

A Practical Guide to Record Keeping and Retention Periods (England Only)

Introduction

This practical guide has been developed to support Early Years Settings with retention periods for records such as registers, medication, and accident records. It also includes timescales for child protection records and staffing records.

The Early Years Foundation Stage (EYFS) 2017 states that the legal requirements around record keeping are:

- 3.68 Providers must maintain records and obtain and share information (with parents and carers, other professionals working with the child, the police, social services and Ofsted or the childminder agency with which they are registered, as appropriate) to ensure the safe and efficient management of the setting, and to help ensure the needs of all children are met. Providers must enable a regular two-way flow of information with parents and/or carers, and between providers, if a child is attending more than one setting. If requested, providers should incorporate parents' and/or carers' comments into children's records.
- 3.69. Records must be easily accessible and available (with prior agreement from Ofsted or the childminder agency with which they are registered, these may be kept securely off the premises). Confidential information and records about staff and children must be held securely and only accessible and available to those who have a right or professional need to see them. Providers must be aware of their responsibilities under the Data Protection Act (DPA) 1998 and where relevant the Freedom of Information Act 2000.
- 3.70. Providers must ensure that all staff understand the need to protect the privacy of the children in their care as well the legal requirements that exist to ensure that information relating to the child is handled in a way that ensures confidentiality.
- 3.71 Records relating to individual children must be retained for a reasonable period of time after they have left the provision (footnote 56: individual providers should determine how long to retain records relating to individual children)

Children's Records

Children's Records	Retention Period
<p>Children's records - including registers and medication record books pertaining to the children</p>	<p>Requirement - records should be retained for a reasonable period of time (for example three years) after children have left the provision</p> <p>Recommendation (Limitation Act 1980) - Until the child reaches the age of 21 - or until the child reaches the age of 24 for child protection records</p> <p>Normal limitation rules (which mean that an individual can claim for negligently caused personal injury up to three years after, or deliberately caused personal injury up to six years after the event) are postponed until a child reaches 18 years old</p> <p>As best practice it is recommended that registers are kept as per child protection guidelines. They may need to be used in the future to prove if a child was or was not in your setting.</p>
<p>Records relating to individual children e.g. care plans, Common Assessment Frameworks, speech and language referral forms</p>	<p>These would usually be passed on to the child's next school or setting. Copies should be kept for a reasonable period e.g. 3 years unless they relate to child protection in which case it would be 24 years</p> <p>Some LSCBs recommend keeping Early Help records for the same length as child protection documents – please check with your Designated Officer or Team of Officers in your area for further advice.</p>
<p>Accidents and pre-existing injuries forms</p>	<p>As best practice and in case anything is relevant to child protection it is recommended these are kept for 24 years.</p>
<p>Records of any reportable death, injury, disease or dangerous occurrence (for children)</p>	<p>Three years after the date the record was made. However if they are relating to child protection they should be kept for 24 years.</p>
<p>Observation, planning and assessment records of children</p>	<p>As good practice it is recommended that you keep planning since the last inspection so there is a paperwork trail if</p>

	<p>the inspector would like to see it.</p> <p>You may also choose to keep a copy of some of these as evidence of how/if these have been developed/improved over time as evidence for self-evaluation and continuous improvement.</p> <p>Usually information and assessments about individual children would either be given to parents when the child leaves or the next setting/school that the child moves to (with parents' permission).</p>
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Personnel Records

Personnel Records	Retention Period
Personnel files and training records (including disciplinary records and working time records)	Six years after employment ceases
Application forms and interview notes (for unsuccessful candidates)	Six months to one year
Redundancy details, calculations of payments, refunds, notification to the Secretary of State	Six years from the date of redundancy

Health and Safety Records

Health and Safety Records	Retention Period
Risk Assessments	<p>There is no set guidance for this, but Citation would say you should keep the assessments for at least three years, just in case there is a claim that needs to be backdated.</p> <p>Although there is low exposure for things like industrial diseases and asbestos related conditions in childcare, those with older premises may have asbestos and therefore claims can go back for a number of years so it is best practice to keep the risk assessments and management plans and then archive them.</p>
Records of any reportable death, injury, disease or dangerous occurrence (for staff)	Three years after the date the record was made
Staff accident records (for organisations with 10 or more employees)	Three years after the date the record was made (there are separate rules for the

	recording of accidents involving hazardous substances)
Accident/medical records as specified by the Control of Substances Hazardous to Health Regulations (COSHH)	40 years from the date of the last entry
Assessments under Health and Safety Regulations and records of consultations with safety representatives and committees	Permanently
Accounting records	You must normally keep records for at least 6 years from the end of the last company financial year they relate to. You may need to keep records longer if: they show a transaction that covers more than one of the company's accounting periods

Administration Records

Administration Records	Retention Period
Complaints record book	At least three years from the date of the last record
Visitors/signing in book	No official guidance but would recommend 24 years as part of the child protection trail
Minutes/minute books	Permanently
Insurance certificates	40 years from the date insurance commences or is renewed

For Child Protection:

If an allegation is made against a member of your team (whether founded or not) then it is important that you as employers keep a clear and comprehensive summary of:

- Any allegations made
- Details of how allegations were followed up and resolved
- Any action taken
- Decisions reached.

These details should be kept in a person's confidential personnel file and a copy should be given to the individual. Such information should be retained on file,

including people who leave the organisation, at least until the person reaches normal retirement age, or for 10 years if that is longer.

For other documents relating to a child's welfare, health and safety (e.g. accident books, personal files) it is important that these are kept until a child is classed as an adult, regardless of their individual circumstances, which for child protection is 24 years. This is why the Limitation Act states 24 years to enable any allegations in later life or establishments to follow through on information relating to the child when they were younger. You should therefore store any records relating to referrals or contacts with social care or LSCB for 24 years. Other documents relating to the child should be retained for 21 years for the same reasons.

Staff recruitment records:

You should keep any recruitment paperwork (for unsuccessful candidates) for 6 to 12 months. This is in case they make a claim that they have been discriminated against during the interview process.

Former staff HR paperwork should be kept for three years.

Former staff payroll records/information should be kept for seven years.

If you require any further information regarding employment NDNA has a free legal helpline for NDNA members. Further information can be found at:

http://www.ndna.org.uk/NDNA/membership_section/free_ndna_helplines.aspx?WebSiteKey=5e278c52-0dec-4482-ad81-d06b25949f8b

Closing nurseries:

In the unlikely event of a nursery closing it is recommended that the nursery contact their Local Authority in relation to storing records and seek advice from the Data Protection and Freedom of Information website: ico.org.uk.

Further information

- Advisory booklet – personal data and record keeping www.acas.org.uk/index.aspx?articleid=717
- Data Protection Act (1998) www.gov.uk/data-protection/the-data-protection-act
- Limitation Act (1980) www.legislation.gov.uk/ukpga/1980/58
- Health and Safety Executive - Reporting injuries, diseases and dangerous occurrences in health and social care www.hse.gov.uk/pubns/hsis1.pdf
- Freedom of Information Act (2000) <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/>

The contents of this work are exclusively the property of National Day Nurseries Association (NDNA). NDNA would like to point out that although the information in this factsheet has been completed and checked by experts, it only provides a guide. As legislation and inspection criteria change on a regular basis to reflect new practices it is essential that you confirm legal matters with a solicitor and keep up to date.

NDNA cannot accept any responsibility if you implement the guidance without first confirming your legal position with a suitably qualified person.

We hope that you will continue to use this factsheet as a useful tool for guidance and would welcome any feedback. If you have any queries or concerns about the factsheet please do not hesitate to contact us.

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