

# **Access to information for adult care leavers**

A guide for social  
workers and Access  
to Records Officers

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## Acknowledgements

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Dedicated to the memory of  
Darren Coyne  
1972–2021

A fearless campaigner for the rights of all adult care leavers.



# Foreword

| *Baroness Lola Young of Hornsey OBE*

Living in an age where, for years now, we each have had access to the equivalent of thousands of dictionaries, encyclopaedia, medical texts, films, music, etc, via a small device nestling in our back pockets, it's important to remember that we still haven't quite worked out how this excess of information can serve us and be shaped to improve lives.

Access to records for care leavers is a salutary case in point.

The promise is there: when you leave the care system, you may have the complete record of the time spent looked after in children's homes and/or foster care. The local authority, your corporate parent, will have kept meticulous records, all of which will be revealed when you put in the request.

Unfortunately, it's not as simple as it might seem. Suppose, for example, that it's when you've reached the age of 40 years old that you decide to seek your care records? Or let's say you have a family of your own, and you feel ready to reflect on your past. You've left the system in a different state of mind from when you were 18 or 20 years old, and so retrieving your case notes is often a very different experience from what it would have been earlier in your life course. You may also find that your postcode determines whether or not you receive effective and efficient support and/or a truly complete leaving pack.

As with any public service, you will find pockets of good practice, and our hope is always that it is these model operations that will be replicated everywhere. Sadly, that's not currently the case.

Since the General Data Protection Regulation and the Data Protection Act 2018 came into force, other challenging situations have arisen. Understandably, governments felt that the growing mountains of data harvested from our phones and other devices needed to be regulated, but as is sometimes the case with legislation, there have been unintended consequences. Local authorities (and other bodies) are justifiably nervous about contravening laws, regulations and government guidelines and will often take a conservative approach to avoid litigation. Add into this mix competing claims on a key element of the legislation – that is, the right to privacy – and this further complicates the situation. For example, you may want to know about your family, but they may not want you to know anything about them. And so we end up with a recipe for dissatisfaction on all sides and the potential for litigation.

Thanks to the tireless efforts of practitioners, campaigners, local authorities and legal representatives, more clarity about how to deal with these difficult, complex situations is beginning to emerge. The guide, *Access to Information for Adult Care Leavers*, supports social workers and Access to Records Officers who are keen to ensure that all care leavers receive the best service possible.

# Introduction

This practice guide has been written for social workers and Access to Records Officers (AROs) in England, and will, we hope, be of assistance to practitioners in Northern Ireland, Scotland and Wales. Other professionals, including lawyers, may also find it useful. Its purpose is to offer guidance and practice examples to assist decision-making about providing information to an adult care leaver who makes a Subject Access Request (SAR) under the Data Protection Act 2018 (DPA). The DPA is sometimes misunderstood as legislation that limits an individual's right to see their personal information held about them, rather than enabling legislation that gives a person the right to find out what data is held about them and the lawful basis for holding any personal data.

The Information Commissioner's Office (ICO) is responsible for overseeing that organisations holding personal data deal with such data lawfully, securely and fairly. The Office has recently issued guidance to organisations setting the standards for responding to requests to organisations to share with an individual their personal data.<sup>1</sup> Whilst this is in general terms, it is a helpful starting point for what is expected when a SAR is made. The guidance provides an important reminder that it is a fundamental right of everyone to know what personal data an organisation holds about them.

The former Information Commissioner, Elizabeth Denham CBE, made a commitment to enhance the trust that people can place in organisations holding their data by ensuring greater transparency and accountability. At a symposium in July 2019, organised by the MIRRA Project (Memory – Identity – Rights in Records – Access) at University College London, she said: 'Records of people's past don't just help to shape their memories, but help to shape how people see themselves today. This is too important an issue not to get right.'

The DPA is the UK-wide vehicle for implementing the requirements of the General Data Protection Regulation 2016 (GDPR) (which came into effect in 2018), a Europe-wide legal framework imposing legal and enforceable requirements on any organisation holding and processing personal data. The GDPR continues, at the time of writing, to apply to the UK, although the UK is no longer a member of the European Economic Union.

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<sup>1</sup> <https://bit.ly/3dEwlcD>

The DPA dictates that each SAR is dealt with on a case-by-case basis, and decisions about sharing with the individual seeking their personal data take into account the reason for their request and the reasons why the organisation is holding their data. Inevitably, this results in differing responses to each request, with varying standards of practice across the UK.

