**Document Title:** NIGALA Recording Policy  
**Date:** 14<sup>th</sup> January 2015

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<th><strong>For review/approval by</strong></th>
<th><strong>Related documents:</strong></th>
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<td>Social Care Governance Committee.</td>
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**Summary of Contents:** Guidance for professional recording in NIGALA in the context of changes in legislative requirements in information governance and professional standards.

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<th><strong>Superseded documents:</strong></th>
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<td>NIGALA case Recording Policy</td>
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<th><strong>Enquiries/Author:</strong></th>
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<td>Any enquiries about the contents of this document should be addressed to:</td>
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<td>79 Chichester Street, Belfast,</td>
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<td><a href="http://www.nigala.hscni.net">www.nigala.hscni.net</a></td>
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NIGALA RECORDING POLICY

Reviewed November 2014 (Draft 1)
Reviewed December 2014 (Draft 2)
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1. The Guardian Ad Litem Role

The Guardian Ad Litem is encapsulated in the NIGALA Mission Statement: “To advise the courts of children’s wishes and feelings and independently represent and safeguard the interests of children in specified public law and adoption proceedings in Northern Ireland.” The Guardian acts as an independent professional with dual accountability to the Court and the Agency. The parameters of the role are prescribed in the rules of Court.

The scope and conduct of Guardian’s enquiries, with an emphasis on analysis and evaluation as distinct from description or complication of factual information, is dovetailed by the requirement to ensure that the welfare of the child is safeguarded and promoted.

The Safeguarding of children is a well established expectation for social workers and guardians ad litem, underpinned by legislation, which requires professionals to share information about a child whenever there is a cause for concern and without consent if required to do so in order to protect a child’s best interests.

In order to provide effective care and safeguarding for children, information often needs to be shared between professionals and beyond the ‘normal boundaries’\(^1\) of health and social care. For social workers and guardians this necessitates the recording of factual information and opinion about children, their parents and families.

In 2005, Gillen J cautioned on the need for -

\(^1\) Dame Fiona Caldicott – Information to share or not to share – The information Governance Review (2013)
‘......*all professionals to keep clear and balanced records and notes of conversations with other professionals, family members and others*’

2. The Purpose of Recording

Recording serves a range of functions and may be subject to scrutiny and audit. The attached chart identifies the strategic and practice directives that inform recording. The common theme is that professionals must provide evidence of their practice, namely accountability that is capable of independent scrutiny. Good records are an essential tool for practitioners to reflect on their work and inform analysis and assessment.

Routine recording, safeguards the practitioner in the event of a case management review (Safeguarding Board for Northern Ireland) necessitating that the case file is secured for scrutiny. Additionally current records avoid the common pitfall of recall of detail being compromised when there is a significant time lapse between the activity/event and the record being compiled.

In the event of a case requiring transfer, **up-to-date, focused and succinct** records gently assist case transfer. The work undertaken is accounted for and is available for the guardian assuming responsibility for the case.

By way of summary, the purpose of recording is;

- Documenting the Guardian’s involvement and work done with, and on behalf of the child or young person;

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• Documenting that the Guardian Ad Litem has considered all relevant factors and appropriately discharged their responsibilities to the child(ren) or young person;

• Provides a record of the work undertaken to best advise the Court on the child's wishes and feelings and ‘best interests’;

• Confirmation that investigations have been undertaken in an autonomous and independent manner;

• Inform assessment, analysis and decision making;

• Ensure statutory requirements under legislation*;

• Ensure and support continuity in circumstances when a case transfers from one Guardian Ad Litem to another;

• Provides evidence for inquiries or reviews;

• Provides evidence for accountability through supervision, appraisal and audit.

3. Legislation and Guidance*

‘Every citizen should feel confident that information about their health is securely safeguarded and shared appropriately when that is in their interest. Everyone working in the health and social care system should see information governance as part of their responsibility’

Dame Fiona Caldicott3

The Expectation of the NI Guardian Ad Litem Agency is that existing robust governance structures are in place to support best practice in case recording.

3 Dame Fiona Caldicott – Information to share or not to share – The information Governance Review (2013)
Good recording keeping is an integral part of the role of the Guardian Ad Litem and has many important functions, operating at individual and organisational levels.

