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Royal Commission into Institutional Responses to Child Sexual Abuse
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Dear Commissioners,

Re: Royal Commission into Institutional Responses into Sexual Abuse – Issue Paper 5 – RIM Professionals Victoria Submission

The Victorian Branch of the Records and Information Management Professionals Association of Australasia (RIM Professionals) is pleased to provide a public submission to the Royal Commission into Institutional Responses into Sexual Abuse.

In line with its remit to members, the RIM Professionals Victorian Branch would like address the following specific area of Issue Paper 5:

Are there elements of the civil litigation systems, as they currently operate, which raise issues for the conduct of litigation brought by people who suffer child sexual abuse in institutional contexts?

Specifically:

g) The existence of relevant records, locating them and retrieval costs;

1. OVERVIEW OF FINDINGS:

- Former care leavers and their legal representatives cannot access records (evidence) because records have not been kept.
 - *Many care leavers provided the Committee with details of their attempts to find records about their childhoods. There may be no records left or the records are scattered amongst a number of agencies. It is often a process of perseverance and luck. One witness recounted that, because of the complete lack of records from a Salvation Army home, the only records establishing that they*

had actually been at the home were a junior soldier entry and the registration records at the local school.¹

- Former care leavers and their legal representatives cannot get access to full records (evidence) because the records are incomplete as a result of multiple placements.
 - *Piecing together family histories from very incomplete records in multiple possible placements often from only slender leads is a challenging task, even for experienced professional researchers.²*
- Former care leavers and their legal representatives cannot get access to records (evidence) because they have been destroyed.
 - *The Committee received much evidence about the record retention practices of different departments, agencies and individual institutions, ranging from almost total loss or destruction to well-kept and fulsome records.³*
- Former care leavers and their legal representatives cannot get access to records (evidence) because records are not indexed, unidentifiable and consequently undiscoverable.
 - *While it is important that care leavers can identify where their records may be stored, for records to be easily accessed they must be indexed and preserved. Indexing the records of an institution can be complex. Some records are in very old registers which are difficult to read and fragile to handle while others have been stored haphazardly and must be carefully scrutinised to ensure that accurate indexes can be made.⁴*
- Former care leavers and their legal representatives cannot get access to records (evidence) because they are dispersed over multiple institutions and difficult to consolidate.
 - *Records that could provide care leavers with details of their childhoods are often scattered across a number of agencies and stored in a variety of locations. These might range from State child welfare departments, courts, homes and non-government agencies. Some records have also been moved to state archives and libraries. This makes the task of accessing the relevant records especially difficult.⁵*
 - *It is not just a matter of overcoming psychological barriers to telling the story. It is also about finding the raw material. In my case (and it is not unusual) I had to locate resources in up to a dozen different locations and persevere with government agencies in the face of what, to put the kindest interpretation on it, could be described as passive compliance with FOI laws. In recent years NSW, Queensland and the Catholic authorities have made significant progress in making data more accessible but other states lag well behind.⁶*

Appendix A: documents the findings of a survey conducted by the RIM Professionals Victorian Branch in early 2013 and encapsulates the Victorian care leaver's experience when attempting find records.

2. POOR RECORDS MANAGEMENT IN RELIGIOUS AND NON-GOVERNMENT ORGANISATIONS

Both the *Lost Innocents* (2001) and the *Forgotten Australians* (2004) reports⁷ highlight extensively the dependency that Australian care leavers⁸ and their legal representatives have on records for self-

1 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2004, p.256

2 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2004, p.256

3 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2004, p.259

⁴ *ibid*

5 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2004, p.259

6 *ibid.* p256

7 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2004, p.256

identity, connecting with family, substantiating cases of abuse and claims for compensation. Records as documentary evidence in longitudinal (historical) cases become even more significant where witness testimony may not be readily available.

More specifically, care leavers in Victoria pursuing claims of abuse against religious and other non-government organisations are required to provide evidence (records) of their institutionalisation. This information has traditionally resided with the care organisations and they have had legal responsibility for the long term management of these documents /records as evidence. Care leavers would not have received their records during their institutionalisation or upon their exit.

Requests for information by care leavers concerning their period in care are normally enabled through application avenues including Freedom of Information, Privacy or discovery orders. However, there is evidence to suggest that care organisations are not always forthcoming in searching for, identifying and making available the requested documents which are critical to substantiating care leaver claims due to poor record keeping practices.

A historical perspective as documented in both the *Lost Innocents* (2001) and the *Forgotten Australians* (2004)⁹ reports confirms that there has been a long term deprioritisation of records management amongst care organisations. Long term maladministration, inadequate standards and guidance, competing financial priorities, a lack of legislative mandate, the absence of legal penalties or recourse, have supported poor records management practices which have resulted in records being destroyed, rendered illegible, undecipherable or incapable of identification.

Consequently substantiating cases of abuse are incredibly difficult to verify where the associated records were unindexed or unavailable and consequently undiscoverable. Discoverability is further hampered by the impact of long term maladministration which compounds the cost of addressing record accessibility deficiencies. Organisations are less likely to invest in addressing historical record keeping practices and issues because of perceived costs incurred to address discoverability deficiencies.

