A childhood on paper Managing access to child care files by post-care adults

Although the potential importance of care-file information for those formerly in care has long been recognised, little is known about requests for access to such records, whether in terms of scale or how requests are dealt with. The survey reported here by Jim Goddard, Julia Feast and Derek Kirton was carried out to address this gap. It was conducted in two stages during 2004 and 2005. The first stage comprised a postal questionnaire to local authorities in the UK (with 81 responses received) and a small number of voluntary organisations. This was followed by 40 telephone interviews with key local authority and voluntary sector personnel dealing with access to records requests. Areas of interest within the study included: policy and practice in relation to the retention, storage and retrieval of files; the handling of requests, including by whom; the provision of services (eg counselling and intermediary help); and the impact of the Data Protection Act 1998 on the handling of access requests.

Two related themes emerged. First, policy, practice and service provision vary enormously between agencies, creating a ‘postcode lottery’ for post-care adults. Second, such provision is often poor in comparison with that offered to adopted adults, thereby raising the question of whether the current legal and policy framework for access to care records is adequate.

Introduction

For people who have spent part or all of their childhoods in care, access to information about family history and events that have happened during their childhood can offer significant benefits. It can provide a chronological history, explain the reasons for coming into care and help to build a fuller sense of the enquirer’s current identity. While the principle of providing such information has long been recognised, those formerly in care have faced numerous challenges in gaining access to their records.

Post-care adults occupy a marginalised position in the domains of policy and practice. On the one hand, the figure of the ‘care leaver’ has been discursively constructed as a young adult. While this is understandable in terms of the well-known risks for young adults in relation to such areas as education, employment and housing (Social Exclusion Unit, 1998a, 1998b, 1999; Fawcett et al, 2004, Chapter 5), it serves to render post-care adults ‘invisible’ once they move beyond their early to mid-twenties. They can also be seen as marginalised when compared with adopted adults, for whom there is a stronger legal framework and service infrastructure supporting their access to information. In this article, we report the findings from a survey of local authorities and major voluntary agencies in the UK, designed to examine their handling of requests for information from adults formerly in their care (Goddard et al, 2005). The survey contributes to what is currently a limited knowledge base in this area and to the development of future policy and practice. A further reason for the survey was to assess the impact of the Data Protection Act (DPA) 1998. This legislation has brought new rights for those seeking to access care records but has also given rise to new tensions surrounding the ownership of this information (Information Commissioner’s Office, 2001).

Background

Since the 1970s, there has been much greater awareness among policy makers and professionals of the need for children in care to have information about their family background and past history. Reflecting Jolowicz’s (1973) concept of the ‘hidden parent’, it was increasingly accepted that – for reasons of self-esteem and to meet identity needs – children needed both background knowledge of their family and circumstances and, where possible, contact with their birth family (Thorpe, 1974; Fanshel and Shinn, 1978;
Millham et al, 1986). One obvious manifestation of this view has been the expectation that children in care should have their own life story books (eg Ryan and Walker, 2007). This change in awareness can also be detected in the rise of ‘open adoption’, which comprises a continuum from increased availability and exchange of information about birth family members through to continued face-to-face contact (Mullender, 1990; Ryburn, 1994; Smith and Logan, 2004).

A written history of one’s childhood is a rare event for most children as their lives are more often captured in the collective oral history of other family members, in photograph albums and in other memorabilia. Care leavers are much less likely to have such structured identity reinforcement as they journey into adult life. However, their written histories are a reservoir of highly personal information that can be drawn upon later in life. As the then Association of Directors of Social Services (ADSS) has argued:

Few of us depend upon official records for our identity or history. We may throw away old papers about ourselves but that is our choice. Unlike children who have been in public care we do not depend on the often fragmented and formal records of others. Yet, for many adults, such information can be critical in fully understanding the past . . . Sadly, previous retention requirements have not always recognised this aspect. (Association of Directors of Social Services, 2000, p 1)

While child care files invariably contain highly personal information, they are also bureaucratic instruments that are designed to fulfil certain statutory and professional obligations. Such files may typically contain the following:

- statutory documentation, such as six-monthly review forms;
- informal and regular case notes;
- case correspondence, eg with parents or between professionals;
- routine administrative information, such as payment recordings;
- reports from schools, psychologists and other professionals.

