



Anglican Church of Australia

Royal Commission Working Group

CONSULTATION PAPER – RECORDS AND RECORD KEEPING SUBMISSION

This submission is made by the Royal Commission Working Group (RCWG) appointed by the Standing Committee of the General Synod of the Anglican Church of Australia (**ACA or Anglican Church**) to coordinate a response on its behalf to the Royal Commission into Institutional Responses to Child Sexual Abuse (**Royal Commission**). The submission responds to questions in the Consultation Paper: Records and Record Keeping issued by the Royal Commission in September 2016 (**Consultation Paper**).

The ACA operates under a decentralised structure and its core units of organisation are the 23 dioceses. There are also mission agencies, social welfare agencies, Anglican schools and parachurch organizations with varying degrees of autonomy. A detailed document outlining the structure of the Anglican Church of Australia was provided to the Royal Commission in June 2013.

While the RCWG, in preparing this submission has consulted with all dioceses and some Anglican agencies, it should not be assumed that all views expressed in this submission are commonly held by all 23 dioceses and agencies. It should be noted that each diocese has responsibility for the development, adoption and implementation of record keeping processes within their jurisdiction. Each autonomous agency, school and organisation has a similar responsibility.

PREFACE

The ACA is committed to child protection and to responding to the needs of survivors of abuse. The ACA operates in a variety of contexts with responsibility for creating and keeping records related to children e.g. diocesan administration, parishes, youth groups, schools, and welfare agencies providing child services. A diocese and its entities may be subject to different legislation and practices across Australia.

The ACA acknowledges the importance of creating and maintaining accurate records to facilitate the validation of a complaint and appropriate responses to survivors of abuse and provision of redress. In many dioceses this has extended to the development of diocesan databases overseen by the Director of Professional Standards.

There are times when institutions are the creator and holder of a child's history, particularly in out of home care and other permanent non-birth family placements and the importance of appropriate management of those records is acknowledged.

CONTEMPORARY RECORDS

1. How institutions can build and foster cultures that promote and recognise good records and recordkeeping practices as being in the best interests of the child?

Institutions should develop and periodically review policies and training on recordkeeping including record creation, record maintenance, secure storage, access controls and compliance with privacy legislation.

Position descriptions for relevant employees and volunteers should identify responsibilities for record creation and management.

Internal audits of practice against policy, and external audits against 'industry best practice' should be implemented to assess whether the institution's records management responsibilities are consistently applied and meet community expectations.

2. What training staff and volunteers in institutions need to help them understand the importance and significance of good records and recordkeeping practices?

Employees and volunteers directly involved in leadership roles with children require training on induction and periodic refresher training to be informed of developments in recordkeeping practice. Training should be tailored to the operating environment ie - the types of records being maintained and the level of risk involved.

3. What role governments may play in promoting good institutional records and recordkeeping?

It would be beneficial to establish minimum standards relevant to the different institutions that provide care or programs for children.

Quality accreditation could be awarded to institutions who consistently comply with the minimum standards over an extended period of time.

4. What role children, parents and others may play in helping institutions develop, share and monitor their recordkeeping practices?

Consultation with stakeholders, including children and parents may assist institutions in developing good practice.

Parents and carers should be informed of records keeping practices designed with a child protection objective and should be encouraged to comply with their responsibilities in the implementation of these practices – eg signing children in and out of program activities.

5. What records relating to child sexual abuse should be created by institutions that care for or provide services to children, and what type of language and detail should be used

Institutions should utilise a consistent template for recording information relating to complaints of child sexual abuse. The ACA has developed a template “*Professional Standards Case Summary Form*” for this purpose (attached). This template is endorsed by the members of the ACA’s Professional Standards Directors’ Network as a standard for recording child sexual abuse information.

The language used in creating the record of complaint needs to be objective and descriptive and non-judgemental. All complaint records should be indexed and cross referenced to provide a search capacity.

The record of complaint should be supported by all relevant documents; statements, correspondence, police reports, relevant historical records, and kept in one file.

