

STATE RECORDS

of South Australia

Identifying and retaining information assets which may become relevant to an actual or alleged incident of abuse

Purpose

This document provides guidance to South Australia government agencies to support the recordkeeping-related recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) in their Final Report.

In particular this guidance addresses Recommendation 8.3:

The National Archives of Australia and state and territory public records authorities should provide guidance to government and non-government on identifying records, which, it is reasonable to expect, may become relevant to an actual or alleged incident of child sexual abuse; and on the retention and disposal of such records.

Within South Australia this guidance and associated disposal schedules incorporates vulnerable people and abuse more broadly.

State Records has incorporated this recommendation into various item numbers of General Disposal Schedule 30 v2 (as amended) for State government agencies and General Disposal Schedule 40 v1 (as amended) for Local Councils and Local Governing Bodies and Authorities in South Australia.

Where applicable this guidance can be voluntarily adopted by non-government institutions.

The Final Report of the RCIRCSA, containing all the recommendations, can be viewed at <https://www.childabuseroyalcommission.gov.au/final-report>.

Responsibilities

South Australian Government agencies must ensure that information assets are created as evidence of government business and that those information assets are managed for as long as required and disposed of appropriately.

The term 'information asset' incorporates the definition of official record as defined by section 3(1) of the *State Records Act 1997* (SR Act), and includes information, data and records, in any format (whether digital or hardcopy), where it is created or received through the conduct of government business.

Your agency must abide by the SR Act, Disposal Standard and associated policies issued by State Records and the State Records Council.

For non-government institutions it is equally as important to manage information assets as evidence of business activity to meet business and stakeholder needs for the

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documented information. Non-government institutions can use government recordkeeping advice as a resource and adopt or adapt that advice as suits their regulatory and business environment.

Principles for information assets and recordkeeping

The RCIRCSA recommended that all institutions that engage in child-related work should implement the following principles for information assets and recordkeeping, to a level that responds to the risk of child sexual abuse occurring within the institution:

Principle 1

Creating and keeping full and accurate information assets relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.

If your agency that cares for or provide services to children, it must keep the best interests of the child uppermost in all aspects of its conduct, including recordkeeping. It is in the best interest of children that your agency foster a culture in which the creation and management of accurate information assets are integral parts of the your agency's operations and governance.

Principle 2

Full and accurate information assets should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.

Your agency should ensure that information assets are created to document any identified incidents of grooming, inappropriate behaviour (including breaches of the Public Sector Code of Conduct) or child sexual abuse and all responses to such incidents.

Information assets created by your agency should be clear, objective and thorough. They should be created at, or as close as possible to, the time the incidents occurred, and clearly show the author (whether individual or institutional) and the date created.

Principle 3

Information assets relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.

Information assets relevant to child safety and wellbeing, including child sexual abuse, should be maintained in an indexed, logical and secure manner. Associated information assets should be collocated or cross-referenced to ensure that people using those information assets are aware of all relevant information.

Principle 4

Information assets relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with the SR Act and the Disposal Standard or other relevant legislation to your agency.

Information assets relevant to child safety and wellbeing, including child sexual abuse, must only be destroyed in accordance with current approved General Disposal Schedules or Record Disposal Schedules approved by the State Records Council under the SR Act.

Information assets relevant to child sexual abuse should be subject to minimum retention periods that allow for delayed disclosure of abuse by victims and take account of limitation periods for civil actions for child sexual abuse.

Principle 5:

Individuals' existing rights to access, amend or annotate information assets about themselves should be recognised to the fullest extent.

Individuals whose childhoods are documented in your agency's information assets should have a right to access information assets made about them. Full access should be given unless contrary to law. Specific, not generic, explanations should be provided in any case where an information asset, or part of an information asset, is withheld or redacted.

Individuals should be made aware of, and assisted to assert, their existing rights to request that information assets containing their personal information be amended or annotated, and to seek review or appeal of decisions refusing access, amendment or annotation.

