Developing practice for care records in Scotland

February 2022

Why care records matter

Care records that reflect the lives, memories, and voice of care experienced children and young people should be integral to the love and support they receive. Care experienced children and adults told the Independent Care Review that their records could often document times in their lives that they do not have memories of, and these were crucial to ‘fill in the blanks’ of their lives, to reflect their journeys. Ensuring that we capture the moments that are important to children and young people, and uphold the right of care experienced people to shape, access and understand care records, is key to keeping The Promise.

This briefing expands on the 2019 briefing, Access to Care Records, which outlined the legislative and policy context in Scotland around care records. This briefing is for all practitioners involved in writing, managing and/or supporting access to care records, and draws on research, campaigning work, and knowledge from organisations and local authorities across Scotland including in social work and information governance teams.

Children’s human rights

The rights of children and adults with care experience to access their care records was established in a landmark case at the European Court of Human Rights in 1989, under Article 8 (Right to Private and Family Life) of the European Convention on Human Rights.

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1 Independent Care Review (2020) Evidence Framework, Feb 2017- Feb 2020 (page 96)
2 GASKIN v. THE UNITED KINGDOM - https://hudoc.echr.coe.int/eng#{%22itemid%22:%22001-57491%22)} retrieved on 01/02/22
The United Nations Convention on the Rights of the Child (UNCRC) is set to be incorporated into Scots law, meaning that it will be a legal requirement for public authorities to act in ways which are compatible with children’s rights. The UNCRC recognises the rights of children to preserve their identity; that children who are unable to live with their families have a right to special protection and assistance because of the additional support they may require to secure all of their rights; and that children who have experienced trauma be supported to recover from this. These rights, as well as many others in the Convention, have clear and explicit implications for how care records are written, stored, and made available to care experienced children.³

**Corporate parenting responsibilities**

The duties placed on corporate parents under Part 9 of the Children and Young People (Scotland) Act 2014 ensure that public sector bodies work together to listen to the needs and wishes of care experienced children and young people to ensure their best wishes are upheld.⁴ It is not only the responsibility of social work departments within local authorities to do this, but every part of an organisation that has corporate parenting duties. In the context of care records, this means that every person, team or agency who is involved in making, storing, or supporting access to care records, must ask of themselves and their organisation:

1. Are we doing all we can to keep the identity and memories of this person in their care records safe?
2. Are all relevant parts of our organisation supported and working together to carry out good practice around care records?
3. Is this person with care experience being offered care that is right for them when accessing their records?

**Survivors of historic abuse in care**

The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 aims to provide tangible recognition of the harm caused to those who were abused as children in relevant residential care settings in Scotland before 1 December 2004. This Act establishes an independent body, Redress Scotland, to administer a scheme to enable survivors of historical child abuse in care in Scotland to apply for financial payments. The scheme opened for applications at the end of 2021. Survivors of historic abuse in care may choose to access their care records to obtain evidence to apply for this scheme. This may be a particularly distressing experience, and the opportunity to

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⁴ We recognise the reflections made in The Promise on the use of language, including the term 'corporate parent'. We use the term 'corporate parent' sparingly in this briefing but where we need to make statutory duties clear.
access person-centred and trauma-informed support will be even more critical here. There is more information on support in the resources section of this briefing.

**The Promise**

In 2020, Scotland’s Independent Care Review concluded with the publication of *The Promise*. Driven by those with experience of care, The Promise described how the purpose of the creation of care records can often feel like this is done to meet the administrative purposes of the ‘care system’, rather than to capturing the life stories, experiences and feelings of a child or young person who is being cared for. To keep The Promise, people with care experience must have a sense of ownership over their records, so that these records reflect their stories, memories, emotions and needs, and records be written clearly in plain English, with the assumption that a person with care experience will read them later in their life. As care records often contain complex and distressing aspects of care experienced people’s childhood, it is integral that every person with care experience accessing their records is offered person-centred support through this process.