The Senate inquiry report *Children in Institutional Care Report No 1: Forgotten Australians* highlights the consequences of the deprioritisation of records management and this is emphasised as follows:

Many institutional records have been lost or destroyed by the institutions in question, or they were poorly maintained and only have a few dates of admission and discharge. We have had a number of situations where clients have been told by government agencies or institutions that they have no records but then the records have been located at a later date under a different name or birth date or by a different person searching the records.¹⁰

Also in 2009 the Senate Committee reviewed progress on its 2004 recommendations and heard evidence from legal sources that the issue of record-keeping and access to records 'has been and continues to be a real issue' (*Lost Innocents and Forgotten Australians Revisited*, 2009: p. 110). Despite some progress, many of the problems in relation to care leaver records remain. One highly respected witness told the 2009 inquiry the following:¹¹

8 Australians who as children were placed in institutional or out-of-home care

9 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2004, p.256

10 *How Can Care Leavers Achieve justice? Legal and Practical Issues*, Angela Sdrinis and Penny Savidis, Ryan Carlisle Thomas CLAN 10th Anniversary, 3 -4 July 2010

11 Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2009, page 110

*Although freedom of information legislation and a greater willingness of some organisations to make records available have improved access, problems still include the destruction and fragmentation of records, poor record-keeping and privacy restrictions.*¹²

3. PRIVACY, FOI AND POOR RECORDS MANAGEMENT

The establishment of Victorian Information Privacy 2000 and Freedom of Information 1982 legislation as enabling legislation should have signalled a period of openness and disclosure. However, the legislation is frustrating in its limitations when records are in an uncatalogued, inaccessible and unidentifiable due to poor records management and consequently undiscoverable. It is not unusual in such circumstances for care organisations to argue that making the records searchable and accessible would incur a prohibitive cost, place an unreasonable financial burden on the organisation and divert significant resources away from its core business. As such, even under discovery orders, the records may not be made available to care leavers.

4. THE RELATIONSHIP BETWEEN RELIGIOUS, NON-GOVERNMENT, GOVERNMENT ORGANISATIONS AND EVIDENCE OF ABUSE

In the context of the history of child protection services in Victoria it is impossible to ignore the unique *interrelationship* between both religious, non-government and government organisations such as the Department of Human Services (DHS) in Victorian and its impact on evidence (documents and records) collection.

Under the *Children's Welfare Act 1954*,¹³ the Department of Human Services¹⁴ has had inspectorial responsibility of religious organisations; this is particularly so for the placement of state wards. It was common practice at the time though for the department to capture information on multiple clients (both wards and voluntary placement) in one inspection or incident report (per visit). Consequently even though religious and non-government agencies may not have records, important evidence relating to these organisations may be located in the DHS record collection. This is view is supported in the previously mentioned Senate Inquiry:¹

*In a study of state wards in Victoria, Kate Gaffney has noted that in order to receive state wards and those children committed to government care, an institution needed to meet government standards and consent to annual inspections. Institutions that met these standards were 'approved' and received funding on a per capita basis for state wards in their care. However, such institutions were not restricted to accepting only state wards and thus state wards could be and were, mixed with children who had been admitted to private care perhaps by a parent who had voluntarily placed the child in return for a small fee paid to the institution.*¹⁵

Ward records pertaining to some non-government institutions are also currently stored at the Department of Human Services. These records have potentially been 'received' under the provisions of the *Public Records Act 1973*, rendering them public records. The existence of these records was also supported by a recent Victorian Ombudsman's investigation into the Department of Human Services:

In the course of my investigation my officers also established that a collection of former ward records had recently been discovered amongst a number of records marked for destruction by the department. The

¹² Senate Inquiry : Children In Institutional Care Report No 1 : Forgotten Australians 2009, page 110

¹³ <http://www.findandconnect.gov.au/vic/biogs/E000174b.htm#related>

¹⁴ and its predecessor departments

¹⁵ *ibid.* P.258

collection relates to the Tally Ho Boys Training Farm, an institution that closed in 1986. The 'Who Am I?' project team have noted that Wesley Mission Victoria (who ran Tally Ho) have 'next to no information' about this institution.¹⁶

This has been by a recent Ombudsman's report into the Department of Human Services and the management of Ward records where it was uncovered that records were in actual fact not being managed and consequently in some cases undiscoverable is of great significance. As stated in the report:

70. My investigators viewed a sample of these records during a site visit to the Bourke Street repository in December 2011. Amongst these records were documents relating to the investigation of sexual assault allegations made against a staff member of a former home. The documents contained details of the allegations, police statements of the wards involved, and the response of the relevant home and authorities.

71. Given the state of the records and the references to numerous individuals, it had taken the archivist nearly four months to scan and catalogue the contents of just six of the 48 boxes in the collection. My investigation was told that 2,744 references to individual wards and seven documents relating to the alleged abuse of wards had been identified in just those six boxes.

72. My investigators also identified critical incident reports (sexual abuse) from other homes amongst another recently discovered collection of former ward records.¹⁷

Recently DHS has developed a Ward Plan. Progress against this plan reported on by the Victorian Ombudsman as:

The department's secretary advised in recent correspondence that the department had recently completed a records indexing project for more than 85,000 boxes of archived records in preparation for the Royal Commission into Institutional Responses to Child Sexual Abuse.¹⁸

The RIM Professionals Victorian Branch has concerns about the adequacy of the indexing project and whether the indexing has been conducted at box level or a file / item level. The level of detail will determine whether individual client information is still inaccessible and irretrievable.