This guide is informed by the day-to-day experiences of social workers and AROs tasked with making decisions and judgements about providing information to adult care leavers. It is also informed by adult care leavers themselves and their experiences of asking local authorities and other agencies for information about their time in care. It is intended to help workers make empathetic and constructive decisions about information sharing to enable adult care leavers to have sufficient information about:

- their family, their background and their time in care to enable them to have an understanding of their past;
- decisions made while they were in care; and
- how this may have affected their journey throughout their childhood and into adulthood.

The guide refers to guidance issued by the ICO about responding to a SAR (see footnote 1) and the statutory guidance applicable to England, issued by the Government through the Department for Education (DfE) in May 2014. Many groups are asking for this statutory guidance to be updated to reflect properly the principles and requirements of the current DPA and GDPR. At the time of writing, this has not been done. Many local authorities and voluntary agencies have procedures to support workers responding to requests from adult care leavers to access their care files; however, many do not.

There is still a lot to learn in this area. The intention of this guide (now in its third edition) is to build on the good practice already in place, informed by what adult care leavers tell us, alongside recent research findings, so that the quality of decision-making by professionals and agencies is enhanced and policy and practice are continuously refined and focused on the rights of adult care leavers.

## A NOTE ON TERMINOLOGY

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The term “adult care leaver” is used in this guide, but some people who grew up in care may refer to themselves as “post-care adults”, “care-experienced adults”, or simply as “a person who grew up in the care system”. The term is used to include anyone who has spent all or part of

their childhood in the care of a local authority – either living with foster carers or in residential care – or living in the care of a voluntary agency.

We refer to all agencies, local authorities, health trusts and voluntary agencies as “organisations”. The term “worker” or “case worker” is used to describe social workers, AROs and data governance officers or any other person working in an organisation and dealing with an adult care leaver’s request to see their case records.

Personal data terminology is considered later in Chapter 1.

## WHY ADULT CARE LEAVERS WANT TO FIND OUT INFORMATION FROM THEIR CARE FILES

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Sharing memories and photos, recounting family stories and significant events are integral to normal family life, helping to build children’s sense of belonging, identity and security. However, for people brought up in care outside their family network, this may not have happened. As a result, they may lack the basic information that people who grow up in their own families take for granted. Finding out about such information can be a challenge for those raised in care with no contact with the family into which they were born.

There is a range of reasons why people seek information from care records held by local authorities and voluntary agencies. For many, it is often to rebuild fractured identities and resolve personal questions about their origins and histories. For some, it is to confirm significant events in their lives, for example, when and why they came into care, where they lived at various ages and the decisions that were made about them. Some people want information to help them seek the relatives with whom they have lost touch. For others, it is to try and make contact with significant people from their lives in care, for example, particular friends, foster carers or residential staff, as these people may be as important to them as birth family members. For others, it is curiosity and just wanting to know where they lived, why they were moved and what records have been kept. Some adult care leavers seek photos to show their partners or their own children. Others, as they become older, may want to find medical information about family illnesses.

For children and young people in care or “looked after” today, there is a clear expectation that they should be provided with comprehensive information about their family background and time in care. As part of their care plan, they should have a life story book and “memory box”, containing information to help them understand the reasons why they are in care and to learn about their personal histories and their family’s circumstances. Children and young people should be involved in the

decisions made about them and when care plans are made at looked after reviews. Gathering and recording of information are undertaken in the knowledge that an adult care leaver may at any stage in their adult life request access to information on their care records. Hence, files are organised in such a way as to address third-party information (information about another person), for example, each child in the family has their own record.

Foster carers are now supported to understand the need for and the importance of collecting and retaining information about the child, such as photos, school reports and certificates and other memorabilia. In this way, the child's experiences and memories can be preserved materially should they move to another foster home or want to see these items in later life.

Whilst adult care leavers today may have more information about their time in care, older care leavers experience considerable barriers to getting information about their time in care. Well into their adult life and perhaps with their own families, they may begin to reflect on their past and want to have details about their childhood and adolescent years. It was not uncommon for children who had spent all their lives in care to grow up without knowing basic facts about their family connections and history and why they were separated from their parents and family.

For people who grew up in care prior to the 1980s, information was not made accessible in the same way as would be expected today. A number of these children had no contact with any family members and, for those who did, that contact was not always encouraged. For example, it was not unusual for a parent to be refused permission to have their child home for Christmas or other important festivals, or to see them on their birthday. This was sometimes for fear that it might unsettle the child or be unfair to the other children, either in the foster home or in a children's home, for whom such contact was not possible. Children were often placed in homes far away from their families, making direct contact very difficult. Children in these circumstances lacked the opportunity to know about their birth parents and other relatives.

