

4.9 Record keeping

(i) Policy

Past

- a) What policies and/or procedures did the local authority have on record keeping in relation to foster care?

Overview

The period under consideration (1930- the present day) spans a period of tremendous change in record keeping- both in terms of theory and practice as well as in terms of the related considerations of technology and societal expectation. Over the course of this period, legislation and regulation around record keeping has developed in response to all of these stimuli and influences with the manner in which the Council manages its records, and indeed what records the Council creates, developing in response to, and tracking, these changes.

The development of record keeping

In 1930, record keeping was very much just that- it was about keeping records. It was about deciding what information being recorded and then recording this- principally either in formal stand-alone documents or, often, in formal registers. These documents were designed to be kept- and indeed bought registers from this era often include written instruction for them to be retained permanently.

The beginnings of records management as we understand it today, lie in 1940s America where the exponential increase in paper records over the course of the Second World War lead to the development of theory and practice that looked both at what records were created and also for how long they should be retained.

This lead, over the next 20 years, to the development of modern retention and disposition - that is, the idea that records should be kept for a particular period and then, often having been reviewed to see if they are required as live business records for a further period, whether they are selected for permanent preservation (archive) or they are destroyed. Retention practices start to spread in the 20 years from the mid-1960s – with the idea of retention schedules – that is, lists of record types that dictate retention period (as well as often what happens to the records at the end of that period)- becoming accepted practice in UK local government in the mid to late 1990s.

In terms of what records are created, this has also developed radically over this period. This development has been driven both by business requirements – that is what information the organisation needs to capture- and also in terms of legislative requirements – that is what information the Law requires the organisation to capture. Each of these drivers has changed beyond recognition not once but perhaps several

times over this period, with key influences being that which the organisation wishes to do with information and the controls (governance) which society wishes to put around that information.

Council record keeping

As stated above, the Council's record keeping has developed, and should be understood, in the context of contemporary standards and expectations. This is true for both what records were created in any given era and also the degree to which these were intended to be retained.

Working alongside these dynamics are other factors that affect both what records have been created and how (if at all) they have been retained. These include factors relating to

- Staff: time pressures, staff understanding of records retention practices, staff who understand the significance of particular records leaving, deliberate destruction of records to remove evidence of bad/illegal practice;
- Space and accommodation: office moves, the desire to sweep away the 'old' and 'irrelevant' when moving;
- Technology: the growth of electronic working, the false understanding of paper and electronic records being different in nature.

The Council records landscape

These dynamics and factors have led to a landscape where records have been created that are designed to fulfil the business and legislative needs of the time. Moreover, these practices are in accordance with those seen elsewhere at the same time. This is not to justify poor practice, but it does put such practice within its correct context.

This is why, for example, policy is enacted and subsequent delivery evidenced almost exclusively by committee minutes for the first 50 years of this period. The legal requirements were understood and policy set in place via committee minute to turn that requirement into actions. Those actions (either individually or as part of broader activity) were then subsequently reported back to committee. This is how it was done in that era with the practice of specific policy documents developing principally from around 1980 onwards.

In the same way, there has, until very recently, been no systematic Council-wide permanent selection and transfer to archive of Council records- with items coming into the Archive for various reasons at different times- either from department or establishment (often at time of move or closure or when something 'old' is found). An exception to this are committee minutes which have been systematically transferred over almost the full term of the period (there having been a Public Records Act in 1937).

Key records

A number of records, both groups of records and individual items, have been key in forming the understanding of the landscape and events outlined in this submission.

The comprehensive minute runs covering Social Work (formerly the Children's Committee), Education and Human Resources (formerly the Personnel Department)- both within the main Council minutes and the Policy and Resources Committee.

The copies of various Inquiries and Reports (Internal and External) and criminal indictment documents cited and quoted in the two submissions- most especially the 2002 Black and Williams Report;

- The Main Social Work Archive accession (reference FC/SW dates 1896-1990)- which includes items (e.g. log books, visitor books, Incident books, foster care registers, registers of children committed to the care of the Council etc.) for establishments other than those under direct consideration in the two submissions as well as a general feel for contemporary practice across the period;

- Two Children Act 1908 Infant Life Protection Register of Guardians volumes dating from 1909 to 1954 and 1957 respectively (from within Accession FC/SW);

- A 1989 handbook for social workers compiled at the Cupar (North East Fife) area office and comprising full guidance for practitioners across all areas of social work. Most of the contents of this handbook, is Council-issued documentation. The handbook also includes two Scottish Education Department (SED) Social Services Working Group circulars;

- Electronic files (stored on 3 ½ inch floppy discs) relating to the Inquiry into St.Margaret's (MS Word format, accessed using MS notepad); and

- Electronic draft Staff handbook dating from 1993 (chance survival draft document in HR staff member's network drive- as above- MS Word format, accessed using MS notepad- considerable formatting clean-up required. Original file version retained).

b) What policies and/or procedures did the local authority have on record keeping by foster carers?