Poor records management in Victorian religious institutions, non-government and government organisations has resulted in the inability to discover records as documentary evidence. This prevents former care leavers from accessing their history, including relevant medical records. It also compromises their ability to exercise any legal rights they have arising from the circumstances of their care.

5. LEGISLATIVE FRAMEWORK- THE LACK OF LEGISLATIVE MANDATE TO MANAGE RECORDS

Changes to Evidence Law contained in the *Evidence Act 2008* (Vic), document unavailability provisions (section 89A) of the *Evidence Miscellaneous Act 1958* and criminal penalties where evidence has become unavailable through neglect, omission or deliberate acts of commission in the latter case, via the *Crimes Act 1958* mark a significant turning point in the admissibility and reliability of documents/records as documentary evidence presented before Victorian Courts for both civil and criminal proceedings. These current developments have placed greater pressure on what was traditionally archival legislation. The enforcement model for the administration of records is inadequate in government and non-government organisations. In fact the archival legislation in

¹⁶ Investigation into the storage and management of ward records by the Department of Human Services, March 2012, p.14.

¹⁷ Investigation into the storage and management of ward records by the Department of Human Services, March 2012, p.14.

¹⁸ Ombudsman's recommendations – Third report on their implementation February 2014

Victoria has a greater focus on preserving the history of government than ensuring information governance.

A Victorian example:

The Public Record Act 1973 (the Act), establishes a co-regulatory framework for the purpose of ensuring sound management of public records in Victoria. The purpose of an archive is generally to identify and preserve records that will become the archival core by controlling in some way the management of the records from creation to ensure that they can be good archives. The purpose of a records management authority to govern recordkeeping in general, regardless of whether the records will become archives. You could argue that the role of PROV is a combination of both.

The role of PROV is to assist public sector agencies, in order to achieve the Government's records management objective. Agencies are required to comply with the Public Records Act 1973 and the standards. PROV has provided assistance in the past through consultancy, training and standards & policy. The accountability for records management rests with a Head of a Public Office.

A potential contributing factor to the records management issues identified in this submission pertaining to Victorian Government and specifically DHS, is the weakness in Victoria's legislation and enforcement model as it relates records management.

Currently there is no compliance monitoring regime, no agency compliance reporting, no defined community complaints process and woeful penalties for unauthorised destruction.¹⁹

An analysis of the legislative framework for record management within Victorian government by RIM Professionals Victorian Branch has identified that records management legislation and its enforcement model has been problematic as far back as 1996 and as current as April 2012. Currently the legislation is not enforceable as PROV has no legislative power to monitor compliance with the standards or issue penalties for non-compliance against the legislation.

Victorian Government has addressed some but not all the regulatory recommendations pertaining to the following key reports:

- Report 18 - Inquiry into the Public Record Office Victoria, October 1996 by the Parliament Accounts and Estimates Committee. (Report and Response) Appendix B outlines the recommendations relating to government services rather than archival management.
- Key recommendations from the report: Records Management in the Victorian Public Sector, Victorian Auditor General's Office (March 2008) that possible may have negated the DHS situation are highlighted in green in Appendix C.

It seems that reoccurring and documented recommendations relating to strengthening the *Public Records Act 1973* to incorporate the establishment of a compliance program that allows systematic monitoring of agency adherence to required recordkeeping procedures, standards, the operation of recordkeeping systems and progress in delivering key records management strategies have been chiefly ignored by Victorian Government.

See Appendix B for detailed analysis of the Victorian Archival Legislative Framework.

6. CHALLENGES OF ELECTRONIC RECORDS

Records management is becoming increasingly electronic. As such, insufficient integration of data and inadequate future planning means that electronic records as evidence of lives - and, in some cases, records integral to litigation arising from abuses and negligence - may not be managed to ensure discoverability. Currently there are difficulties regarding the longevity of electronic records

¹⁹ Records Management in the Victorian Public Sector, Victorian Auditor General's Office (March 2008)

in accessible and readable formats, the lack of contextual information with records unless relevant metadata is also preserved along with the records and lastly the absence of the appropriate functionality that manages records in business applications.

7. OUTSOURCING

Currently the Department of Human Services (DHS) outsources services for out of home services for child protection through funding agreements with not for profits and uses the CRIS (Client Relationship Information System) and CRISSP systems to manage client information in both electronic and hardcopy form. Religious and non-government organisations are also be producing electronic records / documents although they are not required meet government requirements unless they are contracted to do so. Careful future planning should be put in place by care organisations to ensure that these records are made available in the future and not subject to technological obsolesces.

Records management provides the foundation for sound governance and the maintenance of the rule of law. It promotes accountability and enables transparency of decision making. The adoption of standards as a code of practice to guide religious institutions, non-government and government organisations in determining consistent levels of performance and reliability are essential.

8. RECOMMENDATIONS

The issues highlighted by the Royal Commission and other investigations are not unique to the past and there is a need to act now to ensure that the lessons learnt are embedded into current work practices to ensure that records are respected and protected to avoid future generations of forgotten Australians.