Each year, an estimated 4,000 requests for access to files are made by adults, formerly in care, to a local authority, health and social care trust or voluntary agency (Goddard *et al*, 2005, 2013). This figure may well be higher now, some years after the latest research on this was published. However, in the absence of any duty on organisations to hold this data, the number of requests and therefore the planning to respond to such SARs varies UK-wide, much to the detriment of adult care leavers.

A survey of local authorities (Goddard *et al*, 2005) showed that the procedures and practice for providing access to information services for adult care leavers vary enormously. It also revealed the dearth of other support services that may be required as a result of an adult care leaver

accessing information about their background and time in care, such as tracing and intermediary services. In addition, unlike adoption, there has been no specific legislation to govern the particular information needs of adult care leavers and the services they may require.

The Access to Care Records Campaign Group (ACRCG), with the assistance of Barnardo's, made a Freedom of Information (FOI) request to all local authorities in England in 2016. Key findings from local authorities that responded established that:

- Of the 142 councils that responded, 85 had no record of whether SARs were being made by adult care leavers in their area.
- Three-fifths of councils had no records of the number of SARs made by adult care leavers in a 12-month period.
- Where councils did have records, there was wide variation as to the percentage of SARs made in any one year. On average, one-fifth of all SARs received were requests from care leavers, although three councils reported that SARs from care leavers were over 50 per cent of the total number of applications.
- The pattern of significant variation across England resonates with findings from other enquiries by the Access to Care Records Campaign Group that, despite statutory guidance on the need to have skilled staff to deal with these SARs and supports tailored to the individual's needs, this is not evident.

As a result, recommendations have been made to the Government and Ofsted about the need for local authorities to have much improved data and information for adult care leavers about their right to make a SAR. As yet, the Government has not made the rights of adult care leavers a priority action.

A summary of the analysis of the responses from the FOI can be found on the Access to Care Records Campaign Group website.<sup>2</sup>

## EXPERIENCES OF ADULT CARE LEAVERS ASKING FOR ACCESS TO CARE RECORDS

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It is generally agreed by many adult care leavers, those representing them and those professionals working in the area of providing information, that the DPA is not an effective way to meet their information needs. This is primarily the effect of the legislation's restrictions on sharing personal information about another person

<sup>2</sup> <https://bit.ly/3dDQ4cG>

without consent, which can result in the person making the SAR not being able to access significant family history information, including details of their parents, siblings and extended family. Sometimes, they are not given identifying information about their family members, even though it is known to them or available in public records. Providing comprehensive information from childhood records to enable the adult care leaver to piece together a narrative about their time in care is a challenge for those tasked with responding to SAR requests, but is not insurmountable, as the organisation does have discretion to share third party information without consent, as is discussed below.

One applicant described the outcome in this way:

*I had been in care for 15 years and found out I could apply for my records, but all I got were ten sheets of paper with lots of information tippexed out. I wondered why I had bothered to access the information as what I got did not make a lot of sense.*

(Feast, 2006, p 34)

## ISSUES WITH THE DATA PROTECTION ACT

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For more than two decades, there has been increasing concern about how difficult it is to work within the various versions of data protection legislation as the legal framework to provide an access to records service for adult care leavers. There is a tension between the duty of the Data Controller (the organisation that holds the information) to be mindful of confidentiality of information regarding identifiable third parties and the entitlement of the adult care leaver to have knowledge of their family to establish their “family life”, an understanding of why they came into care and decisions made about them while in care.

In June 2005, a landmark debate about the lifelong needs of people who grew up in care took place in the House of Lords. The debate, led by Baroness Barker, brought to the fore the importance of the Government and local authorities redressing the balance to ensure that the needs of all adult care leavers are placed on the same footing as those of adopted people, especially regarding access to information, support and intermediary services. It was acknowledged that the gulf between the services that adopted people and their families receive, compared to those for people brought up in care, should be bridged:

*The concerns and preoccupations of adults who were formerly in the care system about who they are and from where they came are natural, human concerns. They are every bit as strong and every bit as valid as the desire of adults who were once adopted to discover information about*



*their birth parents and perhaps even to seek contact with them and with their wider birth families.*

