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Child Social-Care Recording and the Information Rights of Care-Experienced People: A Recordkeeping Perspective

Victoria Hoyle, Elizabeth Shepherd*, Andrew Flinn and Elizabeth Lomas

Department of Information Studies, University College London, London, WC1E 6BT, UK

*Correspondence to Elizabeth Shepherd, Department of Information Studies, University College London, Gower Street, London, WC1E 6BT, UK. E-mail: *e.shepherd@ucl.ac.uk*

Abstract

Recent reports by the Independent Inquiry into Child Sexual Abuse (IICSA) emphasised the critical importance of records throughout the lives of care-experienced people. Records not only contain information about what happened to a person in their past, but also have long-term effects on memory and identity. Research emerging in the context of analogous national inquiries into the systemic abuse and neglect of children in care—particularly the Royal Commission in Australia and the Shaw Report in Scotland—have highlighted the significance of records to campaigns for reparative justice. This article introduces *MIRRA: Memory—Identity—Rights in Records—Access*, which is a participatory action research project co-produced with care-leavers and researchers based at University College London (UCL). This ongoing study seeks to deepen our understanding of the creation, use and management of care records and protocols to access them. In this article, we consider the practice of social work recording with children and families in England since the 1970s from a 'recordkeeping perspective', importing theory from the information studies field to provide a new perspective on the information rights of care-leavers.

Keywords: Access to records, care-leavers, child social-care records, data protection, information rights, recordkeeping

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Introduction

The creation and maintenance of case records have been integral to social work with children, young people and families in England since the late nineteenth century. Conceived initially as tools for the improvement of practice—for self-development, supervision and research—social-care practitioners now recognise them as key to building evidenced accounts of relationships between families and services (Kagle, 1991). In addition, they form the basis for performance monitoring and management, and for assessing the need for and outcomes of social work interventions (Calder, 2004). Increasingly, they have been subject to best-practice recommendations on client participation and co-production, contributing towards cultures of transparency and openness (Shemmings, 1991; Prince, 1996). As a result, recording consumes significant resources. Research suggests that creating, monitoring and managing records may account for as much as 60–80 per cent of a social worker's time (White *et al.*, 2010).

Despite this centrality, records occupy an often conflicted and ambivalent position. Serious case inquiries have highlighted inconsistent and inadequate recording as a contributory factor in the abuse and deaths of children (Laming, 2003)—a conclusion that the ongoing Independent Inquiry on Child Sexual Abuse in England and Wales seems set to repeat (IICSA, 2018). The introduction of systems to improve practice have been met with strong criticism from researchers and front line workers (Shaw *et al.*, 2009; Munro, 2011). Programmes of training and guidance on recording issued at regular intervals since the 1980s have apparently failed to secure adequate change (O'Rourke and Grant, 2005). Instead, they have contributed to an underlying concern that maintaining records is a bureaucratic distraction from social work itself (Burton and van den Broek, 2009).

However, research strongly suggests that records are a critical issue, not only for the safeguarding of children and young people who are currently looked after, but for care-experienced people throughout their lives. The ways in which social work records are made and kept have long-term significance for the subjects of those records, especially care-leavers, for whom they may represent the equivalent of childhood memories (Swain and Musgrove, 2012; Goddard *et al.*, 2013). A number of studies in England have suggested the valuable role records play for people who grew up in out-of-home care, in answering questions about their early lives, facilitating family reconciliation and supporting recovery from trauma (Pugh, 1999; Kirton *et al.*, 2001; Goddard *et al.*, 2008). Research emerging from Australia and Scotland has further demonstrated that records are not only repositories of memory and identity, but also tools for social justice (Evans *et al.*, 2015, 2017; MacNeil *et al.*,

2018). National inquiries into the systemic mistreatment of children have established that records are instrumental in making reparations for the institutional abuse, neglect and the lifelong social inequalities that some care-leavers have experienced (Shaw, 2007; Royal Commission, 2016; IICSA, 2018).