RIM Professionals Victorian Branch strongly encourages the Royal Commission support the following initiatives:

- 1) The implementation of a Research project that focuses on the following:
 - Analyse, assess and report on historical and current record-keeping practices, their legislative, regulatory, enforcement and operational models in order to identify to what extent poor record-keeping (creation, management, destruction, archiving) has contributed to inaccessibility and un-discoverability of evidence of child sexual abuse and impeded or delayed actions against perpetrators;
 - Analyse, assess and report on requirements for quality record-keeping relating to all aspects of a child's life in care to ensure that accurate, complete, reliable, discoverable and accessible records are created, managed and preserved to support governance, accountability, preventative action, detection and reporting of sexual abuse, and the provision of an evidence base for action against perpetrators; and
 - Recommend where appropriate law, regulatory, enforcement and policy reform, best practice record-keeping models (standards, policies, systems, toolkits) can be implemented that will support quality recordkeeping in institutions, and archival frameworks that enable longitudinal access and discoverability of records relating to sexual abuse.
- 2) A public hearing that addresses Record Keeping issues.

Should the Commission wish to be provided with additional evidence to support this submission, RIM Professionals Victorian Branch will be pleased to provide a nominated representative.

Yours sincerely,



17th March 2014

Ally Kearney

Date

Acting Victorian Branch President

RIM Professionals Australasia

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APPENDIX A – SURVEY OF VICTORIAN CARELEAVERS

OVERVIEW

As stated by Angela Sdrinis:

“The lack of records and documented information contributes to the difficulties that are faced in litigating claims for damages for people abused in care. This is because it is obviously harder to prove allegations where no documentary evidence exists but also because where documentary evidence does exist, claimants believe it is either false or does not tell the whole truth, proving the contrary can be virtually impossible to do so many years after the events. In other words, the written word becomes the ‘truth’ and carries more weight in a court of law than the claimant’s own evidence.”²⁰

In Victoria, the onus is on the abuse survivor to prove that the abuse occurred. This is essentially an impossible task if the survivor is unable to gain access to or prevented from getting access to the records and documents that substantiate abuse claims. Effective records management is thus critical to enable this access. Without it, care leavers and their legal representatives are effectively denied the opportunity to participate in the justice process. The emotional and psychological impacts of the discovery process on Care Leavers should not be underestimated.

While this submission discusses care leavers, the discussion is inclusive of, and applies to those care leavers, who, as children, were criminally abused.

The 2004 *Forgotten Australians* report²¹ made recommendations aimed at addressing records management inadequacies identified across private institutions and government agencies that provided institutional care for children. Consequently, the private institutions and government agencies made commitments to address those inadequacies. They also reported that steps taken would facilitate access for care leavers to their records and therefore their identity.

Background

The Care Leavers Australia Network (CLAN) is a ‘*support, advocacy, research and training group*’ for people who ‘*were brought up in ‘care’: as state wards, foster children or Home children raised in orphanages, Children’s Homes, and other institutions, and in foster care*’²².

Frustrated with the lack of improvement in facilitating access to care leaver records, CLAN approached RIMPA in 2011 to act on behalf care leavers Leonie Sheedy and Frank Golding.

Since then, RIMPA has provided support to CLAN through advice, raising awareness throughout the records and information profession, and assisting in gathering statistical data that can inform the Royal Commission into Child Abuse.

In early 2013, RIMPA assisted CLAN to conduct a survey of Victorian Care Leavers’ experiences in accessing vital information about their time in care. The results of the survey show that despite commitments made in 2004 to address inadequate records management by providers of institutional care²³, care leavers continue to experience difficulty in accessing their records and information.

The survey revealed that of those care leavers that received records:

- 70 per cent of respondents believe they did not receive their records in full;
- Only 10 per cent believed they did receive their records in full;
- More than 65 per cent of respondents were disappointed with the level of details in the records received, with 30 per cent frustrated with the level of censorship;

²⁰ Information Quarterly, May 2012, Angela Sdrinis, page 39

²¹ Senate Inquiry : *Children In Institutional Care Report No 1 : Forgotten Australians* (2004),

²² Care Leavers Australia Network, About CLAN. Accessed on the Wide Web on 3 April 2013 at <http://www.clan.org.au/page.php?pageID=32>

²³ resulting from the recommendations of the *Forgotten Australians* report

- 50 per cent reported mistakes or inaccuracies, with 8 per cent stating the records were not actually about themselves;
- 40 per cent of respondents were angry with the way the events were interpreted;
- 40 per cent said the information was not truthful; and
- 25 per cent required counselling after receiving their records.

These results provide clear examples of the continuing detrimental effects of the poor records management of institutional care providers. They also suggest that little has changed since the 2004 report detailing the obstacles to accessing records, the emotional trauma experienced by care leavers, and their frustrated attempts at piecing the facts of their lives and identity.