**What care experienced people say – research and campaigning**

Campaigning on practices around care records, led by people with care experience, and research into both the experiences of children and young people with care experience and the practitioners responsible for their care and protection, has underscored the importance of care records to people with care experience, as well as the difficulties or distress that can occur when trying to access their records and reading the content within these.

Evidence highlights that care records can have a valuable role in understanding family and identity, answering questions about early life and recovery from trauma. However, poor quality records, including the language used in them, and a lack of ownership of life narrative, can impede their use as tools to assist memory.

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5 The Independent Care Review (2020) *The Promise*, Glasgow; The Independent Care Review (page 31)
6 (The Independent Care Review (2020) *The Promise*, Glasgow; The Independent Care Review (page 69)
7 ibid.
Accessing care records can be a hugely significant event in the pursuit of self-identity for people with care experience: \(^\text{10}\)

‘You’re reading about yourself, remembering and going through it all again, feeling all the feelings you felt then, bringing up all that stuff… it was so important to me. I cannot possibly explain or say how important those records were.’ \(^\text{11}\)

The information contained within records can include factual detail: dates, times, places, vital information about who was in families; and opinion, including the perspectives and analysis about conversations, decisions, and behaviour witnessed.

One aspect of details about family could be whether a child had siblings. A person discovering they had brothers and/or sisters they did not know about in this way, often years after separation or perhaps not having met or known about each other, can be particularly distressing and challenging.

All information contained in records has the potential to cause questioning, validation or distress. Who was in my family? Who was I in contact with and who wasn’t I in contact with? Why was that? Was this explained to me at the time? What decisions were taken about my care? What support did I get? What did I think at the time?\(^\text{12}\) The process can be difficult, intimidating and emotionally challenging. People with care experience have faced delays in being given access to their records; received heavily redacted materials; have had to make repeated phone calls, emails or letters to obtain records, on occasion having to take legal action to do so; and have had difficulty managing the emotional impact of reading records without support.\(^\text{13}\)

‘ultimately it left more questions unanswered. There was little in my Care File. I was in care for 7 years but there was not one ‘photo, no parental letters, not one school report, no mention of how I was doing at school, nothing insightful. My Care File had all the use and interest of an old shopping list.’ \(^\text{14}\)

Members of Who Cares? Scotland produced Our Lives, Our Stories, Our Records in 2019, a report which stressed the importance of care records in supporting the life narrative of care experienced people and highlighted some of the challenges to good practice. This included a perception that ‘subject access request’ (SAR) procedures can feel bureaucratic, risk averse, and uncaring; care records could be lost or difficult to

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\(^\text{13}\) Ibid.

\(^\text{14}\) Ibid.
understand when these didn’t follow a chronological timeframe or were illegible; the redaction of third party information could be disproportionate or ‘extreme’; and where support is offered when reading records, this might not be suitable or appropriate.\(^{15}\)

Campaigning and research to date has resulted in a range of recommendations for all those who create, manage and support access to records that can support good practice development.\(^{16}\) These include:

1. Processes to reduce the redaction of third party information
2. Collaborative working across local authority teams to share the knowledge and expertise around creating, storing and/or supporting access to care records\(^{17}\)
3. Simplified processes for access to care records
4. Transparent approaches to timescales and person-centred approaches to communication and support when accessing records
5. Compassionate future-proofed approaches to making records
6. Working groups to develop change, led by care experienced people and practitioners.\(^{18}\)

**Research in progress in Scotland**

As of February 2022, led by a group of organisations (Aberdeen City Council, City of Edinburgh Council, Future Pathways, West Dunbartonshire Champions Board, and Who Cares? Scotland) a new research project is exploring the experiences of accessing care records across Scotland. Supported by Social Work Scotland and CELCIS, this project aims to build a national evidence base and inform the development of a Gold Standard Best Practice Guide for record holders across the country. Using a Participatory Action Research methodology, the project has an Expert Reference Group of practitioners and people with lived experience of accessing records to support the project’s design and delivery. These findings are due to be published later in 2022.

