

3 Memories, Childhood and Professional Power: Accessing the Care Files of Former Children in Care¹

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Introduction

Each year, several thousand adults who spent time in care as children seek access to their child care files. For such adults, access to these files can be a significant means of addressing important identity concerns that centre around family and childhood experience. The importance of such concerns has long been acknowledged within the field of adoption (Kirton et.al, 2001; Howe, Feast with Coster, 2000) and recognition of their importance in relation to former looked after children has recently begun to grow (*ADSS, 2000: 1*; House of Lords, 14th June 2005).

The research reported in this chapter was the first national survey of local authority and voluntary sector practice on this issue. There have been a few earlier, small-scale studies which have looked at files access for those who grew up in care in the voluntary sector (Kirton et al, 2001; Pugh, 1999). Whilst these have been limited in scope, they have been invaluable in underlining the gulf in support services and knowledge between provision in adoption and that in relation to looked after children.

There are large numbers of adult care leavers in the UK. We do not know how many, but it is possible to make a reasonable estimate on the basis of the numbers leaving care each year. Between 6,000 and 7,000 young people leave care annually in England. Historically, this is a relatively low figure as numbers in care have declined in recent decades (Department of Health, 2003; Hayden et al., 1999: 35-37). However, if we extrapolate it across the life course it suggests a conservative estimate of approximately 350,000 adults in the UK as a whole who spent part or all of their childhood in care. For some of these

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adults, their time in care will have been relatively brief – a few months or a year. For others, it will have encompassed their entire childhood up to the age of 18.

A Childhood on Paper

A written history of one's childhood is a rare event for most children. Their lives are more often captured in the collective oral history of other family members, in photograph albums and other memorabilia (in contrast, many care leavers have no, or very few, photographs from their childhood). Birthdays, anniversaries, christenings and other family occasions are, for many, part of the fabric through which family memories and identity are regularly revived and reinforced. Care leavers are much less likely to have such structured identity reinforcement as they journey into adult life. In contrast, they have written histories which represent a reservoir of highly personal information. Whilst these 'histories' are of a peculiar kind, being a bureaucratic necessity, they also allow care leavers to find a route through to their past. This process can be important in the formation of a coherent adult identity and in addressing issues of self-esteem (Stein and Carey, 1986: 142-143; Biehal, Clayden, Stein and Wade, 1995: 108-109; Pugh, 1999; Wheal, 2002).

These files vary significantly in size and such variation is not always related to the length of time that someone has spent in care. Some files can be as large as 1,000 pages in length, others less than a hundred. The files themselves may contain a number of things, but amongst the most common are:

- Statutory documentation, such as six-monthly review forms and the initial application for care.
- Informal and regular case notes, often compiled from social worker visits.
- Case correspondence, e.g. with parents or between professionals.
- Routine administrative information, such as payment recordings.
- Reports from other professionals, including schools and psychologists.

Some of this information may not be of obvious immediate relevance to adult care leavers. Also, there will be much information that is not kept on the file and standards of recording may leave something to be desired. This latter point particularly applies to files written several decades ago; during recent decades, social workers have become more conscious of the need to record data with an expectation of sharing and openness (Prince, 1996; O'Rourke, 2002; O'Rourke and Grant, 2005).

The Data Protection Act 1998, which came fully into effect in October 2001, introduced a new regime for the management of such personal data. It

provided that any living person who is the subject of personal data held or processed by a social work agency has the right of access to that data. Moreover, such information should be provided within 40 calendar days of the request for disclosure. The Act has two broad purposes: 1) to protect the right of individuals to privacy, 2) to ensure that those individuals have access to information held about them and can correct it. The emphasis in the Act on 'protection' has a number of implications for care leavers. Under the Act, a person does not have the right to know what is recorded about someone else. So, for example, one family member is not entitled to see the record of another member without their agreement (although this rule can be challenged if the data mixes up both subjects, as such files often do).

What do we already know about the views of former care adults going through this process? Relatively little. However, we do know something from Pugh's study of adults accessing their Barnardo's records in the late 1990s (Pugh, 1999). In a small, qualitative study, she interviewed 12 former care adults who had accessed their records. She highlighted a number of themes to their searches:

- the meaning and significance of roots, primarily blood ties;
- the need to know, basic curiosity about one's past;
- the need to create a coherent self-image;
- the intensity of emotion involved in this process.