(Earl Howe, House of Lords, 14 June 2005)

A further opportunity arose when the Children and Families Bill was debated in Parliament during 2013, and the Access to Care Records Campaign Group came together to seek legal changes. Baroness Lola Young of Hornsey OBE tabled an amendment to the Bill that led to a second debate in the House of Lords on 9 December 2013:

*Some of the key issues that this amendment seeks to address are the lack of consistency across the country's local authorities in the way they deal with giving access to records to care leavers, and also, importantly, how they deal with the issue of redaction of those records. A number of care leavers gave us evidence of how they received notes from their past which were essentially incomprehensible because of the amount of redaction that had taken place. Again, that seems to depend on whereabouts you live in the country. That should obviously not be the case. In the amendment, we call for clear, effective statutory guidance and the opportunity for care leavers to access support once they have accessed their records.*

Whilst the Government was unwilling to amend primary legislation, it committed to revising statutory guidance to require local authorities to have policies and provide services to support adult care leavers up to the age of 25 to access their care records. This guidance applies only to England and is limited to current and recent adult care leavers. However, it is a useful resource for organisations developing service standards and clearly states that principles and service requirements should apply to all care leavers of any age who want to access their care records. Baroness Young again raised the needs and rights of adult care leavers in a debate on the Children and Social Work Act 2017, citing the report of the Access to Care Records Campaign Group (2016). This did not result in a further change in the Government's position (Hansard, 14 June 2016). As a result, the legal framework for adult care leavers accessing care records in the UK remains the DPA. The Access to Care Records Campaign Group continues to work with adult care leavers to achieve legislative change alongside improved services.

The Government has emphasised that information relating to third parties must be handled in accordance with the principles of the DPA. However, it also accepts that there is scope for the Data Controller (DC) to exercise discretion and disclose information that is already accessible and/or relevant to the individual's understanding of the issues they face from having been in care.

This approach is reinforced by the Information Commissioner's Office in their *Guide to Data Protection*,<sup>3</sup> and more detailed guidance. Whilst this does not specifically refer to responding to an adult care leaver's request to see their records, it provides a helpful framework to inform decision-making and confirms again that obtaining this personal data is an individual's fundamental right.

However, research findings (Goddard *et al*, 2005) and those from a series of seminars with frontline practitioners and managers led by the Access to Care Records Campaign Group in England during 2015, show that practice varies in local authorities and voluntary agencies, and that there is no common understanding of when and how much information, particularly third-party information, it is reasonable to share.

In November 2018, the Access to Care Records Campaign Group organised a seminar attended by adult care leavers, practitioners, lawyers and policy makers, and Baroness Hamwee, chaired by Baroness Lola Young of Hornsey. The overwhelming view, based on shared experiences, underlined yet again that current data protection legislation, whilst allowing adult care leavers to access their personal information on their care records, is not designed to deal with requests for family history, information and decisions relating to a person's time in care. During the passage through Parliament of the Data Protection Act 2018, the Government did not address the disadvantages adult care leavers experience. Current legislation remains not "fit for purpose" when adult care leavers are seeking information about themselves and their family life. The Campaign Group and its supporters continue to press for dedicated legislation to establish a legal framework that properly recognises the rights of all those who grew up in the State's care to have complete knowledge of their family history and to know what decisions and events have shaped their adult life.

Meanwhile, the Group is working to persuade Parliament to introduce standardised and accountable measures to ensure that those who ask for their care records under the DPA are given a proper service and sufficient support as they process their contents. It is also supporting National Standards to apply across all sectors to support those adult care leavers making a SAR under the DPA.

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3 <https://bit.ly/3nd4Nyn>

# Chapter 4

## Tracing and intermediary services

### PROVIDING A SERVICE

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Some people who came into care before the 1970s may have had limited contact with birth family members; for others, all ties may have been severed from the moment they came into care. It was not unusual for organisations to lose touch with parents or assume parental rights if the child was to remain in long-term care. Indeed, at this time there was a widely-held view that children would be better off with a “fresh start” away from birth relatives, and families were not always encouraged or helped to keep in touch. This means that many adult care leavers are in a similar position to people adopted in the past, where contact was not maintained and all links to the birth family ended. It is not surprising that when adult care leavers access information about their family background and the reasons why they came into care, either their curiosity or a deep-seated unconscious need to re-establish contact with family members is awakened. In addition, they may also feel a need to re-establish contact with the children and carers with whom they grew up. Relationships with other children in care can be significant, akin to sibling relationships.

