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# Battling with a 'care-less' process: Adult care leaver experiences of accessing records of time in care.

A Research Report for *The Care Leavers' Association*.

November 2017

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## Acknowledgements of Support

This report is only possible as a result of the twenty care leavers who gave their consent and time to support the research project. Our thanks go to them for sharing their experience, revisiting what have invariably been difficult and traumatic battles to access records about their childhoods in the care of the state.

The need for this research was identified by the Access to Care Record Campaign Group (ACRCG) and their shared commitment to uncover the experiences of those adults with a care leaver history who seek to access records of their time in care. It is in this context that CLA would like to acknowledge the support of individuals from that group. Leonie Jordan, Legal Consultant (Coram BAAF, [formerly BAAF]) and Julia Feast (Independent Consultant, specialising in the life-long issues of Adoption, Care and Donor Conception), Trish Scott and Rachel Coffey (Barnardo's), Peter Garsden (President, Association of Child Abuse Lawyers and Head of Child Abuse Department, Simpson Millar), Darren Coyne (CLA); and, in particular, the commitment of the parliamentarian lead working with the campaign, Baroness Lola Young of Hornsey, whose guidance and support has been invaluable.

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# Background to the Research Project

## The Policy, Practice and Campaign Context

There are thousands of people who have spent part or all of their childhood in the care of the state, many of whom often lack basic information about their personal history and the reasons for entering the care system. Goddard et al (2005) indicated that, at that time, there were more than 350,000 adults in the UK who have experienced some time in the care of the state as a child. Further, that of these each year, more than 4000 adults request access to records about this period of their lives. Data about the numbers requesting their care records is not routinely recorded in either local authority or national statistics and it is an issue that needs to be urgently addressed.

The numbers of children in care has steadily increased between the year 2012 and 2016. On 31 March 2012 there were 67,070 children in care and on 31 March 2016 there were 70,440 children in care. Each year between has seen a small change, but nevertheless an increase, which would suggest the figures given by Goddard et al in 2005 are an underestimate today.

It has been increasingly acknowledged, through academic research in this area (Murray, 2016, Goddard et al 2008) as well as by campaign work undertaken with and by care leavers (The Access to Records Campaign Group, 2015), that care files may be the only substitute for missing or incomplete personal histories. And moreover, that such knowledge has important implications for identity issues and ongoing life story work of those with care histories. It was a significant step forward that the Department for Education, when revising the statutory guidance in 2015 *Transitions to Adulthood*, stated that '*it is now a recognised fundamental human right for care leavers to access their care records*' (DfE, 2015). Importantly though, these rights are viewed through the narrow prism of the current legislation relating to children and young people which determines who is legally described for the purposes of the guidance as a 'care leaver'.<sup>1</sup> This excludes the majority of adult care leavers – those over the age of 25 years - for whom the significance of access to records in piecing together missing and incomplete histories is equally relevant.

## Current Legislation on Access to Records

In order to request access to personal information held on a Local Authority's records about family history or time in care, adult care leavers rely on the Data Protection Act 1998 [DPA]. This is the legislative framework that gives care leavers the right to make a *subject access request* [SAR] to gain information held about them by any Local Authority or other social work agency. The DPA sets out legal requirements for agencies to respond to information requests within a set timeframe of forty

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The Children (Leaving Care) Act 2000 legislates that you are a care leaver and eligible for leaving care services if you were a 'Looked After Child' between the ages of 14 and 16, inclusive of your 16<sup>th</sup> birthday and for a period of at least 13 weeks (not necessarily consecutively) or 13 weeks after your 16<sup>th</sup> birthday. This narrow definition excludes:

- anyone who left care prior to turning 16 (this can include any young person who has been sentenced to a custodial sentence prior to turning 16)
- anyone over the age of 25 (and in most cases, 21)
- anyone who spent less than 13 weeks in care or who was in care before the age of 14

calendar days. This guidance comes from the Office of the Information Commissioner (ICO), which is set up to ensure the requirements and procedures for holding and accessing personal information are followed by organisations. It may review decisions made by data holders about what information to release when responding to a SAR and has the power to sanction local authorities for non-compliance with the DPA requirements. A key element of the DPA is the protection of third-party content. This means data on any person, other than the person requesting the information, must be redacted or withheld, unless the third person gives consent to this information being shared or the local authority or other organisation considers it right to exercise their discretion to release the information or part of it.

For adopted adults who request information, often for many similar reasons to adult care leavers, the DPA provisions do not apply. Exemption from the DPA arguably enables the voluntary sector and adoption agencies more discretion in the information they disclose. A further difference between the two groups is that whilst adopted adults have rights to intermediary and counselling support, adult care leavers have no access to such support (Feast, 2010).

### [Access to Records Campaign 'It's my Life'](#)

The CLA began its work on improving adult care leavers' access to records of their time in care in 2002, with the central aim of increasing awareness of care leavers' rights to access records and promoting public recognition of the importance of these files to care leavers across the life course. In 2008, the CLA developed *Clear Mark*, an award presented to Local Authorities that had maintained high quality service provision to care leavers asking for their care files. It is perhaps telling that to date only five Local Authorities nationally have signed up to *Clear Mark*, demonstrating their commitment to following the principles of best practice outlined by the CLA. During this time the CLA has also highlighted the importance of support for all care leavers with particular focus on the use of social networks. For example, the *Care Leavers Reunite* Website allows adult care leavers a space to share experiences, and by 2015 there was over 6,800 users from over thousands of different residential care homes. In 2010 a printable information guide to inform care leavers on the implications of the Data Protection Act was published by the CLA; accompanying this was a downloadable accessible template to simplify the process of requests to Local Authorities. Also developed was a database listing the contacts for all Local Authority areas and social work agencies across the UK with links to help and support in searching for family members and locating care files.