Records created must be maintained and stored in line with National Legislation. All Health and Social Care organisations are required to comply with regulations and standards which relate to record keeping.

It is essential that all staff understand that NIGALA records are classified as public records under the Public Records Act (Northern Ireland) 1923*. Therefore the Chief Executive and Senior Managers are personally accountable for records management within their organisation.

**Freedom of Information Act 2000**

The Freedom of Information Act 2000 creates a statutory right of access by the public to all records held by public bodies (exceptions apply)

**The Data Protection Act 1998**

The Data Protection Act 1998 became law in March 2000. It sets standards which must be satisfied when obtaining, recording, holding, using or disposing of personal data. These are summarised by 8 Data Protection Principles (Appendix 1). The Data Protection Act is not a barrier to sharing information but a framework ensuring that personal information is shared appropriately and in accordance with the 8 Data Protection Principles.

Data Protection legislation has given people who uses services greater access to what is written about them. All Health & Social Care Bodies
have a statutory duty under the Data Protection Act 1998 to protect the personal data they hold in relation to records management. All such bodies, including NIGALA must ensure that they have a system to –

- Maintain the accuracy of records held;
- Protect the security of personal data;
- Control access to personal data;
- Make arrangements for the secure disposal of records, once a record is no longer required.

Within the Data Protection Act 1998 a framework of rights and duties are established which are designated to safeguard personal data. This framework balances the legitimate needs of organisations to collect and use personal data for business and other purposes against the right of individuals to respect for privacy of their personal details.

The Legislation itself is complex however it is underpinned by a set of eight principles, which if staff and organisations ensure the handling of personal data is in line with the spirit of those principles, they will a long way towards ensuring compliance with the Data Protection Act.

**Caldicott Principles**

The term Caldicott refers to a review chaired by Dame Fiona Caldicott (1996-97) which investigated ways in which patient information was used within the National Health Service. The review committee made a number of recommendations aimed at improving the way the NHS handles and protects patient information. These are summarised by six

**Information Management Principles (Appendix 2)**
Good Records, Good Management DHSSPS (2002)

Good Management and Good Records states;

‘Records Management is most effective when it command commitment from Senior Managers and all HPSS staff regard it as a professional activity requiring expertise and good practice’.

This document highlights the importance of an effective records management service to ensure information is properly managed and available whenever and wherever there is a justifiable request for it.

Service users are entitled to expect that case records are accurately recorded and case records are kept safe and processed ‘fairly and lawfully’

4. Managing Information Risk

Good risk management allows stakeholders to have confidence in the organisation’s corporate governance arrangements. Managing information is important for everyone working in the public sector as is managing any associated risks. Information can take many forms, from confidential personal information through to records of meetings, personnel records, to correspondence and case files.
5. Records Management and related Policies

NIGALA recognises that both social care and corporate records are created in a variety of media and across of systems. To that extent, NIGALA has a number of Policies which should be read in conjunction with this Policy; by way of summary –

- Case Transfer Policy;
- Records Management Policy Statement;
- Confidentiality of Records Policy;
- Electronic Document Management Policy;
- E-mail Policy;
- Case File Tracking Policy;
- Storage and Retention of Records Policy.

6. Principles informing Recording

Case recording should reflect the remit and parameters of the Guardian’s role i.e. to safeguard the child’s best interests taking into account the child’s ‘wishes and feelings’ having regard to his or her age and understanding.

- The balance between quantity (how much to record) and quality (is it useful, relevant and accurate?) is crucial to successful recording;

- The detail within recording is a matter for professional judgement and will be informed by the context and purpose;
• More information does not necessarily make for better recording. **As a general rule succinct, analytic summaries are better than extensive narratives;**

• There is a discernible link between information, analysis and planning;

• Records are child-centred;

• Misplaced concerns, for example, about D do not prevent practitioners from recording their judgements provided that these are clearly distinguished from fact*;  

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7. **Stakeholders with an interest in the Case Record**

**The Guardian**

• An accurate, up-to-date record of work undertaken  
• Assists in the analysis of information obtained and interventions completed  
• Demonstrates evidence of quality standards for file audit and annual appraisal.

**The Court**

• Provides a record of the work undertaken as an Officer of the Court.

* (DHSSPS Reform Implementation Team ‘Recording Policy and Standards 2007)
• Confirmation that investigations have been undertaken in an independent, comprehensive manner.