Organisations need to consider what help they can offer adult care leavers to locate birth relatives and other significant people in their lives. Some organisations already provide a tracing and intermediary service, but for others the resources are either limited or non-existent. If organisations are not able to offer a full tracing and intermediary service, they should at least provide information and advice and signpost them to an organisation providing such a service.

It is important to find out if the adult care leaver is hoping to re-establish contact with birth family members so that they have an opportunity to talk through possible implications and outcomes.

Providing tracing and intermediary services for adult care leavers and their relatives can be rewarding, but can also be an emotionally demanding and challenging task. Therefore, it is important that workers

undertaking intermediary work have access to skilled supervision, consultation and peer support. The latter can be provided in the worker's own organisation or through a local network of workers who provide intermediary services for adult care leavers. Having the opportunity to discuss practice issues and dilemmas can provide the support needed to undertake the role of an intermediary, as well as enhance the worker's knowledge and skills.

While providing intermediary services, due regard must be given to the issue of confidentiality. It is important to clarify with each person what information the worker has permission to share. However, in some cases, the worker may become concerned that one person wishes to keep potentially significant information confidential, and the organisation will need to decide whether to exercise its discretion and share without consent.

In exceptional circumstances, if it is considered that sharing would cause serious harm, then the organisation may decide that it would be inappropriate to put the adult care leaver and family member in touch with one another. However, the organisation will have to consider the possibility that the adult care leaver may continue to search without the organisation's support, and the risks that this may entail. This will need to be addressed and may affect what service can be provided. For example, it may not be appropriate to make a decision not to proceed with providing an intermediary service if the person has all the identifying information they need to undertake the search and make contact themselves.

## CASE EXAMPLES

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### **Safeguarding issues: Alvin**

*Alvin grew up in residential and foster care. Throughout his childhood he was physically aggressive and demanding; his foster placement broke down because of his behaviour, which was more difficult to control because of his large stature. He was diagnosed as suffering from "psychopathic tendencies" [terms such as this are found on older case records] while still in his teens and spent many years in hospitals and prisons. Alvin approached the agency for information and also to request help with tracing his sister. The agency agreed to help and put him in touch with his sister on the condition that the intermediary had his permission to disclose information about his history, diagnosis and offences. He agreed to this and contact was arranged at the agency's premises. No addresses were exchanged until his sister felt comfortable and the agency considered the situation was safe.*

### **Making informed decisions about contact: Margaret**

*Margaret applied for her care records but a personal file relating to her could not be found. Her main desire was to make contact with her brother with whom she had lost touch when she came into care at the age of five. Her husband was very supportive about her doing this.*

*Margaret shared the information that she was a childminder and had three female children of her own.*

*A thorough search was subsequently made for all family information in order to give some family background. Enclosed in a family file were details of Margaret's brother committing rape on an under-age female and that he was known as a Schedule 1 offender [now Risk to Children Offender].*

*The worker was concerned about the risk Margaret's brother might pose to Margaret's children, should she make contact with him. She discussed this with her manager and it was agreed that the DPA does not prevent Margaret from being told the information about his conviction, even though it constitutes his personal information. The record of his conviction is likely to be publicly available. This factor, together with the duty on the local authority to ensure that children are not placed at risk, may justify a decision to share the information as being reasonable and proportionate in the circumstances. The reasons and decision should be recorded. The local authority informed Margaret that they would be willing to act as an intermediary if she wanted to contact her brother, but she decided not to go ahead.*

### **The role of the intermediary: Kelly**

*Kelly had been adopted but the adoption broke down and she had re-entered the care system. When an adult, Kelly had become dependant on alcohol and no longer had the care of her own child. She desperately wanted to meet her siblings and by coincidence one of her sisters, Dawn, was also seeking her. Dawn had also been adopted and the placement had been a successful and happy one.*

*The worker liaised with Dawn's adoption worker and it was agreed that there should be letter contact via the agency. Kelly refused to inform Dawn of her problems, i.e. her alcohol dependency, and her worker felt that it would be inappropriate for her to arrange a meeting between the sisters because Dawn was pregnant and had a child under two. Kelly's worker thought that Dawn needed to be fully aware of the problems her sister was experiencing prior to her making a decision to meet. She advised Kelly that she should have further correspondence through the agency and tell Dawn of her difficulties before they were put directly in contact, which Kelly accepted. Kelly and Dawn continued communicating.*

*The worker considered that she had a duty of care to all parties in this situation, including Dawn's children.*

In some situations, acting as the intermediary may be limited and short-lived, especially when the adult care leaver and their relative find that they are comfortable making their own decisions and proceeding independently. In other situations, the worker's role as intermediary may become more involved, particularly if there are complex issues that need working through or mediation. There could be a range of situations where the worker needs to become more involved, for instance, where an adult care leaver came into care as a result of neglect and abuse and the outcome of contact may not be positive. The intermediary may have a key role in helping the individuals negotiate their way through the process of opening up contact.