MIRRA: memory—identity—rights in records—access

Research and action on social-care records to date have focused predominantly on access and the rights of adult care-leavers to discover information about their childhoods retrospectively (Murray *et al.*, 2008; Kirton *et al.*, 2011; Goddard *et al.*, 2013). A recent report by the Access to Records Campaign Group has argued convincingly for service improvement, understanding and empathy in this area (ARCG, 2016). The Access to Records Campaign Group is a coalition of advocacy organisations with interests in care records. It is led by the Care Leavers Association; other members include Barnardo's, CoramBAAF and the Association of Child Abuse Lawyers. Research now being conducted at UCL underlines and extends these findings. *MIRRA*, which stands for Memory—Identity—Rights in Records—Access, is a two-year project (2017–19, AHRC-funded), which brings together multiple stakeholders—namely care-experienced people, social-care practitioners, information professionals and researchers—to explore social work records.

The project adopts a 'recordkeeping perspective', which seeks to deepen our understanding of both information rights and responsibilities in care records by considering the effects of how they are thought of, created, used and managed throughout their existence from multiple perspectives. This article establishes the background and validity of this approach, outlining and justifying the recordkeeping perspective and its potential for informing social work practice. In it, we consider the evolution of recording practices in social work, operating on the assumption that the ways in which records have been constructed and conceived shape their long-term impact. We discuss research from within the information studies field relevant to social-care records, touching on issues of memory, identity and well-being, as well as sharing early findings from *MIRRA*. The paper has developed from a detailed literature survey supplemented by preliminary analysis of data collected with care-leavers, social workers and information professionals as part of a pilot in the summer of 2017 and during a participatory workshop with care-experienced co-researchers held in January 2018. These data are used here to reflect upon and discuss the literature rather than providing a focus; full analysis of our findings will be published later in the project.

By bringing together different communities of expertise and knowledge to work collaboratively with academic researchers, *MIRRA* takes a

participatory action approach. This challenges us to involve members of the participant groups as active agents in each stage of the research process—from design through to dissemination of findings—in order to harness and account for their different perspectives, values and needs (Evans *et al.*, 2017). This process is responsive and iterative, developing as the research develops. It recognises that social-care recording takes place within a complex system and in the context of bureaucratic and societal pressures. However, a conscious choice has been made at the outset to orientate participation towards the perspectives and viewpoints of care-leavers, as people with a personal and emotional stake in social-care records. We see this as important in rebalancing the distribution of power in recordkeeping, which is often tipped in favour of practitioners and policy makers (Caswell, 2014). Consequently, a group of six adult care-leavers have been recruited as 'co-researchers', to underline their right as care-experienced people, 'to participate in societal memory, with their own voice, and to become participatory agents in recordkeeping and archiving for identity, memory and accountability purposes' (Evans *et al.*, 2015, p. 337).

However, social-care practitioners, information professionals and academic researchers have also been engaged in designing and informing the research through an advisory group. This group comprises representatives from local authorities, charities, professional bodies, advocacy groups and universities, including social workers and record managers. During the course of the research, up to fifteen participants from each group of stakeholders will take part in collaborative workshops, both separately and together, using interactive research techniques, which will contribute towards the co-creation of outputs to serve their multiple needs and expectations (Evans *et al.*, 2017). As 'action research', the project seeks to translate its findings into outputs that acknowledge and tackle both specific issues and the systemic recordkeeping challenges (Wilson *et al.*, 2018).

A pilot project was undertaken to scope and justify the research prior to the two-year project. Three social workers and two information professionals from a London Borough Council were interviewed about recording and recordkeeping practices, while four care-leavers participated in a focus-group session on their experiences as the subjects of these practices. Subsequently, all participants came together to discuss their different perspectives and experiences, highlighting areas of particular interest and conflict. Transcripts were made, coded and analysed to inform the initial research brief. The participatory workshop in January 2018 marked the beginning of the co-research process. Six adult care-leavers—three of whom had participated in the pilot project—joined the academic research team to define the research questions and approach through a mixture of open discussion and collaborative, creative exercises.

Subsequently, the project was submitted for ethical review and has been approved by the UCL Research Ethics Committee. All co-researchers and participants have provided written consent for the use and publication of their contributions. Some participants have chosen to be named whilst others wish to remain anonymous. We have given all participants this choice, recognising that, while anonymity may be used to protect the vulnerable, it can also exclude people from ownership and acknowledgement of their own words (Moore, 2012).