The Love InC. project led by children’s charity Aberlour is currently engaged in research with care experienced young people on how care records are created. They are carrying out an analysis of examples of children’s residential care records, focusing on how the voice of the child is represented and love is reflected. These findings are due to be published in 2022.

\(^{18}\) Ibid.
**Back to the Future: Archiving Residential Children’s Homes** (ARCH) is a research project being undertaken by researchers at the University of Stirling and the University of Osnabrück. It aims to explore and improve how the everyday care experiences of children and young people in residential care are captured and preserved. The team will work in partnership with children, young people, care experienced adults, as well as with children’s charity Aberlour, Birthlink, The National Records of Scotland, and The Residential Childcare Project at Cornell University.

**Principles and challenges to good practice**

Over the last few decades there have been some improvements to the way that care records are written, stored and accessed. Positive changes across social work practice have been met with corresponding changes to how social work records are written; and changes to data legislation, such as the Data Protection Acts of 1984, 1998 and 2018 have improved the rights a person has to access records about their lives in statute. However, through research, campaigning, and The Promise, it is clear that there are still many areas of practice that must improve, and some of these will pose significant challenges to current practice.

The following principles of good practice, and what must be done to address the challenges to good practice, have been compiled from a review of research, campaigning and discussions with practitioners and people with care experience.

**Ownership and the co-production of records**

A core recommendation of The Promise concerning care records was that care experienced people should have ownership over their own stories. The co-production of records between practitioners and children or young people at the point that records are made can support ownership.

Keeping The Promise and generating greater ownership over care records will involve many more changes to how care records are written, stored and how access to these is facilitated, and how care experienced people are involved in these.

**Participatory approaches to practice change**

Participatory approaches to practice improvement should be used. Involving the co-production of guidance with care experienced people, as well as practitioners, can ensure that any programmes to improve practice are best able to meet care experienced people’s needs. Doing so will also uphold The Promise, and children’s rights to have their views listened to and given due weight in matters that affect them, under Article 12 of the UNCRC.
Person-centred support and communication when accessing records

Accessing care records can be important to understanding identity and can play a role in recovering from trauma, but this can also be distressing. Person centred, trauma-informed support must be offered and available to all people with care experience who would like this support, throughout the process of accessing their records. This will both meet expectations of The Promise and uphold the right to recovery from trauma under Article 39 of the UNCRC. No single approach to support will suit all individuals, but some practices applied universally must cease, such as sending care records through the post to the requestor without prior and ongoing offers of support.

For some requestors, being able to have an ongoing conversation about what they are looking for in their records can enable those responsible for fulfilling access requests to be more responsive to that person’s needs. However, care should be taken to ensure that this is an open and ongoing conversation, occurring over several meetings that are planned around that person’s needs, because these are likely to change as a person is supported to understand and access their records. Ongoing conversations can support a requestor’s understanding of what they are likely to find (or not find) in their records, including offering context and support if insensitive language or inaccurate content is found in records. These conversations are also important for minimising redaction, as understanding about what a person already knows impacts decisions about what information does not need to be redacted.

Trauma-informed and responsive skills

Supporting children and adults with care experience in a trauma-informed and trauma-responsive way requires every member of the workforce who is involved in writing or facilitating access to care records (not limited to those in social work departments) to have the skills and support to do so this work. This requires training about trauma (such as through the National Trauma Training Programme), and the needs of people with care experience, but also supervision, coaching, and an understanding of capacity and resource by senior management, met with a commitment to allocate these where necessary. Trauma-informed practice requires Scotland to undertake approaches that in the words of The Promise ‘hold the hand of those who hold the hand of the child’.