The Child (ren) or Young Person

• Confirmation that the Guardian has considered all relevant factors, and appropriately discharged their responsibilities.

• Evidences engagement with and reflects the child (ren) or young person’s wishes and feelings.

The Northern Ireland Guardian Ad Litem Agency

• Accountability linked to quality standards and relevant policies (cite here)

8. Technology to Support Recording

The digital dictaphone and digital pen represent significant investment in technology to manage and maintain case records. The single recording form is designed to achieve a consistent and coherent format for maintaining up-to-date records which comply with NIGALA recording principles. Every record must have all the identified sections completed to ensure that the digital record is compatible with the standardised form and thereby enable electronic transfer of the transcribed record to the appropriate case file on the Guardian Case Information System (GCIS).

To support transparency, case records through GCIS are available to children and families in accordance with the provisions of the Data Protection Act.
(1998). It is good practice for the information contained in case records to be made available to the subjects of those records, if safe to do so.

9. Tracking Recording

The GCIS supports Guardians’ update and maintain their case records electronically. GCIS contains an alert function to enable Guardians keep track of their scheduled interventions and the associated recording. An alert will register in respect of records that are overdue once the scheduled intervention has taken place. The alert function registers with the NIGALA managers when completed interventions are not recorded within twenty eight days. The facility to maintain recording offsets the risks associated with the absence of and retrospective recording.

10. Guidance Notes for Recording

Each record should have all the identified fields completed to ensure electronic transfer of the record to the appropriate case within GCIS.
(1) Does every intervention on a case require a separate recording?

This is a professional judgement call. If, for example, separate interventions were undertaken on the one date in respect of a case, a composite summary can be completed under the main issues discussed section. The record type selected should reflect the predominant type that best fits the identified purpose.

(2) Recording of Guardian’s attendance at meetings

The Guardian attends LACs, Case Conferences etc, in an observational capacity. Recording of main issues discussed and actions as relevant should reflect links with the court process in respect of planning and decision making. The record should not be a minute of a Trust meeting. A record of the meeting should reflect the pertinent issues addressed/outcome of the meeting in a “succinct, analytic summary.”

(3) Recording of Court directions/hearings must avoid a detailed process recording style. It is essential to summarise pertinent issues which may be captured in a bullet point format as opposed to descriptive text.

(4) Interview with child/young person

It is important to capture the child’s wishes and feelings in the context of the type of proceedings and proposed care plan. Obstacles to the child’s participation/engagement should be clearly documented. For pre-verbal
children observations of their interactions with parents, siblings and carers and the views of professionals and significant adults, on their presentation should be documented.

(5) Recording telephone calls – only telephone calls where pertinent information has been received or relayed should be routinely recorded.

(6) Avoiding duplication of information

It is important that the NIGALA case records are specific to the remit of the Guardian role and are focused. Detailed records of case conferences, LACs attended should be summarised. Likewise letters to the various parties repeating agreed information should be avoided. Cross reference correspondence and records as necessary.

Case Records should therefore –

- The Case file (different from care recording) provides the opportunity to demonstrate reflection, analysis and review and planning is undertaken throughout the life of the case (produced at supervision in accordance with Accountability Framework);
- Be succinct and focus on salient issues with an emphasis on the relevance of the information to the Court, issues under consideration and implications for the child(ren) and/or young person;
- Avoid ‘verbatim’ accounts of interviews, meetings, Court hearings etc which invariably duplicate as opposed to process information;
• Be factual and written in plain, non-discriminatory, non-oppressive language – language needs to be used sensitively and critically in order to avoid negative connotations;

• Records should not include abbreviations (unless explained on first use) jargon, meaningless phrases, irrelevant speculation.

• Records should be written in terms which the child/parent or their representative can easily understand;

• Information received from other agencies and third parties i.e. all written and verbal information from GP’s, Community Nurses and Health Visitors, schools and family members should be identified as such in case recording and a note made whether permission has been sought for its use in reporting to Court;

• Reflect the Guardians’ impact on the process as well as the decision-making – highlighting independence;

• Explicitly document the child (ren)/young person’s understanding of and views in respect of their circumstances, in the present and future. This may warrant direct quotation;

• Where there is an opinion, the basis and the rationale for the opinion should be documented;

• The case file is written for sharing and is respectful about stakeholders;

• Contain details of attendance at LAC, Case Conferences and work undertaken with the child(ren) and/or young person;

• The Children’s Report and any other direct with the child(ren) and/or young person;

• Assist an understanding of The Guardian’s assessment and analysis;
• Record any issues pertaining to race, ethnicity, gender, religion, language, disability.

