

Notify all 18 year olds who have been under social care the right to request their personal information

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Petitions Committee | 29 November 2021

Reference: SR21/1251

Petition Number: P-06-1218

Petition title: Notify all 18 year olds who have been under social care the right to request their personal information

Text of petition: Everyone who has been in the care of social services should be told of their right to request their personal information by social services when they turn 18. Reviewing papers years and years after the event can have a significant detrimental effect on a person's well-being and families.

Every person has human rights and should be informed about the right to view their file. Because I was so passionate about helping other children I chose to study youth & community work degree and during a discussion with my lecturer, as they knew I had been in care during previous conversations, they asked if I had asked for my data protection file which I had no idea what it was or what they were referring too. They told me what to do, I followed the procedure and was handed the file. The man looked at me with empathy as he had read it. I was a bit shocked and confused by the empathy he was showing me. I went home with this file quite interested at this point to have a read especially due to the man's expression on his face knowing he had read the file also, low and behold I had no idea what was ahead of me, I was exposed to all the childhood trauma and neglect that I had experienced and it was such a shock to me that I had to be seen by a psychiatrist due to revisiting past trauma. I'm not blaming social services for the way my parents treated me that's not their fault.



1. Background

A petition to notify all 18 year olds who have been what the petitioner refers to as 'under social care' the right to request their personal information has been submitted to the Petitions Committee.

Currently, 18 years olds already have the **right to access personal information**, but there is **not a duty to notify those who are care experienced** of this right when they turn 18.

Personal records are kept so that information can be used to plan and provide services. These records can include key documents including progress plans and reviews, school reports, information from service providers and about birth relatives.

The right to access records has changed over time and was first introduced in the 1980s following an appeal to the European Court of Human Rights by a young person who had been in the care of a local authority and had been denied access to personal records. The Court ruled that access to records was a human right under Article 8 of the European Convention on Human Rights, which guaranteed private and family life.

Under the Data Protection Act 2018 and the General Data Protection Regulation ('GDPR') any person can make a 'Subject Access Request' to any organisation that might hold information about them. Care experienced people have the right to request and access records and information about their time in social care from **any organisation** that holds them. This includes local authorities, foster agencies, charities, schools, the NHS and any other organisation that was involved in their care.

1.1. Accessing personal records

For those wishing to access their personal records they can make a 'Subject Access Request' which is free of charge. Organisations have one month to respond, although they can extend this to three months if the request is complex, which care records typically are.

Campaign organisations including the Access to Care Records Campaign Group (ACRCG) and FamilyConnect are calling for better access to files for children in

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care and young people leaving care . They emphasise their view about the positive and life-changing impact that accessing social care records can have on those who are care experienced. Access to these records can provide unanswered questions, or can help build or re-establish contact with birth relatives.

In 2017, the University College of London carried out a study which examined how records are created, managed, preserved and accessed in England. The Memory - Identity - Rights in Records - Access (MIRRA) study concluded that although records play a central role in establishing a “sense of self and belonging throughout the life course” a number of issues exist when attempting to access records:

- Social care recording practices often fail to meet the ‘life story’ story needs of the care leavers, due to a focus on risk management, compliance and outcomes.
- Records management is highly inconsistent and variable, and many records are at risk of loss or destruction. This includes digital records which are often created and managed in proprietary systems that are in use for short periods of time.
- The legislative and regulatory landscape is fragmented, confusing and inadequate to the needs of care leavers. This is particularly the case in terms of access under the General Data Protection Regulation, which does not account for the unique role that social care records have on an individual’s sense of identity and belonging.

In March 2021, the ACRCG submitted a response to the Joint Committee on Human Rights on the UK Government’s Review of the Human Right Act and called for:

legislation which takes the rights of an adult care leaver to their personal and family history outside of data protection legislation and process and replaces the present legal route with a dedicated and more empathetic legislative framework.

2. Welsh Government action

Sections 105 to 115 of the Social Services and Well-being (Wales) Act 2014 place duties on a local authority to provide advice and support for children and young persons who it has 'looked after' when they leave social care. The Part 6 Code of Practice (Looked After and Accommodated Children) under the Social Services and Well Being (Wales) Act 2014 sets out the role of a **Personal Adviser (PA)**, which is assigned to all care leavers up to the age of 25 and a care plan or 'Pathway Plan' which details the services and support needed by young people who have left care.

Responding to the petition, the Deputy Minister for Social Services referred to the role of the PA, who

acts as a consistent focal point for care leavers ensuring they are provided with consistent personal support as they transition to adulthood. As part of their role PAs should offer assistance to young people so they are able to have easy access to their case files.

The Deputy Minister added that:

We expect the local authority, health services and the PA to provide access to appropriate support and/or counselling for care leavers if they do find that reading their old case files triggers trauma. Third sector advocacy providers who work with care leavers may also be able to provide support. We are also aware that some adults who left care before we introduced our current legislation may wish to access their case files. We would expect local authorities to help facilitate these requests and that local authorities, health services and if appropriate the third sector who work in this area to provide support for what can be an emotionally draining process.

Commenting on its current practice regarding this issue, Carmarthenshire County Council said:

We already ask our staff to be proactive in doing ongoing life story work with children as they go through their time in care so that they are able to continually have the opportunity to reflect on and comment about their experiences and understanding of the issues that led to them being in care as well as their experiences in care.

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