A caring and consistent approach to ‘third party’ information and redaction

A care record may contain information about someone other than the ‘subject’ of the record. This ‘third party’ could be, for example, a family member or anyone who has a significant role in the life of the child being cared for. This information may need to be redacted. The redaction of information can be confusing and distressing to the

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19 The Independent Care Review (2020) The Promise, Glasgow; The Independent Care Review (page 69)
20 The Independent Care Review (2020) The Promise, Glasgow; The Independent Care Review (page 20)
requestor, especially if it is seen as excessive, disproportionate or it concerns family members.\textsuperscript{21}

Approaches to redaction often vary. Gaps in skills, capacity and/or support to the people and/or teams who make these decisions can result in risk averse decision making and unnecessary redaction of information. Guidance, support and procedures to document any necessary redaction of information is essential. Redaction is the context of personal records needs to be made on an individual basis, weighing up and considering a number of factors:

- The confidentiality and rights of a third party against the requester's right to access information about their life.
- Consent from the third party (or the likelihood of gaining consent)
- Whether information is already known to the person making the request
- 'Other circumstances relating to the individual making the request'\textsuperscript{22}.

A record of the decisions taken on the redaction of information must be created and kept, as any decisions to redact or disclose information must be justified.\textsuperscript{23}

The approach taken when writing records can mitigate some future potential of redaction by seeking permission from ‘third parties’ or those who could give permission on behalf of third parties. For example, information about the parents of the brothers and/or sisters of the person the record concerns may be able to increase the likelihood of gaining consent for information to be disclosed in some circumstances.

Changes to practice in social work and information governance teams requires commitment and action from leadership to understand where gaps in resources are barriers to good practice, and a commitment to allocating resources to close these gaps. Due consideration needs to be given to:

- Ensuring that the right capacity, skills and processes are in place to offer trauma-informed and person-centred communication and support throughout the processes involved in accessing a care record.
- The involvement of personnel who facilitate records access requests can improve practice around redaction by:

\textsuperscript{22} Further guidance on these circumstances is available from the ICO, including information of particular importance and significance to the requester. From Information Commissioners Office (2020) \textquote{What should we do if the request involves information about other individuals?}, \textit{Right of Access}, Information Commissioners Office: Edinburgh
\textsuperscript{23} Ibid.
Finding out what a person already knows about information within their records\(^{24}\)
Offering support and conversations to the requestor about the extension of deadlines if this can support decision-making that minimises redaction
Offering context and managing disappointment of the person accessing their records in cases where information must be redacted

- Developing processes and building capacity to ensure there are collaborative work practices between teams and/or practitioners who write records and who facilitate access. This can enable better knowledge sharing around the needs of people with care experience who are seeking to access their records, and better co-ordination of practices that lessen redaction, such as gaining consent or understanding contexts of information about third parties.
- Development of and capacity building to support systems that record and review decisions about redaction of information, incorporating clear communication and support to people with care experience.
- Developing local guidance that outlines processes to minimise redaction in care records.

**Collaboration**

Collaboration between the different people and teams who are involved throughout the process of making, storing and facilitating access to a care record is crucial to good practice. Collaboration with others is a duty set out in statute for corporate parents.\(^{25}\)

In terms of practice around care records, this will include the exchange of knowledge and skills to understand and meet the needs of people with care experience, and the sharing of knowledge and coordination of practice between all teams or agencies involved in this. For example:

1. There are many teams who write records about - and with - a child or young person being cared for, for instance, social work, residential care settings, schools or health. These teams should collaborate to develop practice and procedures that facilitate a sense of ownership of their records for the child or young person concerned, whilst also sharing and recording information important to the decisions made for the support and care of the children or young person.

2. Where either social work, or data and information governance teams (for example) are involved in different aspects of writing and/or facilitating access to

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\(^{24}\) ICO guidance states that ‘it is more likely to be reasonable’ to disclose information about third parties if ‘the individual making the request has previously received the third-party information; the requester already knows the information; or the information is generally available to the public’ Ibid.

\(^{25}\) Children and Young People (Scotland) Act 2014, Section 60
care records, these departments should collaborate with each other, and other relevant departments to understand the learning, skills, and resources needed to enable practice that best meets the needs of children, young people and adults requesting records after leaving care.

