Other:
Shepherd, Elizabeth and Hoyle, Victoria orcid.org/0000-0002-5149-806X (2022) Good practice in recording and access to records. Research in Practice.

research
in practice

Strategic
Briefing

Good practice in recording and access to records

Dartington

www.researchinpractice.org.uk

About this briefing

This briefing is for managers and senior leaders in children's social care. Its purpose is to support strategic leaders and managers in achieving best practice in participatory, person-centred recording and access to records.

The briefing:

- Offers an overview of recent research in children's social care record-keeping, drawing on the views of care-experienced people – in particular, learning from the MIRRA project (see Box 1).
- Discusses the complex legislative and regulatory landscape in England around recording in children's social care, including information rights under data protection law.
- Explains the crucial importance of person-centred recording and discusses how children's social care can engage more directly with children, families and others in creating children's records.
- Considers how children's social care can develop a more participatory approach to record-keeping, including potential improvements to digital recording systems.
- Offers valuable guidance on providing and supporting access to records, including best practice in redaction.

This briefing draws on learning from the MIRRA (Memory, Identity, Rights in Records, Access) research project (see Box 1) as well as wider research.

Box 1: Memory – Identity – Rights in Records – Access (MIRRA) project

MIRRA (Memory – Identity – Rights in Records – Access) is a research project based at University College London (UCL) undertaken in partnership with care leavers. The project is funded by the UK Arts and Humanities Research Council (AHRC). The first phase of the project, which ran from October 2017 to October 2019, mapped the complex legislative, regulatory and practical challenges that care-experienced people face in accessing their records. It explored the information rights of care-experienced individuals and the corporate responsibility of public and voluntary sector organisations to understand and enable people to exercise those rights, including organisations' understanding of their obligations under data protection law (Hoyle et al., 2019b, 2020; Shepherd et al., 2020).

In 2020, the project received further funding (finishing in September 2021) to create the specification for a more participatory record-keeping system; this phase of the project is called MIRRA+.

- For more information about the MIRRA project, including resources (all of which are free to access and use) see the MIRRA blog at: https://blogs.ucl.ac.uk/mirra/
- A six-minute video (MIRRA project, 2019b) made with MIRRA co-researchers explains the significance of putting care-experienced voices at the front of the research.

Introduction

> *I feel like the file is built around the immediate, keep them safe… I know there's all the legal stuff around care, but there's a duty of care for our soul as well.*
> John-george, care-experienced adult and co-researcher, MIRRA project[1]

We don't know how many children and young people who are, or have been in care, or who have otherwise received support from children's social care, ask to see their records. In 2008, Goddard et al. estimated that up to 4,000 requests were made to access care files every year in England. But for care-experienced people, those records may represent one of the few sources of information about their early life, and the sensitivity and care applied to creating, maintaining and retaining those records can have a direct impact on people's wellbeing and health throughout their lives.

Indeed, as this briefing will show, accessing care records can have a life-changing impact for care leavers, both positive and negative. Although research on access to files relates predominately to adults who were once in care, it is important for strategic leaders, managers, practitioners and archivists to remember that any child who is being supported by early help or child protection services may one day become a child in care who will need their records to help develop or sustain a clear understanding of who they are and how they came to be in care. Adults and young people who have never been in care but who had significant involvement with children's social care may have a similar need to see their records.

These adults and young people often lack guidance on how to access records and the emotional and practical support that they may need (Hoyle et al., 2019b, 2020; Shepherd et al., 2020). The process is not easy: records are often held (and duplicated) across different settings (including children's social care, health services, education, and youth justice), creating a complex and interrelated web of information that may be difficult both to access and understand. In many cases, records turn out to be incomplete, inaccurate, lost or destroyed. At a personal level, children's wishes and feelings are rarely recorded, and adults who access their childhood records may find they include few personal memory objects such as photos. This can reinforce a sense of 'information inequality' when young people or adults read their records – a sense that their voice or version of events was unimportant and so has not been captured.

This briefing considers the evidence relating to all these issues and makes a case for the importance of person-centred recording and adopting a participatory approach to record-keeping. By addressing the complex regulatory and policy context, the briefing looks at what organisations can do to provide and support access to records.

---

[1] MIRRA care leaver co-researchers gave permission for their testimony to be published and asked for their own names to be used in order to claim their own stories.

Recording in children's social care – the regulatory context

All care-experienced people and others who have received support from children's social care services have the right to request and read their records under the *Data Protection Act 2018*. This includes all children and young people, although children under 13 years old are likely to need to be supported by an appropriate adult.

The records that people might be able to access will be shaped by the legislation and requirements that were in force when they were in care or receiving support, which have changed and evolved over the decades (see Box 2 for a brief description of changes in recording requirements). Different timeframes also apply to the retention of records depending on the nature of the intervention or support received. Since the *Children Act 1989*, children have been assigned a status based on the social care intervention they receive, e.g. whether they are adopted, in care ('looked after'), supported as a 'child in need' or as a child at risk of 'significant harm'. Different records are required in each case, and different retention periods apply to those records, governed by separate regulations.

- The records of an adopted person must be kept for 100 years from the date of the adoption order.
- The records of a care-experienced person must be kept for 75 years from their date of birth.
- Records of children in need are generally kept for 25 years from their date of birth, even in instances where the child experienced significant interventions.
- The daily logbooks of children's homes need only be kept for 10 years from the last entry.

Research has found that these minimum retention periods do not reflect the information needs of care-experienced people (Hoyle et al., 2020). Care-experienced adults often do not apply for their records until much later in life, by which time records may have been destroyed or lost. Technical differences in status can significantly affect what records are available: for example, someone who was a child in need but not formally taken into care may find that their records have been destroyed, whereas their sibling who was in care still has access to their care file.

