



Setting the Record Straight For the Rights of the Child

The focus of this response to the September 2016 *Records and recordkeeping practice consultation paper* from the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) is on the requirements for Out-of-Home Care.

ABOUT US

We have formed the *Setting the Record Straight: For the Rights of the Child Initiative* to address the failings of existing recordkeeping and archival frameworks, processes and systems to meet the identity, memory and accountability needs for those who experience childhood out-of-home care. We believe that the failings are systemic and that the problems are structural. In order to address them we need to move beyond incremental improvements and transform the way records for childhood out-of-home care are created, captured, managed, archived and accessed.

The Initiative has been established in partnership with Care Leavers Australasia Network (CLAN), the Child Migrants Trust, Connecting Home, CREATE Foundation, Federation University's Collaborative Research Centre in Australian History (CRAH), Monash University's Centre for Organisational and Social Informatics (COSI) and the University of Melbourne's eScholarship Research Centre (ESRC). It is an independent, non-commercial, non-government initiative, co-ordinated through COSI, and is convening a National Summit at Deakin Edge Federation Square in Melbourne on the 8-9 May 2017.

OUR RESPONSE

We commend the principles based approach taken by the RCIRCSA towards record and recordkeeping issues, but are concerned that their intent to 'complement existing law and practice' circumscribes their potential to lead to transformation of recordkeeping and archiving infrastructure for out-of-home care. While ensuring better quality recordkeeping to prevent detect, report, investigate, and take action against child sexual abuse is a vital part of the transformation agenda, it also must incorporate ensuring adequate recordkeeping and archiving to meet the lifelong identity, memory and accountability needs for every child who experiences out-of-home care. While we understand that this goes beyond the remit of the RCIRCSA, the two are intrinsically linked and part of ensuring that the best interests of the child are always to the fore.

The essence of that is acknowledging a child's rights in the records and recordkeeping that impacts on their life. This involves a fundamental shift from frameworks, processes and systems designed around the rights of organisations/institutions as singular records creators, to ones in which multiple rights are recognised, represented and enacted. We feel that while the proposed principles emphasise the need for recordkeeping to be in the best interests of a child, they are positioned as the 'subject' of records rather than as co-creators. This positioning is inherent to extant legislative, regulatory and policy frameworks, so principles which do not allow for the challenging of these frameworks are unlikely to be able to address the 'systemic and enduring problems' around creating and managing authentic, reliable and usable records for out-of-home care.

A key concern with the proposed principles is the extent to which organisations, particularly those whose recordkeeping practices have come under the Commission’s scrutiny, would be able to assess their existing practices as compliant, without the proposed sixth principle for (independent) enforcement. Existing records management standards, like ISO 15489, essentially cover principles 2, 3, 4 and 5 – namely that authentic and reliable records need to be created, appropriately maintained and made accessible about all decisions and incidents affecting child protection for operational and legal accountability purposes. This Royal Commission, along with the numerous other inquiries, has once again highlighted a lack of accountability in recordkeeping and archiving systems under extant frameworks. So it is not necessarily the principles, but demonstrating accountability to them, that is a key requirement.

The proposed principles also do not recognise or allow for the agency of children and their adult selves in recordkeeping and archiving processes for out-of-home care. Recordkeeping and archiving practices and systems must be developed which engage the child/adult as co-creators in decision making about what records to create and capture, how long to keep them, what metadata to capture about them, and who can access them. An independent recordkeeping advocate, not just to provide advice and support, but to advocate for their rights and needs at a range of levels would also be required to ensure genuine participation in recordkeeping and archiving systems.

We believe that in the out-of-home care sector a National Framework for Recordkeeping is required to complement the *National Framework for Protecting Australia’s Children 2009–2020*. Making up that framework would be a triumvirate of

- Recordkeeping principles for child safe organisations and child centred services,
- Charter of rights in childhood records, and
- A network governance model to hold the whole infrastructure, not just the individual organisational parts, to the highest standards of accountability.

We welcome the opportunity to discuss these ideas in more detail with the Commissioners. For more information please contact

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