This work developed further as the CLA came together with other organisations to begin a renewed campaign seeking legislative changes that recognised the rights of care leavers across the life course. In 2013, the CLA joined with Coram BAAF, Association of Child Abuse Lawyers, The Post Care Forum and Barnardo's to form the *Access to Care Records Campaign Group (ACRCG)*. These organisations sought to share expertise and knowledge on the experiences of adult care leavers seeking to access their care records. The Parliamentarian lead of the ACRCG, Baroness Lola Young of Hornsey tabled an amendment in the House of Lords in December 2013 during the passage of the Children and Families Bill. The Government responded with an undertaking to review the statutory guidance once the Bill was enacted rather than amending the law.

Baroness Lola Young led the discussions with the Department for Education (DfE), which resulted in a coherent statement of the principles and processes underpinning good practice when the local

authority is responding to a care leaver's request to access their files. This is contained in Volume 3 of the Children Act 1989 guidance, 'Planning transition to adulthood for care leavers'. Sound systems include the need for clear information with emphasis on the importance of support for care leavers throughout the process. It reminds local authorities to ensure that practitioners within social care and data protection teams are suitably trained to communicate effectively with care leavers in order to avoid unnecessary redactions so that coherent and well-ordered information is received.

With the endorsement of the DfE, during Summer and Autumn 2015, the ACRCG held a series of 'multi-agency roundtable' events across England to promote the updated and revised statutory guidance and facilitate discussions to share knowledge and good practice. Gathering together the reflections from the series of multi-agency roundtables, the ACRCG published 'It's My Journey: It's My Life' in 2015, setting out their observations of practice across England and their recommendations to improve current practice.

The campaign group maintains that the current legal framework for accessing care files is not suitable to meet the emotional needs of adult care leavers. It fails both in relation to dealing with requests for case records information and by not considering the emotional needs of the individual in terms of support throughout the process. The ACRCG, with strong representation from user-led groups, continues to lobby for changes in law and for tailored support service for care leavers. This quote from the campaign literature illustrates the importance of care files to adult care leavers.

*'Often care leavers feel that they are a largely invisible group, especially people who come back to ask for their care records many years after they were in care and they struggle to get the service and support they need. As individuals and as a collective group of people they frequently experience varying forms of discrimination. A consistent thread experienced by many care leavers is trying to make sense of past experiences which profoundly impact on their emotional well-being. The State's intervention in their family life has often created a legacy of unresolved issues and fractured memories. It is challenging to build resilience and emotional well-being and move forward into the future if the past remains unresolved. (ACRCG, 2015; p6)*

## What it means to 'be' a care-leaver

Although statutory guidance states that the principles should apply to all care leavers when dealing with requests for information, a central tension is that the rights and entitlements to this support is applicable only to individuals who qualify as care leavers defined under the Children (Leaving Care) Act 2000. In this context, the state extends corporate parenting duties to care leavers up to the age of 25 years old, currently only if the young adult is in education or training. The local authority, once the care leaver falls outside this definition, no longer has the same responsibility and this impacts on further or continuing support to care leavers across the life course (Duncalf, 2010). Those involved in the campaign, including the Care Leavers' Association (CLA) define a care leaver using a much more inclusive definition. For example, the CLA defines a care leaver as 'anyone who has spent any time at any point in the care of the state, whether that be residential care inclusive of secure settings, foster care or kinship'. As such, they work with care leavers of all ages in recognition of the on-going difficulties care leavers experience across the life course.

There remains a paucity of research, policy and practice that focuses on the specific needs of care leavers beyond the age of 25. Data on these individuals is not collected or included in any official

statistics (Goddard et al 2008). This group become effectively abandoned, left undefined with no legal status and with a lack of short or long-term support (Coynes, 2015). The limited number of studies that have been undertaken in this area document that adult care leavers seek access to files for many different and complex reasons; some continue to struggle with the effects of abuse and neglect, others need to know about experiences of childhood and reasons why they were in care (Pugh and Schofield, 1999). The importance of care records in the on-going life story work and narratives of older care adults is highlighted by Horrocks & Goddard (2006). Evidence from a study undertaken by Duncalf (2010), which explored the needs of adult care leavers aged 17-78, found 'access to records' is one of the most important issues for adult care leavers in the UK. Analysis by Goddard et al (2005) suggests that the average age of request is between 35 -40 years and older. A later study by (Duncalf, 2010) found the age group to be 51 plus.

Other studies, focussed on the process of accessing care records, recognised the inconsistencies in local authority service provision. Such evidence documents the difficulties for many adult care leavers in the process of accessing care files (Kirton et al, 2001; Goddard et al, 2008). Collating such evidence ACRCG (2016:15) found care files were often lost or destroyed, as well as inconsiderate decisions made to redact unnecessarily third party content or to withhold information. Care leavers had expressed the intrusiveness of redaction as their own personal history was erased. Some practitioners from local authorities involved in the round tables had talked of the barriers they faced in protecting 3<sup>rd</sup> parties' personal information as well as being concerned about the emotional impact historic files may have on the care leaver. The report notes that this led to concerns around legal challenges, therefore the whole process of redaction was defensive, reflecting priorities around protecting against compensation rather than based on what the care leaver needs. Such evidence advocates strongly for the need to extend support to all care leavers during and after access to care files because of the emotional impact this is likely to have.

### The importance of access to records for criminalised care-leavers

There are common persistent themes in research on the trajectories of looked after children that can have a significant long term impact across the life course and these experiences at some stage may motivate people as they get older to access records. Children and young people taken into care are overwhelmingly vulnerable through no fault of their own. Over 62 per cent of those in care are victims of abuse and neglect prior to care, for others the serious illness or death of parent(s) has marked their lives and led to them being looked after by the state (DfE, 2015). For some their situation is then made worse by the instability and sometimes hostility of care placements. It has become recognised that many young people with such personal histories and experience of time in care can become unnecessarily criminalised at an early stage (Fitzpatrick & Williams, 2016:3). The accelerated transition from care is deemed a critical time for vulnerable young people and many feel a sense of isolation and abandonment on leaving care (Feast, 2009; Coyne, 2015). The lack of support and barriers to after care support and services have contributed to their marginalisation, leading to poor outcomes for care leavers in areas of education, unemployment, homelessness, and ongoing emotional and mental health issues (Duncalf, 2010).