The outcomes of a complaint should be documented and filed together. This includes any disciplinary outcome recorded against a perpetrator, and any outcomes in regard to redress.

The ACA requires information relating to child sexual abuse complaints to be recorded on the “*National Professional Standards Register*” (**Register**). The Directors of Professional Standards have responsibility for including relevant information on the Register and it can be searched by authorised users for the purpose of safe ministry screening. Information on the structure and content included on the Register has been previously provided to the Royal Commission.

6. What training or assistance institutions and their staff or volunteers might need to enable them to create accurate records relevant to child sexual abuse?

Institutions would be assisted by the promotion of best practice in record keeping which including templates and checklists specific to records relevant to child sexual abuse.

Those with responsibility for record keeping need training on the relevance of information to be recorded.

7. How children’s views and experiences can be accurately reflected in records about their childhoods and decisions affecting them

Information needs to be recorded accurately in the form communicated by the child, documenting their own language and descriptors where possible. The record should be written in the presence of the child and confirmed during the process. Where a complex matter needs to be recorded it is recommended that experts be engaged to interview and support the child through the process.

8. How institutional records can be monitored to ensure they are accurate

The creator of the record should review the information in accordance with checklists to ensure that omissions have not been made.

Institutions can monitor the accuracy of their records by implementing a regular process of review including an internal review (by peer/manager) and also periodically undertaking an external or independent review.

9. Whether there may be any unintended consequences arising from requiring institutions to create accurate and detailed records relating to child sexual abuse (for example, creating records that may be discoverable by other parties in legal proceedings, potentially to the detriment or distress of individuals discussed in those records).

It is important that accurate records relating to child sexual abuse are maintained. However, institutions should ensure that appropriate privacy, confidentiality and security protocols are in place.

Records management policies should detail access protocols which allow for the redaction of information to protect the identity of parties as appropriate.

10. What the resourcing implications of requiring institutions that hold large volumes of un-indexed historical records to index their files are

11. Whether and how indexing of historical records should be prioritised (for example, prioritising records of elderly care leavers, or de-prioritising files of over 100 years of age)

There are significant resourcing implications in a proposal to index historical archives within the ACA. Less well resourced entities within the ACA do not have access to funds and expertise required, particularly in regional and remote areas.

The implementation of a major archives indexing project would require the diversion of funds from the current provision of core services.

The ACA recommends that archiving systems are designed to meet current and future needs and tailored to the record searches required of current complaint and redress applications.

12. How records relevant to child sexual abuse should be indexed to allow them to be easily located, retrieved and associated

Records relating to child sexual abuse should be indexed in a way to facilitate a successful search including the following base data: details of perpetrator, survivor, nature of abuse, institution, location and timeframe.

13. What should happen to the records of institutions that close, or change ownership or function before the expiry of any record retention period?

Archive management is the responsibility of the successor or parent organisation. If no successor or parent organisation is identified, a repository should be determined for records – e.g. libraries, local government and universities.

14. Whether and how the views of individuals discussed within institutional records could be canvassed and represented in decisions concerning disposal

Institutions could incorporate a general consultation with stakeholders to provide input into a records disposal policy for different types of documents.

It is not considered feasible to consult with individuals, outside of an established policy, on disposal arrangements.

15. How long records relevant to child sexual assault should be retained, and under what (if any) circumstances should they be destroyed

16. What implications abolition of statutory limitation periods for civil claims by victims and survivors of child sexual abuse may have for record retention practices?

It is necessary to review current best practice principles for the disposal of records to ensure that records relating to child sexual abuse are accessible into the future by the survivor. It is also possible that this information may be sought by a survivor's estate or family members after their death. While this type of access policy may not yet be determined, the records should be retained in order that a response could be provided if so required in the future.

Consideration should be given to the imposition of a "do not destroy" policy for records of this type, noting the storage and security implications for institutions.

17. Whether the records of all institutions that care for or provide services to children should be subject to mandatory retention periods, what impact this may have, and how those impacts can be mitigated

The ACA supports a mandatory retention period for records dealing with complaints of child sexual abuse and would accommodate the resourcing requirements.