Crucially, however, the narrative is an organisational and professional one rather than one that is constructed to meet the needs of post-care adults. Moreover, the quality of recording may vary, particularly with files written prior to the modern emphasis on sharing, openness and professional standards in recording (Prince, 1996; O’Rourke, 2002; O’Rourke and Grant, 2005).

Care and adoption
It is over a quarter of a century since Rowe (1980) noted the relative neglect of identity issues for those growing up in (foster) care in comparison with adopted adults, despite their often similar experiences and information needs. Yet this situation persists. For example, explicit provision has been made governing access to adoption records (Adoption Agency Regulations 1983 and associated government guidance) so that, despite the fact that adoption records are exempt from the subject access provisions of the DPA, adoption agencies are encouraged to exercise their discretion under the regulations to provide information for adopted adults from the records they hold. Additionally, there are established services, provided by local authorities, voluntary adoption agencies and self-help groups, that offer information, counselling, advice, support and intermediary services for adopted people and for their adoptive and birth families (Smith, 2005).

The contrast also applies to official data and research evidence. In the case of adoption, there are detailed figures for both adoption itself and the number of adopted people requesting their birth records from the Registrar General (although this figure is an underestimate of all those gaining access to records) (Rushbrooke, 2001). There are no
comparable official figures for those formerly in care. Previous research findings from a large voluntary organisation have suggested that the number of post-care adults requesting access to care records is relatively small in comparison with adopted adults (Kirton et al., 2001). However, this may be in part a reflection of different levels of awareness and publicity, as evidenced by the upsurge of interest following the BBC’s screening of Barnardo’s Children in 1995 (Pugh, 1999). Relative neglect can also be seen in the research domain, where post-care adults’ access to records and associated issues, such as search and reunion, have received markedly less attention than is the case for adopted adults (Pugh, 1999; Howe and Feast, 2000; Feast and Philpot, 2003).

Why access? The voices of post-care adults

We know relatively little about the experiences of post-care adults going through the process of accessing care records. Pugh’s (1999) small-scale study of 12 adults accessing files held by Barnardo’s identified 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.

Kirton and colleagues (2001) additionally highlighted help with tracing birth relatives or significant others, locating medical information and effecting reunions as further motivating factors for files access. Identity issues figure prominently in the leaving care literature (Stein and Carey, 1986; Wheal, 2002; Winter and Cohen, 2005). Biehal et al., for example, contend 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’ (1995, p 106). This motive is a strong feature of autobiographical literature written by post-care adults (Fever, 1994; Frampton, 2004; Oldfield, 2004; Gaskin, 2005). The results of revisiting the care experience can be varied. For example, although some access requests are concerned with a legacy of historic abuse, others have been linked to unexpected reconciliations with previously unknown siblings. More generally, files access has often proved to be cathartic. Perhaps the most evocative recent account in this vein is that provided by Paolo Hewitt, a music journalist and author, who describes the powerful impact of reading his files:

_I began to read and re-read the story of my life. It was an amazing experience. In those files, you see and hear people talking about your character, your appearance, your demeanour. You see how others view you. Your reactions to events are recorded and so is your world view. Not only is your early life set down forever but also chronicled are the memories that will never fade and the ones that already have. I think it is the closest you can get to attending your own funeral, which makes it a one-off experience, one of the few perks of being a looked after kid._ (Hewitt, 2002, pp 204–5)

The Data Protection Act 1998

The DPA came fully into effect in 2001, building upon and replacing the Access to Personal Files Act 1987. The 1998 Act has two broad purposes: (1) to protect the right of individuals to privacy; and (2) to ensure that individuals have access to personal information held about them and can correct it. The emphasis on ‘protection’ has a number of implications for post-care adults. For example, there are restrictions on accessing information regarding other family members, who are treated as ‘third parties’ under the Act (see below). However, the DPA did strengthen rights to information in certain respects, including extending access from ‘struc-
tured’ files only to all personal information held on file. While voluntary organisations are not formally bound by the DPA in respect of access to personal files, participants in our study saw themselves as operating in the spirit of the Act and used it as guidance.