There is increasing acknowledgement that institutional pathways from care can lead to prison (Fitzpatrick, 2014; Prison Reform Trust, 2016). This is further evidenced in official statistics that highlight the overrepresentation of looked after children and care leavers in prison (Ministry of

Justice, 2016). Many care leavers in custody, those defined under the Children (Leaving Care) Act 2000 as relevant or former relevant children, have a number of rights and entitlements which they can access. This includes a personal advisor who should maintain contact and a clear pathway plan. Through their work in prisons, the CLA have found young people become 'effectively abandoned' by the state, left undefined, with a lack of support, no knowledge of their rights and entitlements, thus making post-release resettlement extremely challenging (Coyne, 2015). For many care leavers who become criminalised it can seem that they are set up to fail, likely to follow the same pathway back to custody (Fitzpatrick & Williams, 2016).

The role of records from care can be particularly relevant in the context of a person seeking to resettle post release from prison and successfully move away from contact with the criminal justice system. In his seminal study on how and why individuals successfully desist from crime Shadd Maruna (2001) reveals the importance of identity and narrative work as a key element in the process of desistance from crime. For adult care leavers, historic care files are central to being able to support understanding and knowledge about the self. Work recently piloted by the CLA, through the development of prison based peer groups and the community based *Clear Approach* programme, has demonstrated that having person centred support to facilitate an understanding of past experiences, making links between positive and negative aspects of personal histories and one's experiences, can in turn promote resilience and self-esteem (Fitzpatrick, Williams and Coyne, 2016 ). This work also further reveals the significance for particular groups in being supported to access records about their time in the care of the state (Coyne, 2015).

## The Research Project & Participants

The CLA commissioned a small-scale research project to initiate exploratory work with some of the adult care leavers who had been in contact with the CLA over the last six years seeking support to access their care records. As such this report further contributes to and updates the broader existing literature on adult care leaver experiences of the access to records process and is the first piece of qualitative research since the changes in statutory guidance discussed earlier. We would expect that the experiences of adult care leavers currently going through the process of requesting care files and those that have recently received their files to be more positive, particularly taking into consideration a wider awareness as a result of the ACRCG work and the detailed guidance set out for local authorities to provide good practice. Importantly, this project aims to expand on the current debate by giving voice to adult care leavers to articulate their journeys in the process of access to records and the value of support available.

This approach recognises the importance of understanding the care leavers' perspective not solely the perspective of professionals. It builds on the early small qualitative studies such as Pugh and Schofield (1999) and the more recent work undertaken by Duncalf (2010), and other research in this area including a study by Goddard et al (2005) that utilised the Freedom of Information Requests to survey and considered local authority service provision this often takes. Finally, this study also seeks to extend the understanding of the issue of access to records by actively including the voices of care leavers who have experiences of the criminalisation and imprisonment.

Between October 2010 and September 2016 the Care Leavers Association had recorded 330 requests for support with the Access to Records process. Of these 227 (69%) were female and 103 (31%) were



male care leavers. The date of birth was not recorded for the majority of individuals seeking support. However, the age range was broad for both women and men (early 20's to late 60's), with average age of 43 years for women and 39 years for men. Of the 330 individuals 18 had disclosed contact with the criminal justice system, the majority of these (n=17) being male.

We interviewed twenty of these individuals who had been in some contact with the Care Leavers' Association in order to support the process of accessing their care records. They were identified from the larger database and contacted to take part in a qualitative interview which would explore their experiences of accessing records about time spent in care. To maintain confidentiality, the CLA liaised with all individuals, making the initial contact with them to inform them about the project and gaining their permission to be involved. Interviewees were ensured anonymity because of the personal nature of experiences. All interviews were transcribed and analysed thematically.

The focus of this project is to understand the experiences of individuals who seek to access records about their time in the care of the state. As such, and in recognition of the focus being on the system rather than the individual's life, the interviews did not involve a systematic process of gathering information about their personal history. Only key information on the participant's gender and age was collected consistently, and whether the individual had experiences of criminalisation or imprisonment. These characteristics were used when reporting the direct quotes from adult care leavers in order to provide some context and position their experiences in the wider life course. The following table provides a summary of these characteristics for the twenty participants.

<b>Characteristics of Care Leavers Interviewed (n=20)</b>					
<b>Gender</b>	Male			Female	
	45% (n = 9)			55% (n = 11)	
<b>Age</b>	20 – 29	30 - 39	40 – 49	50 - 59	60 - 69
	15% (n=3)	10% (n=2)	25% (n=5)	35% (n=7)	15% (n=3)
<b>Experience of the Criminal Justice System</b>	Yes to CJS experience			No to CJS experience	
	25% (n=5)			75% (n=15)	

## Context and potential limitations of the study

It is important to recognise that the sample of adult care leavers in this study have been selected by the researchers from a particular group who have sought help from the Care Leavers Association, and are therefore potentially more likely to represent those who have experienced difficulties with the process of accessing records of time in care. It may be that if we were to survey a wider group of care leavers, accessed through a different organisational setting, that there would have been positive experiences reported.

However, whilst such a caveat is important to acknowledge, this research sits within a wider trajectory of work which suggests that the experiences of adult care leavers in too many cases are problematic. This work began with the Care Leavers' Association in 2007 'It's our history, it's our right, reclaiming our past'. Following this the CLA worked with the other organisations to form the ACRCG, to create a collective response to push forward the campaign work regarding the rights of adult care leavers, both in terms of legislation and practice.

Therefore, although the sample within this research is small and has an element of self-selection in relation to poorer experiences, it remains an important opportunity for these adult care leavers to have voice about their experiences. Furthermore, the findings are reflective of those found over a decade ago by Goddard et al (2005) and the evidence and practice events which the ACRCG have generated over recent years (ACRCG, 2015).

## Key Findings: Interview analysis

### Motivations for Accessing Files

What did emerge from the qualitative interviews, and was often connected to the individual's motivation to access their records, was the significance of past traumatic experiences that have remained with them from childhood and into adulthood. Of the twenty participants, twelve chose to reveal some detail of their personal history leading up to both their time in care, and events or circumstances since being in care which they connect to that time. These are the things they reflect on as significant in driving their need to address unanswered questions about their history which later motivated them to request access their records.