11. Case Transfers

In the event of a case transfer a face to face handover meeting will be overseen by the manager assigned to the Guardian ceasing involvement. Case transfer activity will be collated as part of the case load weighting tool and GCIS will enable the smooth handover of the electronic case file from the previous Guardian to the new Guardian.

12. Summary

To Sum up; remember that information must be –

1. Held securely and confidentially;
2. Obtained fairly and efficiently;
3. Recorded accurately and reliably;
4. Used effectively and ethically;
5. Shared appropriately and lawfully.
Appendix 1

Data Protection Principles

The Data Protection Act lists the following data protection principles, to ensure that personal data must be:

1. Processed fairly and lawfully and, in particular, shall not be processed unless you;
   i) Have legitimate grounds for collecting and using personal data;
   ii) Not use the in ways that that have unjustified adverse effects on the individuals concerned;
   iii) Be transparent about how you intend to use the data and give individuals appropriate privacy notices when collecting their personal data;
   iv) Handle people’s personal data only in ways they would reasonably expect, and
   v) Make sure you do not do anything unlawful with the data.

2. Be obtained only for one or more specified and lawful purpose, and shall not be further processed in any manner incompatible with that purpose or those purposes;

3. Adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed;

4. Accurate and, where necessary, kept up to date;

5. processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes;

6. Processed in accordance with the rights of data subjects under this Act;
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, damage to, personal data;

8. Not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data

Appendix 2

The Six Caldicott Principles (Revised 2013)

1. Justify the purpose(s) of using confidential Information;
   - Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed by an appropriate Caldicott guardian.

2. Don’t use personal confidential data unless it is absolutely necessary;
   - Personal confidential data items should not be included unless it is essential for a specified purpose(s);

3. Use the minimum which is required;
   - Where use of personal confidential data is considered to be essential, the inclusion of each individual item of data should be considered and justified so that the minimum amount of personal confidential data is
transferred or accessible as is necessary for a given function to be carried out;

4. Access should be on a strict need to know basis;
   - Only those individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see. This may mean introducing access controls;

5. Everyone must understand his or her responsibilities;
   - Action should be taken to ensure that those handling personal confidential are made fully aware of their responsibilities and obligations to respect patient confidentiality;

6. Understand and comply with the law.
   - Every use of personal confidential data must be lawful. Someone in each organisation handling personal confidential should be responsible for ensuring that the organisation complies with legal requirements;

7. The duty to share information can be as important as the duty to protect patient confidentiality.
   - Health and social care professionals should have the confidence to share information in the best interest of their patients within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.

'These Principles should underpin information governance across the health and social care services'.

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4 Dame Fiona Caldicott – Information to share or not to share – The information Governance Review (2013)
## Appendix 3 – Information Governance - Glossary of Terms Related to Processing Personal Data

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<tr>
<th>Term</th>
<th>Definition</th>
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<td><strong>Caldicott Guardian</strong></td>
<td>A senior person responsible for protecting the confidentiality of patient/client, service user information and enabling appropriate information sharing by providing advice to professionals and staff/</td>
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| **Care Records**   | Care Records are personal records, which may be held electronically or in a paper file or a combination of both. Under Art 61 (1) guardians ad litem have a right of access to –

  ‘examine and take copies of –

  (b) any records of, or held by, an authority which were complied in connection with any relevant functions. So far as those records relate to that child;

  ‘relevant function’s’ means personal social services functions’ |
| **Data**           | Qualitative or quantitative statements or numbers that are (or are assumed to be) factual. Data may be raw or primary data (e.g. direct from measurement) or derivative of primary data, but not yet the product of analysis or interpretation other than calculation. |
| **Data Breach**    | Any failure to meet the requirement of the Data Protection Act, unlawful disclosure or misuse of |

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5 As above
personal confidential data and an inappropriate invasion of people’s privacy.