Box 2: Recording requirements over the decades

- The *Children Act 1948* required local authorities to create and preserve records about each child they support. Since the *Children Act 1989*, recording requirements have grown in complexity and formality.
- In the 1980s, government guidance (known as the 'Orange Book') was issued in an effort to regularise recording. It established a required structure and content of records and emphasised the importance of information gathering for quality assessment. However, its implementation marked a shift towards a risk-management approach to record-keeping, which focused on data collection and form filling rather than freer narrative recording (Hoyle et al., 2019b).
- The Looking After Children (LAC) toolkit in the early 1990s introduced Assessment and Action Records (AAR), pro forma designed to assess a child's progress and plan and monitor the quality of care. But this 'checklist' approach was criticised for bureaucratising care and potentially reinforcing children and young people's powerlessness over understanding their own lives (Hoyle et al., 2019b, p. 1863).
- The late 1990s saw the piloting of Integrated Children's Systems (ICS), an electronic case record system for all children referred to Children's Services. The ICS was introduced on a national level in 2007 to improve information sharing following the Laming Report (2003) into the death of Victoria Climbié, which identified poor record-keeping, questions over multi-agency information sharing, and inadequate information systems. Although the initial rigidity of the early recording requirements were later relaxed, White et al. say: 'The overall effect of such intensified bureaucracy is to reduce the social work assessment task to data entry, curtailing time for visiting and thinking about the casework task, and therefore the needs of the child' (White et al., 2010, p. 411).

Person-centred recording – why it matters and how to embed it

The development of autobiographical memories, particularly in childhood and adolescence, is critical to a child's future wellbeing (Cook-Cottone & Beck, 2007; Fivush, 2011). Many care-experienced people (of all ages) do not know a great deal about their childhood. They may be confused about what happened to them as a child, and they may not be able to answer such fundamental questions as 'Why was I in care?' (McGill et al., 2018). They may lack other information critical to their sense of self, such as their personal health history or the name of a parent or sibling, or they may have questions around ethnicity and heritage. All of these factors can have an impact on a person's identity and sense of self, and many care-experienced people will turn to their care files for answers.

So while recording is essential for professional accountability and to support effective decision-making, records are also of vital importance for the children and families to whom they refer; but evidence suggests that this latter element can be overlooked. Lillis (2017, p. 486) has noted that case recording is expected to serve multiple purposes – to provide a comprehensive account of service involvement with a family, to monitor practice for managerial oversight, and to provide retrospective evidence for an investigation or enquiry – but it may not meet all equally well.

In his analysis of written supervision records, Wilkins (2017) found that parents were most often described as a source of concern without evident reflection also on their strengths or positive attributes, while the child's wishes and feelings often went unrecorded. And Saleebey (2013) has noted that records focus on negative events in a child's life but often fail to give appropriate weight to positive events and achievements in line with strengths-based social work approaches. It is, of course, important that concerns are clearly documented so that children and families understand services' involvement and decision-making, but they should always be recorded in language that is clear and respectful (see BASW, 2021; TACT, 2019).

Findings from the MIRRA project demonstrated the typically low levels of involvement that children and young people have with their records while they are in care (Hoyle et al., 2020). This was true both of those who had recently been in care and older care-experienced people. Many people had not seen their records, had never been asked to contribute to them in any meaningful way, and did not understand what had been recorded about them. As a result, many participants felt they had little knowledge about the decisions made on their behalf or the reasoning behind those decisions. This leads to a lack of trust about the intentions and motivations of social workers and carers. Children, young people and care leavers consistently said that they would prefer to be told the truth, in age-appropriate ways. MIRRA also found that Ofsted inspection requirements were sometimes cited by care providers as a reason why they could not adopt a more dynamic, open or participatory approach to recording; they feared that such an approach would not meet with inspectors' approval.

Resources

- **Rosie: Accessing my care records (Walter, 2019)**. In this one-minute video from the MIRRA project, a care-experienced adult describes the emotions she experienced when reading her care records – and the importance of recording things in a sensitive way.
- **Care leavers' experiences** (MIRRA project, 2019a). In this short briefing, four care-experienced adults describe their personal experiences of accessing and reading their care records.
- **Untangling myself from the file** (Shepherd, 2019). In this 45-minute lecture, Dr Elizabeth Shepherd discusses the importance of person-centred record-keeping.
- **Language in Social Work Campaign (SWAG, 2021)**. This 40-minute video by the Social Work Action Group (SWAG) highlights the power and potential impact of language and communication in social work. With contributions from care-experienced young people, parents, practitioners and managers, the video shows how language has the power to engage, support and benefit families – but also how insensitive and inappropriate language can be oppressive, alienating and damaging.
- **Language that cares: Changing the way professionals talk about children in care** (TACT, 2019). This glossary, published by the adoption and fostering charity TACT, aims to change the language used in the care system. It was developed with care-experienced children and young people.

Box 3: Me and My World – a relationship-based model of practice in Brighton and Hove

Me and My World (Watts, 2020) is an approach to working with children in care in Brighton and Hove that promotes participation of the child or young person in the statutory review process. It includes a recording system in which social workers and Independent Reviewing Officers write their reports directly to the child. Foster carers also write a letter to the child in their care every six months.

The aim is to promote a 'personal, humane and empathic approach to recording and relationships' (Watts, 2020, p. 4). For practitioners, writing to the child acts as a reminder that they are creating records that the child is likely to read in the future. The record is about a real person, is a part of the child's life and seeks to explain things that the child wants to know, such as 'Why am I in care?' It focuses on the child's strengths and achievements, not exclusively on issues and problems, and is written in language that everyone can understand.

