edinburgh.gov.uk if you are a Council employee, or your own appropriate contact if you work within a partner agency immediately.

The Data Protection Act (2018) and the UK General Data Protection Regulation (UK GDPR)

These laws apply to all service providers and state that personal data shall be:

- a. processed lawfully, fairly and in a transparent manner;
- b. collected for specified, explicit and legitimate purposes;
- c. adequate, relevant, and limited to what is necessary;
- d. accurate and where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that is inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed;
- f. processed in a manner that ensures appropriate security of the personal data

People's rights to access information

People have the right to request information held about them by any service. This is called a Subject Access Request (SAR). [The Information Commissioner's Office](#) website explains what you need to consider when processing a SAR.

If you have received a request for information that you believe would be a subject access request you must forward it to informationrights@edinburgh.gov.uk if you are a

Council employee, or your own appropriate contact if you work within a partner agency immediately.

In the next paragraphs you will find specific considerations on SARs by people affected by domestic abuse.

Please note: it is possible that information you hold about a person affected by domestic abuse might also include information about the perpetrator. This can give the perpetrator a legal right to request this information. **It is extremely important that you are familiar with exceptions to the UK GDPR and the Data Protection Act. This can ensure that any information disclosed does not compromise the health, safety or wellbeing of victims/survivors of domestic abuse.**

Exemptions to Subject Access Request responses

There are exemptions when considering a response to a SAR. The Council's Information Rights team or a colleague with the equivalent role in your organisation would be able to advise further.

Confidentiality and its limitations

Confidentiality is paramount when working with people. Trust is a fundamental component of Trauma-Informed Practice alongside Safety, Collaboration, Choice and Empowerment.

The UK GDPR and the Data Protection Act include lawful bases of sharing information. However, confidentiality also has limitations. In domestic abuse, these arise when:

- A person is at risk of significant harm either by another person or from themselves (including the victim/survivor and any children they may have, or another person outside the immediate relationship where domestic abuse is present)
- Children are at risk of harm
- There is risk to the public

If any of the above circumstances arise, it's important to discuss your concerns with the person you are working with, and to seek advice and guidance from your line manager or a senior member of your organisation wherever possible. If you believe that the risk is high enough to merit sharing information with partners or involving Police Scotland, then it's important to escalate this appropriately according to your organisation's safeguarding structure and procedures.

Responding to emergencies

Working with people affected by domestic abuse carries a level of risk. This risk may fluctuate over time, and it may at times escalate: it may become more frequent or more severe. To deliver effective support, it's important to know how to ascertain when domestic abuse is escalating to dangerous or life-threatening levels, as sometimes, what might feel like an emergency that requires an urgent response, might not be so.

However, you must remember that victims and survivors will often minimise their experiences of abuse, so it's important to maintain a realistic balance when trying to understand the level of risk a person is facing. To help you better understand and ascertain risk when working with a victim/survivor of domestic abuse, please see the Domestic Abuse [Safety Planning Booklet](#) and the briefing paper on [Risk Assessment and Safety Planning](#).

It is not always easy or straightforward to ascertain if someone is in immediate risk of significant harm, and it's important to seek advice from a more senior colleague or line manager if you have concerns. Not all risks require an immediate response, and sometimes, involving emergency services could be counterproductive.

It is important to remember that in some cases, it may be appropriate to call 999 for an emergency response if someone's life is at imminent risk. However, this is an extreme situation. It is much more likely that a risk management approach will be more helpful, by involving professionals known to the person (such as a health visitor, teacher, social worker, youth worker, etc.) or by contacting Police Scotland on 101 (non-emergency number) for advice.

In all circumstances, it's important to use your organisation's escalation procedures and to seek the advice of a more senior colleague/line manager and to communicate your concerns and proposed actions to the person you are supporting, wherever possible, before sharing information.

Defensible Decision – Making

It is always preferable to disclose confidential information with the person's consent. However, if this is not possible, if you are able to sufficiently justify your concerns and defend your decision to report harm, then you can justifiably breach confidentiality when in the interests of protecting a person/people.

If you decide that you have sufficient concerns about a person/people to break confidentiality without their consent, then it is important that you can evidence that this is necessary (ie. The goal you aim to achieve cannot be achieved in any other way) and then make sure that you only share information that is relevant and absolutely necessary.

For more information, see document titled 'Delivering Best Practice and Avoiding Service-Generated Risks' – this is available on the [Domestic Abuse Information and Resources](#) page on the City of Edinburgh Council website.