The value of records to care leavers

Survey respondents also provided insight into the value their records hold for them. Key examples of comments demonstrating the powerful role these records play in the lives of care leavers include:

- *“I know who I really am and where I have come from”;*
- *“My mother’s letters that were sent to me that I was never [sic] allowed to read were in my file. They tell a story that I have not been able to understand for most of my life”;* and
- *“That I am no longer a member within a system that did not care that I was a human. I would like to know the reasons why?”.*

The outcome of attempts to access care leaver records

The survey asked respondents to detail their attempts to access their records. Key responses shown below highlight the absence of improvement in the records management of institutional care providers. They also suggest the continuing failure of these institutions to properly facilitate access to what may be considered among the most important tools for care leavers to rebuild their lives.

- *“We never got anything”;*
- *“As it turns out, the records proved not only inaccurate but had been drastically censored. More than ¾ had a black text link through the paragraphs”*
- *“The DHS person contacted me by phone and said they found the folder with my name on it but nothing inside it. It took 3 months after I applied”;*
- *“I have tried to apply for my files 3 times and on one occasion the Uniting Church told me that there were so many old files to go through and they wouldn’t go through them”;* and
- *“I tried to get more information but was denied access by the FOI”.*

The impact on care leavers of not having access to their records

Respondents also described the impact of not having access to their records or where records were incomplete or inaccurate. The examples provided below describe the feelings of disconnectedness, abandonment and betrayal caused when care leavers are denied full and accurate records of their time in care.

- *“The blacking out of information in my records left me wondering about what and why, causing me to have no way of knowing the truth and leaving me feeling hopeless and sad”;*
- *“It’s as though I was invisible to the statement governments of Victoria and the Mercy nuns for 13 years. I got 65 pages from DHS and 10 pages from MacKillop”;*
- *“a lost soul looking for a paper trail”;*
- *“the truth did not come out. Caused me so much harm”;* and
- *“I didn’t get all the facts about my past. I was put in a mental ward with adults as a 12 year old. Caulfield Convalescence and 2 others. Men sexually touched me and I was suicidal. None of this was in my records. None of my health records provided rheumatic fever, arthritis and most probably from sleeping in wet beds as a part of my institutional abuse”.*

Improvement to Access

In addition to the survey questions detailed in the previous section, respondents were also asked to provide their opinions on potential courses of action to resolve the issues they continue to face when accessing their records.

RIMPA acknowledges that numerous examples are shown below. However, RIMPA felt it necessary in order to properly convey the frustration, outrage and erosion of trust in the transparency and accountability of care provider institutions caused when their approaches to records management repeatedly fail those who rely on those records most:

- *“When getting to leaving care age, people should tell Care Leavers that they can access their records much earlier and explain the process of applying for records. I have support now at this age, but I wish I could have looked at my records earlier. And an improvement in child care services”;*
- *“For government and past providers to be honest and do not block out any information. It is our information not the governments or past providers. Also give original photos, letters, and envelopes - not copies! I firmly believe that all information on holiday hosts, foster families, names should be given as these people were adults and they knew what they were doing in taking a child from an orphanage and in foster parents getting paid to do so. Their names should be released. I also would like to know who, when and where has had access to my family - the names of DHS workers who had access to my state ward files. I want Australia to commit to the UN Rights of the Child that state governments have an obligation to provide a child with identity”;*
- *“DHS need to be open and honest to speak up if our records have been destroyed or if accessed by other family members. It's cruel to leave us thinking they are still there somewhere. DHS needs to contact us and not wait for us to apply for access. Just send the files to Care Leavers - even DHS need closure on historical files”;*
- *“Cost free or minimum amounts. All relevant information to that person about relatives should be given to them. There shouldn't be any time limit on this thing and records to be kept forever. Should not be any time limit on court cases”;*
- *“Personally the former staff have done a pretty good job covering up and I believe anything missed has been heavily edited and/or just plain cut out by the staff of the time. Have a law passed that all records be sized by the states from all institutions. Just like the law that banned us from knowing our parents when we left orphanages! Who took all our records related to the convent! So the government should take all records from all institutions any records found to be edited/missing/cut/destroyed/misplaced/unaccounted for/not properly photocopied/vital or appropriate sections are damaged/shonky or straight lied to than that institutional provider should be ordered to pay a sum suitable as if that offence had covered and a cover up had occurred. The proof is in the pudding! Make the bastards pay!”;*
- *“Nothing should be censored, it should be proven that no papers are missing and nobody should be posted or just handed their records. Let them be read where there is a professional counsellor there. The toughest person will fall apart reading their files.”; and*
- *“Church organisations should be more open and honest when it comes to accessing records. I believe vital information has been withheld from me”.*

Value of Care Leaver Records

1. How important to you is access your care leaver records (circle and explain)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Very Unimportant	Unimportant	Neither Important nor Unimportant	Important	Very Important
<hr/>				
<hr/>				
<hr/>				

2. Identify the reason/s why your care leaver records are most valuable.

- Personal history (things about myself / proof of identity)
- Family history (things about my family)
- Personal Resolution or Closure
- Confirm memories or events
- As evidence for Litigation
- Other (please describe)

3. Describe the impact, if any, of you not having access to your care leaver records.

Experience in Requesting Access to Care Leaver Records

4. Your requests for care leaver records access have been for (select)

- Yourself
- Another Person’s Records (relative / non-relative)
- Both

5. Detail any requests (completed & ongoing) made for care leaver records.

Name of Agency / NGO / Other	Request Type (FOI, Privacy, Unsure, Other)	Access Given (Y/N)	Record Types Received

6. Based upon your personal experience, please rate the following.

	Very Dissatisfied	Dissatisfied	Unsure	Satisfied	Very Satisfied
Ease of access process	<input type="checkbox"/>				
Time taken on access process	<input type="checkbox"/>				
Financial Cost	<input type="checkbox"/>				
Support Provided by Agency	<input type="checkbox"/>				

Expectations for Care Leaver Records

7. Based on the value you place on your Care Leaver Records and your experience obtaining access, identify any lessons that need to be learned?