3. Processes should be in place to support teams to work together, with specific attention paid to identifying and alleviating known requirements or challenges during writing or access to records, for example:
   a. Redaction of third party information
   b. Person-centred support
   c. Knowledge of the needs of people with care experience.

4. Agencies (or different departments within one agency) might need to collaborate to support a requestor to access all of their records. For example, a number of different agencies or departments might hold records about a care experienced person, or the records may have been created by an administrative area that no longer exists (such as Central, Grampian, Tayside or Strathclyde), or care may have been provided in settings out with social work such as inpatient health settings.

**Missing or incomplete records**

The problem of missing or incomplete care records was highlighted in the Shaw Report which looked at residential schools and children’s homes in Scotland from the 1950s to 1990s, but care records made recently can also be lost or incomplete. Missing and incomplete records can cause distress to the requestor especially if gaps or fragmentation of records mirror their experiences of gaps or fragmentation in their care as a child, which could compound a sense that a child was not valued or important.

Under the Public Records (Scotland) Act 2011 (the Act), named public authorities must submit a Records Management Plan (RMP) to the Keeper of the Records of Scotland (the Keeper). This RMP must set out the arrangements by which an authority will properly manage all its public records. The RMP must also cover some records created on behalf of the authority by a third party organisation contracted to deliver a function of that authority, including care, for example provided by a charity. This covers the records of care experienced children and young people and is designed to ensure these records are properly managed over time, which is particularly important because many care experienced people will want and feel they need a significant period of time before

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they feel able to access their records. Robust RMPs help to ensure that electronic and paper records with enduring value, including important mementos such as photos, can be safely managed over time and through necessary data migrations or physical relocation, into permanent preservation and remain accessible. The Keeper supports public authorities to meet their statutory obligations under the Act and is available to offer advice and guidance to third party providers who would like support with their own arrangements. The Keeper’s office is contactable at public_records@nrscotland.gov.uk

**Technology and recording systems**

The recording systems through which care records are produced and stored (including any software used) play a key role in supporting good practice. Recording systems need to organise information in a way which better facilitates access to a coherent narrative about the life of a child or young person, whilst being responsive to their needs. This will also help the requestor to identify at that stage which information they are or are not interested in. For example, emails to plan meetings may not feel relevant to some people but will be to others. Recording systems must also meet the needs of all practitioners in order for them to best support a child or young person in need of care and protection.

Metadata should also be considered in the review of recording systems, as it can provide important context about information held in records, such as linking records about children with brothers and/or sisters together so that consent to disclose information can be more easily obtained.

**Skills for writing and written analysis**

Care records have a range of purposes and people who need to use the information documented in these. In addition to the need to document a care experienced child or young person’s life, these are used by a range of practitioners to share knowledge that is important when caring for a child or young person, including details of a child’s plan, decisions made, or assessing risk. The priority for producing care records is often this administrative and practical purpose. As a result, records might therefore contain more systems-based information and language and speaks to the needs of the ‘care system’ over creating a more holistic record of a child’s life, experiences, aspirations, and relationships. Records can also include inaccurate information and use insensitive language.

Writing something that tells a child’s story, captures the feelings, the everyday and the special experiences, as well as difficult or distressing circumstances of a child’s life is

challenging and skilled work. Developing writing practice that moves from ‘systems driven’ content, jargon and acronyms requires time and support. Approaches including letter writing are being developed and used as a more positive practice, but approaches such as this requires a set of skills that many social workers (or other practitioners who support children) do not receive formal training in. Training and development in social work writing for all new and existing social workers is crucial to help with this, as is considering wider learning on how care and care experience is framed, something the Each and Every Child Initiative is leading on in Scotland.

Leadership and management will play a crucial role in fostering culture change around social work writing. Consideration must be given to the time to learn new skills and write in new ways; ongoing support such as supervision, coaching, workspaces, and equipment; and the permission required to change and challenge ways of writing from writing focused on risk, to writing centred on the story of the child.