Of these twelve individuals who discussed such personal experiences, half spoke of the death of their parent(s) and the significance of this bereavement. Four individuals disclosed a range of abuse, physical, sexual and emotional, which had taken place prior to, during, and, for some had been repeated again since leaving care. These traumatic experiences have been left unaddressed and have had long lasting implications over the life course. As noted by Duncalf (2010) it would be naïve to think the complex and emotional experiences of care leavers will simply disappear. Such personal histories continue to affect people during their adult lives and this research aims to contribute to an awareness that poor outcomes such as mental health and homelessness remain problematic in the lives of many care leavers beyond their time in care and how this connects to seeking answers by having access to records about your life.

Four participants chose to disclose the significance since leaving care of isolation, homelessness and mental health issues. Often these experiences were multiple and individuals reported them as being inter-related and over-lapping; this is revealed in the following quotes.

*'My history became more important to me when I was 17 and they kicked me out of care and I was left with no one...nothing. I went right downhill and was...well in a bad place...I tried to kill myself at one point but eventually got on with it but never over it' (Female, 62)*

*'My experience of care was not good, I ended up in all sorts of trouble, I ended up on the streets...I have had issues with depression, lack of confidence, no self-worth and massive issues with trust...I put on a good front...but this seemed like one way of trying to move on.' (Female, 42)*

*'I felt like I had been on some crazy journey...going back round and round in circles...it is a nightmare...I have been homeless...no relationships...no trust...I felt dysfunctional...I have slit my wrists...I couldn't run away from myself...just can't get over the past' (Male, 51)*

Some participants discussed the challenges they faced since leaving care, for example the five participants who had experiences of criminalisation and / or imprisonment. This is no surprise as care leavers have continually remained over represented in custody and the Ministry of Justice (2016) statistics evidence that there has been little improvement. Fitzpatrick et al (2016) have argued those in custody are basically a forgotten minority even if they meet the care leaver definition outlined in legislation the Children (Leaving Act) 2000.

For two of the participants issues of race and identity were identified as being both significant in terms of how care was experienced and their motivation to access their records.

*'I had nothing to lose really, a mixed race kid in a secure unit...it was the system that fucked me up...I think so anyway...it wasn't the fact that I had been abandoned...it was the experience of care and the notorious racist staff' (Male, 50).*

The struggle of black and mixed race young people looked after in a predominantly white care system has been recognised in previous research (Stein, 2008). Such evidence also points out issues with understanding race and identity, which for another participant was important when searching for answers through the process of accessing records.

*'I didn't know if my dad was English or Jamaican cause my surname is English' (Male, mid 20's).*

Also emerging from the interviews was the tensions between being driven to find answers and understand about personal histories, *'I wanted to read something, I don't remember simple things like school and health records'*, whilst also seeking to be part of improving the system for others. Two of the participants spoke of now being a professional or 'social work trained', but significant is that neither were aware of their rights to access records despite their involvement in the system.

There was a striking consistency in response to the broad question of when and why accessing records from time in care had become important, with most individuals referring to having 'always had questions', 'wanting to understand why' and a need to understand the 'reasons decisions were made'.

*'Always had questions...I feel I have fragmented memories if that makes sense, sometimes wondered why decisions were made to separate us later. Questions like that have almost stayed at the back of my mind and lay dormant for years waiting, if you like, and have done for forty years' (Female, mid 40's)*

In almost a third of cases the significance of age was explicitly referred to, where they reached a particular point in their life where the need to answer questions or understand became more intense.

*'I started wondering about my history, then as I got much older it seemed to become more important...I just got to a certain stage in life' (Female, late 50's)*

*'I was about 34-35 when I applied, I felt like I was on just some crazy journey, going back round and round in circles.' (Male, early 50's)*

As recognised in previous research on care leavers access to records the time of life differed in different cases, whether late 30's, mid 40's or late 50's (Goddard et al, 2005; Duncalf, 2010). Importantly, it is acknowledged by Horrocks and Goddard (2006) that, between 1940 and 1989 there was a large increase in the number of children and young people taken into care. Many within this group, reflected by many of those within our sample, were not aware of files until decades later. This may in part explain why so many adult carer leavers come back in search of information. Horrocks and Goddard, (2006) explain that identity is continually developed and revised throughout the life course.

Some of our participants reflected on this increased need for answers being triggered by an event, or in some cases the questions of significant others in their lives. For example, experiencing challenges such as 'after numerous failed relationships' or 'after a big family breakdown'. One quarter of the participants spoke of being motivated by questions from others, children or grandchildren, or as part of a particular process such as creating a family tree or writing an auto-biographical account a theme. Such motivations were also found to be significant by previous work in this area (Pugh, 1999; Horrocks & Goddard, 2006). What comes across in the accounts captured through this research is how, whether because of an event or the period someone hits in their life, the need to answer

questions becomes extremely powerful, so much so that even after failed attempts to access records the individual repeatedly attempts the process 'again and again'.

*'Years ago I started writing and calling various associations even before emails probably, but I never got a response, not even an acknowledgement. It became important when I had my own children and grandchildren as they always asked 'why can't we see photos of you'...As I said I'd tried and then when I had my own family I tried again.'* (Female, early 60's)

*'A lot of people my age have questions I suppose...I started a family tree and knew I could find the answers or fill in the gaps by requesting to see my records so I called.'* (Female, late 60's)

## Knowledge of Rights for Access to Records

For many of those interviewed the motivation to actively seek to access their records was connected to a previously unknown awareness that this process may be even possible. Astonishingly all twenty of our participants reported that they did not know, by way of having a history of being in care, that they could at a later stage access their records. This demonstrates that care leavers' knowledge of their legal right to this information was extremely poor. Albeit shocking that these legal rights are unknown it is sadly unsurprising as a report by the Access to Records Campaign Group (2016) emphasises the lack of publicity and information available to adult care leavers. Most of the participants had been informed of their rights by someone else. For almost half this was a friend or acquaintance who had successfully accessed their care records, with others equally finding out by chance when searching the internet.

