SUBMISSION FROM TOM SHAW

The Historical Abuse Systemic Review (HASR) and public records

Background - the findings which prompted the recommendations relating to records and records management

1. The HASR was a review of systems ie of the laws and associated monitoring and inspection systems designed to ensure the welfare, needs and rights of children in residential care in Scotland from 1950 to 1995.

2. To carry out the Review, it was necessary to—
   • research the legal framework governing residential child care;
   • find what records existed relating to residential child care provision;
   • examine records to learn how the law was being implemented;
   • talk to people who delivered residential child care services;
   • talk to people who as children were cared for in residential institutions and, on the basis of the information collected;
   • assess the adequacy of the legal framework and practice in monitoring and Inspection.

3. The Review found that many authorities and institutions did not know what records existed, where the records were located and what the records contained. The Review also found that knowledge about systems of monitoring and inspection was being lost when people left or retired from organisations

4. Our research found that vast amounts of records existed. The records were scattered across organisations, archives, and even countries. Some records were in the process of being examined, some sat in boxes with little or no hint of what they contained, and some were in off-site secure storage. We also found that others had been lost or destroyed.

5. Potentially important information about practice, eg relating to monitoring and inspection, was also being lost because when practice changed, new guidance was issued and, in order to avoid the risk of confusion, previous guidance papers were destroyed. Such losses would have been avoided had appropriate retention schedules been in place.

6. Further obstacles to the work of the Review included the lack of central government databases about residential child-care, for example records giving details of which organisations provided which services, at which locations and over what period of time.

7. It was little wonder that former residents were having such difficulty in getting access to records about themselves or about the institution(s) in which they were cared for; or were finding their records to be disjointed or were being told their records were missing.
8. The findings of the Review pointed to an urgent need to take action to preserve historical records so that former residents could have better prospects of getting access to their records and information about the residential schools and children’s homes they lived in as children.

The recommendations relating to records

9. In seeking to address the observed weaknesses in records management systems and practice, and the many problems faced by former residents in trying to access records, I recommended that—
   - the Government should commission a review of public records legislation to ensure that the legislation in place is appropriate to meet the records and information needs of Scotland, and not least, the needs of former residents, service deliverers and researchers;
   - the Government should invite the National Archives of Scotland (NAS) to establish a records working group to address issues specific to children’s historical residential services;
   - voluntary organisations, religious organisations and local authorities, working in partnership, should commission guidance to ensure that their children’s residential services records are adequately catalogued to make them readily accessible; there were examples of such being done but they were few.
   - records management practices should be evaluated regularly, particularly records associated with monitoring children’s welfare and safety.

10. My Review had found that there is a comprehensive set of laws, rules and regulations covering the generation of records for children’s residential establishments for the period 1950 to 1995. I also found that the law had not been effective in ensuring that these (records) were kept and made accessible.

11. Well-kept, properly managed and accessible records are essential if looked-after and accommodated children, indeed all children, are to receive care and services that are appropriate to their needs, welfare and rights. Responsible record keeping and records management are also vital to adults who, as children, were looked after in residential schools and children’s homes; and they are also important to a broad range of researchers and policy makers providing, as they can, insights into the outcomes of professional practice, policy, and legislation, as well as societal changes.

12. Good records, well-managed, are the foundation of good governance and are essential to the achievement of appropriate care for all looked-after and accommodated children. Good records on their own are not enough.
Comments on the Public Records (Scotland) Bill

13. I welcome the Public Records (Scotland) Bill. It responds comprehensively to the findings and recommendations of my Review on records management and to the wider needs for appropriate legislation governing public records and record keeping in Scotland.

14. The Bill complements the legislation already in place in Scotland which specifies the records that are to be kept. It does not risk duplicating or compromising the work of public bodies that have responsibilities in regard to the content and maintenance of records.

15. The Bill, in effect, will “complete the circle” by requiring that all records - historical, current and future - are managed properly. This will be in the interests of assuring quality, appropriateness of provision, and accountability in public services. Poor management of records is costly in terms of the consequential impact on people, services and finance. Additionally, by defining what constitutes a public record, the Bill will lead to the strengthening of the content and usefulness of records both for service providers and stakeholders including former residents.

16. Importantly, the Bill not only requires the relevant authorities to produce, implement and review records management plans, but also provides for the establishment of appropriate standards for management planning and the provision of guidance on that process. These provisions will ensure that standards of practice become consistent across authorities and across Scotland, thereby removing the unsatisfactory variation that has characterised practice to date. In future, for example, former residents should be able to experience, not just expect, the same standard of provision and practice in the management of the records to which they are seeking access, irrespective of the authority/ies or location/s in which they were cared for as a child.

17. I also welcome the proposed procedures for obtaining the Keeper’s approval of plans and any revised plans and for the requirements for plans to be kept under review by those who devise them. It is crucial to the effectiveness of the plans and to realising the benefits of them to the services delivered by the authorities, to have internal review procedures in place. The role of the Keeper in undertaking external reviews of authorities’ records management plans is important both to ensuring compliance and in the interests of informing and improving practice on a continuing basis. I fully support this element of the Bill.

18. It is essential that the care of children in any form of residential setting is monitored and evaluated by those who determine the policy, legislate for and deliver residential care services. A critical part of this is effective record keeping and records management and the active use of records for raising standards. Well-developed and managed records are also important to effective communication with those receiving the service and to the wider public who, ultimately, are paying for it. Records are key
to the children in care both at the time their records are being assembled and in the future when, as adults, they seek information about themselves and where they spent some of their childhood. Any weakness in the management of the records at any stage can only be to their detriment.

19. The Bill aims to ensure that responsibility, effectiveness and accountability are achieved in records management, not only in the interests of children in residential care but also across the work of all services. I am confident that when such arrangements are in place, the shortcomings in records management identified by my Review will be overcome. I am also confident that it will be possible to pre-empt the recurrence of the problems of the past in relation to finding, gaining access to and benefiting from records. The principles on which the Bill is based are sound and appropriate.

20. I am very mindful of the frustration and pain felt by former residents who cannot access their records because of weaknesses in or lack of records management planning. Action to improve the circumstances they face is to be welcomed and that action is needed urgently. It is my hope that the Bill will be able to proceed in the appropriate way as quickly as possible and that former residents and, in particular, survivors will be able to benefit from its provisions soon: any delay will only compound their difficulties.

Tom Shaw
5 January 2011