



Setting the Record Straight for the Rights of the Child

Response to National Statement of Principles for Child Safe Organisations Consultation Draft, December 2017

Introduction

Our children need quality recordkeeping and archiving systems to help them account for their experiences, and to prevent, detect, report, investigate, and take action against child neglect and abuse. Those who experience out-of-home care, as part of child protection interventions, additionally rely on organisational recordkeeping systems to create and keep records that help to develop and nurture their sense of identity and connectedness to family and community. However, contemporary recordkeeping and archiving systems often fail to meet these lifelong identity, memory, and accountability needs of children (Evans, McKemmish, Daniels, & McCarthy, 2015).

Many inquiries — particularly those into the child welfare and protection sector, including the current Royal Commission into Institutional Responses to Child Sexual Abuse — have highlighted the lifelong importance of childhood records. In inquiry after inquiry, testimony after testimony, people from all walks of life have highlighted the systemic difficulties they have faced in finding, accessing, and using records of their childhood for these purposes (O'Neill, Selakovic, & Tropea, 2012; Swain & Musgrove, 2012).

We note that none of the principles for child safe organisations directly address the need to establish and maintain accurate records that serve purposes beyond the efficient running of the child-involved organisation — in particular, records that take into account young persons' points of view and ongoing needs beyond the organisational record-making contexts. A child-safe ethos involves an obligation to implement recordkeeping regimes that support the needs of children across space (as they, their families, or people working with children move around) and through time (for example, the Royal Commission into Institutional Responses to Child Sexual Abuse (2014) found that the average delay in reporting abuse was approximately 22 years, and that it may take decades for those with out-of-home care experiences to seek access to their records).

Ideally there should be a separate, specific principle establishing the mandate and guidelines for suitable recordkeeping of this nature. In its absence, we offer the following recommendations on a per-principle basis, addressing key *Action Area* and *Principle Indicator* points as required.



Preamble

The preamble notes that “businesses or organisations employing staff and/or volunteers providing services to and working with children and young people [...] may work across state boundaries” (p. 3). This implies that a *national* approach is needed to establish guidelines for child-oriented recordkeeping that meets “children’s rights, needs and interests” (p. 3). This recordkeeping needs to be interoperable both within organisations (that may span more than one state) and between organisations that may share similar responsibilities within different jurisdictions.

Principle 1 — A commitment to child safety and wellbeing is embedded in organisational leadership, governance and culture.

The reference to article three of the UNCRC that concerns adult decision-making implies a concomitant responsibility that adequate records are made of such decisions and made available when children will need them.

The description of governance arrangements should include a reference to recordkeeping policy, processes, and systems.

Action Areas:

We recommend that the *Code of Conduct* described in Action Area 1.4 include guidelines for child-oriented recordkeeping.

Moreover, we recommend an additional Action Area that stresses how a culture of accountability is part of a commitment to child safety and wellbeing. In fact, the first principle of the Commission’s *Consultation Paper on Records and Recordkeeping Practices* is “Creating and keeping accurate records is in the best interest of children” (Royal Commission into Institutional Responses to Child Sexual Abuse, 2016, p. 4).

For example:

Child-centred recordkeeping policy, processes, and systems support accountability and a commitment to child safety and wellbeing.

Indicators:

We recommend that the second Indicator regarding “duty statements, performance agreements and staff and volunteer review processes” (p. 7) be extended to include reference to understanding and using recordkeeping policy, processes, and systems.

We recommend that the third Indicator regarding “children’s rights [...] and the accountabilities that accompany these rights” (p. 7) is extended to include recordkeeping rights and accountabilities.

We recommend an additional Indicator:

Organisations can demonstrate they have recordkeeping policy, processes, and systems that enable the creation and maintenance of child-oriented records.

Principle 2 — Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.

We note that children “participating in decisions and communicating their views and concerns” (p. 8) also means an organisational responsibility to facilitate their participation in child-oriented recordkeeping.

Action Areas:

We recommend that the communication strategies for children and young people described in Action Area 2.2, be extended to include child-oriented recordkeeping systems that are able to make records available for their needs through time.

Indicators:

We recommend that the second Indicator regarding the proactive seeking of children’s and young people’s views also refers to adequate recordkeeping of this activity.

We recommend that the fifth Indicator regarding participation in decision-making is extended to include recordkeeping.

We recommend that the sixth Indicator regarding the review of opportunities for participation be extended to include recordkeeping in relation such reviews, as well as the inclusion of recordkeeping regimes as an additional subject of such reviews.

Principle 3 — Families and communities are informed and involved in promoting child safety and wellbeing.

The reference to article five of the UNCRC that concerns the understanding and exercising of rights includes a responsibility for teaching children about their recordkeeping rights (alongside other rights).

The “provision of accessible information” (p. 9) should make explicit reference to records and recordkeeping as should the reference to “feedback and input”.

Action Areas:

We recommend that Action 3.2 be extended to explicitly include recordkeeping as a subject discussed with parents and caregivers.

We recommend that the involvement of families and communities “in the development and review of the organisation’s policies and practices” (p. 9) described in Action Area 3.3, be extended to include recordkeeping policy, processes, and systems.

Indicators:

We recommend that the third Indicator regarding “clear and accessible information” (p. 9) be extended to also include records and recordkeeping.

Principle 4 — Equity is promoted and diversity is respected in policy and practice.

Respect for equity and diversity means that child-oriented recordkeeping systems need to take into account the varied needs of children. As the reference to article 2 of the UNCRC implies, such systems should meet the needs of children with a variety of backgrounds, cultures, and cognitive and physical abilities.