*'I was 28 and I had just found out that someone I knew had their own care files. I wasn't aware of my rights until that person told me.'* (Male, mid 30's)

*'I had no idea it was a legal right.'* (Female, mid 60's)

*'I had no idea until my friend told me that care leavers could access their files. I googled it and came across the CLA they had some information on what to do. I can't believe I left care 23 years ago now and nobody had ever told me that I could do this.'* (Female, early 40's)

*'I was never told I could access my files, I had a friend and she had recently looked into her history and it was her that told me about the rights to do it. She gave me the CLA website and I accessed some information.'* (Female, late 40's)

The significance of the CLA as an organisation emerges from these accounts, whether via the internet or through telephone contact, the CLA is a key source for the initial information required to begin the process of accessing records. For many of the participants we spoke to, the involvement of the CLA is a crucial step in the process, but is often limited to information provision. Given the size of the organisation, its funding arrangements, and the volume of individuals seeking to take forward this process this is understandable. However, experiences of some of our participants reveal what could be developed in terms of a role for organisations like the CLA in supporting adult care leavers beyond the provision of basic information.

The role of the CLA is markedly different for those participants that we spoke with who have experience of criminalisation or imprisonment. One quarter of those we interviewed identified the advocacy work being done by the CLA in prisons and probation as being the route through which they became both aware of their rights and received support with the process of accessing records.

*'No I wasn't aware I could access files, I was on licence from prison and [the CLA] came to probation and asked if I wanted to access my records' (Male, mid 20's)*

*'I was in prison and [the CLA] came in and did a talk, it brought everything back to me, they [the CLA] told me of my rights and gave me a form to fill in' (Male, late 20's)*

*'I first found out last year from being involved with the CLA, they told me how to go about the process' (Female, late 20's)*

## Experiences of the Access to Records Process

Despite the changes in legislation and policy that facilitates access to care records and sets out clear guidance and consequences for local authorities in dealing with such requests (DPA 1998) the expectation would be that service provision would be of an acceptable standard. Yet the process of attempting to access records for all of the participants interviewed has been overwhelmingly negative, despite this legislative fact.

### The Battle to Access Files

Legislation requires that Local Authorities must respond to access requests within a forty calendar day timescale (ACRCG, 2015), yet the majority of those interviewed had to wait long periods. The overwhelming majority of our interviewees had to actively 'chase' the process, often multiples times. Some individuals report a long period of silence, where they hear nothing. For others, repeatedly approaching services to request their files they experience what felt like an active obstruction, 'a battle' or a 'brick wall'. This 'constant battle' so many people referred to in the interviews is symbolic as it represents the struggle adult care leavers persistently face across the life course (Stein, 2008).

*'I heard nothing for months, I had to keep ringing social services and I was just fobbed off with excuses. It was like they had better things to do and I was taking up their time or something. It was like a battle trying to get it.' (Male, early 50's)*

*'They replied saying so many days but a couple of months later I had heard nothing. I emailed and rang and was then directed to one person.' (Female, late 20's)*

*'I wrote again and again but still heard nothing so I just put it on hold, just left it.' (Male, mid 30's)*

*'I have hit brick walls over and over again. I've tried for ten years now, even as recently as up to a month or so ago' (Female, early 60's)*

There are also individual cases which reveal particular problems in the process, where a request gets lost and 'out of the blue I receive an email saying that my request to access files had been lost but they had just come across me and did I still want them now then'.

For some, the silence means the individual decides to end the process, or as in one case the process ends before it has begun as the service acknowledges that the individual's personal files have been destroyed.

*No I didn't get any response at all so I just assumed they could not send my information' (Woman, late 50's)*

*'They wrote back saying there was no longer any records available they were all destroyed at some time in the 80's and basically suggested I write to [the home] where I was placed in care' (Woman, mid 50's)*

## The Files Arriving

Of the twenty individuals we spoke with for this research for thirteen the process has resulted in them receiving some or all of their files documenting their time in care. For the remaining seven individuals the process has either ended unsuccessfully or at present remains unresolved. In four of these cases they are still waiting and actively chasing the process.

For those who did receive their files, a common experience, was having files arriving in the post after a long period of silence and with no prior warning. For one participant the files were delivered to them in their prison cell.

*'So I was just sent the file, I did face difficulties.'* (Male, mid 40's)

*'I was offered no support and just received a large parcel through the post'* (Female, late 60's)

*'I didn't think I would get them to be honest it took so long, but one morning months later I got three big files through the post with no warning.'* (Female, late 40's)

*'It took seven months to get them to send it and it got brought straight to my cell, and no one offered to read it with me or support me with the content.'* (Male, mid 20's)

Across the interviews the range of ways in which the process was described was 'care-less'. Individuals spoke of it feeling 'rushed', 'unthoughtful', and 'unprofessional'. Given the significance of the process for each person, as revealed in the above discussion regarding the motivations for accessing files, these reports are extremely problematic. As has been exposed by these testimonies for the majority of the care leavers the process of accessing records was universally challenging. An important aspect of this challenge was that for most this process was 'faceless'.

Yet a small number of individuals we spoke to reveal inconsistencies across cases, in some instances the process did involve contact with professionals. In two cases the care leaver was invited to meet with someone to collect the files in person. In a further case, an individual was also offered access to a social worker who she could ask questions of in relation to the content the file. Sadly though, these weren't particularly positive experiences. Participants report the individual they met with as 'cold' or 'dismissive', or in one case the individual being left 'furious that she tried to defend her [her mother]'.

## Fragmented, Missing and Redacted Information

Two of the individuals interviewed reflected that their files remain partial, arriving separately and with time periods of their time in care which remain missing from the documents.