An evaluation of this approach by Watts (2021) found that this change increased focus on child-centred recording and that writing to the child clarified who the report was being written for. Workers also noticed an emphasis on strengths and achievements of the child in reports. Letters written by the foster carer to the child promoted life-story conversations and had value both for children and their carers.

Moving towards and embedding person-centred recording

A simple first action for senior managers is to assess their recording practices against the 'ten top tips' developed by British Association of Social Workers (BASW) England, which are set out in its good recording guide (BASW, 2020 – see Box 4). The guide was published as part of BASW England's 80-20 campaign: research by BASW found that social workers were spending only around 20% of their time in direct contact with children and families, and most social workers found recording systems frustrating, laborious and inefficient (BASW, 2018). So rather than asking practitioners to devote more time to record-keeping, the focus should be on redesigning existing recording processes to make best use of practitioners' time.

Assessment of current recording practices should include consideration of 'memory objects', as highlighted in BASW's good recording guide (BASW, 2020, p. 6). The MIRRA project found that items such as diaries, photographs, souvenirs and schoolwork are rarely included in care records, and it may not be possible for them to 'travel' with the child if they move placement. But when care-experienced people and others who have received support from children's social care access their records later in life, it is often this type of material that they hope to find – yet rarely do. Some foster carers store boxes of material in their attics and garages, including personal memory objects that are valuable for a child or young person.

Resources

- Defensible decision-making: Research in Practice is publishing a suite of resources on defensible decision-making in children's social care (Domakin, forthcoming), which emphasise the vital role that case records can play in helping care-experienced people to understand and make sense of their childhood and their family's involvement with services. The suite comprises challenge questions for middle and senior leaders (Domakin, forthcoming), a resource pack for supervisors (Domakin, forthcoming) and a CPD guide for those with responsibility for training and development (Domakin, forthcoming).
- **Good recording guide** (BASW, 2020). The BASW guide to good recording practice in child and family social work was developed as part of BASW England's 80-20 campaign. It includes 'ten top tips' for recording in children's social work (see Box 4).
- **Anchor Principles** (Brown et al., 2014). Use of the five Anchor Principles, as set out in the Research in Practice resource pack on analysis and critical thinking in assessment (Brown et al., 2014, pp. 33-51), can help support recording and maintain focus on the child and their story. Principles address five questions: 1: What is the assessment for? 2: What is the story? 3: What does the story mean? 4: What needs to happen? 5: How will we know when we are making progress?

Box 4: BASW's ten top tips for child social work recording

1) Include the child throughout the recording.
2) Write records as if writing to the child or family members.
3) Make records purposeful and analytical.
4) Include memory objects (e.g. photos) sensitively and critically.
5) Make sure records reflect the whole of the child's story and why decisions were made.
6) Chart the child's journey with a chronology supported by a genogram.
7) Include different views and opinions.
8) Make records easy to access.
9) Make sure recording is balanced and meaningful.
10) Avoid jargon and vague language, do not record every piece of communication.

(BASW, 2020)

Using supervision to support person-centred practice and recording

In his study of written records of supervision, Wilkins (2017) found that these tend to be created to demonstrate management oversight and practitioner accountability rather than to inform understanding of the social work decision-making process. Supervision records commonly described organisational actions but seldom reflected discussions about **why** those actions were taken, and records did not capture alternative and possibly contradictory points of view on what should be done. The following resources can help organisations support person-centred practice and recording through supervision.

Resources

- *Defensible decision-making in children's social care: A resource pack for practice supervisors* (Domakin, forthcoming). This resource aims to support first-line managers in facilitating reflective and analytical discussions in supervision to inform and consolidate defensible decision-making. It highlights the importance of having a clear understanding about the role that case files play in helping people to understand their childhood and their family's involvement with services.
- Using summaries to make decisions explicit in supervision (Domakin, 2020). This learning tool highlights the benefits of using summaries in supervision discussions to explicitly draw attention to the rationale and reasoning behind decisions.
- Using the five anchor assessment principles in supervision (Domakin & Sturt, 2019). This learning tool considers how to use the Anchor Principles in supervision.

Reflective questions on person-centred recording

- Are practitioners encouraged to reflect on what works well in recording and on what may need to change? Are they encouraged to share those reflections?
- Is quality of recording discussed in annual performance appraisals? And is it discussed regularly in team meetings?
- How do you identify good recording practice in other organisations or in other services within your own organisation?
- How do you implement developments in good practice?
- Can you identify some ‘quick wins’ in improving recording that can be implemented now? And can you identify longer-term objectives that will require greater planning?

Participatory recording

Participatory recording means building the active involvement of children, young people, carers and family members into recording practice throughout the period of their involvement with children’s social care, using age-appropriate approaches and activities.

Participatory practices give children and young people greater control of what is included in their records. Participatory record-keeping can also play an enduring therapeutic role in resolving issues of identity and self-image for those who have been in care (Hoyle et al., 2019b, 2020; Shepherd et al., 2020).

Who needs to be involved?

The voice of the child

The aim is for the voice, opinions and needs of every child and young person to be included in their records, in their own words and on their own terms. It is not enough for the child’s presence to be reported only via comments and reflections on the child’s behaviour by social workers and other professionals. Apps have been developed that give young people direct control over a digital space. These can sit alongside the formal care file enabling young people to talk about how they are feeling, ask for support and record things that are important to them.