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<tr>
<th><strong>Data controller</strong></th>
<th>A person (individual or organisation) who determines the purposes for which and the manner in which any personal confidential data are or will be processed. Data controllers must ensure that any processing of personal data for which they are responsible complies with the Act.</th>
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<tr>
<td><strong>Data Loss</strong></td>
<td>A breach of principle 7 of the DPA or an inappropriate breaking of confidentiality.</td>
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<td><strong>Data processor</strong></td>
<td>In relation to personal data, means any person (other than an employee of the Data controller) who processes the data on behalf of the data controller.</td>
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<tr>
<td><strong>Frazer Guidelines for Competency</strong></td>
<td>A set of guidelines used by clinicians to determine whether a young person is mature and capable of understanding the issues and consequences of a decision and being able to evaluate relevant information and make a reasoned decision for themselves. Also sometimes referred to as Gillick competency.</td>
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<tr>
<td><strong>Identifiable information</strong></td>
<td>This term describes personal information about identified or identifiable individuals, which should be kept private or secret. ‘Confidential’ includes both information ‘given in confidence’ and ‘that which is owed a duty of confidence’.</td>
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| **Information**     | Information is the ‘output of some process that
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<th><strong>summaries, interprets or otherwise represents data to convey meaning</strong>. Data becomes information when it is combined in ways that have the potential to reveal patterns.</th>
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<tr>
<td><strong>Information governance</strong></td>
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<td><strong>Personal confidential data; Personal information</strong></td>
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<td><strong>Personal data</strong></td>
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<td><strong>Processing</strong></td>
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| **Public Interest** | Something ‘in the public interest’ is something that serves the interests of society as a whole. The ‘public interest test’ is used to determine whether the benefit of disclosing sensitive information outweighs the personal interest of the individual concerned and the need to protect the public’s trust in the confidentiality of services.

Ref: The Regional Guidelines for Nurses and Specialist Community Public health Nurses (August 2012) – HCS Public Health Agency & NIGALA. –

‘Information can be shared (with a guardian ad litem) if any of the following apply;

- **Informed consent has been given to share the information**;
- **There is an overriding public interest to disclose information**; |

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<th>information or data, including –</th>
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<tr>
<td>• The organisation, adaption or alteration of the information or data;</td>
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<tr>
<td>• Retrieval, consultation or use of the information or data;</td>
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<tr>
<td>• Disclosure of the information or data by transmission, dissemination or otherwise making available;</td>
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<tr>
<td>• Alignment, combination, blocking, erasure or destruction of the information or data.</td>
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- **A court order requires information to be shared**.

| **Safeguarding** | The process of protecting children and vulnerable adults from abuse or neglect, preventing impairment of their health and development and ensuring they live in circumstances consistent with the provision of safe and effective care. It enable children to have optimum life chances and enter adulthood successfully and adults to retain independence, wellbeing and choice and to access their human right to live a life that is free from abuse and neglect. |
| **Sensitive personal data** | Data that identifies a living individual consisting of information as to his or her; racial or ethnic origin, political opinions, religious beliefs or other beliefs or a similar nature, membership of a trade union, physical or mental health or condition, sexual life, convictions, legal proceedings against the individual or allegations of offences committed by the individual. |
| **Third Party Definition** | In relation to personal data, any person other than the subject of the data, the data controller or a data processor. |
NIGALA RECORDING POLICY

Data Protection Act 1998 cites the need for records to be “ADEQUATE, RELEVANT AND NOT EXCESSIVE”

SUBJECT ACCESS
Child/Young person’s right to access their records
Confirmation that the GAL has considered all relevant factors and appropriately discharged their responsibilities to the child/young person.

RQIA
External audit/evaluation

DATA PROTECTION ACT 1998

SOCIAL CARE GOVERNANCE
Health and Personal Social Services (Quality Improvement and Regulation (NI) Order 2003

CASE TRANSFERS
Up-to-date, accessible recording to evidence work undertaken and facilitate continuity.

QUALITY ASSURANCE & RISK MANAGEMENT
NIGALA
Evidence quality standards integral to audit process
Appraisal
Knowledge and Skills Framework

CASE MANAGEMENT REVIEW
Co-operating to Safeguard Children
DHSSPS May 2003

NISCC Code of Practice for Social Care Workers 6.2