Full and accurate information assets

An information asset is an object or item that contains information or from which information can be reproduced and which is created or received in the conduct of an your agency's business. Information assets can be in a variety of formats including paper, digital (email, word document and database), photograph, film or plan. Information assets can be created or received through many different channels including social media platforms and mobile devices.

Your agency must create and keep full and accurate information assets. These information assets provide evidence of the actions, decisions and advice of your agency. For an information asset to be trusted and relied upon into the future your agency must ensure that it remains a true and accurate account of what occurred (the information asset has not be altered), that the information asset's authenticity can be assured and that it is accessible.

The importance of maintaining good information assets is heightened in areas of high importance or risk such as the protection of children and vulnerable people and investigation into incidents and allegations of abuse.

Many information assets relating to the provision of services to children and vulnerable people are likely to contain sensitive or personal information. It is important that your agency takes the necessary steps to ensure these information assets are stored in a secure manner, with access limited to authorised staff only. Access to sensitive

information assets must be monitored and documented. There must be mechanisms in place to report suspected or known breaches.

Assessing Organisational Risk

Each agency is different and will have different levels of risk associated with the provision of its services to children and vulnerable people. Services that involve children may be regular or ad hoc. Your agency needs to carefully assess what information assets need to be created and retained as evidence of your interaction with children or vulnerable people in order to protect the interests of the child or vulnerable person.

There are costs associated with retaining information assets so that they:

- » are secure from unauthorised access.
- » are held in conditions which mean they will not be damaged over time.
- » can be identified and accessed when required.

Your agency needs to balance this against the likelihood or risk of there being an allegation or incident of abuse. For instance, your agency might be at higher risk if one or more of the following apply, children or vulnerable people:

- » are cared for by your organisation
- » may be in the care of a single employee, and / or
- » may be in an environment away from parents, guardians or members of the public.

Identification of information assets that may be of relevance to an actual or alleged incident of abuse

If your agency is advised of an actual or alleged incident of abuse, information assets which are likely to be of relevance include:

- » letters, emails or other records making an allegation or relating to an allegation (where notification occurs verbally then a file note should be made of the allegation or report)
- » incident reports and witness statements
- » records of meetings or discussions (including notes)
- » case files and other records of the child who is alleged to have been abused (for example school attendance and admission records, work experience and placements, reports of accidents and injuries, medical records, counselling records)
- » relevant personnel and work placement records, including information assets relating to volunteers (for example counselling, mediation, and discipline records, travel records, minutes and agendas of meetings)
- » information assets which inform on a relevant person, in a place at a particular time (for example rosters, attendance sheets and permission slips, employee contracts, leave requests, off-site visits, day-trips and excursions)
- » relevant worker employment information assets including personnel files and terms of employment

- » reports or other information assets received from medical practitioners, health professionals, teachers, counsellors and other such third parties
- » information assets documenting actions taken to address allegations and cases of sexual abuse of children including reviews of actions, cases or decisions by external authorities; and
- » information assets documenting support to and remedial action for the child who is alleged to have been abused – for example records of claims, assessments reviews, and appeals.

The RCIRCSA discovered that it takes survivors of child sexual abuse, on average, 23.9 years for them to disclose the abuse¹. Therefore your agency needs to consider which information assets should be retained because it is reasonable to expect that they may, now or in the future, become relevant to an actual or alleged incident of child sexual abuse.

Such information assets could include:

- » children's and vulnerable people's case files
- » child and vulnerable people's attendance or registration records
- » carer's case files
- » information assets documenting the operations and monitoring of individual out-of-home care providers such as qualifications, working with children and vulnerable person checks / clearances, suitability assessments, details of other people living in or frequently visiting carer households, complaints and investigations of complaints
- » workers employment information assets, including period of time employed and places worked
- » complaints and discipline records relating to workers
- » information assets outlining programs of service and how services are delivered
- » evaluation records of services, comments or complaints
- » agreements, contracts, joint venture agreements, memoranda of understanding related to the care of children (including outsourcing arrangements); and
- » policies, procedures, reporting mechanisms and training material relating to the provision of services, particularly services to children and vulnerable people.