Objectives and methodology
The main aim of this project was to map service provision in the UK with regard to post-care adults’ access to files, as a basis for subsequent research into the experiences of those seeking such access. The primary areas of interest at this stage were as follows:

- policy and practice in relation to the retention, storage and retrieval of files;
- how requests for information are dealt with, including by whom;
- investigating the range of services offered to support those making requests;
- how the DPA is being implemented and with what effects.

The fieldwork was carried out during 2004 and 2005 and comprised two main elements. The first was a questionnaire sent to 180 local authorities throughout the UK. Eighty-one returns were received, representing an overall response rate of 45 per cent (good for a survey of this kind). Responses came from a wide range of urban/rural and large/small authorities in all parts of the UK, making it reasonably representative. Respondents were asked to indicate whether they would also be willing to be interviewed and, on this basis, 40 follow-up taped telephone interviews (usually lasting between 20 and 30 minutes) were conducted with representatives of local authorities. The respondents held various titles, but for ease of discussion they are collectively referred to here as Access to Records Officers (AROs). Additionally, questionnaires were completed and interviews held with four voluntary organisations with strong historical involvement in the provision of care for children. The subsequent interviews with both local authority and voluntary sector actors were semi-structured and allowed for the elaboration of questionnaire responses and the discussion of sensitive topics, such as the handling of historic abuse allegations.

Findings

Requests for access to files: how many, and from whom?
As noted earlier, there has never been an attempt to collate or even estimate the number of requests made nationally by post-care adults for access to their files. While some of our questionnaire respondents were able to give precise figures for requests during the previous year, others had to estimate the number of requests due to lack of accurate or disaggregated records. Taken together, the figures indicated at least 2,250 requests, with roughly 1,850 coming from the 81 responding local authorities and over 400 from the four voluntary organisations. Since several respondents felt unable to supply any figure at all, this number is almost certainly an underestimate. Extrapolating these figures to the UK as a whole is clearly somewhat speculative, but given the response rate and the fairly representative sample informing this study it is reasonable to suppose that, nationally, over 4,000 access requests are received each year. In gross terms, this figure is similar to that for the 3–4,000 adopted people requesting birth records annually, albeit from a somewhat larger population (Rushbrooke, 2001). We also asked about any trends in the number of requests.

Forty-three questionnaire respondents indicated an increase in requests in recent years, 22 stated that there had been no change, and only three reported a decrease (there were 17 ‘don’t know’ or non-responses).

Given the patchy recording of requests it was not surprising to find that few agencies collected data on those making requests. From the 14 local authorities and one voluntary
organisation which did collect such information, the average age of those accessing files was approximately 35–40 years and there was a slight majority of women over men. Ethnicity was measured rarely and in only one instance was it said to be significant. This was in the case of a large urban authority where the highest number of requests came from those of dual heritage.

**How are requests dealt with?**

**Organisation and personnel**

In light of the historic neglect of services for post-care adults, we were interested to gauge patterns of change and continuity, particularly following the implementation of the DPA. Responses with respect to the priority given to access to records work varied widely, from ‘very high’ to ‘absolutely zilch!’ One of the major indicators of priority was the presence of staff in posts dedicated to file access requests, a position which held the obvious advantages of focus and familiarity with the task. Such posts were increasing in number, but were present in only a minority of authorities at the time of the research. The alternative was for requests to be dealt with as part of wider workloads, typically by social workers/managers but sometimes by general complaints officers. Faced with other pressing demands, this often contributed to delays in responding to requests:

*They tend to go on to duty, they go back into the system on duty, duty team try to do them along with all child protection cases and so on – and it’s just chronic.*

A related issue was whether such work was regarded as an administrative or social work task or both. This varied between local authorities. As we shall see, many AROs were very clear in the view that this was primarily a social work task, over and above the requirements of the DPA. The absence of a clear legal framework or practice guidance (in contrast with adoption) was reflected in widely divergent arrangements. In some authorities, administrative workers undertook the entire process of locating and editing the file and conveying the information to the enquirer. In others, the request would be treated as a social work referral and would be likely to involve face-to-face contact with the post-care adult. Finally, there were agencies which employed a division of labour, with administrative workers dealing with the formalities of the file and social workers with any issues of support or ‘counselling’ (see below).