*'I received the first lot of files in the June but was told I had seven. I received two more a few weeks ago which is now over a year later than the first, with a letter saying I will receive the other four soon. The information was all mixed up, in no order at all, they go from one day to another and with no signatures or dates.'* (Female, late 20's)

*'I received a file through the post but I was in two homes and I only got information from one so this is another missing...yes, I told the woman I wanted the rest of my files, she said she will have a look but to this day I never heard from her again. I think it is just too hard, to go through that again.'* (Female, early 40's)

Even for those who receive the full set of personal files there is for most of those we have spoken with a sense of fragmentation, of the files 'missing' the key information. This is often relates to the element of the Data Protection Act 1998 which protects third-party content. As discussed in the

introduction of this report this legislation means that information on anyone other than the person requesting the records can be 'redacted', erased or withheld. This process of redaction has been recognised in much of the research on access to records as a key barrier for adult care leavers (Goddard et al, 2006, Feast, 2009). What can only be described as a barrier, the issues relating to 3<sup>rd</sup> party content for care leavers can cause added distress when information is withheld especially when the whole aim of accessing files is to seek an important sense of identity and to find out about personal family history, it is counterproductive and is more likely to hinder not help a care leaver if information is redacted. The ACRCG(2015) has campaigned for changes and argues that the Data Protection Act, in its current form, cannot meet the needs of adult care leavers.

Of the thirteen interviewees who have been able to access some or all of their files eight explicitly reflected on the process of redaction. For some, this was with frustration that it became a key barrier to the sense-making they were seeking through the access to records process.

*'There were just blacked out pages some with just my name left on...did my head in because I was left with more questions than answers because of the redactions.'* (Male, mid 20's)

For a number of the participants the process of redaction was another reflection of a careless and unprofessional approach to them and their life histories.

*'I didn't get any support nor anyone to explain the reasons for redactions, I did get the third party bit but I feel it was unprofessional the way it was done, almost like it had been skipped through and rushed, so not done properly. Names redacted in one place then left in another.'* (Male, mid 40's)

*'Yes the redactions were ridiculous...even to the point where my mother had given her permission for her name to be left in but they still redacted...other children I had played with these were left in, like they got bored and gave up towards the end'* (Female, late 40's)

*'They had carelessly rubbed out pencilled names but I could still see them, how unthoughtful almost like they couldn't be bothered. And how dare they try to redact my life from my files. I had been physically, mentally and sexually abused, you can't really redact that can you.'* (Female, late 60's)

## The Fallout: Support for Care Leavers

All but one of the thirteen individuals who had received their files reported that they had received no offer of support in relation to coping with the process of reading, understanding and coping with the information held within the files.

*'When I applied I was offered no support, in fact no one asked, it wasn't mentioned'* (Male, mid 40's)

*'I didn't have any support, in fact not at any point did any one mention help and support'* (Female, mid 50's)

*'I was never offered any help or support but I feel I should have been.'* (Female, early 60's)

In one case, a professional handing over the file in person advised the individual *'before you open it I advise you to get counselling'*, but this statement did not come with help to access such a service. For those who reported wanting support there were various challenges or issues which they felt they needed help with. Whether help to explain the nature or reason of the redacted information, support to come to terms with the fact that there would be no file available and therefore the access to records process had failed her, or support to cope with the 'unintended consequences' of receiving file on relationships with family or siblings.



In just one of the cases included in this research an individual was provided with a named social worker, who he was advised could support him to read his files. It is significant that this person was younger (mid 20's) and therefore the events were relatively recent, as well as that the files received in this case revealed a catalogue of mistakes by the local authority staff. These included key steps in the leaving care process not taken and legal documents such as the 'pathway plan' left unsigned. Given this it is perhaps unsurprising that the individual didn't take forward this offer of support, instead seeking out other opportunities to be supported.

### Who can support? The value of peer-led networks

Five of the interviewees took the opportunity during the interview to consider what support they would want, or have liked previously, including who (individual or organisation) could provide the help or space which they needed or would have valued. In all these cases the individuals were explicit that such support needs to be separate to the services which had been in charge of their care as children.

*'I definitely was not offered the support that would have been appropriate for me, someone impartial, someone who understood what I had been through. Not a bloody social worker.'* (Female, late 40's)

The value of having access to, or 'joining' a collective, such as the CLA or 'Care Leavers Unite', was valued both in terms of being able to receive advice but also connect to others with similar experiences. A small group within the interviewees had been able to access peer support in the criminal justice system, made available through the CLA's active work in prisons and probation.

*'I spoke to CLA, was doing this course in prison kind of therapeutic support but it was a user-led group. It helped because I met other people that had been in care and it helped me to re-evaluate things...suppose that was one positive thing that came out of it I got to meet them...because people involved have been through the system, similar situations and experiences, they get it.'* (Male, mid 20's)

*'[CLA] was there to help me find out what I needed to know, each week we went through little things.'* (Male, late 20's)

These accounts reveal the value in such spaces being created and supported. An evaluation of some of this work, the Clear Approach programme, found the value of user led support groups in custody cannot be underestimated, they not only offered emotional support and advocacy but also informed young people of their rights and entitlements (Fitzpatrick & Williams, 2014); (Fitzpatrick, Williams and Coyne, 2016 ).

### Reflecting on outcomes from the access to records process

The central feeling that the adult care leavers we spoke to who have been through the access to records process have been left with is one of frustration, coping now with further questions. In some cases they now knew or understood things they hadn't anticipated, but were still left with existing questions.

*'I got none of the questions answered that I initially set out to get answered.'* (Male, mid 20's)

*'I was left with loads of questions like I found out I was in care earlier. I thought I was 11 years old and didn't know until I got my files that I was in at 14 months old.'* (Female, late 20's)

Early research by (Pugh and Schofield, 1999) puts emphasis on these emotional outcomes of the process of accessing files. Similarly, and more recently, a report by the Access to Care Records

Campaign Group recognises that care leavers have faced numerous barriers and often are left with many unanswered questions creating more distress (ACRCG, 2015).

Yet for a small number there were positive outcomes as a result. For example, feeling that they had been able to confront an issue or person, or being vindicated in terms of what they felt they knew had been proven.

*'I had support from the group and went and rang my dad, I confronted him over the past' (Male, mid 20's)*

*'I saw it wasn't true, they were inconsistent and I felt vindicated as I could categorically prove things were not true' (Female, late 60's)*

Even for those individuals where the process is ongoing, who have faced a 'brick wall' and the possibility of a positive outcomes is uncertain there remains a deep commitment to push on, again underlining the importance of this right to know their own history.

