

In December 2021, ACRCG responded to the Care Review's call for ideas. There was a strict word limit but we hope we have made a persuasive case for much needed changes to ensure every adult care leaver is supported to get their family information from care records.

ACRCG submission to the Care Review

Our idea:

Give care experienced adults a **legal framework and process** which meets their unique needs to have the information about themselves and others, including their family, held on their care records, and **take the process out of the Data Protection Act 2018**.

The Subject Access Request process to find out what personal data an organisation holds is too restrictive and not sufficiently attentive to the Article 8/HRA rights ['respect for family life'] of care experienced adults. Too much weight is given to the privacy rights of other persons who were involved in their life while in care. **Defensive redacting** results in fragmented narratives, reinforcing 'fragmented memories'. This is partly due to concern about penalties for breach of the Act and also about future negligence claims against the local authority or voluntary organisation.

ACRCG supports the right of adopted persons to have access to their adoption records. We want both systems to be significantly improved to ensure that access rights and the process to obtain personal information on records made while in care or leading to adoption are set out in a coherent legal framework, underpinned by shared principles, respectful of the rights and well being of the individual while also balancing the privacy rights of others.

ACRCG also believe that local authorities currently should have a clear duty to be active in gaining consent from parents and connected persons to future sharing of their personal information.

The impact we hope this will achieve:

- **Care experienced adults will be at the centre of the decision making process** enabling local authorities and voluntary organisations to make empathetic and reparative decisions about sharing information from care records
- **Respecting their rights** to have knowledge about their time in care, reducing anxieties, memory gaps and thus improving mental well being and life opportunities
- Opportunities for care experienced adults to **re-establish family and other connections**, if they wish
- Less variable and **less adverse experiences** for the care experienced adult when asking to have their records
- Developing a nation wide cohort of **skilled and supported case workers** to undertake this work.

Action to achieve this:

Create a unique framework for accessing care records outside of current data protection laws, making the rights, well being and welfare of the care experienced adult the 'paramount consideration' in decisions about sharing information on their care records.

Interim measure: amend the Act to provide a defence of 'justifiable reason[s]' in relation to the exercise of discretion by the Data Controller [DC] to share personal data of a third party without consent: this amendment should be supported by guidance issued either by government or through the Information Commissioner's Office.