Resources

- **Mind of My Own** apps, which have been developed with young people, enable children and young people to communicate their views in a way that suits them. They can use the app to tell their worker about what is important to them and what support they need.
- **Embedding participation in child protection practice** is an hour-long webinar and seminar session led by Dr Jo Dillon (2021), which focuses on enabling children's voices to be heard and responded to.
- *Enabling and embedding participation in child and family social work* (Dillon, forthcoming) is a practice tool that focuses on supporting and embedding children's participation, including participatory recording, as a continuous and dynamic practice.

Family members and others close to the child

Records should also accommodate voices other than those of the child and should represent the perspectives, beliefs and opinions of the different people closely involved in the child's life. Where there are tensions and disagreements, these should be fully represented in the record without attempting to establish a single, agreed narrative.

Records should reflect the family and other settings that play an important role in the child or young person's life. Practice in recording personal relationships between a child or young person's family members tends to vary widely. It may not always be appropriate to share information about parents with the child or to ask family members to contribute to the child's records; but where possible, it is worth considering how interacting with their child's record could help parents to understand the situation.

Resources

- ***Using genograms in practice: Practice Tool*** (Scott, 2021). Co-producing a genogram with different family members and the child can help to explore family relationships and alternative perspectives.

Where parents and other family members were actively involved in writing up assessments and other documents, they report higher satisfaction with the outcomes of a social work intervention, even where a child was ultimately removed from the home, as they felt it was fairer and their perspective had been heard (Hoyle et al., 2019a). MIRRA found that when care leavers return to their records later in life and are able to view their parents and family through adult eyes, they often come to a new understanding about their relationships. For example, they may have previously felt rejected or unloved. Being able to discover what was felt and thought about them was very powerful, especially when it came in the form of direct testimony.

Foster carers and other professionals

Other professionals, including foster carers and residential care workers, should also be able to contribute to a child's record. Standards and practice relating to foster carers' access to records about the children they care for tend to vary, however. In some cases, foster carers will have mediated access to case management systems (as an authorised user, or they may be able to read but not edit); in other cases, foster carers may rely on a private system. But if foster carers cannot contribute to records directly, information passed between carers and social workers might not be captured in a child's records, despite foster carers having important insights into a child's life. Foster carers may also feel frustrated if they do not know what will happen to the informal memory and identity materials that they have collected for a child.

Principles for participatory record-keeping

The MIRRA project has developed a set of principles for participatory record-keeping (Hoyle et al., 2019a) – see Box 5. Although these were drawn up in the context of care leavers, the principles include learning and reflection that is relevant across children's social care and can be applied to all children, young people and families involved with Children's Services. The principles encourage children's contribution at every stage of the decision-making process.

Box 5: Principles for participatory record-keeping

- **Record creation:** Local participatory recording policies and practices should cover the content, scope and quality of records and should explicitly address information sharing.
- **Records management:** Policies and practice should focus on both the physical and intellectual control of files (whether paper or digital), including arrangements for their secure retention and preservation. Organisations should be able to identify and locate all of the records they create, receive, use or hold relating to children, young people and their families. Organisations should ensure that they have robust and transparent systems in place for observing retention periods and for documenting records destruction.
- **Access:** Organisations should develop protocols for responding to Subject Access Requests under data protection (see the 'Providing and supporting access to records' section). This should include a thoughtful and consistent approach to redaction. Protocols should also cover the presentation and packaging of records for delivery to the care-experienced person, and the provision of advice, support and aftercare to requestors.

Reflective questions

- How are you able to contribute to building or sustaining an ethos and culture that has an expectation that children will contribute to their own records? How are senior managers made aware of necessary improvements, and how are they supported to achieve change?
- How do professionals engage with children and young people in the creation of their records? What formal and informal participatory practices do professionals use in recording? Do you gather feedback from practitioners who may have valuable methods to share?
- Are foster carers and residential care workers able to contribute to and interact with a child's records?
- In what ways are the families that your service(s) works with involved in recording and also in reviewing and improving the service?
- How are differences of opinion and different perspectives accommodated in the record, including those that are contradictory?
- How do practitioners balance the organisational requirements for recording and the memory and identity needs of the child?
- At the end of a placement, do practitioners collect memory and identity records from foster carers or residential care workers for inclusion in a child's file? How do they record personal memory items, including photographs, objects and certificates?
- What training and support is given to practitioners to enable them to practise good, person-centred recording? How do you involve children and families in training practitioners?

Working with digital recording systems

Many managers and social workers will be all too aware of the limitations, restrictions and frustrations of electronic recording systems. Digital recording systems have generally not been designed to enable children and young people to contribute to their own file, nor for them to understand it if and when they read it. Digital systems also commonly limit what can be recorded, when and by whom.

In many cases, digital systems have been created with little understanding of the long-term implications or needs. The MIRRA project highlighted that information held in older 'legacy' digital systems often cannot be exported or migrated to a new system without significant cost. Records created only five to ten years ago were in obsolete formats that could not easily be opened (Hoyle et al., 2019b, 2020; Shepherd et al., 2020).

Other potential problems include:

- Word limits and check boxes may prevent or inhibit narrative recording.
- Forms can be unwieldy, complex and repetitive, making them difficult both to complete and to read.
- One family's records may be divided between the files of several children, with no family file in existence.
- A child may be supported by different practitioners over the course of their involvement with children's social care. But the file may not reflect the voices of all those who were involved in the child's care, such as foster carers, residential care workers, family and friends, teachers, health workers and others.

The digital system will of course be key to what is recorded, but equally important are local policy and practice guidance and an organisational culture that empowers social workers and carers to capture and create positive memories for the child, including through the recording of memory objects. This means that when procuring digital recording systems, managers should actively consider how memory and identity requirements will be met – and how they can be written into future software exercises. The MIRRA+ project (see Box 6) has developed a specification for a participatory digital recording app.