APPENDIX B: PAEC 1996 RECOMMENDATIONS

1.1 The Public Record Office be retained. Paras 1.216 to 1.219

1.2 The Public Record Office be located in the Portfolio of Treasury and Finance. Paras 1.69 to 1.73, 1.717 and 1.118, 1.185 to 1.189

1.3. The Public Office be refocused to provide its functions according to the following hierarchy:

- Standards Development
- **Monitoring Records Management Performance.**
- Storage of the Archival Record.
- Provision of Public Access.

To ensure that all agencies manage effectively the State Records. Paras 1.119 to 1.135

1.4 All Public Record Office standards and schedules be subject to review every three to five years to reinforce 'best practice' principles in the management of the State's archival record; Paras 1.154 to 1.159

1.5 The Victorian standard for a records management system be based on the Australian standard; Paras 1.136 to 1.144 and 1.160

1.6 The Public Record Office urgently ensure that all agencies implement records management and disposal plans that meet standards set by that Office; Paras 1.171 to 1.174

1.7 The Public Record Office initiate a continuous cycle of random audits of agencies to ensure that public records are correctly managed according to Public Record Office standards; Paras 1.175 to 1.179

1.8 The cost of audits undertaken by the Public Record Office be met by each agency in a manner similar to the services provided by the Auditor-General; Para 1.180

1.9 Any agency found to be holding records in an inappropriate manner be offered an opportunity to rectify the problem. If the agency fails to take the necessary action, the Public Record Office complete the task at the agency's cost; Para 1.181

1.10 a realistic and fair contribution towards the cost of Public Record Office services, other than the development of standards and educational programs for agency records and information managers, the storage of permanent records and most public access services, be met by users; Para 1.205 and 1.206, 5.53 to 5.92

1.11 The position of Keeper of Public Records be renamed the Director of Public Records; Paras 1.191 to 1.193

1.12 The Public Record Office prepare an annual report to the Parliament on the management of records in the public sector; Paras 1.75 to 1.80

1.13 The Public Record Office operate through four functional areas. The principal role of the Office should be to develop and implement records management standards under the control of the Director of Public Records. The three remaining areas should be of an operational nature reporting to the Director of Public Records. The four proposed areas are:

- Director of Public Records
- **Consulting and Audit Unit**
- Archives Management Unit

-
- Public Access Unit

Paras 1.194 and 1.195

1.14 To enhance the quality of liaison between agencies and the Public Record Office throughout the State, positions titled Regional Record Management Consultants be created. These positions be developed as field officers to manage the records of a region, industry type or ministry on an on-going basis;

Paras 1.196 to 1.200

1.15 Periodic increases in operational activity from agencies be met by the employment of short-term staff fully paid for by the user agency;

Paras 1.202 to 1.206

1.16 The Public Record Advisory Council be reconstituted with a smaller membership that reflects expertise and independence. The function of the Council should be to provide policy advice, to the Minister, on the management of public records in Victoria; Paras 1.207 to 1.215

1.17 The Public Accounts and Estimates Committee review the management of public records in Victoria 10 years from the date of presentation of this report to Parliament, and Para 1.220

1.18 The Public Records Act should limit ministerial intervention solely to ensure compliance with the Keeper's statutory obligations.

Chapter 2. Storage and Preservation Responsibilities

The Committee recommends that:

2.1 The Public Record Office manage the storage of, and public access to, the State's permanent record; Paras 2.15 and 2.54, 2.55 and 2.83

2.2 Government agencies manage the storage of all active, inactive and temporary records to the standards set by the Public Record Office; Para 2.15

2.3 The Public Record Office immediately conduct a comprehensive survey of all agencies to determine the amount of records and rate of records growth as part of the planning process for a new archives facility; Paras 2.33 and 2.34

2.4 All records of the State be held in conditions which meet the current storage and preservation standard of the Public Record Office, The Chief Executive or principal officer of each agency be held accountable for this requirement; Paras 2.38 to 2.48

2.5 The Financial Reporting Act 1994 and any other relevant legislation be amended to require every agency to report annually on its level of compliance with the standards set down for the care of the public record; Paras 2.49 and 2.50

2.6 A new site for the storage of the State's archival record be established within five km of the Melbourne CBE), to contain the archival record, all staff of the Public Record Office and public access facilities. That this site be called the Melbourne Public Record Centre and that it be supported by the development of a regional archives network; Paras 2.84 to 2.100

2.7 The government, when developing the functional brief for the construction of the new storage facilities, investigate the use of high rack shelving systems and module based construction methods that allow a site life of forty years;