**Training and experience**

Of 72 questionnaire responses on this issue, one-third (24) indicated that the ARO had received training for access to records work while the remaining 48 indicated that they had been given none. Telephone interviews showed that the ‘training’ fell into two categories; the first related to data protection legislation and policy, while the second focused on the needs and rights of post-care adults in areas such as identity, family relationships and care history. Training on the former was more common, mostly involving in-house short courses and often with a legal focus. However, this type of training was felt by some to be inadequate for the complexity and sensitivity of access to records work:

*You can tell somebody what the Data Protection Act says you are legally entitled to do or not do, but how you sensitively take somebody through what this means . . . there’s no specific training on that.*

Training of the second variety was rare and there was heavy reliance on social work training and experience as the appropriate basis for access to records work. As noted earlier, however, social work input was by no means always part of the process, something that prompted criticism from some AROs. One commented:
I personally don’t see how you can do this work without having a good, thorough understanding of social work on the issues that people are going to bring back.

Ideally, this might include awareness of historical practices and attitudes but in practice the work was often undertaken by those with little experience, including social work students or social workers newly arrived in the UK. Overall, our findings show clearly that specialised access to records training was limited in both availability and scope and that this absence was keenly felt by many AROs. One noted that ‘I really wish that there was a course . . . but I have never actually found one.’

This is not, of course, to deny that considerable expertise was often made available to post-care adults, whether through extensive social work experience, learning on the job or good legal advice. However, the lack of any clear framework for delivery of access to records work almost certainly meant that many would experience a lower level of service and support.

**Publicising the service**

The level of publicity given to a service might be taken as a further indication of its priority. We will return to the situation of current looked after children but at this point we focus on post-care adults, for whom provision was mixed. Most local authorities had leaflets outlining rights of access to records and some also displayed this information on their websites. As elsewhere in the study, we found striking differences of approach. Some agencies did little, if anything, to publicise this area of work, while others were extremely proactive (for example, with features in local newspapers). The large voluntary organisations were perhaps strongest in this regard, keeping in touch with many post-care adults through newsletters and reunions. This arguably reflects and fosters a stronger mutual sense of identification in the voluntary sector.

**Accessing files: storage, retrieval and content**

Given strong anecdotal evidence of the difficulties faced by some post-care adults in gaining access to their files, we were interested in the views of AROs on this process. Our questionnaire asked respondents to give details of where files were stored and in what format. The responses revealed an approximately tripartite division between files (1) held in a central archive, (2) stored in local offices and (3) a mixture of the two. In relation to the format of records, roughly three-quarters of agencies kept their records solely on paper. The remainder generally mixed paper records with microfilm and/or electronic records.

The availability of files reflected a number of factors, including destruction policies and accidental loss. Prior to the Access to Personal Files Act 1987, which mandated retention up to the 75th birthday of the data subject, after a number of years, records were often destroyed as a matter of policy. Around half of our interviewees acknowledged at least some destruction of files. Some of this destruction was officially recorded, but in other cases it was simply assumed from the unavailability of files from a particular time period. Some files were reported as destroyed even after the new laws on retention, but there were also examples of files being retained despite a general policy of destruction (cf Speirs, 1995, for similar practices in Canada).

Beyond conscious destruction policies, the usual problems of storage – floods, fires, reorganisations, etc – took their toll. It is also important to note the problem of partial loss, ie with some volumes of large files missing. Encouragingly, several authorities reported recent or planned archiving work which had improved both physical access to files and the tracking process. It was clear that retention and tracking were generally becoming more systematic. However, while the large voluntary organisations and a small number of local authorities appeared to have very
efficient procedures, ‘hit and miss’ was often the norm elsewhere. Uncertainty about the likelihood or possibility of finding files added significantly to the workload of those responsible (who often went to considerable lengths in their searches) and, crucially, to the distress of post-care adults. As one ARO commented:

_Usually when people have got to the point of writing for their access – that’s not come from nowhere – they have gone through a lot of self-work to get to that point and it must be just so awful to receive, ‘Sorry, we don’t have your records.’_

Once again, there appeared to be a stark contrast with adoption. Although the loss of adoption records is by no means unknown (Stafford, 2001; Gannon, 2005), many of our respondents confirmed that this occurred more frequently in the case of care records:

_I could say more, hand on heart, with the adoption files, that we know where they are and who has got them at any time. I don’t know if I could say that with our archives for children looked after records._

Once located, the usefulness of files could be limited by other factors, such as illegibility, poor condition and related problems of copying. In some cases, the quality or frequency of recording might be poor and/or the files could be dominated by administrative documents rather than the ‘story’ sought by post-care adults:

_They don’t want to see the admin forms where the social worker asked for repayment of £2.12 or something like that. What they want is school certificates and photographs. They want anecdotes and that sort of thing and those things are quite often sadly lacking._

Historic use of what would today be regarded as offensive or discriminatory language gave rise to tensions between the ‘authenticity’ of original documentation and the desire on the part of our respondents to make records more ‘user-friendly’ to post-care adults (and perhaps to expiate the past sins of the agencies themselves). While most AROs followed the official proscription of alteration in the cause of ‘acceptability’ (Department of Health, 2000, para 5.20), at least one chose to summarise (and sanitise) sections of the file; others added commentary that acknowledged the use of currently unacceptable language and gave assurances about current practice. Whatever the outcome, it was abundantly clear that considerable time and effort were put into such work.

**Providing services: counselling and beyond**

The link between counselling and access to records is a complex one, not least in the similarities and differences between the situations facing post-care adults and those who have been adopted. For the latter, the provision of counselling, preparation and support is an integral part of accessing adoption records. In the case of people adopted before 12 November 1975, a counselling interview is a legal requirement in order to receive identifying information that enables them to apply for a copy of their original birth certificate. Even for adoptions after that date, access to the information held on the adoption agency file would not normally be given without such an interview. There are no parallel requirements in the case of post-care adults and no obligation on the part of agencies to provide such services, although official guidance suggests that it may help ‘to have someone available to help the data subject “take in” the material or explain anything that he or she does not understand’ (Department of Health, 2000, para 5.3).

We were interested to find out how agencies dealt with this essentially discretionary situation. Fifty-seven local authorities (and all four voluntary organisations) stated that they provided
counselling, while 15 did not (9 did not respond). The telephone interviews explored the nature and meaning of counselling, which largely referred to the provision of advice and support rather than a structured therapeutic encounter. This would typically take place before or during the accessing of files. Levels of preparation and support varied significantly, from brief initial contacts to long-term involvement: ‘Sometimes we can spend days with people.’ In some cases, requests from post-care adults were treated in a similar way to those from adopted people and staff would often use in-house or external post-adoption services to this end:

I just think people who have been through the adoption process get an awful lot more than perhaps children who have been looked after. So in [authority] we do provide social worker support with the disclosure.

The perceived need for support rested in part on recognition of the difficulties of understanding some file information, from legislation, procedure and (historical) working practices through to recording styles and file editing. There might also be a role in ‘managing expectations’ in respect of the information available. Additionally, file information is likely to have a significant emotional impact. This implies a duty of care towards post-care adults who may need support services. Setting aside those which provided no counselling service, agencies also varied widely in how such support was ‘offered’.

Although the need for assistance was often decided on a case-by-case basis, in some agencies counselling interviews were almost ‘compulsory’ (a stance criticised by, among others, the Care Leavers Association (see www.careleavers.com). Elsewhere, the rights of post-care adults were emphasised more strongly:

We always try to insist on someone seeing their records for the first time in the presence of a qualified worker.

Once they are here, they can walk out with their records if they want. So they can choose to engage or not. That is on their terms . . . they have that right. Who are we to be authoritarian about it?

As with adoption, accessing care records may be motivated by a desire to search for birth relatives or may give rise to such a search. For adopted people, however, assistance with searches is a well-established part of birth records counselling. This has been strengthened by section 98 of the Adoption and Children Act 2002, which provides for adopted people and their birth relatives requesting an intermediary service to facilitate contact. In our survey, 38 local authorities (and three of the four voluntary organisations) reported that they provided help in searching for birth relatives while 32 did not. The disparity of provision between adopted and post-care adults was often noted by our respondents.