Reflective questions on digital recording systems

- How flexible and responsive is your recording system to the needs of children and families? Are there any changes that could be made to improve this?
- How are the various points of view of all the different people involved in a child or young person's care included on the child's file?
- What methods are available for capturing positive personal photographs and objects on a child's file, alongside official reports? Are workers encouraged to do this? And are they provided with guidance on what they can or should include? For example, are practitioners encouraged to include a record of school certificates, party invitations, birthday celebrations (including cakes) and other events?
- Do you have any plans to try and procure a more flexible and responsive recording system – one that is capable of capturing personal memory objects, for example, and overcoming the difficulty of 'legacy' systems highlighted on the previous page?

Box 6: The MIRRA+ participatory digital social care recording system

In 2020, the MIRRA project received additional funding to develop a specification for a more participatory digital record-keeping system that reflects the needs of care-experienced people. This phase of the project was called MIRRA+.

In partnership with software developers OLM Systems, UCL researchers worked with care-experienced people (as co-researchers), social workers and information professionals to develop an open-source specification for a participatory digital recording app for use in child social care settings.[2]

The purpose of the app is to create a safe and simple way for a young person to record a digital personalised diary, parts of which they can share with their social worker or carers. A key objective is to give the young person control; this is done through the app via personalisation features. The app also uses gamification to engage young people and to help them get the most from it.
https://doi.org/10.5281/zenodo.5599430

---

[2] Open-source means that the specification will be publicly available, so others will be able to share and modify it.

Providing and supporting access to records

> *There came a point where I wanted to know where I'd been, I wanted to know who'd fostered me, because there was little chunks of my life missing, like where I'd gone to school? ... that's what spurred me on to do it, because I wanted to know, I wanted to fill in these bits that were missing in my life.*
> Gina, care-experienced adult and co-researcher, MIRRA project

The *Data Protection Act 2018* gives individuals ('subjects') the right to ask an organisation for copies of personal information by making a Subject Access Request (SAR) (ICO, 2020). This is a general right of access; no special provisions are made for adults who were in care as children or who were otherwise in contact with children's social care. Organisations are not allowed to keep a record of the reasons for data access requests, so there is no reliable data about how many requests each year relate to involvement with children's social care, time spent in care, or adoption.

Data protection law is intended to be enabling rather than restrictive, yet research has found that many organisations have concerns about understanding and complying with regulations; this can lead to them taking a risk-averse position. In particular, anxiety about revealing third-party information is a key reason for limiting access to records or heavily redacting them (Hoyle et al., 2020, p. 941); fear of breaching data protection laws and incurring fines from the Information Commissioner's Office means that some organisations adopt a restrictive interpretation of data protection, thereby curtailing the information rights of care-experienced people. This is despite a 1989 ruling by the European Court of Human Rights (Gaskin v. the United Kingdom – see Box 7) that a care-experienced person has a right to access their care records.

Box 7: Case of Gaskin v. the United Kingdom [3]

The precedent-setting case brought by Graham Gaskin, which went all the way through the English law courts to the European Court of Human Rights, relied on Article 8 of the *Human Rights Act 1998* to make the case for access, since Article 8 entitles an individual to respect for their private and family life. The court ruled that access to records was a human right. As the records existed only by virtue of the child having been in care, they must be the personal data of that child and, as such, should be released.

Graham had spent almost all his childhood in care, before leaving care in 1977. He requested access to his care records in order to substantiate an allegation of abuse, but his request was refused by the council (Hoyle et al., 2019b). That decision was endorsed by the English courts. In 1983, Graham took his case to the European Court, which in 1989 eventually ruled that failure to disclose the records was a breach of Article 8. Graham had successfully argued that information in the records was essential to help him understand his identity and childhood experiences (Goddard, 2006).

---

[3] http://www.bailii.org/eu/cases/ECHR/1989/13.html

All organisations, including voluntary and private sector record creators, must respond to SARs under data protection. However, public authorities have an additional obligation to provide requestors and researchers with more general access to their records under the *Freedom of Information Act (FOI) 2000*, which applies to government departments, local authorities, the NHS, state schools and the police. Requestors refused access under data protection by voluntary and private organisations, for whatever reason, have no recourse under the FOI Act to compel disclosure.

This is true even where voluntary sector and private organisations have provided services which have been commissioned and funded in the performance of a public task, such as social work. The complexity of the policy and regulatory context, and the variations in local application and practices, can lead children's social care and data professionals into a risk-averse position in recording practices and in the provision of access, even when they would like to act in a more inclusive way.

Finding information about how to access records later in life can be difficult. Processes are different for each organisation and lots of unfamiliar terminologies are used (e.g. 'subject access', 'third party information'). Once a request has been made, people often have to wait a long time before receiving that information. Sometimes, after waiting many months, care-experienced people have been told that their records are missing or that nothing has survived.

Individuals may spend years trying to identify and secure access to records about themselves. Brown et al. (2020) compare the positive (welcoming, inclusive and supportive) experiences of one requestor with negative (inflexible, subject to individual whim, refusal to provide a copy) experiences of another and discuss the information irregularity and power dynamics of the access request process.

Resources

- **How can practitioners support access to records?** (Steel & Forbes, 2019). In this one-minute video from the MIRRA project, two archives and record managers discuss what practitioners can do to support people accessing personal information.
- **FamilyConnect** supports care-experienced adults to find answers to questions about their origins (see Box 9).
- **The Care Leavers' Association** offers guidance and support to people seeking to access their care file.

Box 8: Supporting care-experienced and adopted people to access their records – the Barnardo's Making Connections service

Barnardo's has one of the largest collections of archives and records about children in the world. Records date back as far back as the 1870s and include files and photographs of children who were cared for by the charity in children's homes or foster care.