2.8 The Laverton repository be closed as it does not meet the standards for the long term storage of permanent records; Paras 2.75 to 2.80

2.9 The cost of establishing the new facility be met in part from the sale of the Laver ton site; Para 2.8

2.10 The Public Record Office establish, on an annual basis, the anticipated storage requirements for government records for the next five year period, and
Paras 2.61 and 2.62

2.11 the Public Record Office immediately conclude the sentencing and disposal of all unsentenced records held at the Laverton repository.
Paras 2.68 to 2.74

Chapter 3. Electronic Records

The Committee recommends that:

3.1 electronic records be considered on the same basis as the paper 'record; Paras 3.19 and 3.62

3.2 the Public Record Office urgently conclude development of an electronic records management standard that is hardware and software independent, capable of being implemented across the whole of government; Para 3.24

3.3 agencies be required to continually convert all electronic archival records in their care to the current software and operating systems of the agency so that they can be accessed by the Public Record Office; Paras 3.48, 3.50, 3.52, and 3.53

3.4 agencies seeking to implement an electronic records management system be required to select software that has been accredited by the government to meet standards established by the Public Record Office; Para 3.27

3.5 the responsible Minister meet with ministerial counterparts in other States and Territories to foster the development of a national electronic records management strategy, standard and protocols; and Para 3.66

3.6 the Public Record Office be part of the development, design and implementation team of any statewide information technology policy. Para 3.65

Chapter 4. Records Management

The Committee recommends that:

4.1 the State manage its public record through the development of 'best practice' procedures; Para 4.15

4.2 the Public Record Office develop standards for the care of each record from creation; Paras 3.26 and 4.21

4.3 model records management systems, integrating the standards process, be prepared and released by the Public Record Office; Para 4.25

4.4 a disposal schedule be agreed between each agency and the Public Record Office as a matter of urgency; Paras 4.32 and 4.34

4.5 the government develop, with the Office of Training and Further Education and the Public Record Office, an education program for all public sector records and information managers. That the program be structured to the broad needs of every government agency, from the largest to the smallest;
Paras 4.36 and 4.45

4.6 responsibility for implementing sound records management practices be shared between agencies and the Public Record Office, and
Para 4.48

4.7 each agency be required to appoint a senior officer, skilled in archives and information management, to implement an effective records management system. Para 4.46

APPENDIX C: VAGO 2008 RECOMMENDATIONS

Recommendations
<p>Regulatory framework for managing records</p> <p>The Public Records Act 1973 should be comprehensively reviewed to make it relevant and appropriate to the contemporary public sector. Currently the Public Records Act 1973 is the oldest archival legislation in Victoria.</p>
<p>Records management in the public sector</p> <p>In collaboration with the central agencies, PROV should assist all public sector agencies to: Adopt a more strategic approach to the management of their records, which encompasses:</p> <ul style="list-style-type: none"> • gaining an understanding of the business • identifying records management needs and risks • assessing the adequacy of the existing recordkeeping environment and practices • developing a strategic plan to ensure records management objectives and needs are addressed.
<p>Review their procedures to ensure:</p> <ul style="list-style-type: none"> • they cover all recordkeeping activities, including the management of electronic messaging and web-based information • they comply with records standards and advice issued by PROV • they are aligned with the agency's records management objectives and policies • take a more strategic approach to managing their records management staff.
<p>This would involve agencies:</p> <ul style="list-style-type: none"> • having processes to identify staff needed to establish an effective records management function • periodically assessing the capability of their staff and comparing this capability with their identified resource requirements, to identify staff training and development needs for existing staff and the need for new staff with specific skills • developing a plan to manage and monitor their records management staff. • assess whether staff understand the importance of sound recordkeeping and their responsibility for managing records under their control. Based on the results of this assessment, agencies should review the mechanisms used to communicate with staff on records management. • use the results of their assessment of contractor compliance with their own agency's records management requirements to review their communications with contractors.
<p>Ensure regular monitoring and evaluation of recordkeeping activities, which includes:</p> <ul style="list-style-type: none"> • establishing a compliance program that allows systematic monitoring of agency adherence to required recordkeeping procedures, standards, the operation of recordkeeping systems and progress in delivering key records management strategies • generation of information on the performance of the records management function • ensuring results of performance monitoring are reported to senior management and that appropriate and timely corrective action is taken
<p>PROV should:</p> <ul style="list-style-type: none"> • develop and provide advice and guidance to agencies on formulating records management objectives and policies, in conjunction with relevant agencies and industry groups • establish a program to assist senior agency staff to champion records management in agencies • assist agencies develop records management strategic plans by establishing guidance material and templates • continue to liaise with relevant agencies and the State Government in developing strategies that address skill shortages in the records management field
<p>Performance of PROV in facilitating sound records management in the public sector</p> <p>Records management standards</p> <p>PROV should:</p> <ul style="list-style-type: none"> • review the records management standards regularly, at least every five years • review its communications approach to better assure agencies are aware of the standards and the legislative requirement for them to comply • closely monitor its standards review project, to ensure it is completed in accordance with project timelines • incorporate guidance on strategic records management principles and their application into the revised standards

Assisting agencies

PROV should:

- gather comprehensive information on the critical business functions performed by agencies, their broad recordkeeping needs and the major risks facing the Victorian public sector
- develop a strategic approach to the provision of its services and products
- implement its Building Victorian Record Keeping Capability Strategy and introduce its planned competency-based training program
- introduce additional training courses to address unmet agency training needs
- review the communication of its training courses and implement strategies to raise agency awareness of them
- make training courses more accessible to agency staff, particularly in rural and regional areas
- to ensure continuous improvement, undertake a survey of course participants, after they return to work, to determine the extent to which the training has assisted them improve recordkeeping in agencies
- in consultation with the VERS Steering Committee:
- ensure that its revision of the primary capability performance criteria does not compromise the quality of systems developed and implemented by departments
- establish realistic timelines for future reporting to government on stages 2 and 3 of VERS implementation
- develop a comprehensive strategy to support agencies to establish VERS compliant systems. In doing so, it should consult with public sector agencies and industry groups to establish realistic and effective strategies and timelines
- improve its communication with agencies so they are aware of the advice and guidance available
- establish, for the benefit of its staff, guidance on the provision of advice to agencies
- in consultation with agencies, develop a comprehensive, coordinated strategic approach to public sector education and awareness encompassing:
 - a clear delineation of PROV and agencies' respective roles and responsibilities
 - identification of target audiences and appropriate communication mechanisms
 - a program of regular activities to promote records management across the public sector
 - establish mechanisms to periodically report on the cost of providing its principal record services to the public sector. This will assist with determining whether it is using its limited resources cost-effectively.
- establish a strategic framework to manage its relationship with agencies that includes:
 - an agency relationship management strategy, together with clear policies and procedures
 - a finalised charter/code of conduct for PROV services
 - mechanisms to ensure PROV is engaging all agencies
 - policies and procedures to manage agency relationships
 - a client management system to document interactions with agencies

PROV's management of specific recordkeeping activities

Retention and disposal of records

PROV should:

- review the adequacy of resources assigned to the review and approval of agency retention and disposal authorities
- adopt a more proactive approach to assisting agencies in appraising their businesses and establishing appropriate retention and disposal authorities
- assess the extent to which public sector records generated by agencies are covered by its records retention and disposal authorities
- ensure that the procedural guidance, established for its staff, in providing agencies with advice and assistance on managing records retention and disposal, is up-to-date
- monitor agency compliance with the records management standards on retention and disposal of records
- ensure the review of records standards endorses a program of regular records disposal in line with established disposal authorities.

Transfer of records to PROV

PROV should:

- require agencies to nominate a timeframe after which an agency's administrative use for its various permanent records expires and the records are transferred to PROV. This requirement could be included in the agency's RDAs
- annually gather information on the level, nature and age of permanent records held by agencies to monitor agency compliance and identify future records workflow and storage issues. This information could be obtained by both surveying agencies and reviewing the archival holdings.
- work with agencies holding large volumes of permanent records, to identify and resolve any impediment to the timely transfer to the archives
- develop comprehensive and up-to-date procedures to guide its staff in managing records transfer and to ensure a consistent approach is adopted in dealing with agencies

Records provided to agencies

PROV should continue to pursue the recovery of long overdue, permanent records loaned to agencies
PROV performance measurement and reporting.

PROV should:

- develop a suite of relevant and appropriate targets and indicators to measure its performance both in achieving its objectives and in the standards of recordkeeping in public sector agencies
- develop comprehensive performance information that can be compared to the established targets to measure PROV performance
- develop its capacity to report on its own and agency performance

GLOSSARY

Legal Definitions

For the purpose of this submission we take the definition of ‘records data’ from the following sources:

Legal definition of “**document**”:

A document is any record of information, and includes (as defined in the *Evidence Act 1995 (Cth)*):

- anything on which there is writing;
- anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- a map, plan, drawing or photograph.

Material data or information stored or recorded by mechanical or electronic means, including files recorded on electronic or optical media, constitute documents as well as the medium itself. ⁱ This is also known as Electronically Stored Information or ESI where the medium itself may also be considered a documentⁱ. The definition also extends to any part, copy, reproduction or duplicate of a document.ⁱ

A document is defined ‘not to be available’ if and only if: it cannot be found after reasonable inquiry and search; it was destroyed (by or on behalf of the party otherwise than in bad faith); it would be impractical to produce it; its production could render a person liable to conviction; it is not in the party’s possession or control and (i) it cannot be obtained by any judicial procedure of the court; or (ii) it is in the possession or under the control of another party to the proceeding concerned who knows or might reasonably be expected to know that evidence of the contents of the document, or evidence of the thing, is likely to be relevant in the proceeding; or (iii) it was in the possession or under the control of such a party at a time when that party knew or might reasonably be expected to have known that such evidence was likely to be relevant in the proceeding.ⁱ

Legal Definition of **Business Records**

A business record is defined as a document that is or forms part of the records belonging to or kept by a person, body or organisation in the course of, or for the purposes of, a business.ⁱ

Legal Definition of **Electronic Communication**

Electronic communication means a communication of information in the form of data, text or images by means of guided or unguided electromagnetic energy, or both; or a communication of information in the form of sound by means of guided or unguided electromagnetic energy, or both, where the sound is processed at its destination by an automated voice recognition system.ⁱ