Where possible, the intermediary should work with all the individuals concerned to enable them to make informed choices and to take as much control of the process as is appropriate. It is important that the worker maintains their role as a facilitator, enabling the adults to make decisions for themselves (whether or not the worker agrees with these decisions), and taking into account their duty of care to all involved. The worker should remain impartial and not make assumptions based on what they think is right or appropriate in any given case. In some circumstances, it may be appropriate for another worker to work with the family member, especially where a major conflict arises, or where they live at a considerable distance from each other. Consideration should be given to whether or not it would be appropriate to employ local services, should such a situation arise.

### **The importance of offering a service: Rita**

Organisations may have different policies about offering intermediary services, which inevitably means that individuals will receive varied responses. If the organisation is not able to offer an intermediary service – and is not willing to make an exception – it is important that the case worker signposts the individual to other support and tracing support services.

*Rita was brought up by her foster carers from the age of three months, and although she had never been officially adopted by them, to her 'they were Mum and Dad'. When aged 40, she decided to access the information from her records. All she had been told was that her birth mother Cathy was very young when she was born and so could not look after her.*

*On receiving the records, Rita learned that in fact she had been born in prison and had remained with her mother for three months before being placed with her foster carers. It was noted on the file that Cathy had received a prison sentence for manslaughter after a fight with Rita's*

*birth father. Rita found this information shocking and it took her a long time to process it, but eventually she decided that she wanted to find her birth mother and make contact. With the information she had and using public records, Rita located her mother's current whereabouts. She discovered that she had married after leaving prison and had other children. From the information she gathered, Rita learned that her mother had turned her life around and was now living in comfortable circumstances.*

*Rita was afraid of making direct contact with her mother – she felt that it would need to be done very sensitively as her husband or children might not be aware of her criminal background or the fact that she had had another child while unmarried. She therefore asked the local authority if they could offer an intermediary service. Whilst sympathetic, the local authority said that they were not able to provide such a service as Rita had not been adopted, and pointed her towards other tracing and intermediary agencies, including the Salvation Army.*

### **Not making assumptions: Jason**

Every case should be considered as a unique and individual set of circumstances, and the case worker must aim to avoid making assumptions about how family members may react to adverse information.

*Jason was serving a life sentence for murder after an unprovoked attack on a complete stranger. He had a history of violence and at the time of the murder was heavily dependent on drugs.*

*Jason had been received into care when he was a few weeks old and remained in a children's home until he was six, when he was adopted. The adoption broke down when he was 13 years old and he was placed back into care with a voluntary organisation before ending up in a youth offender's unit.*

*Jason applied for his care records, and the local authority holding them arranged to visit him in prison so that they could be given to him in a face-to-face meeting. Jason made it clear that his primary objective was to contact his birth family, particularly his birth mother. He gave permission for his current circumstances to be shared with his mother if she was traced.*

*The worker was concerned about whether this would be an appropriate course of action, and considered that he might receive an immediate rejection by his birth mother once she was aware that her son was in prison for murder. She was reluctant to take this action, and decided that the case needed further discussion with her manager and other colleagues to weigh up the potential risks and benefits.*

*It was decided that Jason's birth mother should be located and informed of his circumstances and background, so that she could make up her own mind about whether or not to have contact. When found, Jason's mother reacted positively and wanted to have contact with Jason and meet him, which was subsequently arranged. She was sad to learn that her son did not have the "happy life" she had imagined, but felt that she had no right to be judgemental. She also had experienced a difficult life and had spent time in prison.*

*The contact between Jason and his birth mother went well for two years and then petered out. However, they both said that it had been a good experience and provided answers to their questions.*

## POINTERS FOR PRACTICE

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### Preparation

Before progressing the enquiry, the following points should be checked:

- Arrange a meeting with the adult care leaver, if appropriate.
- Check the adult care leaver's identity, if this has not been done.
- Explain any charges related to the service.