Our research scope is limited by certain parameters. The focus of our study is England, in recognition of the different legislative and regulatory regimes in other parts of the UK. It concentrates on the period from the implementation of the 1970 Local Authority Social Services Act to the present day. The 1970 Act brought together a range of social work functions under the auspices of local government in order to facilitate more efficient management of services and better co-ordination with voluntary-sector providers (Stein, 2012). After this date, records were centrally maintained by local authorities, replacing a mixed economy of voluntary and public management. A post-1970 focus allows consideration of longitudinal change in a context that is comparable with current provision.

This article speaks to the creation, management and preservation of child and family social-care records specifically. As such, it does not consider issues that relate to other types of social-care records, such as adult social care or support for people with disabilities, although some of the discussion is applicable across social work fields.

A recordkeeping perspective?

A 'recordkeeping perspective' is a framework for research originating in the field of information studies, which is attentive to the ways in which records are created, managed, preserved and theorised. It acknowledges the power that records and recordkeeping practices have in people's lives, and their impact on the rights and experiences of their subjects, both at the time a record is created and in the future. It is grounded in the 'records continuum'—a theory that conceptualises records as subject to activities performed by multiple agents over time. These activities may include creating, storing, using, changing, sharing, redacting, destroying and providing or withholding access, and are referred to under the umbrella term 'recordkeeping'. Such activities are shaped by organisational cultures, societal forces and individual needs, which interact with one another to form systems that affect the ways in which records are treated and understood (Upward, 1996; McKemmish, 2001).

From this perspective, the term 'record' encompasses a vast range of materials produced during the course of social work activity, and is used

here colloquially to denote any information that is fixed in time through writing or by some other means, such as taking a photograph. Records may comprise structured information that acts as evidence of facts or actions (such as assessments, reports or minutes) or personal memorabilia such as photographs, birthday cards and life-story work (Yeo, 2007). They also include 'metadata'—the information about a record that is critical to understanding its content, namely how, when and by whom it was created; how it has been changed over time; management decisions taken; and retention periods applied to it. This information is now generally captured automatically by electronic records systems but may be absent from historical paper files (MacNeil, 2000).

In the context of multi-agency working, records are produced and circulated by a large number of 'agents', including social workers, independent reviewing officers, service managers, health workers, CAMHS, education providers, foster-carers, residential workers, family members and looked after children and young people themselves. Records may be managed or duplicated across a number of systems and versions, and made available to other parties (such as the police or youth offending services), creating a complex interrelated ecology of information.

The range of actions that the records can perform is wide, establishing legal identities and factual narratives, as well as providing the basis for memories, identities and self-constructed histories (Ketelaar, 2012). Child social-care records operate across this range, comprising official documents, statutory forms, personal narratives and individual ephemera. They may be used repeatedly in legal proceedings, for decision making, for life-story work or for reparative justice, by social work practitioners, carers, legal professionals or care-experienced people. The long statutory retention period applied to the records of looked after children in England means that they can be revisited for at least seventy-five years after they were first captured (1989 Children Act). They may subsequently be selected for long-term preservation for historical research purposes, continuing to have uses after the deaths of their subjects. In contrast, the records of children in need and those who move in and out of care contexts may not be afforded such long-term protections, although the records can form an equally important lifelong resource.

A recordkeeping perspective on child social work recording offers new insight into this complexity by importing a disciplinary approach that complements but is unlike the sociological and policy perspectives of previous studies (e.g. Shemmings, 1991; Prince, 1996; Kirton *et al.*, 2001; Goddard *et al.*, 2008). It encourages us to reflect on how and why records are created, by whom and for what purpose, and thereafter to consider how they are used and activated. It recognises that the subjects of the records—care-experienced people, their families and carers—are also agents in these processes, who have a lifelong investment in the content and use of records that are about them.

