Big Decisions: Appraising Pupil Files in a Complex Climate

‘For the Archivist to destroy a document because he thinks it useless is to import ... an element of his personal judgment ... but for an Administrative body to destroy what it no longer needs is a matter entirely within its competence and an action which future ages ... cannot possibly criticize as illegitimate.’¹

Appraisal is a thorny topic for record-keeping professionals. A power struggle is at the heart of the process: it is impossible to keep everything, so someone must decide what to retain and what to destroy. As such, it is subject to ongoing debate, and requires considered practice so that big decisions are not made lightly. In recent months I have observed how the appraisal theory taught on the Archives and Records Management (ARM) course at University College London (UCL) links directly to records management in schools. This short reflective piece will interrogate this coming together of theory and practice, by examining the challenges faced by professionals making appraisal decisions. It will focus on pupil files as a working example, and refer to data protection legislation, the IICSA’s Independent Inquiry into Child Sexual Abuse (the Goddard Inquiry) and the impact of the case R (C) and Northumberland County Council, with The Information Commissioner as an interested party.²

My consideration of this topic began with a short literature review, written as part of the Concepts and Contexts module on the ARM course. Exploring the topic of selecting and preserving archives seemed timely. At work, I had been looking at ways to manage our pupil files more effectively: completing an information audit and interviewing staff involved in the process of creation and capture. I had also been discussing the retention of pupil files with other professionals in similar settings, predominantly members of the School Archivist Group (SAG).

Throughout this pupil-file project, my first port of call was the Records Management Toolkit for Schools, published by the Information and Records Management Society (IRMS)³. Although the institution I am employed by is a charity, and therefore not bound by Freedom of Information, senior management agreed that following IRMS guidelines was in the best interests of the school and its pupils. Especially in light of the toolkit’s suggestion that:

‘A pupil or their nominated representative have the legal right to see their file at any point during their education and even until the record is destroyed (when the pupil is 25 years of age or 35 years from date of closure for pupils with special educational needs). This is their right of subject access under the Data

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Protection Act 1998. It is important to remember that all information should be accurately recorded, objective in nature and expressed in a professional manner.4

Based on this advice, we agreed that a retention period corresponding to the years outlined above was appropriate. However, just as we thought we had grasped the recommendations, several factors prompted us to re-think our approach.

In early November, we received news that the Goddard Inquiry had trumped data protection in residential schools. We were informed that ‘institutions therefore have an obligation to preserve records for the Inquiry for as long as necessary to assist the Inquiry’.5 In reality, this meant keeping all records relating to pupils, and staff, and disregarding our previous decision concerning retention – for the time being.

At the same time, the issues surrounding appraisal were highlighted to me further, as I stumbled across a blog post written by Christopher Knight, which became the focus of the aforementioned literature review.6 Christopher Knight is a barrister specialising in public law and human rights, and Panopticon – a blog he regularly writes for – considers issues in Information Law.7 His blog post examined the case between R (C) and Northumberland County Council, with The Information Commissioner as an interested party.8 Knight sets his case-analysis within the landscape of Operation Yewtree, and the need for local authorities to retain child-protection information. He expands this terrain to include the Data Protection Act’s recommendations for storing personal data. A juxtaposition is thus highlighted early on:

‘If they [local authorities] delete too quickly they risk being castigated by history for not being able to answer questions; if they don’t delete they are hoarders of sensitive and traumatic data.’9

Knight goes on to discuss the lack of consistent practice across the country, with authorities adopting various approaches: some retaining child-protection files until the 21st birthday, and others 35 years from the closure of a case. The claimant in this case argued that Northumberland County Council’s 35-year policy was too long. However, the judge, Mr Justice Simon, ruled in favour of the local authority, stating it was reasonable to retain child-protection files for more than 6 years. Unfortunately, Mr Justice Simon’s judgement offered

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4 Ibid.
rather vague guidance for those affected by his ruling. This is reflected in his Retention Policy Report Discussion:

‘Since there is no specific legislative basis for retention periods for child protection records, and no national guidance from the Government or other statutory sources, this is an area in which each local authority has to form a reasonable view after considering the issues involved. Practice in other local authorities, and advice given by local bodies, provide useful context, but cannot determine what decision the Council should take.’

How, you may ask, did this blog post prompt me to re-think the school’s approach to pupil-file retention? I believe it illustrates well the complexity of appraisal. Although the case focuses on child protection files held by County Councils, the points raised are also applicable to recordkeeping professionals working in schools. To me, it seems impossible for records managers and archivists to remain passive custodians as envisioned by Jenkinson in the quote at the beginning of this piece.

David Bearman, writing in 1986, recognised appraisal as the core of the recordkeeping endeavour11. His point is just as pressing 30 years on. When it comes to appraisal, the weight on a records manager’s shoulders is huge. Although many approaches have been developed – macro-appraisal, functional appraisal, and the significance assessment12 – they all require the recordkeeping professional to make the following value judgement: is this record worthy of being preserved as an archival record? This is complicated all the more when one considers the rights of record subjects, and the cultural rights of communities, including schools. Livia Iacovino, an Honorary Senior Research Fellow with the Centre for Organisational and Social Informatics at Monash University, Australia, has researched how legal cultural human-rights instruments can be used to justify a participatory approach in archives and records management. She puts the case forward that ‘the retention of personal information in records about group members is relevant to a group’s cultural identity’. She goes further to state that under international law, record-keeping professionals have a duty ‘to collaborate with cultural groups about the preservation, appraisal and access to records that form part of their living cultural heritage’.13 Iacovino suggests that the application of these rights, at present, is rare, and a participatory model needs to be embraced if archivists are to redress this.

10 R (C) and Northumberland County Council [2015] EWHC (Admin) 2134
When dealing with sensitive personal records, the value judgement made by professionals can have a huge impact. What we decide to keep, or destroy, might influence the construction of an individual’s identity\(^{14}\) or group identity as mentioned above. It may also transpire to be essential evidence in a future case. As a professional working in a school setting, the burden of appraisal has been lifted for at least five years, with the first stage of the Goddard Inquiry commencing on the 27th November 2015. But, as Terry Cook acknowledged, this approach is simply not feasible in the long-term – all records cannot possibly be kept on an enduring basis.\(^{15}\)

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Where do I stand, after reviewing the blog post about R (C) and Northumberland County Council, considering recent archival theory, and learning more about the Goddard Inquiry? The thorny topic of appraisal certainly does not seem to have gotten any simpler. One thing I am sure of is that record-keeping professionals cannot be passive in the Jenkinsonian sense, particularly in a climate where institutions are being investigated. I also believe that Iacovino is right to encourage record-keeping professionals to engage with non-professionals – users, co-creators and records-agents – to ensure that 'holes [are] created that allow the power to pour out'\(^{16}\) of the archive, and communities to seep in. However, I also understand this is not easy. Such involvement might have a significant impact on the reliability and authenticity of a record, and how records managers work.

Today it is more apparent than ever before that appraisal is an area requiring continual interrogation. We must question the decisions we make, communicate with colleagues, and engage with current theory. This will be all the more vital for professionals working in schools, and other affected institutions, when the findings of the Goddard Inquiry are published.

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