Before approaching the adult care leaver's family member, consider the following:

- Double-check the search that has been made to ensure that the correct person is being approached.
- Is the relative aware of the adult care leaver's existence?
- Has the adult care leaver received enough information and preparation for possible outcomes?
- What, if any, are the potential risks to either party?
- Is there clarity and agreement regarding information about the adult care leaver to be shared with the birth relative? In exceptional circumstances, the agency may decline to take an enquiry forward if the adult care leaver is unable to consent to sharing information regarded as essential to enable the family member to make an informed decision.
- Have all decisions and agreements reached between the adult care leaver and the intermediary worker been clearly recorded?
- Is the adult care leaver aware that the intermediary worker may not be able to share any further identifying information with them unless it is



with the family member's permission? Are the possible consequences of this understood?

- Has the adult care leaver been asked if they wish anything to be said to the relative if there is only one opportunity for contact; a relative may say they do not want any further contact.
- What and how much information should be given to the family relative at the first point of contact? There is a balance between conveying the reason for the approach with the need for discretion and confidentiality.
- Make sure the intermediary worker is available when the letter is received by the family member.
- Try to ensure that letters to inform the family member of the adult care leaver's wish for contact do not arrive at weekends, public holidays or on other significant dates, when the worker will not be available to discuss.

### **Managing the response: assisting people to make informed decisions and choices**

Regarding the family relative whom the service has contacted on behalf of the adult care leaver, have they:

- had enough time and support to make an informed response to the adult care leaver's enquiry?
- received and understood an explanation that the intermediary is only able to provide information that the adult care leaver has authorised them to give?
- been offered support and counselling and accessed these services as appropriate?
- received an explanation about the range of ways in which a wish for contact could be progressed?
- reached a decision about the information that can be shared, and whether this will be direct or via the intermediary?
- been told what other services might be available if the agency is not able to provide intermediary services?

If contact with the adult care leaver is refused by the family member, consider the following:

- the reasons for this and how they are likely to be received by the adult care leaver;
- whether the family member is willing to write to the adult care leaver explaining their reasons;
- whether key questions can be answered;

- whether an exchange of photos is acceptable/possible;
- how to ensure that the family member appreciates the adult care leaver might make direct contact independently;
- providing information for the family member to contact the agency if they wish to reconsider; and
- ongoing services the agency can offer the adult care leaver and any charges incurred.

If contact is desired, have the parties been given:

- an explanation of the intermediary's role and services they may provide?
- options and choices for taking contact forward, including emails, exchanging letters, photos, phone calls and actually meeting?
- information about reunions and the different outcomes these can have in the short, medium and longer term?
- information about any local support groups and other organisations that can offer help, advice and support, including the opportunity to meet others who have had similar experiences?
- information about books and other reading matter?

### **Complex situations**

When offering intermediary services, it is important to consider the range of possible outcomes and situations. For example:

- death or serious illness of the family member;
- complexities associated with one or both parties, such as mental health problems, personality disorder, a history of violence, drug and alcohol dependency, imprisonment, experience of abuse;
- issues arising from an assessment of risk of serious harm in relation to any party;
- implications of file information proving incorrect, for example, regarding paternity or reasons for placement. In the case of paternity, it is important to be clear that unless a father has been interviewed by an agency or has signed a document, the information is solely a record of what the agency was told at the time and cannot be regarded as fact and relied upon as the truth;
- family members having inaccurate information regarding the adult care leaver's experience in care;
- development of a genetic sexual attraction between the adult care leaver and a family member;
- what support the agency can offer, by whom and for how long;

- when to refer to another agency and what the procedure is for this; and
- what systems are in place to enable staff to consult line managers or colleagues and receive supervision and obtain expert advice.

### **Searching for relatives and significant others**

In the case of relatives and significant others, research using public records, such as the birth, marriage and death indexes, should be undertaken to locate their current whereabouts. These are also available online at:

- [www.findmypast.co.uk](http://www.findmypast.co.uk)
- [www.ancestry.co.uk](http://www.ancestry.co.uk)
- [www.ancestry.com](http://www.ancestry.com)
- [www.freebmd.org.uk](http://www.freebmd.org.uk)
- [www.familyconnect.org.uk/](http://www.familyconnect.org.uk/)
- [www.adoptionsearchreunion.org.uk](http://www.adoptionsearchreunion.org.uk)
- [www.salvationarmy.org.uk/reuniting-families](http://www.salvationarmy.org.uk/reuniting-families)

Sometimes it may not be possible to locate the person being sought through public records. This can be because they have chosen not to be listed on the electoral roll, are transient and do not want to be registered anywhere, or they live abroad.