Recordkeeping in child social work

A review of recording culture since 1970 suggests a number of emerging themes that have impacted on the form, content and structure of child social-care records—namely the growing systematisation of recordkeeping practice, the association of recordkeeping with strategies for reducing risk and the belief that recording activity is a distraction from 'real' social work. Parton (2008) has argued that these trends are indicative of a fundamental ideological shift from a 'relational and social' model of practice—characterised by open, narrative recording—to an 'informational' mode that focuses on 'the gathering, sharing and monitoring of information' (Parton, 2008, p. 254). This shift has not only changed the way records are created, but has long-term implications for their access and use.

Individual or family case files developed from the nineteenth century onwards as the principal recording unit—'one of the devices used to render the individual knowable and calculable' as an 'administrative subject' of social work (Parton, 2008, p. 258). They were adopted as 'the primary repository of information', essential for the delivery of services (Kagle, 1991, p. x). The emergence of 'social casework' approaches in the 1960s conceptualised the 'file' as essential to ordered, systematic processes, in contrast to the 'series of well-meaning but uncoordinated activities' of an earlier era (Haines, 1975, p. 31). Social work manuals stressed the value of well-structured, chronological recording, which built a detailed linear narrative of a child or young person's experience (Haines, 1975).

However, scrutiny from the media and legal professions in light of a series of death-in-care reviews and sexual abuse cases in the early 1980s suggested that, in reality, recording was often ad hoc, inconsistent and incomplete (Ovretveit, 1986; Shemmings, 1991). Although understood to be necessary, it was an activity about which many practitioners felt conflicted or ambivalent. It was perceived to be time-consuming, boring and repetitive at the same time as presenting significant challenges (Prince, 1996). While recording involved complex professional judgements—about what to record, the privacy and confidentiality of clients and the question of access—little or no training was provided as part of social work qualifications. Recording was often taught on the job during work-experience placements, leading to service-specific and idiosyncratic practices (Kagle, 1991).

MIRRA co-researchers who experienced care during the 1970s and 1980s report the divergent recording evident in their own files. On the one hand, detailed interpretive accounts may be considered one of the few positive things about having been in care, as they allowed you to 'look at your life through the lens of a camera' and reinforced happy

childhood memories (Darren Coyne, workshop, January 2018). At the same time, the systematic and daily recording of minutiae was experienced as a form of surveillance: 'we are constantly analysed and that is not normal' (CL3, focus group, March 2017). Revisiting this analysis in later life could be upsetting and disorienting for the self in the present. For example, the same participant described reading a report in which their thumb sucking—a behaviour that they considered relatively ordinary in young children—had been interpreted as a sign of psychological disturbance (CL3, focus group, March 2017).

Wilson and Golding (2016) have described such content in social-care records as a form of 'latent scrutiny', whereby the adult self is perpetually subjected to the fixed judgements of the past. The 'official gaze' of the record, which was captured without considering the possibility of the subject reading it in future, reinforces the biases and prejudices that a care-leaver experienced as a child (Wilson and Golding, 2016). Narrative accounts were also found to use prejudicial, racist and homophobic language, when describing both the care-leaver and their family members (CL1, focus group, March 2017). In this way, care records from earlier eras can continue to perpetrate injustice in the present, long after practices have been reformed.

In an attempt to establish more consistent protocols in children's services, government guidance—the so-called 'Orange Book'—was issued in the late 1980s. It set out the required structure and content of records, emphasising the importance of information gathering for the purposes of assessment (Department of Health, 1988). The implementation of the Book led to a shift towards a risk-management approach that was subsequently criticised for its focus on data collection and form filling as opposed to free-form narrative and analysis (Lloyd and Taylor, 1995).

The ambition to implement a consistent, universally applied and government-mandated recordkeeping protocol for child social care was further expressed by the government's Looking After Children (LAC) toolkit in the early 1990s (Corrick *et al.*, 1995). It introduced Assessment and Action Records (AAR), proforma designed to assess a child's progress, make plans and monitor the quality of care they were receiving (Calder, 2004). These were subsequently adapted into a broader Common Assessment Framework (CAF) in 2000. Both systems were divisive, embodying oppositional forces at work, between creating sufficiently detailed information, involving the child or young person and using time and resources efficiently (Kagle, 1991). The 'checklist' approach to recording was criticised for bureaucratising care and reinforcing the powerlessness of children and young people over the understanding and perception of their own lives (Knight and Caveney, 1998; Calder, 2004; White *et al.*, 2010).