No records relating to policy/procedures have been found on record keeping by foster carers.

c) In relation to (a) and (b) above, was there a particular policy and/or procedural aim/intention? Where were such policies and/or procedures recorded?

With reference to the overall aim of record keeping, surviving documents indicate a policy of looking to comply with legislative and regulatory requirements.

d) What did the policies and/or procedures set out in relation to record keeping on the following:

i. Children in foster care

The 2002 Black and Williams report noted that the Boarding Out of Children (Scotland) Regulations of 1959 required the care authority to compile and maintain a case record of each child boarded out by them.

The regulations also specified a minimum retention: each case record was to be preserved for at least three years after the young person attained the age of eighteen or if he died before that age, three years after his death.”

The need for longer retention of case records for children in care was recognised in the 1996 Boarding Out Regulations for Looked After Children. These regulations identified the need to keep case records for young people until the seventy fifth anniversary of the child’s birth.” (Black and Williams, 2002).

Childcare case files with this longer retention were digitised and are held in the Social Work Archive.

ii. Foster carers

For most of the period under consideration no policy/procedures have been found on record keeping about foster carers. From 1989 we have a draft procedure submitted to the Fostering and Adoption Panel. The draft procedure aimed to improve information sharing between Social Workers, Area Teams and Link Workers about available foster carer vacancies and to make information about foster carers available outside of office hours for Social Workers looking for emergency placements. This document describes how Social Workers would complete CIC forms for any change/placement/discharges and forward these to Area Teams (Homefinder) responsible for the foster carers. The information from the CIC forms would then be used to update the “Computer Sequoia Resource Files” and to update the paper records held centrally by the Department.(Procedures For Co-ordinating Fostering System).

iii. Visits to children and foster carers

For much of the period under discussion policy and procedures have not been found. From the late 1980s onwards when procedures survive there are references to the need to record any visits. For example a document called The Boarding Out And Fostering of Children (Scotland) Regulations 1985 sets out “The Social Worker is required to ensure that written reports are produced on the above visits”.

iv. Complaints

No policy and procedures have been found for much of the period under discussion. The council adopted the recommendation in the Black and Williams report “foster carers allegations are collated and that the allegation, the action taken to resolve them and the ultimate resolution of the concern are all recorded on the carer’s file.”

v. Investigations (both internal and external) and Vi Discipline

There are no records of any reviews for much of the period under consideration. The Black and Williams report and the Management Audit (2000) were used to implement a variety of recommendations relating to practice and recordkeeping including a longer retention period for case files.

vii Responding to requests from former children in foster care for information/records

There are no records of policy and procedure for much of the period under consideration. In the late 1980s the Access To Personal Files Act 1987 and the Access To Personal Files (Social Work) Scotland Regulations 1989 clarified duties for providing access to Social Work clients and restrictions on the disclosure of some types of information. The Act applied to any personal information recorded manually after 1st April 1989. From 1989 we found a departmental procedure for access to personal files for Social Work clients and former clients. The procedure states that "Requests for access to information recorded before that date [1st April 1989] will be viewed sympathetically and wherever practicable granted". A public information leaflet "Your Right To see your Social Work File" was created. (Fife Regional Council Social Work Department Access to Personal Files)

viii Other issues relevant to foster care

No other policies and or procedures found.

- e) Who compiled the policies and/or procedures?
It is likely to have been the relevant managers and staff who compiled actual policy and procedure documents with policy, across the period under discussion being approved by Committee.
- f) When were the policies and/or procedures put in place?
Across the period under discussion but typically soon after an impetus – be this legislative or as the result of a report or Inquiry.
- g) Do such policies and/or procedures remain in place?
Yes.
- h) Were such policies and/or practices reviewed?
Yes there is evidence of policies both evolving over time and also specifically changing.
- i) If so, what was the reason for review?
These appear to have been principally either changes in legislation, evolution of practice, or in consequence of a particular report/Inquiry.
- j) What substantive changes, if any, were made to the policies and/or procedures over time?
Changes appear to have been largely reactive (in response to legislation, report or Inquiry). Changes as a result of the evolution of practice are harder to find for much of the period under discussion.
- k) Why were changes made?
See above
- l) Were changes documented?
No records have been found documenting changes between policy versions. In addition, there is no established practice in the retention of superseded versions of policy and procedures (although this is in the process of being changed in direct consequence of the findings of the Northern Ireland Inquiry)
- m) Was there an audit trail?
Evidence points to this typically not having been the practice over most of the period under consideration. However it should be noted in saying this that the is was in accordance with contemporary practice.

Present

- n) With reference to the present position, are the answers to any of the above questions different?
Yes
- o) If so, please give details.

Contemporary practice in electronic working facilitates both the ready retention of superseded versions of policy and procedures. It also facilitates effective and practicable audit trail practices. Both of these are in the process of being introduced currently.

(ii) Practice

Past

- a) Did the local authority adhere in practice to its policy/procedures in relation to record keeping?