Although efforts were made to address this, they were clearly hampered by a lack of statutory obligations and lack of resources. One ARO saw the problem as being essentially one of equity with adopted adults:

People seeking contact with birth relatives, such individuals have no access to assistance in the same way that adopted people do. We do provide an intermediary service but this is informal and dependent on time available.

The 40-day limit and third-party information

Our questionnaire sought information on how well agencies were able to meet the DPA requirement that data subjects should be able to access their records within 40 days of the receipt of a written request. Responses revealed wide variations between local authorities that broadly fell into three fairly even categories: roughly one-third reported being able to meet the requirement and, in many cases, complete the process sooner than the 40 days; a further third gave average figures of
between 40 days and six months; and the remaining third were either unable to give a figure or failed to respond to this question. Accompanying comments such as ‘a long time’ or ‘too long’ suggested that the response times of most of this group would be towards the slower end of the scale.

Variation was also apparent in views on the appropriateness of the 40-day requirement. On the one hand, there were those who believed it to be practicable even while noting the challenge:

At the moment, we’re snowed under with them, you know, we really are, but we manage to meet the deadlines.

For others, however, it was regarded as inappropriate, either because of the time taken to locate and prepare files or because of the need for contact and discussion with post-care adults:

I think 40 days is unrealistic to really complete the process, because if you’re looking at the files and talking to people and ensuring you get it right it’s a much longer process.

In part, the temporal variations can be understood in terms of the priority and resources given to access to care records work and the efficiency of file storage and retrieval mechanisms. However, they also reflect issues of process and, crucially, the handling of third-party information. This is a complex area that will be the subject of a separate article, but this overview would not be complete without a brief summary of its relevance.

In the context of our study, third-party information is information in a post-care adult’s file that is not directly about them. Most frequently it relates to siblings, parents and other family members, but may apply to others formerly in care or to material from professionals outside the agency. The default position within the DPA is that disclosure of the information requires the consent of the third party. However, there is some discretion. This allows information to be released without consent where this is ‘reasonable in all the circumstances’ (Department of Health, 2000, para 5.7). Conversely, agencies may withhold information that would ordinarily be disclosed if it is likely to cause ‘serious harm’ to the data subject or another person (para 5.37). For example, such information may relate to past child abuse of which the post-care adult may not be aware.

For post-care adults, the major difficulty is that discussion of their childhood is persistently interwoven with discussion of other family members, particularly in older-style ‘family’ files. This means that deletions of third-party information can, in some cases, be so extensive as to significantly reduce the usefulness of the file. AROs were often acutely aware of the inherent tensions:

I feel there is a huge dilemma. It is all a matter of judgement, at the end of the day, in terms of the confidentiality we owe to third parties and the personal need for an individual to receive information.

It was readily apparent that, as ‘street-level bureaucrats’, they resolved this dilemma in very different ways and justified their actions according to different principles. One of the most striking examples of this was concerned with whether third parties were expected to ‘consent in’ or ‘consent out’ in respect of disclosure:

Not a great problem. I mean, unless I have a written consent, I don’t disclose. It’s as simple as that.

We actually give them a timescale – we give them three weeks. If we don’t hear from them we will assume it’s OK.

What was clear was the time-consuming nature of dealing with third-party information, whether in editing and preparing files or in dealing with consent or complex decision-making.
Care records and historic abuse

Both previous research (see Kirton et al., 2001) and unsolicited responses to our questionnaire highlighted a link between access to care records and historic abuse. We therefore explored this with AROs in our telephone interviews. Although post-care adults may wish to know more about abuse suffered within their birth families, our particular focus rested with abuse in the care system. This issue came to prominence in the 1990s as a series of major reports highlighted abuse from preceding decades, paralleling developments in a number of other countries (primarily Ireland, Canada and Australia) (Levy and Kahan, 1991; Kirkwood, 1993; Utting, 1997; Waterhouse, 2000). Corby et al. (2001) identify 17 enquiries into such abuse in the UK between 1985 and 2000.

AROs varied widely in their experience of post-care adults either seeking information about abuse in care or disclosing this while accessing their care records (some requests also came from solicitors acting on behalf of post-care adults). While some reported no instances of such requests, others stated that it was a regular feature of the work. In some cases, this had been unexpected:

I have been totally surprised by the extent of the number of people coming back actually disclosing abuse.