As such, these systems fit within the growing audit and control of professional practices emerging throughout the 1990s and accelerated under

New Labour (O'Neill, 2002). Government intervention in recordkeeping peaked with the introduction of the Integrated Children's System (ICS) in 2007. It was a universal schema for 'e-care records' that developed in the wake of the Laming report into the death of Victoria Climbié. Laming had concluded that 'poor record-keeping, doubts about the exchange of information between services and inadequate client information systems' had been contributory factors in her death (Laming, 2003, p. 9). The ICS was intended to reduce inefficiencies as well as improve inter-agency working and information sharing (Calder, 2004).

From a recordkeeping perspective, these incremental developments shared in common an ambition to introduce a 'diplomatic' standard to the recording process, in which the form and content of the record are shaped by an established format and range of expressions (Duranti, 1989). Diplomatics was originally developed to authenticate medieval documents but later used to describe any document that could be recognised by the conventions it followed. These might include formulaic opening or closing statements, the use of specific turns of phrase or the ways in which information is ordered. The theory of diplomatics re-emerged in the late twentieth century as a way of thinking about and managing complex data, especially in digital environments, such as the ICS (Williams, 2005).

Arguably, the new recording standards introduced by the AAR, CAF and ICS established a diplomatic for social-care records. They were predicated on a set of expectations about the range of information that *should* be recorded, which in turn shaped and placed limits on what *could* be recorded. This limit was both literal—in terms of word counts and tick boxes—and figurative, in that the form communicated to the practitioner what was and was not of importance. The recording of extended narratives, which our co-researchers and participants particularly valued later in life, was limited. Social workers subsequently reported that automated deadlines, controlled vocabularies and small text boxes created a system that 'squeezed out professional judgements' so that 'key social work activities, such as assessment… become meaningless and mechanistic' (White *et al.*, 2010, p. 412). Ironically, the strictness of the system may have led practitioners to engineer workarounds and shortcuts that led to important fields being left blank or 'copied and pasted' from standard texts, further degrading the long-term value of the record (Shaw *et al.*, 2009).

These changes have significant ramifications for care-leavers hoping to access their care records in future to answer questions about what happened to them and for memory and identity purposes. Approaching the records without the benefit of understanding the expectations and limitations of the records' diplomatic makes it difficult to find the most salient information (Andrew Brierley, workshop, January 2018). More personal and analogue records, such as cards, drawings and photographs, and

narrative accounts may not be included or preserved because there is no space to capture them. The ongoing shift towards digital recording and the scanning of non-digital records may exacerbate the loss of tangible childhood artefacts like photographs and further fragment a care-leaver's lived experiences (Munro, 2011).

The full impact of these changes in recording are not yet known, as the long-term accessibility of records created in the last twenty years using digital technologies has not been tested. Recently, concerns have been raised about the survival of records produced in digital environments, where plans for migrating data from obsolete systems have not been established (Cothey and Pickavance, 2017). Given that care records created in 2018 should be accessible until at least 2093, this is a cause for significant concern, affecting the information rights of care-experienced people throughout this century.

The value of records

Issues relating to the form, content and quality of records are foregrounded when a care-experienced person asks to read their file by making a 'subject access request' under data-protection legislation. Such a request reactivates the care record, often decades after it has been 'closed', triggering a decision-making process in which an individual's rights of access must be balanced against the privacy of others as well as the risks to and responsibilities of the creating service.

Care-experienced people request to see their social-care records for various reasons. Horrocks and Goddard (2006, pp. 265, 268) consider them to be central to 'the self-identity storytelling projects' of adult care-leavers. Requestors often describe their motives for viewing their files as satisfying 'curiosity' about their childhoods or 'making sense of the past', indicating a role in identity development. The records are as close as a care-leaver may come to a family oral history. Despite their lack of intimacy and immediacy, they allow an individual to rehearse and remember life events through the provision of a chronological history (Goddard *et al.*, 2008).