*'I don't actually know who I am and it is so important as 'normal families' even my own to share stories, photographs, memories, they are so treasurable.' (Female, early 60's)*

Yet, sadly, for others the process itself has been so distressing that they would not do it again, given what they have experienced.

*'I wouldn't go through that experience again, even if I am left with questions.' (Male, mid 30's)*

*'This was the most important thing in the world to me, but now I have been through all that to get information that was no use, I think it is just too hard.' (Female, early 40's)*

*'I was still left with the questions I always had, I won't approach them again. I would rather not know than do this again' (Female, late 40's)*

Such reflections are a damning indictment on a system that takes on the role of corporate parent of children. In the context of the Children (Leaving Care) Act 2000 the state relinquishes corporate parenting responsibilities at the age of 21, this leaves thousands of adult care leavers undefined, unaccounted for, and without a voice (Duncalf, 2010). As Goddard (2008) points out, and is confirmed here through our research, it is adults over the age of 35 that are more likely to access care records. They were in care and care leavers at a time when there was no after care support or legislation. Although things have improved somewhat with regards to the needs of looked after young people and adult care leavers, the importance of identity and personal history in life story work is now an essential part of a young person's pathway planning, it is too late to benefit these older care adults.

### The impact of the narrative: The power to construct 'me'

A central theme which emerges from the interviews with adult care leavers in relation to their experiences of accessing their records is the narratives which are constructed by professionals and others about them, their lives, and their families. And importantly how these connect to their own memories and narratives. A motivation for accessing the file can be to construct a coherent life story, in part to challenge the negative experiences and stigma experienced by care leavers. Yet for some of our participants the process of accessing files simply reproduces and deepens their sense of injustice. Descriptions of themselves as children, the language used, what is included and what is

omitted, an inability to challenge untruths, all contribute further to feelings of powerlessness and anger.

*'I was only 18 months old when I went into care, but the way they wrote my files was atrocious. I was bright, good academically, but nothing was put down about that, it wasn't even mentioned. I even got a part time job at 14 years old, but all it stated in my care files was that I was irresponsible because I wasn't saving for when I left care. They wrote anything and everything negative, nothing at all was positive.'* (Male, mid 30's)

*'The late 1970' and 1980's when these records were written, the derogatory language used about my behaviour, being for attention, I was hurt and disgusted by what they had said about me and my family. There was nothing down about how they treated me.'* (Female, late 40's)

*'I had traumatising experiences as a child but they lied about me in my case notes saying I was disruptive.'* (Female, late 60's)

The experiences captured here reveal that for too many adult care leavers the process of accessing care records has led to the reproduction of abuse, powerlessness, stigma, and shame that many participants had experienced in childhood and adolescence. The careless and insensitive approach in the communication with adult care leavers about information requests further reinforces power imbalances.

The following quote emotively reveals the detrimental impact a careless access to records service can have on the reproduction of abuse and powerlessness previously experienced by those who have been 'looked after' as children by the state.

*'I feel like the people that made accessing my records so difficult were worse than the social workers I dealt with that put me in care. That was my life in a folder and from when I first enquired they were rude, so rude...it will have never happened to them so they have no idea ...but I had been stripped, punched, kicked, marched around, verbally abused, spat at and I wanted to know why? They couldn't even give me that. It just made the whole thing worse, even harder, dealing with authorities again, and again, and again. I wanted help to get answers to end a nightmare but I was up against the same arrogance and attitude I received from the social worker that took me to Woodend at 12. I am 51 now, damaged.'* (Male, early 50's)

Yet whilst this process is undoubtedly difficult and emotionally draining for some, it is nevertheless incumbent on local authorities and the criminal justice system to adequately support this process. Such steps are vital both for the individual's life journey as well as improved outcomes in these institutional contexts. We must therefore guard against curtailing this work because it is perceived as challenging.

## Conclusions

The following section seeks to draw conclusions from the research project and identify ways forward to improve the experiences of adult care leavers seeking answers about their personal histories. The key issues raised by adult care leavers from the research commissioned by the CLA will be reflected, reporting what they identify to be some of the most urgent changes required to the process of access to records. Following this the researchers reflect on some central themes associated to truth, justice and redress. Finally, the representative individuals and organisations who make up the ACRCG consider how the findings can translate into actions for the current government.

### *The need to increase awareness that care leavers are able to access their records...*

*'I had no idea it was ever possible to access care records until I was 30 years old.'* (Male, mid 40's)

Too many adult care leavers found out about their rights to access records from their childhoods by chance, given the status of this entitlement efforts should be made to contact care leavers regardless of their stage in the life course to ensure they are aware of this right. For adopted adults there is much more awareness. A programme on the BBC in 1995 called 'Barnardo's children' looked at the importance of personal history and identity through access to records process and it was recognised (Pugh & Schofield, 1999:7) that such approaches to awareness raising led to an increase in access to records requests from '1500 a year to several thousand a month'. This just shows what is possible when awareness of a care leavers rights is publicised.

### *The need for consistency and care in the process of accessing records...*

*'I would want to know why they send me such careless information'* (Female, late 20's)

The varying experiences of those we spoke with, such as how files are received, request for payment, the process of redacting information, receiving fragmented and incomplete care records must be addressed. The experience of this 'careless' approach, often a long battle for the individual, serves to reinforce a disregard for care leavers personal histories. This is reflected in a key case where Liverpool Council had denied a adult care leaver access to their care records. They were found to be in breach of article 8 of the European Court of Human Rights, as it was found that the male had suffered historic abuse and the request for information was viewed essential in order to make sense of the earlier experience (Horrocks & Goddard, 2006:267).

### *The need for swifter responses and active engagement by services...*

*'I sent a form but received a reply, they were searching. Still not received the file...I just think it is unfair if records were not kept, they should be digitised.'* (Male, mid 50's)

So many of our participants had experienced a battle in seeking to access their records, often this was by way of silence from the services they were actively contacting. This lack of response meant that care leavers had to repeatedly prompt services to take forward their request. Such experiences are a common theme described by adult care leavers (ACRCG, 2015), yet this goes against the guidelines set out by the Department of Education (2014) that care leavers should receive appropriate and timely communication.