**Time**

A scarcity of time has been identified as a challenge to good practice in writing care records and providing prompt, supported access to a requestor. Social workers have said that their writing practice is challenged by the amount of time they must spend on writing outside of working hours, and concerns around the proportion of time required to spend writing to record decisions and engagement with children and families rather than spending more time in the support they are able to give.  

Balancing the need for a timely response to access requests, and a proportionate and sensitive approach to redaction and organisation of records can also be a challenge when facilitating access requests. This can be partly mitigated with relationship-based support and communication with a care experienced person, but this requires capacity and resources.

These challenges, as well as all the practice changes outlined in this briefing, will require time for new practices to be developed and these ways of working to be adopted. This is likely to require additional capacity, and strategic leadership will play a key role in mapping and building this capacity.

**Conclusion**

Despite some improvements to practice in the creation, storage and support to access care records in Scotland, further developments in practice are required to provide consistency across local areas. There is a need for ongoing and future research into all aspects of practice around care records and the views of care experienced people on

this. The research currently being undertaken will address some of these gaps in knowledge. There is also a need for consistent attention made to improvements so that all care experienced people can be confident that their care records reflect their lives, are stored safely, and can be accessed with the right support for them.

Many of the improvements to practice that are required relate to the work of practitioners, from foster parents, residential carers and social workers, to teachers and nurses. To make the changes required, practitioners require support from leadership at local and national levels. Leaders must listen to the needs of children, young people and adults with care experience first, but must not underestimate the important insight practitioners can give into any procedural, systemic or cultural barriers. Learning to write and create records that portray a child’s life and convey the love of those caring for them takes time, support, new skills, and permission to do so. Leadership must ensure that practitioners have this.

Effective records practice requires highly skilled, supported practitioners, but also the scaffolding of multi-agency working, secure IT systems that function between these agencies, and a legislative and policy landscape that is conducive to doing this skilled work in a transparent and accountable way. Getting all of these elements right will help to ensure that a care experienced person is included in documenting their childhood, provided with the right support when accessing their records, receives comprehensive and well-presented information about their childhood, with information only redacted where necessary.
Resources and practice

This section collates some of the resources available to support good practice, as well as examples of good practice around care records in Scotland.

Networks

Social Work Scotland - Historic Abuse Practice Network
Chaired by Gaynor Clarke (Social Work Scotland/Aberdeen City Council)
Contact GClarke@aberdeencity.gov.uk for details.

Support and advocacy for care experienced people

- Who Cares? Scotland
- Future Pathways

Guidance and knowledge exchange

- Information Commissioners Office, Guidance on Right of Access
- TACT Language that Cares
- Scottish Children’s Reporter Administration, Subject Access Requests How the Scottish Children’s Reporter Administration will deal with your request for personal information
- British Association for Social Work Recording in Children’s Social Work Practice
- The Global Records Access Information Exchange is a collaboration between Aberdeen City Council (Scotland), Monash University Rights in Records by Design (Melbourne, Australia) and Social Work Scotland, radicalising care records by challenging the status quo, the systems, structures, and scaffolding, aligned with Social Work Scotland’s Historic Abuse Practice Network. Webpage in progress.
- WiSPer, Writing in Social Work Practice
- Research in Practice Podcasts Reflections on accessing care records and supporting good recording
- SIRCC 2020 Write right about me
Practice improvement initiatives for care records in Scotland

- Aberlour [The Love Inc. Project](#)
- Iriss [Recording practice in social work](#)  [Writing analysis in social care](#)
  
  This course provides a practical framework for supporting the writing of analysis in social care records, and is relevant to those working in social work and social care. The course has grown out of the recording practice project that Iriss have led, which focused on supporting social services practitioners to develop their skills and explore ideas for improving their case recording.

- Each and Every Child [The Toolkit](#)
  
  Each and Every Child works to support a shift in public attitudes towards children, young people and their families who are in and around the care system, to build improved support for progressive policy and practice implementation, engaging and informing professionals to strengthen their practice and impact, and supporting care experienced people to be at the heart of efforts to develop more consistent and effective communication.

Contact

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