This conceptualisation of records as a form or repository of memory is long established in archival studies (Steedman, 1998). As traces of people, places and events, they provide access to the past that may corroborate or substantiate lived experiences, validating a sense of self and of belonging to a group or community (Bastian, 2013). However, this relationship—between the record, what happened in the past and the memory of the past—is not straightforward. Harris (2002) has written about the ways in which records are shaped by the dynamics of power and ideology in the environments in which they are created. These dynamics are exhibited in both the literal form of the records, as described

above, and in the expectations about what is valuable that have determined their content.

As a result, despite their 'intrinsically very human, personal and private nature' (Kinnibrugh, 1984, p. iv), records may not always be conducive to the memory purposes care-leavers wish to put them to. Pugh (1999) found, for example, that, no matter how much information was contained in a file, it was never entirely sufficient to a person's hopes or needs. The information and types of content that care-leavers most wanted, such as personal opinion, photographs or ephemera, were the least likely to have been created or preserved. This leads to gaps in the aspects of life that were the most significant in retrospect. As one care-leaver put it: 'I wanted nitty-gritty. I wanted photos and bills and all the minutiae that made it real. I wanted my reports and I wanted to see my handwriting' (Pugh, 1999, p. 74).

This omission is not accidental, but the result of prevailing ideas about what was important enough to record. Training manuals for social workers from the 1970s onwards emphasised that only information that was pertinent to the case should be included. Retaining information unrelated to service delivery was seen as an invasion of a client's privacy and needlessly time-consuming (Kagle, 1991). The act of recording was understood to be time-bound to the present, without regard for the continuum of uses the record may have in the future.

Omissions aside, records that do survive may not present an accurate or balanced view of a case, event or individual. The ways in which the attitudes of the social worker (and other creators) frame the perspectives of the records has long been recognised (Kinnibrugh, 1984). In some cases, the record may be counter to the personal expectations or convictions of a care-experienced person, reinterpreting events that are significant to their understanding of themselves. Gina, a *MIRRA* co-researcher, described the way in which her behaviour during an important case conference had been presented in a very negative light, omitting the remembered reasons why she had felt and acted as she did. This was frustrating, because it perpetuated a sense of injustice that she felt at the time (Gina Larrisey, workshop, January 2018). Such dissonance is particularly distressing for people whose lives have already been shaped by 'loss, ignorance, a sense of powerlessness and a feeling of incompleteness' (Pugh, 1999, p. 76).

The potential authority that the record has over people's lives demands a nuanced understanding of this relationship between memory, what is recorded and what actually happened. The 'paper self' created by a file may have serious impact on how people are subsequently treated and understood by others, and on how they continue to treat and understand themselves into adulthood (Darren Coyne, workshop, January 2018). The record's fixed quality may be accorded more weight as 'truth' than other forms of knowing, giving the false impression of a

single authorised storyline that does not account for the multiple perspectives of a life history and different versions of events (Baron-Cohen, 1995; Caswell, 2010).

Records are not 'unproblematic and straightforward', but fraught by 'the power relationship between the client and the social worker' (Shemmings, 1991, p. 17). In this way, certain stories or ways of seeing situations are privileged, while others are marginalised or erased (Schwartz and Cook, 2002). In the context of Truth and Reconciliation in South Africa, Harris (2002) has emphasised the 'sliver of a sliver' of experience that a record can ever represent. This is true both at the point of its creation and then repeatedly as it is revisited, reused and accessed. Since the narrative available from care records has been oriented towards the provision of a social service rather than constructed with the needs of a future care-leaver in mind, they may continue to perpetuate experiences that have lifelong impacts on well-being (Horrocks and Goddard, 2006).

Access to records

Yet, in spite of these limitations, records have been identified as critical tools in social justice, reparations and improved life chances for care-experienced people, arising from the idea that transparency and access support the cultural recognition of injustice and personal recovery from trauma (Caswell, 2014). Our co-researchers, for example, described how accessing their records enabled them to understand, for the first time, that they and their siblings had not been to blame for being taken into care (Gina Larrisey, workshop, January 2018). This was described as a 'rucksack' that they had been carrying around all their lives, which they were able to finally shed after reading their files (Andrew Brierley, workshop, January 2018).