However there would be significant resourcing issues if a wider group of records relating to children's programs also had mandatory retention requirements; eg: rosters of employees or volunteers in charge of any children's programs.

The ACA currently has a decentralised records management system and while this type of record is created at a parish level, it may not be identified for retention in current archive processes. The introduction of mandatory retention periods may require an expansion of diocesan archiving program with resourcing implications.

Anglican schools and welfare agencies providing children's services are more likely to retain a broader range of child related records and would be resourced to do so.

18. Whether institutions should maintain registers of what records they destroy, when and upon what authority.

The ACA supports the implementation of best practice records management procedures including archival disposal policies.

- 19. How the Access Principles for Records Holders and Best Practice Guidelines in providing access to records have been applied in practice**
- 20. Whether they have resulted in simplified and more open access processes**
- 21. Whether and how they might be adapted to apply to access to the records of all the institutions within our Terms of Reference.**

The ACA has not obtained any feedback from its dioceses and agencies on the application of these principles.

- 22. In relation to inconsistent laws and practice, whether the Privacy Act 1988 (Cth) should be amended so the Australian Privacy Principles relevant to access and amendment apply to all private institutions that care for or provide services to children; or, alternatively, how small private institutions that care for or provide services to children can be encouraged to 'opt-in' to the Australian Privacy Principles scheme**

The ACA does not support amendments to the Privacy Act 1988 (Cth) to apply to all institutions that provide care or services to children because of the resourcing and compliance burden this could impose.

However, the ACA would encourage currently exempt institutions to opt in in regard to the management of records relating to medical history, family of origin, residential history and other areas which document the child's story.

- 23. In relation to fees and charges, whether requests to access records created by institutions about children with whom they have engaged should be free of fees and charges, and, if so, what resourcing implications this may raise for record holders**

Wherever possible a fee for access to a child's record should not be charged. If there are costs to the institution in recalling records from archives they should be charged on the basis of cost recovery.

- 24. In relation to access grants, what steps institutions should take to ensure that individuals have appropriate support when reading and interpreting records with potentially distressing content**

Policies and procedures relating to access to records should include guidelines addressing when it may be appropriate for the person seeking records to have a support person present.

- 25. In relation to redactions, whether nationally consistent standards for redaction should be established; and what those standards should be**

The ACA would welcome a national standard for redactions with the Royal Commission publishing a 'best practice' set of guidelines to be applied consistently by institutions providing children's services and programs.

- 26. In relation to refusal of access and amendment, whether existing exceptions are appropriate in the context of records relevant to child sexual abuse**
- 27. In relation to third party privacy, how public and private institutions can be better educated about the proper application of third party privacy exceptions.**

Records access policies should aim to maximise the information available to an applicant seeking information on themselves. However, third party privacy exceptions may need to apply, in particular to ensure that other victims of abuse are not identified.

Institutions would benefit from the development of guidelines on third party privacy.

- 28. Whether a sixth principle directed at enforcing the initial 5 principles is required?**
- 29. Whether it would be necessary or appropriate to adopt a two-tiered approach to the enforcement of record keeping practices, whereby certain institutions (such as OOHC service providers and schools) are held to a higher standard than others (such as local sports clubs).**

The ACA supports the two –tiered approach to the enforcement of record keeping practices. The ACA acknowledges that a higher standard may apply to its schools and child welfare service agencies compared to parishes providing youth and children’s worship opportunities.

However, any entity required to implement child protection regulations should be required to comply with associated record keeping obligations.

- 30. Whether a records advocacy service would be useful for victims and survivors of child sexual abuse in institutional contexts**
- 31. What powers, functions and responsibilities a records advocacy service should have**

A records advocacy service could assist both survivors to access documents and organisations to interpret current regulations and best practice records management information.

This service could be resourced to undertake external audits and provide records management accreditation to institutions.

- 32. Whether there are existing bodies or agencies that may be suited to delivering records advocacy services.**

The ACA is not aware of any suitable existing body. A purpose designed entity may be required.

**Royal Commission Working Group
General Synod of the Anglican Church of Australia**

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