Not all agencies have the same level of risk that an incident or allegation of abuse could occur. Each agency is likely to have different information assets that may be relevant to a current or future abuse incident or allegation. This is likely to depend on the type of services provided to, and nature and extent of interaction, with children.

It is imperative that your agency understands the context within which you provide services as this will help determine which information assets may be relevant to a current or future investigation. It is important that your agency undertakes an assessment of what these information assets may be and ensure they are managed

¹ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report Recordkeeping and information sharing, Volume 8, Commonwealth of Australia 2017, p.79.

according to risk as well as business, stakeholder and legislative requirements. This should include any relevant services which have been outsourced.

Your agency also needs to be aware that information assets that relate to general operations (and not specifically to services delivered to children or vulnerable people) may become relevant to an actual or alleged incident of abuse.

Creation of information assets as part of a response to an allegation

In the case of an actual or alleged incident of abuse, your agency should:

- » create a full and accurate record to document the allegation / incident, how this was investigated, responded to and managed. This should be clear, objective and thorough and created as close as possible to the time that the incident occurred or the allegation was made
- » identify and include supporting information assets (or a copy of them) in the incident / investigation record, including records of evidence; and
- » create and capture contextual information about the supporting information assets, for example the original reference numbers of any files, or parts of files, which have been copied and included.

Your agency should refer to the five principles recommended by the RCIRCSA to guide its recordkeeping practices.

Retention and disposal

As part of maintaining information assets as evidence of business activity it is important that your agency considers and documents how long information assets should be retained. Retention decisions should be based on an analysis of business and stakeholder needs for the information, including protection of rights and entitlements. These decisions will be influenced by the services provided, risks to be mitigated by retaining the information, and the legislative environment within which your agency operates.

Your agency needs to comply with the relevant disposal schedules in Appendix A.

The RCIRCSA recommended (Recommendation 8.1) that institutions that engage in child-related work should retain for at least 45 years, information assets relating to child sexual abuse that has occurred or is alleged to have occurred. State Records endorses this recommendation in principle.

Depending on the context of your agency, or the extent to which particular information assets can support the interests of child sexual abuse victims and survivors, including to support redress, retention periods may be longer than 45 years. Contact State Records for advice about how long relevant information assets should be retained.

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06032023	Team Leader, Government Support and Engagement	06032025	Final

Need further assistance?

Contact

Tel (+61 8) 7322 7077

Email

Web www.archives.sa.gov.au

Appendix 1

General Disposal Schedule 30 v2 (as amended)

Item numbers related to information assets of actual or alleged incident of abuse.

ITEM NUMBER	FUNCTION-ACTIVITY	DESCRIPTION	DISPOSAL ACTION
5.17.9	EMPLOYEE MANAGEMENT - Training	Records relating to the development and implementation of training and education programs by agencies designed to educate employees on how to manage and respond to incidents or allegations of abuse of children, young people and vulnerable adults. Also includes vulnerable adults and adults where the incidents or allegations of abuse occurred as a child.	Permanent
11.1.2	LEGAL SERVICES - Advice	Legal advice relating to: <ul style="list-style-type: none"> • interpretation of legislation administered by the agency or • precedent-setting matters or • matters generating substantial public interest and/or debate or • matters resulting in substantial changes to agency policy and/or procedures or • matters concerning incidents or allegations of abuse of children and young people. Also includes vulnerable adults or adults where the incidents or allegations of abuse occurred as a child. 	Permanent
13.1.1	STRATEGIC MANAGEMENT - Advice	Records relating to the provision of advice to senior executive relating to substantive aspects of agency or matters concerning incidents or allegations of abuse of children, young people and vulnerable adults. Also includes vulnerable adults or adults where the incidents or allegations of abuse occurred as a child: <ul style="list-style-type: none"> • policies • procedures • functions • obligations and/or • liabilities. 	Permanent
13.17.7	STRATEGIC MANAGEMENT - Policy	Records relating to the formulation, implementation and review of agency policies relating to the management of and response to abuse incidents or allegations of children, young people and vulnerable adults. Also includes vulnerable adults or adults where the incidents or allegations of abuse occurred as a child.	Permanent
13.18.5	STRATEGIC MANAGEMENT - Procedures	Records relating to the formulation, implementation and review of agency procedures relating to abuse incidents or allegations of children, young people and vulnerable adults. Also includes vulnerable adults or adults where the incidents or allegations of abuse occurred as a child.	Permanent