Debate about access to records for care-experienced people and their families has roots in the emergence of participatory approaches to social work practice in the late 1970s, which developed in parallel with the increasing systemisation of the assessment and case-management process already described. Prior to 1970, records had been understood as the preserve—and even the property—of the social worker (Kinnibrugh, 1984). In 1976, the British Association of Social Workers (BASW) rejected the idea of providing people with access to their records (BASW, 1976). By the late 1980s, this position had radically changed, galvanised by an ongoing public debate about government transparency.

A case against Liverpool City Council established access to records as a facet of a care-experienced person's human rights. Graham Gaskin—a young care-leaver who had requested access to his records in order to substantiate an allegation of abuse—brought his case to the European

Court of Human Rights in 1983 and was granted full access under Article 8, the right to family and private life (Gaskin and MacVeigh, 2005). Kinnibrugh (1984) subsequently argued that 'the information [in the record] belongs to the client who originally supplied it… he therefore has the right to control how it is used' (p. 29). Gaskin's case took over six years to be decided, with the final judgement in 1989. During this period, the 1984 Data Protection Act was passed that provided general rights of access to personal data held electronically but not to paper records. Later, the government reviewed its approach to releasing social services specifically, passing the 1987 Access to Personal Files Act and the 1989 Access to Personal Files (Social Services) Regulations. Access to records was no longer perceived as a passive provision of information, but as a tool to redress the power imbalance between social workers and their clients.

This position aligns closely with principles that have emerged from archival research conducted during and after inquiries into the historic abuse of children internationally. Following a series of reviews into the experiences of child migrants, aboriginal families and care-experienced people in Australia, charities and government bodies have become aware of the importance of social-care records for care-leavers and survivors (Murray *et al.*, 2008). The development of post-care services and information resources like the *Find and Connect* website, which collates information about surviving records and the histories of institutions, has been motivated by the desire to correct injustices in the past (Jones and O'Neill, 2014). Increasingly, research has suggested the value of records not only for providing information, but for rebalancing power dynamics in society. Evans *et al.* (2015), responding to the poor recordkeeping and lack of transparency highlighted by the Australian inquiries, have argued for a recognition of autonomy and self-determination for care-leavers that echoes Kinnibrugh's thirty-year-old statement.

A significant gap between this theory of open, accessible records and the reality of provision has been observed in England. Department of Health guidance issued in the 1990s underlined that, as part of leaving care, young people 'should be facilitated in developing their identity and a positive self-image' through access to their records (Frost and Stein, 1995). However, an inspection of services to care-leavers found that social workers and other staff were 'badly informed on young people's right to access files' (Stein, 2000, p. 25). A study at the University of Leeds underlined that support was poor and elaborated on the impact of this. Care-leavers 'often lacked a detailed knowledge of their pasts, a convincing narrative of who they were and why events had taken the course they had' (Biehal *et al.*, 1995).

While accessibility has long been agreed in principle, the efforts to put this into practice have been limited. These limitations are reflected in the legal framework that protects and provides access to records in England and Wales. Current access protocols—whether for open or

closed cases—are shaped by an overlapping framework of legislation, regulation, legal precedent and established practice that is fragmented and difficult to navigate.

Looked after children and care-leavers currently have the same right as any data subject to access information about themselves under the General Data Protection Regulation (GDPR) and the 2018 Data Protection Act (DPA). Article 15 of the GDPR empowers an individual, including a child or young person, to make a Subject Access Request (SAR) to any public authority—a right that is reiterated under section 45 of the DPA. This includes both digital and analogue records, 'unstructured' information and recorded opinions, no matter how ephemeral. There are limited specific rules for social work and related records. These rules are set out in the Data Protection (Subject Access Modification) (Social Work) Order 2000 (SI 2000/415), which has been confirmed in Schedule 3, Part 3, section 11 of the 2018 Act. They exempt personal data if it is deemed that disclosure would be likely to cause 'serious harm' to the requestor. Special rules also exist for education and health records.

Both the Information Commissioner's Office and the government have stated that they consider data-protection legislation to be the primary enabling mechanism for care-leavers' access to records (Department of Education, 2010). Statutory guidance on the provision of support for transition to adulthood now makes special reference to access to records for young care-leavers up to the age of twenty-five (Department of Education, 2014). However, it does not address the needs of older care-leavers. This is of particular concern given that a care-experienced person is likely to be over thirty-five when they first request their file (Kirton *et al.*, 2001; Goddard *et al.*, 2008).