Action Areas:

We recommend that the complaints processes described in Action Area 4.3 also make reference to appropriate recordkeeping and records associated with such processes.

Indicators:

We recommend that the third Indicator regarding “child-friendly material” (p. 10) be extended to also include records and recordkeeping.

Principle 5 — People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.

While Principle 5 mentions training in recordkeeping and information sharing, such support presupposes the provision of suitable child-oriented recordkeeping policy, processes, and systems. The safeguarding of children — including the screening of staff — depends on complete, accurate and accessible records across space and through time.

Note, too, that within the Australian records and archive community, the two-word phrase *record keeping* (as a synonym for Records Management) is generally used in relation to the immediate, transactional recording that supports organisational objectives. The single-word term *recordkeeping* has much broader connotations that involves the creation and management across space and through time of records that may serve multiple uses for a variety of participants. See McKemmish (2017, p. 122) for further explanation.

Action Areas:

We recommend an additional Action Area pertaining to the implementation of suitable recordkeeping systems concerning people working with children.

Organisations should create, maintain and ensure the accessibility of suitable recordkeeping systems for staff and volunteers.

Indicators:

We recommend an additional Indicator relating to suitable recordkeeping systems:

Organisations can demonstrate they maintain selection and screening records of staff and volunteers.

Principle 6 — Processes for complaints and concerns are responsive, understood, accessible and used by children, young people, families, staff and volunteers.

As the Royal Commission into Institutional Response to Child Sexual Abuse has determined, the efficacy of reporting and handling of complaints is deeply dependent on the nature of prevailing recordkeeping policy, processes, and systems. This principle needs to make explicit mention of the role of recordkeeping in complaints management practice.

Action Areas:

As foreshadowed in Principle 4, we recommend that the *complaints handling policy* described in Action Area 6.1 make explicit reference to the child-oriented recordkeeping processes, and systems used for this purpose.

We recommend that the understanding of complaint handling processes described in Action Item 6.2 be extended to include recordkeeping systems and records that extend across space and through time.

Indicators:

While the safety of children and reporters is paramount, it is worth noting that privacy obligations and processes are often misunderstood, with the inappropriate withholding or redaction of records leading to additional trauma to those recorded (Department of Social Services, Commonwealth of Australia, 2015, p. 30). We recommend that the first Indicator make mention of this, to ensure that equitable, rather than risk adverse, approaches to disclosure be taken.

We recommend that the second Indicator be extended to ensure that the recordkeeping processes and systems reflect the complaints handling policy.

We recommend that the third Indicator be extended to include evaluation and monitoring of the recordkeeping policy, processes, and systems themselves to ensure that systemic issues are mitigated.

We recommend that the third and fourth Indicators be extended to explicitly state that child-oriented records of these interactions are created and made available across space and through time.

Principle 7 — Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through information, ongoing education and training.

We note that records of training, particularly through the use of “evidence-based practice tools” (p. 13) need to be kept.

Action Areas:

We recommend an additional Action Area pertaining to the keeping of training records.

Organisations should create and maintain training records for staff and volunteers, and ensure these are accessible for where and when they are required.

In order to address the serious harm that is caused by insufficient or cursory recordkeeping and/or the use of inappropriate language in records, we recommend an additional Action Area:

Staff and volunteers receive training that covers the recordkeeping rights of children and young people, as well as the possible uses and audiences for records that may be created.

Indicators:

We recommend that the fourth Indicator be extended to include knowledge of recordkeeping rights and responsibilities.

We recommend an additional Indicator relating to the maintenance of training records:

Organisations can demonstrate they maintain training records for staff and volunteers.

Principle 8 — Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.

We note that some of the mechanisms employed in Action Area 8.1 — namely surveillance and access logs — while necessary, constitute recordkeeping in their own right. All of the principles regarding child-oriented recordkeeping apply to these records as well, including the comments made for Principle 6 above regarding privacy and disclosure.

Principle 9 — Organisations regularly review and improve implementation of their child safety and wellbeing policies and procedures.

The policy and procedure reviews described in this principle should be extended to include recordkeeping audits.

Indicators:

We recommend that the first Indicator be extended to include reviews of recordkeeping policy, processes, and systems.

We recommend that the third Indicator be extended to include the creation and maintenance of records regarding review outcomes and implementation. This Indicator should also include recordkeeping as an area of potential improvement.

We recommend that the fourth Indicator be extended to include the creation and maintenance of records regarding the analysis of complaints.

Principle 10 — Policies and procedures document how the organisation is safe for children and young people.

This principle should explicitly include recordkeeping as a first class element necessary for child safety and wellbeing, and require the clear documentation of recordkeeping policy, processes, and systems.

We stress again, that the importance of “consistent application of child safe practices across the organisation” (p. 16) means that recordkeeping needs to extend across space (for example, to encompass partner organisations) and through time.

Action Areas:

We recommend that, in all of the Action Areas (10.1 to 10.5), the phrase “policies and procedures” be extended to include the term “recordkeeping”, i.e.:

policies, procedures, and recordkeeping

Indicators:

We recommend that the second Indicator regarding audits of policies and procedures should be extended to include audits of the recordkeeping policy, processes, and systems themselves.

We note that the surveys mentioned in Indicators four and five, constitute records in their own right and should be subject to the standard child-oriented recordkeeping practice in terms of agency, privacy, and disclosure. Likewise, any material resulting from interviews should be treated similarly.

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