At an organisational level, partial adherence is evidenced by items in committee minutes and annual reports. In the same way, partial adherence is evidenced by surviving records- both their content and, sometimes, by the records themselves- which can be requirements of legislation or regulation.

There is, however, no specific reference to record keeping in relation to policy and guidance, so it is not possible to fully answer this question.

- b) Did the local authority check adherence in practice to its policies and/or procedures in relation to record keeping by foster carers?

No records relating to policy/procedures have been found in relation to record keeping by foster carers.

- c) Did the local authority adhere in practice/check adherence in practice to its policy/procedures in relation to record keeping on the following:

- i Children in foster care
- ii Foster carers
- iii Visits to children and foster carers
- iv Complaints
- v Investigations (both internal and external)
- vi Discipline
- vii Responding to requests from former children in foster care for information/records
- viii Other issues relevant to foster care

There are no records of policy and procedure for much of the period under discussion. Surviving records show the Council looking to deliver the requirements of legislation, regulation and good practice at the time. Case records were destroyed in line with the retention periods set out in the Boarding Out of Children (Scotland) Regulations in force at the time.

- d) Were relevant records kept demonstrating adherence?
No records demonstrating adherence have been found.

- e) Have such records been retained?
No records demonstrating have been found.
- f) If policy/procedure was not adhered to in practice, why not?
No records have been found.
- g) Did the local authority undertake any review or analysis of its records to establish what abuse or alleged abuse of children cared for in foster care may have taken place?
Black & Williams consulted the records available for children cared for in foster care when they produced their report in 2002.
- h) If so, when did the reviews take place, what documentation is available, and what were the findings?
Black and Williams Report 2002. The Council adopted their recommendation for a longer retention for case records for young people until the seventy fifth anniversary of the child's birth; and that any allegations against foster carers and the action taken and ultimate resolution of the allegation are recorded on the carer's file.
- i) How have the outcomes of investigations been used to improve systems, learn lessons?
See 4.9. (ii) h above
- j) What changes have been made?
See 4.9. (ii) h above
- k) How are these monitored?
An Action Plan following the Black and Williams Report was compiled and monitored by the Children and Families Management team.
- l) Did the local authority afford former children in care access to records relating to their time in foster care?
There are no records relating to this for much of the period under discussion. The shorter retention of case records in the period 1959-87 would have made this difficult. From 1989 onwards former children in care would have been given access in line with the Access To Personal Files (Social Work) Scotland Regulations 1989
- m) If so, how was that facilitated?
This is set out in the procedure Fife Regional Council Social Work Department Access to Personal Files and in the public information leaflet "Your Right To see your Social Work File"
- n) If not, why not?
See response to m above.

Present

- o) With reference to the present position, are the answers to any of the above questions different?
Yes
- p) If so, please give details.
Contemporary practice in electronic working facilitates both the ready retention of superseded versions of policy and procedures. It also facilitates effective and practicable audit trail practices. Both of these are in the process of being introduced currently.
- q) Please provide details of the types of any records currently held relating to the children in foster care in respect of the following:

- i. Children in foster care
 - register of looked after children
 - case files for looked after children which are retained for 100 years from date of birth or for 25 years from the date of death where the child dies before 18th birthday. The case file to contain the Child's Plan and the information specified in The Looked After Children (Scotland) Regulations SI/2009 No. 210 like family/social work reports review and hearing reports, family/social work contact

- ii. Staff with responsibilities for foster care

The service currently holds the following records for staff either internally or within their corporate HR file:

 - supervision notes
 - contact and payroll information
 - details of complaints, investigations or performance management procedures followed
 - risk assessments in relation to activities/tasks (or for individuals where personal circumstances make this necessary)

- iii. Foster carers
 - Case files for approved carers which are retained for 25 years from the termination of approval or from the death of the carer.
 - case files for pre-approval carers not approved/withdrawn which are retained for 25 years from the date of the decision or 25 years from the death of the carer
 - records of training provided to carers
 - financial records of fees and maintenance payments

- iv. Complaints

The Service currently holds the following records with regard to complaints (where complaints involve a member of staff and this leads to formal investigation then these records will be contained within their corporate HR file):

Staff use the corporate grievance procedure if they have a complaint and these records are kept in individual staff HR files. Complaints by members of the public, parents, etc, are made using the corporate complaints procedure and records kept. Some complaints may lead to investigations

The Service currently holds records with regard to complaints where complaints involve a foster carer and this leads to formal investigation then these records will be contained in their foster carer's file.

- v. Investigations (both internal and external)

The Service currently holds the following records from any investigations (where complaints involve a member of staff and this leads to formal investigation then these records will be contained within their corporate HR file):

- any complaint/grievance forms or statements/letters emails that led to an investigation being instigated
- fact finding reports or additional statement from any initial investigation prior to a formal process being initiated
- letters organising meetings, interviews, etc
- letters advising of the outcome including where external agencies need to be informed

vi. Responding to requests from former children in foster care for information/records

Former children in foster care are directed to the Information Management and Requests Team on how to access their records.