Moreover, evidence suggests the DPA and GDPR are inadequate for both care-leavers' needs and the specific information-rights challenges inherent in care records (Feast and Jordan, 2016; Access to Records Campaign Group, 2016). Social-care records are complicated by the inter-personal nature of the lives, events and interactions they contain. Although records may pertain primarily to an individual, they also contain personal information relating to a number of other people in their lives. This may include parents, siblings, extended family, friends, social workers, medical practitioners and foster-carers. As such, the records relate to multiple and connected data subjects, whose information is inextricably linked or shared. Under DPA and GDPR, the privacy of these 'third-party' subjects is protected and their information should not be disclosed without consent if it is 'necessary and proportionate' to withhold it (DPA 2018, section 45.5). In such cases, the competing rights of data subjects must be assessed against each other.

Every case requires its own review, which leads to inconsistent approaches to releasing information. A survey of eighty-one local

authorities in England by Goddard *et al.* (2008) found that practices and policies for applying the DPA to social-care records varied enormously. Their research suggested that what and how much third-party information to redact was one of the main areas of tension and difficulty in providing access. This was true from the perspective of both the care-leaver who made the request and the staff tasked with making decisions about disclosure. For the care-leaver, redaction often appeared random and nonsensical, whereas, for the staff, it was a psychological burden that was also resource-intensive. Co-researchers report information that they already knew about parents, siblings and carers being redacted. In one case, the name of a friend was blanked out from a party invitation, which had originally been addressed to the subject themselves (G016, workshop, January 2018).

The emerging theory of 'shared' provenance may prove useful in helping to navigate the competing rights of the multiple creators and subjects in care records. In a 'shared' provenance framework, the subjects of a record are recognised as creators of that record, alongside the agencies and authorities who produced and manage them (Nesmith, 2006). This acknowledgement enables subjects to exercise rights—such as rights to access, amendment and disposal—that could otherwise only be made by the institutional authority. It also allows an appraisal of the relative urgency of the needs and rights of creators and subjects, which could lead to a sharing of records-based power (Douglas, 2018). Caswell (2014, p. 309) has argued that those who have suffered from the stigmatisation and injustice of unequal systems should be 'the primary ethical concern' in the management of records, while also taking into account the needs and responsibilities of other stakeholders, such as social workers, the state, academic researchers and the general public. In the case of social-care records, such an approach would prioritise the right of care-experienced people to reclaim the records of their personal histories, moving beyond the inequalities of power inherent in their early lives. However, it would also recognise the problematic systems of bureaucracy and political control that shape the recording and recordkeeping systems in which care records are created and managed.

Conclusion

A recordkeeping perspective to social work records highlights the nuance, power and complexity of the recording act. A number of stakeholders are engaged in the co-production of each case file, which generates multiple narratives and truths. This includes a range of practitioners and professionals, each with their own priorities, values and modes of expression, but also the voices of children, young people and their families and carers. This 'shared' provenance complicates issues of privacy, confidentiality and

ownership in the records, challenging their status as an organisational tool belonging to a local authority or service provider.

It has implications for their ethical management and creation, especially in light of the long-term effect that records may have on people's lives. These issues are particularly difficult to navigate in a legislative and regulatory environment that does not recognise the unique nature of the relationship between social-care record and subject. Embodying both positive and negative childhood experiences that resonate into adulthood, records can act as a building block in the construction of meaningful life stories and a stable sense of self. However, the quality of records created, the types of information they contain and the consistency of information-access protocols—in other words, recordkeeping practices—also contribute towards the ongoing marginalisation and powerlessness of care-experienced adults.

Seen from a recordkeeping perspective, social-care records become central to the work of creating better life chances and outcomes for children and young people, indicative of not only the quality of care in the present, but also their ability to remember and reflect back on their care experiences throughout their lives. Recording is acknowledged as a rights-based practice—a central responsibility of practitioners with far-reaching impacts for looked after children, young people and care-leavers.

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Conflict of interest statement

None declared.

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