Agency responses also varied. In many cases, they were based on procedures for child protection investigations, with one respondent, for example, avoiding any discussion with the post-care adult in order to prevent ‘contaminating the evidence’. Others felt that they had scope to discuss options with the post-care adult and then to leave decisions to them. The usual exception to this was where the alleged abuser was still working in the care system. Historic abuse also raised some difficult dilemmas regarding disclosure of information, for example, whether names should be released in the case of unproven allegations.

Current practice and lessons from the past

While many of the challenges facing those seeking access to records can be located in past practices, it is pertinent to ask how far matters have changed for current and future care leavers. As in other areas of the study, our telephone interviews revealed widely divergent practices. Moreover, they demonstrated a large gap between ‘rhetoric and reality’ in the provision of information to current looked after children. In principle, almost all agencies recognised the importance of ensuring that such children understood their rights to see case-file information. However, while some local authorities supplied information individually, others settled for displaying notices in public places or their own premises, a practice which disadvantages those in foster care as compared with those in residential care. Only a small minority had produced material targeted at looked after children as opposed to more generic authority-wide leaflets.

Many AROs were candid about what they saw as the limits of such efforts. Although they could not necessarily know about practice throughout the organisation, their cautious comments carried a pessimistic tone, as in ‘I honestly don’t know how well that works. I think that’s something we need to work on.’ In many cases, the perceived problem was a lack of proactivity. In other cases, several AROs identified strong resistance to openness on the part of many social workers. Speaking for several, one noted that:

In theory social workers should be sharing the records with them as they go along and that is not, as far as I can see, common practice.

Overall, while future care leavers may face fewer problems than their predecessors in accessing files, there remains significant scope for improvement. One ARO referred to a recent inspection which had found that relatively few looked after children understood their
rights in respect of care records (see also Thomas, 2005; Morgan, 2006). Some AROs also felt that there were valuable lessons to be learned from access to files work in relation to contemporary recording and (future) identity needs, but they had found it difficult to put this issue on the agenda of their social work colleagues. One ARO reported having repeatedly offered to attend social work team meetings in order to provide advice on current recording, but without any response.

Conclusion
The research project from which this article is drawn represents the first attempt to examine services for post-care adults seeking access to care records in the UK. The authors intend to conduct a follow-up study seeking the views of post-care adults about the experience of accessing their files. Informed by the findings of the present study, this project will gauge the motivations, experiences and consequences of the access to records process from those who have most at stake in that process. It will, once again, seek to redress the balance with regard to the important work already done on this subject in relation to adopted adults.

In the meantime, a number of important issues have arisen from this investigation. The first is that access requests represent a significant and growing area of activity for local authorities and some voluntary organisations. In gross terms at least, the number of requests is similar to that from adopted adults. Second, the research highlighted both the historic problems of file retention and recent efforts to improve cataloguing and retrieval. In this sense, legislation such as the DPA has helped to concentrate minds. Third, there was wide organisational variation in how local authorities dealt with requests; for example, whether this was undertaken by administrative or social work staff, whether there were dedicated posts or not and whether counselling and other services were provided. Fourth, there were similarly wide practice variations on matters such as handling third-party information. This variety added to a pervasive sense of a ‘post-code lottery’ with regard to these services for post-care adults.

Finally, two major related issues arise from the study. Time and again, respondents made comparison with adoption in order to show the relative weaknesses in rights and service provision for post-care adults. Although there are clear differences between the two groups, the often similar needs involved suggest that more could be done to apply lessons learned from the adoption field. Linked to this is the question of whether legislative change is required in order to exempt the files of post-care adults from the provisions of the DPA. In short, do we need a legislative framework that takes greater account of their lifelong and distinctive information needs? The evidence suggests that central government needs to take some lead in ensuring that access rights are both promoted and supported, whether legislatively or otherwise. Subsequent to the project, advice from both the Office of the Information Commissioner and the Department for Constitutional Affairs suggested that local authorities were being unduly cautious in their interpretation of the existing Act and need to be much more responsive to the information needs of care leavers. However, there is good reason to believe that further dedicated legislation might still produce both greater clarity and prioritisation in services for post-care adults.

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