### **People who live abroad**

If appropriate, when intermediary work involves anyone living abroad, arrangements can be made to link the adult care leaver or their relative overseas into a local social work service that has some experience in this area (if such a service exists). However, phone, email, letter and Skype/Zoom or other forms of social media can also be used. It is important to ensure privacy and security of communication.

## **SUMMARY**

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- Assisting adult care leavers to trace and re-connect with family members and other significant people is an invaluable support.
- The organisation needs to consider safeguarding issues, including non-recent abuse, when supporting an adult care leaver to make contact with family members or other people from their past when in care.
- Tracing and providing a bridge to establishing connections and possibly contact is skilled and emotional work, and case workers undertaking this task should have training, knowledgeable supervision and support.

# References

- Access to Records Campaign Group (2016) *It's my Journey: It's my life! Care leavers and access to social care files*, Manchester: Care Leavers Association, available at: <https://bit.ly/3isZXuG>
- Biehal N, Clayden J, Stein M and Wade W (1995) *Moving On: Young people and leaving care schemes*, London: HMSO
- Department for Education (2010) *Planning Transition to Adulthood for Care Leavers, Volume 3*, available at: <https://bit.ly/3epDoVQ>
- Feast J (2006) 'Climbing trees', *Community Care*, 5–11 Jan, 1604, p 34
- Fever F (1994) *'Who Cares?' Memories of a childhood in Barnardo's*, London: Time Warner
- Frampton P (2004) *The Golly in the Cupboard*, Manchester: Tamic Publications
- Gaskin G (2005) *A Boy Called Graham*, London: Blake Publishing
- Goddard J, Feast J and Kirton D (2005) *A Childhood on Paper: Accessing the child care files of former looked after children in the UK*, Bradford: University of Bradford
- Goddard J, Murray S and Duncalf Z (2013) 'Access to child care records: a comparative analysis of UK and Australian policy and practice', *British Journal of Social Work*, 43:4, pp 759–774
- Hewitt P (2002) *The Looked After Kid*, Edinburgh: Mainstream Publishing
- Howe D and Feast J (2000/2003) *Adoption, Search and Reunion: The long-term experience of adopted adults*, London: The Children's Society/BAAF
- Hoyle V, Shepherd E, Flinn A and Lomas E (2019) 'Child social-care recording and the information rights of care-experienced people: a record keeping perspective', *British Journal of Social Work*, 49:7, pp 1856–1874
- Hoyle V, Shepherd E, Lomas E and Flinn A (2020) 'Recordkeeping and the life-long memory and identity needs of care-experienced children and young people', *Child & Family Social Work*, pp 1–11
- Information Commissioner's Office (undated) *Guide to Data Protection*, available at: <https://bit.ly/3nd4Nyn>
- Kirton D, Peltier E and Webb E (2001) 'After all these years: accessing care records', *Adoption & Fostering*, 25:4, pp 39–49

Lynes D and Goddard J (1995) *The View from the Front*, Norwich: Norfolk County Council

Oldfield B (2004), *Rootless: An autobiography*, London: Hutchinson

Pugh G (1999) *Unlocking the Past: The impact of access to Barnardo's childcare records*, Aldershot: Ashgate

Stein M and Carey K (1986) *Leaving Care*, Oxford: Blackwell

Wheal A (ed) (2002) *The RHP Companion to Leaving Care*, Lyme Regis: Russell House Publishing

Winter K and Cohen O (2005) 'Identity issues for "looked after" children with no knowledge of their origins: implications for research and practice', *Adoption & Fostering*, 29:2, pp 44–52

## Key UK legislation

### Primary legislation

Human Rights Act 1998

Data Protection Act 2018

Freedom of Information Act 2000

Freedom of Information (Scotland) Act 2002

### Secondary legislation

*The Care Planning, Placement and Case Review (England) Regulations 2010*  
<https://bit.ly/3Fmolnt>

### European Regulation

Data Protection Regulation 2016/679

<https://bit.ly/3nbp3Al>

### Statutory Guidance – applies to England

*Children Act 1989 Guidance and Regulations, Volume 3: Planning Transition to Adulthood for Care Leavers* [see Chapter 4, paras 4.21 to 4.39]

ICO guidance on Subject Access Requests

Right of access: October 2020

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