The analysis of Kirton and colleagues (2001) of requests to The Children's Society confirmed that there are a variety of motives for searching. We also know something from the leaving care literature. This shows that, for care leavers, reaching into the past can be important in the construction of a 'coherent narrative of their lives that can connect past and present' (Biehal, Clayden, Stein and Wade, 1995:106). Identity issues were a strong feature of Stein and Carey's seminal work on young care leavers (Stein and Carey, 1986) and loom large elsewhere in the leaving care literature (Lynes and Goddard 1995; Wheal, 2002). Finally, the biographies and autobiographies of adult care leavers themselves confirm this range of motivation and interest. These personal accounts also suggest that revisiting the care experience can be a valuable, cathartic and important process (Hewitt, 2002; Gaskin, 2005; Frampton, 2004; Fever, 1994; Oldfield, 2004).

Researching Files Access in the UK

Work on the project began with the design and distribution of a questionnaire during the spring and summer of 2004. The questionnaire sought to provide a mix of basic quantitative and qualitative data. We sent it to 180 local authorities throughout the UK (ie. almost all of those with social services departments). 81 local authorities returned the questionnaire, giving an overall response rate of 45%. Our respondents occupied a variety of local authority posts, since local authorities often organised the files access process in widely varying ways. The returned questionnaires were analysed in the autumn and winter of 2004. Telephone interviews with a subset (40) of questionnaire respondents were then conducted in winter 2004 and into 2005. These included interviews and meetings with some (four) of the main voluntary sector child-care providers, for comparative purposes. Those willing to be interviewed reflected a diverse range of authorities that was broadly reflective of the initial sample. The telephone interviews were semi-structured and usually took between 20 minutes and half an hour.

1. Voluntary Sector Access to Files

Although the main focus of our research was on the unexplored area of access to local authority child-care files, we also wanted to look at access provision within the voluntary sector. Since the traditional voluntary sector has largely moved out of providing residential or fostering care for children, its role in relation to files access is likely to decline over time. However, at present it remains important. All four providers surveyed monitored the numbers of requests that they received, but only three of them could provide us with annual numbers of applications. Between them, they accounted for 417 requests in the previous twelve months; almost a quarter of the total for our local authority respondents. For three out of the four, the level of requests had remained stable over time. For one of them, requests were increasing. The biggest difference with the statutory sector was a higher likelihood of the voluntary agencies providing support and counselling. Also, in at least two cases, the files access process was much more sophisticated, high-profile and heavily resourced than within any of the local authorities.

2. Local Authority Access to Files

For the 81 local authority respondents taken together, there had been an estimated 1,848 file requests in the previous year. It is worth noting, though, that some figures given by individual authorities were rough estimates, since many of the authorities did not routinely monitor numbers of access requests (44 authorities did so, 37 did not). Moreover, many respondents had

responsibility for access requests by all SSD clients, not just those from former care adults. However, given the response rate and the reasonably representative sample (in terms of urban/rural, geographic spread and size), it is plausible to estimate that over 4,000 access requests are received each year by local authorities. Moreover, the numbers of access requests were increasing: out of the 81 authorities, 42 said that the number of requests was increasing, 19 said that it was about the same, 3 said that it was decreasing (17 either didn't know or didn't respond). There was no clear reason given for this increase.

Very few of our respondents kept data on the age, gender or ethnicity of those who made requests. For those that did (only 14 of the total), the average age of former care adults accessing files was approximately 35. Only 14 authorities gave figures for gender, revealing a mixed picture but a slight majority of women seeking access. Ethnicity did not figure highly.

Agencies often interviewed former care adults before processing the file request. This was sometimes to find out in more detail about what was required, so that they could save time and just provide the part of the file that was needed or desired. Through their meetings, agencies developed their own ideas of why former care adults were seeking access to files. The picture which emerged was consistent with what we already know, with considerable diversity evident. In many cases, the results of the requests were less rewarding than expected:

Majority are seeking closure and are looking for answers to questions. Often the care records are the only reliable source of information.

Individuals are often looking for answers and explanations as to why they were in care, the files don't give those answers. This can be distressing to the individual and to the social worker involved.

Older people want to find out why they were in care. Very often young people want access because they have a grievance.

[Reasons for accessing files] One – tracing relatives – siblings, parents. Two – wanting to know why things happened – why they came into care, why couldn't they return home earlier, why were they not adopted, why were they placed in different homes to their siblings. Three – disclosures of sexual abuse by foster carers – access is part of a therapeutic process of coming to terms/sorting out problems being faced now as a result of the abuse.

Another problem leading to unsatisfactory experiences was the absence of the file. Since the 1987 Access to Personal Files Act, records must be kept until the 75th birthday of the former client. However, prior to this time records were often destroyed, as a matter of policy, after a number of years. Around half of our interviews acknowledged at least some destruction of files, some of which was officially recorded, but otherwise they simply assumed this from the

unavailability of files from a particular period. Many agencies also referred to difficulties in locating files due to problems of storage; floods, fires, reorganisations, etc. In the vast majority of cases, these files were stored on paper. However, in a dozen cases local authorities were using microfilm (sometimes in combination with paper copies) and in five cases electronic means of storage (such as CD-Rom) were in use.