ITEM NUMBER	FUNCTION-ACTIVITY	DESCRIPTION	DISPOSAL ACTION
13.29.1	STRATEGIC MANAGEMENT - Abuse Incidents and Allegations	<p>Records relating to children and young people. Also includes vulnerable adults or adults where the incidents or allegations of abuse occurred as a child. Includes:</p> <ul style="list-style-type: none"> the receipt and investigation of incidents of abuse or allegations of abuse including the receipt of the complaint or allegation, evidence, records of interviews conducted, supporting materials and research and appeals of decisions made. Also includes material provided to/from external law enforcement agencies. records relating to actions taken to address allegations and cases of abuse and related matters, including counselling, discipline and decisions of external authorities. records relating to the provision of support, redress or remedial action for individuals who have made allegations of abuse. records relating to internal or external reviews of the process of handling incidents or allegations of abuse. Includes final review report, recommendations, consultations and supporting material and evidence. 	TEMPORARY Destroy 105 years after date of birth.
13.29.2	STRATEGIC MANAGEMENT - Abuse Incidents and Allegations	<p>Records relating to vulnerable adults. Includes records relating to:</p> <ul style="list-style-type: none"> the receipt and investigation of incidents of abuse or allegations of abuse including the receipt of the complaint or allegation, evidence, records of interviews conducted, supporting materials and research and appeals of decisions made. Also includes material provided to/from external law enforcement agencies. actions taken to address allegations and cases of abuse and related matters, including counselling, discipline and decisions of external authorities. the provision of support, redress or remedial action for individuals who have made allegations of abuse. 	TEMPORARY Destroy 7 years after date of death or 45 years after action completed whichever is earlier

General Disposal Schedule 40 v1 (as amended)

Item numbers related to information assets of actual or alleged incident of abuse.

ITEM NUMBER	FUNCTION/ACTIVITY	DESCRIPTION	DISPOSAL ACTION
4.13	HUMAN RESOURCE MANAGEMENT- Staff development	Records of development and implementation of training and education programs designed to educate employees and other workers on how to manage and respond to incidents or allegations of abuse of children, young people and vulnerable adults.	PERMANENT
5.1	STRATEGIC MANAGEMENT - Abuse allegations and incidents	Records of the notification and handling of abuse allegations or incidents relating to children and young people, and adults where the incidents or allegations of abuse occurred as a child including: <ul style="list-style-type: none"> • complaints • allegations • investigation • evidence • interviews • supporting materials • research. 	TEMPORARY Retain 105 years after date of birth of the child or young person, then destroy
5.2	STRATEGIC MANAGEMENT - Abuse allegations and incidents	Records of abuse allegations or incidents relating to vulnerable adults including: <ul style="list-style-type: none"> • complaints • allegations • investigation • evidence • interviews • supporting materials • research • appeals of decisions • material provided to/from external law enforcement agencies • counselling • discipline • decision of external authorities. 	TEMPORARY Retain 7 years after date of death of the vulnerable adult or 45 years after action completed, whichever is earlier, then destroy.
5.7	STRATEGIC MANAGEMENT- Policy and procedures	Master copies of policies and procedures relating to high risk activities and services including the management of and response to abuse incidents or allegations relating to children, young people and vulnerable adults.	PERMANENT
78.1	Advice	Records of executive advice, legal opinions or advice, and advice relating to incidents or allegations of abuse of children, young people and vulnerable adults including: <ul style="list-style-type: none"> • requests • responses. 	PERMANENT