Since 1995, Barnardo's has provided a dedicated service to support adults to access their records if they were in Barnardo's care as children or were placed for adoption by Barnardo's. This includes one-to-one support from specially trained access-to-records workers and a tracing service that helps to connect people with birth family and former carers. The service receives hundreds of requests each year.

A core principle of Making Connections is to support people to access their records in whatever way is right for them and their circumstances.

- The unique and emotional relationship that care leavers have with their records is acknowledged, as is the impact of remembering and revisiting childhood trauma.
- Every requestor is given an opportunity to develop a relationship with a named person who can guide them through the process and will try to meet their individual needs. All requestors are invited to meet their worker.
- In some cases, records may be taken to a person in their own home. For most people, the option of having their records sent by special delivery is the most appropriate.

https://www.barnardos.org.uk/what-we-do/services/making-connections

For more information on Making Connections, see ***Supporting care leavers to access records*** (Roach et al., 2019) in the MIRRA project's practitioner case studies.

Box 9: FamilyConnect

FamilyConnect helps adults who have been adopted or been in care to find answers to questions about their origins. The service, which was created by Family Action, offers free help and step-by-step advice to support people to connect with their personal history, search for records and make contact with family members. FamilyConnect also seeks to connect people with sources of emotional and practical support through their journey.

www.familyconnect.org.uk

Reflective questions on providing and supporting access

- Do senior managers ensure that children and young people (in particular, care leavers during their transition to independence) are able to read and talk about their children's social care file in order to support them to understand and process their life experiences? If not, how can this be facilitated?
- When and how do senior managers review how their organisation responds to SARs from care-experienced adults? What experience do you think children and adults would have when requesting to view their files within your organisation?
- What support is given to requestors at different stages in the access process? Are they directed to support and guidance, including the Care Leavers' Association and the FamilyConnect service (Box 9)?
- How does your organisation ensure that all records relating to the requestor have been identified, not just a partial set?
- How are records packaged and presented once a decision has been made to release them? Is the requestor asked how they would like to receive them and if they would prefer a digital or printed copy? Are the file contents put into the correct sequential order? Are printouts placed in an attractive binder? Is the packaging sufficiently strong and secure to make sure that it arrives safely?

Redaction

Redaction (the removal or blanking out of information from records) is by far the biggest challenge when processing SARs. Data protection legislation, which governs the SAR process, is not prescriptive about how redaction should happen and allows organisations to justify their own approaches. Critically, when information is redacted from records, the redaction is often risk-averse, inconsistent and rarely explained (Hoyle et al., 2019b, 2020; Shepherd et al., 2020). Care leavers often find redaction confusing and upsetting, while the practitioners doing the redacting (whether children's social care professionals or data protection professionals) find it onerous and time-consuming.

Redaction involves making a judgment about the information rights of different individuals. Although it is not always necessary to remove third party data (see 'Achieving best practice in redaction' below), many organisations consider most, if not all, data that is not directly about the requestor to be third party information, and they spend time painstakingly and unnecessarily removing information from the files or trying to contact relatives (who are unlikely to give their consent).

The MIRRA project found that organisations use the *Data Protection Act 2018* to deny or restrict a care-experienced person's access to their information, sometimes out of a misunderstanding of the law. Data protection is also sometimes used to justify risk-averse responses that could be interpreted as protecting the organisation's best interests rather than those of the care leaver. Risk-averse redaction is an example of what Burton and van den Broek (2009) identify as a shift from professional judgment and values to bureaucratic accountability in social work.

The most important aspect of any SAR is to enable people to find out what has happened in their lives. Processing SARs is not an exact science, but organisations need to understand their legal and moral obligations and their ongoing duty of care. Ironically, experience within the MIRRA project suggests that it is the over-redaction and over-processing of requests that cause many organisations to breach statutory timescales, which leaves care-experienced people feeling upset, angry and confused.

Achieving best practice in redaction

The UK Information Commissioner's Office (ICO) advises that redaction 'involves balancing the data subject's right of access against the other individual's rights relating to their own personal data' (ICO, 2020, p. 42). Third party data can be left in the record in many cases, including if the other person has given consent that the data can be shared. This can be gained retrospectively when a SAR is made; alternatively, services can routinely ask members of a family if they agree to their data being shared with other people in the family.

ICO advises that the importance of the information to the requestor needs to be considered in order to balance the right of confidentiality for a third party against the requestor's right to access information about their life. It is worth noting that ICO 'haven't taken enforcement action against individual organisations for exercising their discretion in subject access requests' (Denham, 2019; see also Hoyle, 2019). Social workers who attended the MIRRA symposium in July 2019 said they would adopt a more person-centred and less risk-averse approach to dealing with access requests and redaction in the future, and would think about what should be given, not taken out.

Redaction should be undertaken on a case-by-case basis, taking into account the emotional needs and circumstances of an individual. Best practice includes:

- Records should be redacted only where information relates absolutely and completely to a third party and bears no relation to the care-experienced person (Shepherd et al., 2020).
- When health, education or social work professionals create a record, their names and other details do not have to be redacted for access.
- It is reasonable to avoid redaction when the requestor already knows the information (e.g. names of social workers or carers, other children they grew up with, friends and so on); what they know can easily be determined by talking to the requestor before undertaking redaction.
- Where records have been redacted, each redaction should be clearly explained. Requestors should also be informed of their right to appeal and / or complain about redaction decisions.