### *The need for support during and after the process of accessing files...*

*'So their idea of support was not my idea of support...Why are CLA not known to Care Leavers?'*  
(Female, late 40's)

The adult care leavers we spoke with had a range of support needs both during and after they had engaged in the process of accessing records. Importantly they had a strong sense of who could deliver such support and the need for user-led networks and organisations which lie outside of statutory organisations. There is an evidence base building in the context of criminalised care leavers which demonstrates the benefits for the individual and wider society where such networks are available (Fitzpatrick and Williams, 2014) and (Fitzpatrick, Williams and Coyne, 2016).

### *The need for investment in all care leavers across the life course...*

*'There should be a database set up which is electronic and accessible to all agencies to make the process easier. There should be a user-led network so people can get support and access to care leavers locally, as they are the ones who understand the best.'* (Male, late 20's)

When individuals have had been able to access records, the opportunity to be part of a user-led network, or to receive some support from peers, they are able to see the value of investing in such initiatives. As identified previously, the experiences of each care leaver is unique, the challenges they face in childhood and at different life stages can be multiple (Duncalf, 2010). There is a need to invest in person-led systems and networks to support improved outcomes for those with a history of being in the care of the state.

## Righting Past Wrongs: Truth, Justice and Redress

*'Well I haven't really been able to approach any of the unanswered questions because I have hit a brick wall.'* (Female, mid 50's)

Like the adult care leavers whose voices and experiences are exposed through this project, the findings perhaps present more questions than answers. These questions are fundamental to providing the ways and means which must be both created and given if adult care leavers are to be afforded the right to truth, justice and where necessary forms of redress.

Knowledge is power. How will the concealed nature of the process be addressed in order that adult care leavers know about their rights to access records from time in care of the state?

Accountability to deliver legislative rights. How will local authorities be held to account for the rights outlined in the legislation, both in terms of the timeframe within which they can expect a response as well as the quality and fullness of the documents received? This is essential if the repeated experiences of silencing and obstruction reported by care leavers is to be challenged and addressed.

A fair and just process. In whose interests does the current Data Protection Act protect? Are such processes appropriate and balanced in the rights of both state institutions and those adults who have been looked after by the state as a child?

Opportunities for redress. What opportunities for redress will be afforded when the process of seeking truth fails? How are such outcomes accounted for in policy or legislation? For example, if an

individual's files are lost, destroyed, inappropriately edited, or contain untruthful information how will such events, and the impact on the individual, be recognised. Where sought, what could be the opportunities for a process of redress, where the adult care leaver can express the impact and receive a response.

Responsibility and investment. In order to effectively respond to the issues raised by the experiences of the adult care leavers reported in this research state investment and responsibility are crucial. The state must take the responsibility for the duty of corporate parenting, both for current and past looked after children. A commitment to investing in both the process and forms of support is urgently needed.

We would hope that these research findings, alongside the growing tide of critical evidence, will spark action from the state which results in those who have been looked after as children by the state receiving the justice they are battling for.

## Actions for Government: A collective statement by the Access to Care Records Campaign Group (ACRCG)

The state is the corporate parent of those all persons, now adults of any age, who, for many differing reasons, grew up in the state care system, not in the care of their family. The cost of the current 'careless' system for obtaining care records to the emotional and physical well being of individuals is not just a cost to that individual. It has a significant social cost. The state can no longer ignore the rights of adult care leavers to access, with support if they wish, coherent information about their reasons for and their time in care. The state must now create a legal framework of rights for adult care leavers and duties on local authorities and other child welfare bodies when any care leaver asks to have their care records. The rights and needs of these individuals is neither addressed or protected under the current Data Protection Act.

The adult care leavers who were willing to share their experiences, the researchers and writers of this report consider that the issues identified and analysed require the government to respond without delay to the needs of all adult care leavers. The proposed introduction of a Bill into Parliament to replace the DPA98 in line with the requirements of the European Union General Data Protection Regulation presents an opportunity to create through the derogation powers a specific regulatory legal framework to establish rights for adult care leavers accessing the care records. All those who have contributed to this report and the ACRCG make the following proposals for action without further delay:

### 1. Need to increase awareness ...

Government must:

Require local authorities and any agency which has been responsible for providing care for children and young people at any time to

[a] publicise through a wide range of media options information for adult care leavers about their rights to access their care files

[b] set up systems which are accessible for all adult care leavers to enable them to make a request for their care records

[c] provide suitable support based on the individual's circumstances and wishes when responding to the request to see their care file.

## 2. Need for consistency....

Government must:

[a] establish a protocol of good practice for Data Controllers dealing with requests by adult care leavers or person nominated on their behalf for social care records

[b] set minimum standards of good practice under the remit of the Information Commissioner's Office which will provide the base line for responding to requests for care records.

## 3. Need for swifter responses...

Government must:

[a] set up systems to ensure compliance with statutory guidance and minimum standards are monitored and reviewed

[b] enable adult care leavers to be compensated for delays in dealing with requests

[c] ensure that the Local Government Ombudsman is aware of these requirements.

## 4. Need for support ...

Government must:

[a] include the requirement for suitable support services in minimum standards

[b] assist local authorities to identify funding streams to support adult care leavers

[c] ensure that health, education and prison services are required to work in collaboration with local authorities and voluntary care providers in developing a range of support services.

## 5. Need for investment...

Government must:

[a] properly address the needs of all adult care leavers and not confine itself to current care leavers up to the age of 25 years

[b] ensure that the additional needs of adult care leavers for a range of services including health services are properly identified and resourced

[c] provide for the needs of adult care leavers who seek access to their care files when in prison are addressed within the prison system and that systems are in place which respect privacy and skilled support is identified throughout the process.

We trust that these research findings, alongside the growing tide of critical evidence demonstrating the impact of the current 'careless' system, will spark action from the state which results in those who have been looked after as children by the state receiving the justice they are battling for.

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