The key problem area, where files could be found, was third party information. Such information, which is information in a former care adult's file that is not directly about them, is defined in the 1998 Act as information about any person other than a) the data subject, b) the data controller, or c) any data processor or other authorised person authorised to process data for the data controller or processor (s.70 (1)). It is usually information about siblings, parents and other family members, but can include information about other children in the foster or residential home.

For some former care adults, the third party restrictions may mean that seeking the written permission of parents or siblings is essential if the file contents are to have meaning. As with non-care individuals, discussion of their childhood is persistently interwoven with discussion of other family members. This applies in files as it does in daily life. This means that deletions can, in some cases, be so extensive as to significantly affect the usefulness of the file. For others, where permission is obtained, practices vary. At its most basic level, local authorities often employ part-time workers who will delete the names of anyone in the file who has not given permission for access (such as other children in care). In some cases, retired social workers were taken on to do this work.

Such work can be long and laborious. It involves deleting information that is often uncontroversial. However, it is information that may still be of personal interest to the care leaver. Adult care leavers can, in any case, often tell who has been deleted just from the context. This can make deletions either pointless or annoying and the process led many respondents to argue that the Data Protection Act was not a very effective way to meet the information needs of former care adults. The frequency with which this issue was cited in causing delays was noticeable. Gaining permission for third party information to be given, or removing it from the file, made life 'extremely difficult', 'problematic' and 'time-consuming' for local authorities. Removal of such information can leave contents which 'mean little for the individual'. It was apparent that agencies exercised a lot of discretion. Although the tendency was for discretion to be used in favour of disclosure, it could also be used to restrict information, usually on 'welfare' grounds (there is provision for this, in the form of a Statutory Instrument).

The content of the files could be problematic in another way. Files written prior to the 1987 Access to Personal Files Act were recorded with no expectation that they would be read by adult care leavers in later years. In

practice, there often was such access, but it was neither routine, expected nor required. For this and other reasons, comments written by social workers and others could often be more judgemental and pejorative than would nowadays be the case. Indeed, we would expect this in any case. Social work values and approaches are constantly evolving and this is reflected in the language used within care files. The combination of a) changing wider social values and attitudes, b) changing social work values, practices and attitudes, and c) the switch from the assumed privacy of files to open access, has produced some stark contrasts that could be jarring for those who read the files decades later. As the local authorities noted:

Comments on old files are often subjective. Wording used can be hurtful.

I am usually ashamed about the lack of information and other items and nuggets (photos, anecdotes, pictures, school work etc., even photo[s] of carer or social worker). Appalled by some of what has been written.

Older files in particular can be very scanty in some details whilst using a style of language that we are horrified at today (can be very judgemental). There are often significant gaps in records, particularly older ones.

Another subject to come up in our interviews was that of historic abuse. Such abuse, conducted in the care system of past decades, remains amongst the most contentious subjects with respect to social care. We felt we needed to specifically address it in our interviews. This was for two reasons. Firstly, it was a major feature of debate around the past care system during much of the 1990s (Levy and Kahan, 1991; Kirkwood, 1993; Waterhouse, 2000; Corby, Doig and Roberts, 2001). Secondly, it came up in our questionnaire responses. However, the relevance of the issue for individual local authorities varied. Some agencies had never had to deal with such cases, whereas others had dealt with several. In one particular case, it had been an unexpected feature of their work:

I have been totally surprised by the extent of the number of people coming back actually disclosing abuse. Nearly always, actually, by foster carers or other family members. Not actually in residential, people who had residential experience... I have been quite perturbed by the number of young women in particular, but also men, who come back and disclose that.

However, historic abuse was a relatively minor theme when set against the routine redaction of information due to third party requirements under the legislation.

Conclusions

What can we make of these findings? Firstly, we are talking here about thousands of people with significant issues compelling them to seek further information about their backgrounds. Taken as a whole, this is a major area of work. Secondly, the key tension and problem area is in dealing with third party data. Requesting and interpreting third party information caused problems for many workers. Interpretations about what was acceptable and what means could be used to provide or withhold certain information were varied. Thirdly, repeated and unflattering comparisons with adoption provision suggest that ways of facilitating access need to draw on lessons learned in that field. Finally, this project represented only the first step in exploring this subject. The authors hope to follow it with a project directly researching the motivations and experiences of former care adults themselves when they seek to access their child-care files.

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