Reflective questions on redaction

- How do you identify SARs that come from those who have been in contact with children's social care and whose personal data might require sensitive handling and additional support?
- Who is responsible for responding to SARs from adults who have been in receipt of children's social care, and what training and support are they given? How confident are workers to apply data protection laws and focus on the individual's needs when responding to a file request?
- Does your organisation routinely ask the person making the request what they already know in order to avoid redacting information unnecessarily? Is each redaction explained to the requestor? What experience do you think children and adults have when requesting to view their files within your organisation?
- Do you exchange experiences with others outside your organisation? Do staff have peer-supported space to explore and discuss issues arising from providing access to children's social care records, such as a regional post-care forum?
- How often are your organisational polices and approaches to redaction reviewed? Does this include consideration of the role records play in being a corporate parent? Do reviews involve care-experienced people?

Conclusion: Linking research to practice

The messages from research in this briefing can help leaders and senior managers to reflect on recording practices within their organisation and to reframe children's social care recording as a caring activity rather than bureaucratic necessity. Linking these research findings to improved, more responsive and more person-centred recording requires reflection, leadership and practice improvements at all levels: individual children's social care professionals, team leaders, senior managers and organisational chief executives.

In particular, it is worth reflecting on who is responsible for understanding the complex legislative and regulatory landscape around recording in children's social care. Managers should create an organisational environment that encourages a more participatory approach to recording. They may then be better able to navigate key legislative requirements such as the *Data Protection Act 2018* in socially just ways.

References

British Association of Social Workers. (2018). *80-20 campaign: How much 'direct' time do social workers spend with children and families?*
www.basw.co.uk/system/files/resources/FINAL 80-20 report.pdf

British Association of Social Workers. (2020). *10 top tips: Recording in children's social work.*
https://www.basw.co.uk/system/files/resources/basw_recording_in_childrens_social_work_aug_2020.pdf

British Association of Social Workers. (2021, March 3). Bid to banish 'oppressive' language in social work. *Professional Social Work Magazine.*
www.basw.co.uk/resources/psw-magazine/psw-online/bid-banish-oppressive-language-social-work

Brown, L., Grimm, D., & Clunie, G. (2020). Journeys to identity: Why care records matter. *Scottish Journal of Residential Child Care, 19*(2), 52–63.
https://celcis.org/application/files/4816/2306/7081/2020_Vol_19_No_2_WCS_Journeys_to_Identity_Why_Care_Records_Matter.pdf

Brown, L., Moore, S., & Turney, D. (2014). *Analysis and critical thinking in assessment: Resource pack* (2nd ed.). Research in Practice.
www.researchinpractice.org.uk/children/publications/2014/july/analysis-and-critical-thinking-in-assessment-resource-pack-2014

Burton, J., & van den Broek, D. (2009). Accountable and countable: Information management systems and the bureaucratization of social work. *British Journal of Social Work, 39*(7), 1326–1342.
https://doi.org/10.1093/bjsw/bcn027

Cook-Cottone, C., & Beck, M. (2007). A model for life-story work: Facilitating the construction of personal narrative for foster children. *Child and Adolescent Mental Health, 12*(4), 193–195.
https://doi.org/10.1111/j.1475-3588.2007.00446.x

Denham, E. (2019, July 18). MIRRA Symposium, opening address [Video]. YouTube.
https://youtu.be/SJov4eexcFE

Dillon, J. (2021). *Embedding participation in child protection practice* [Webinar]. Research in Practice.
https://www.researchinpractice.org.uk/children/content-pages/videos/embedding-participation-in-child-protection-practice

Dillon, J., Evans, F., & Kippen, R. (2021). *Enabling and embedding participation in child and family social work: Practice tool* [Practice briefing in preparation]. Research in Practice.

Domakin, A. (2020). *Practice tool: Using summaries to make decisions explicit in supervision*. Research in Practice.
https://practice-supervisors.rip.org.uk/wp-content/uploads/2020/12/PT_Using_summaries_to_make_decisions_explicit_in_supervision_Final.pdf

Domakin, A. (forthcoming). *Defensible decision-making in children's social care: A resource pack for practice supervisors*. Research in Practice.

Domakin, A. (forthcoming). *Defensible decision-making in children's social care: Challenge questions for leaders*. Research in Practice.

Domakin, A. (forthcoming). *Defensible decision-making in children's social care: A resource pack for practice supervisors*. Research in Practice.

Domakin, A., & Sturt, P. (2019). *Using the five anchor assessment principles in supervision: Practice Tool*. Research in Practice.
https://practice-supervisors.rip.org.uk/wp-content/uploads/2020/01/Using-the-five-anchor-assessment-principles-in-supervision-v4.pdf

Fivush, R. (2011). The development of autobiographical memory. *Annual Review of Psychology, 62*(1), 559–582.
https://doi.org/10.1146/annurev.psych.121208.131702

Goddard, J. (2006). A paper childhood: The social services care files of former looked after children in the UK. In K. Milnes, C. Horrocks, N. Kelly, B. Roberts & D. Robinson (Eds.), *Narrative, memory and knowledge: Representations, aesthetics, contexts* (pp. 111–118). University of Huddersfield.
https://core.ac.uk/download/pdf/58349.pdf

Goddard, J., Feast, J., & Kirton, D. (2008). A childhood on paper: Managing access to child care files by post-care adults. *Adoption & Fostering, 32*(2), 50–62.
https://doi.org/10.1177/030857590803200207

Hoyle, V. (2019, July 30). Reflecting on the MIRRA symposium, 18th July 2019. *UCL*.
https://blogs.ucl.ac.uk/mirra/2019/07/30/reflecting-on-the-mirra-symposium-18th-july-2019/

Hoyle, V., Lomas, E., Shepherd, E., & Flinn, A. (2019a). *A framework for caring recordkeeping: Toolkit and principles* [unpublished]. MIRRA project, University College London.

