

Note to professional users: please use this guidance in collaboration with a child. Children's own words are used in this guidance.



Guidance for young people who want to know what was said, or written, about them in files held by the courts, Cafcass, or a local authority

It can be difficult for a young person to find out what happened in court proceedings, whether that's between their parents or family members, or when the local authority and Cafcass were involved. The challenges can be the same for a young person who wants to access their local authority file, even when there were no court proceedings.

Please note that the guidance and the process maps do not include disclosure in Adoption cases.

Reasons a young person might want to find out this information might be:

"I wanted to understand what happened to me and my family during our proceedings, from a neutral and non-biased perspective."

"I wanted to have the information about what happened so that I could compare this to what my parents and family have told me."

"It helped me to fill in some of the gaps in my memory of what happened. I wanted to know more about the smaller details or the things I knew I had forgotten".

"I was looking to find closure on my experience."

How to apply for information

If a local authority has been involved in a child's life, the child can make an application to that authority with what's called a **subject access request**. Children can make their own application but, to do so, they have to be considered old enough and to have sufficient understanding of the issues. This is often considered to be children aged 13 and older. The application can be made verbally, or in writing via the local authority website that holds or held responsibility for looking after the child. Many local authorities will also support WhatsApp or by sending a direct message (DM) on social media.

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A young person might ask:

“What do I need to make an application? Do I need ID, and if so – what sort?”

“Can I find out about my siblings too?”

Explain clearly that they would not be able to receive any information about anyone else in their family, for example a brother or sister, and explain the reasons why.

Even though it can be challenging for a young person when accessing material from their files, there currently isn’t any direct support available for them. Sometimes the information held there can be distressing and unsettling.

There are instances when material might **not** be shared, such as:

- If it includes reference to abuse (including sexual, physical or emotional).
- If the local authority considers that it might cause harm to the young person, or others.
- Any social work information (data) that’s been used in court proceedings **unless** there is a court order allowing this information to be shared.
- Any social work information (data) that was written by, or refers to, somebody else (a ‘third party’) **unless** they have given their consent.

Make sure the professionals I come into contact with during my request are patient, sensitive to my needs, and able to answer any questions I may have.

There are similar challenges in getting material from Cafcass and the Family Court.

A young person can make a subject access request to Cafcass. Further information is available here: [*My Cafcass Journey \(what happened to me in my proceedings\)*](#).

Again, Cafcass cannot share that information if it will cause harm to the young person, or others. Cafcass are limited in what they can they disclose written by, or about, third parties. Things that parents, or other family members, have said to Cafcass might be edited out (‘redacted’) – this could feel frustrating for the young person, as things they wished to see might be taken out.

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What might help? Young people have said:

"When I made a request to Cafcass it was really nice to have a single person to contact and who kept me updated on my request. They gave me timescales on when I would receive information and was available to me if I had any questions."

"When I got my files, I found some of the language and jargon was difficult to understand and so an explainer of what the different types of orders and documents are would have been helpful."

What if the young person was a party in proceedings?

If a young person was a party in private family proceedings or care proceedings, and had a solicitor, they **could** approach their solicitor for access to the recorded information held on file. They are entitled to see documents which have been approved for release by the court (considering any restrictions set by the court during proceedings). These restrictions might relate to the content of the documents, or how the documents are shared.

If there is any doubt about what can be shared once proceedings have ended, individuals must make an application to court to clarify what can be shared (and how they can be shared).

What if the child was not a party in proceedings?

It is possible to make an application to court even if the child was not a party. The court would need to know the child had sufficient understanding of the issues; this is not just related to their age, it's about their ability to understand the challenges and difficulties associated with seeing that information in the file. There is no fixed age for this, but the closer the child is to 18 the more likely the court will consider that they have capacity to make an application.

Those under 18 will usually need a litigation friend to make the application, which means having an adult to make the application for them. It is unlikely the court would let any adult who was connected to earlier court proceedings take on that role, because they might not be completely independent and able to act in the child's best interests.

Children who were the subject of proceedings but are now over 18 (and classed as adults), will not need a litigation friend.

Even if the information in my files is upsetting, please consider that it might be more upsetting not knowing this information. If you decide that I can't have this information now but there is a possibility when I am closer to the age of 18 then please explain this to me.

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What happens after the application has been made to court?

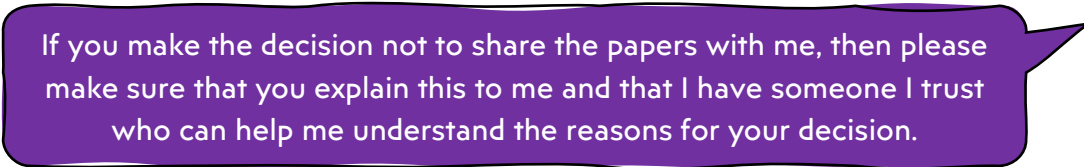
Once an application has been made to the court, it will be reviewed by the judge. The judge will probably set a date for a hearing (and possibly a series of other short hearings) so that the adults who were involved in the previous proceedings can have a say on what should be released. Professionals may also be asked to give their views.

Special arrangements can be made to keep the child safe and to ensure they feel protected at court, but the court cannot order that a solicitor should represent them.

The judge will make a decision on what can be disclosed after hearing everyone's views. As part of that decision-making process, the judge will need to be confident that:

- Anything released won't cause harm to the child, or anyone else.
- The child is not under pressure to make the application.
- The child has support to help them manage and understand what they might see in the file.

The judge will also need to reflect on the harm that might be caused in **not** disclosing material. They will also need to consider the practical arrangements about who will make any redactions.



If you make the decision not to share the papers with me, then please make sure that you explain this to me and that I have someone I trust who can help me understand the reasons for your decision.

Process Maps

The FJC have developed process maps setting out the steps to request access to your information for the different sorts of proceedings (Public or Private Law), these can be found [on the FJC website](#).