Hoyle, V., Shepherd, E., Flinn, A., & Lomas, E. (2019b). Child social-care recording and the information rights of care-experienced people: A record-keeping perspective. *British Journal of Social Work*, *49*(7), 1856–1874.
https://doi.org/10.1093/bjsw/bcy115

Hoyle, V., Shepherd, E., Lomas, E., & Flinn, A. (2020). Record-keeping and the life-long memory and identity needs of care-experienced children and young people. *Child and Family Social Work*, *25*(4), 935–945.
https://doi.org/10.1111/cfs.12778

Information Commissioner's Office. (2020). *Right of access.* Guide to the General Data Protection Regulation (GDPR). Retrieved September 24, 2021, from
https://ico.org.uk/right-of-access

Laming, H. (2003). *The Victoria Climbié Inquiry: Report of an inquiry by Lord Laming.* The Stationery Office.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/273183/5730.pdf

Lillis, T. (2017). Imagined, prescribed and actual text trajectories: The 'problem' with case notes in contemporary social work. *Text & Talk*, *37*(4), 485–508.
https://doi.org/10.1515/text-2017-0013

McGill, L., Coman, W., McWhirter, J., & O'Sullivan, C. (2018). Social workers' experiences of using the narrative model to talk to children about why they are in care and other sensitive issues. *Adoption & Fostering*, *42*(1), 49–57.
https://doi.org/10.1177/0308575917751999

MIRRA project. (2019a). *Care leavers' experiences* [MIRRA project case studies]. UCL Department of Information Studies.
https://cpb-eu-w2.wpmucdn.com/blogs.ucl.ac.uk/dist/1/627/files/2019/07/Care-Leavers-Experiences.pdf

MIRRA project. (2019b, July 15). *MIRRA: Memory, identity and rights in records for care leavers* [Video]. YouTube.
https://youtu.be/xs28tczL3yA

Roach, K., Scott, T., Ulugan, K., & Parker, M. (2019). Supporting care leavers to access records. In *Practitioner perspectives* [MIRRA project case studies].
https://cpb-eu-w2.wpmucdn.com/blogs.ucl.ac.uk/dist/1/627/files/2019/07/Practitioner-Perspectives.pdf

Saleebey, D. (2013). *The strengths perspective in social work practice* (6th ed.). Pearson.

Scott, H. (2021). *Using genograms in practice: Practice tool*. Research in Practice.
www.researchinpractice.org.uk/children/publications/2021/february/using-genograms-in-practice-practice-tool-2021

Shepherd, E. (2019, November 21). *'Untangling myself from the file': Human-centred record-keeping* [Video]. UCL Minds lunch-hour lectures.
https://youtu.be/CCEj4l8svX4

Shepherd, E., Hoyle, V., Lomas, E., Flinn, A., & Sexton, A. (2020). Towards a human-centred participatory approach to child social care recordkeeping. *Archival Science, 20*(4), 307–325.
http://dx.doi.org/10.1007/s10502-020-09338-9

Social Work Action Group. (2021, March 15). *Language in social work campaign – SWAG* [Video]. YouTube.
https://youtu.be/70k6MkxuZRU

Steel, A., & Forbes, H. (2019, September 23). *Adrian & Heather: How can practitioners support access to records?* [Video]. YouTube.
https://youtu.be/6vAewa0GysU

TACT. (2019). *Language that cares: Changing the way professionals talk about Children in Care.*
www.tactcare.org.uk/content/uploads/2019/03/TACT-Language-that-cares-2019_online.pdf

Walter, R. (2019, September 23). *Rosie: Accessing my care records* [Video]. YouTube.
https://youtu.be/QuL-4NBXCLM

Watts, R. (2020). *Me and my world: Developing practice and procedure with children in care*. Brighton and Hove City Council/University of Sussex.

Watts, R. (2021). Relationships, reviews and recording: Developing practice for children in care. *Practice: Social Work in Action, 33*(3), 207–222.
https://doi.org/10.1080/09503153.2021.1889488

White S., Wastell D., Broadhurst K., & Hall, C. (2010). When policy o'erleaps itself: The 'tragic tale' of the Integrated Children's System. *Critical Social Policy, 30*(3), 405–429.
https://doi.org/10.1177/0261018310367675

Wilkins, D. (2017). How is supervision recorded in child and family social work? An analysis of 244 written records of formal supervision. *Child & Family Social Work, 22*(3), 1130–1140.
https://doi.org/10.1111/cfs.12330

Note on the author

Elizabeth Shepherd is Professor of Archives and Records Management at University College London where she led the research project ‘Navigating the public information rights ecology: a record-keeping perspective on supporting information rights’ (Memory - Identity - Rights in Records – Access: MIRRA project) (2017-2019, 2020-2021) funded by the Arts and Humanities Research Council. The briefing draws on the research and work of academics Andrew Flinn, Victoria Hoyle, Elizabeth Lomas, and Anna Sexton, and their care-experienced co-researchers.

Research in Practice
The Granary Dartington Hall
Totnes Devon TQ9 6EE

tel 01803 867692
email ask@researchinpractice.org.uk

Author: Elizabeth Shepherd

Cover image reproduced with the kind permission of University College London - **www.ucl.ac.uk/news/2019/oct/childrens-voices-omitted-care-records-ucl-study-finds**

Research in Practice is a programme of
The Dartington Hall Trust which is a company
limited by guarantee and a registered charity.
Company No. 1485560 Charity No. 279756 VAT No. 402196875

Registered Office:
The Elmhirst Centre, Dartington Hall, Totnes TQ9 6EL

ISBN 00000