Records Continuum Research Group Response to the RCIRCSA consultation paper: *Records and recordkeeping practices*

This is a response to the Royal Commission into Institutional Responses to Childhood Sexual Abuse consultation paper: *Records and recordkeeping practices* by the Records Continuum Research Group.

The Records Continuum Research Group is an association of theorists, practitioners, researchers, and educators and is part of the Centre for Organisational and Social Informatics at Monash University. It is concerned with understanding the roles that records play in the lives of people, families, organisations, communities and societies through the ongoing development and application of Records Continuum theory. It emerged in the 1990s as a response to the growing inadequacies of traditional recordkeeping practices (Iacovino, 2006; Sue McKemmish, 2001; Reed, 2005b; Upward, 1996, 1997). It is recognised as "the most important conceptual reorientation of the field in its professional history" (Gilliland, 2015).

Unfortunately, much of what constitutes contemporary records and archival management is a product of, and serves to perpetuate, legacy approaches to recordkeeping designed for a paper world and with rights in records subscribed to a singular records creator. These are manifestly unable to deal with the records and recordkeeping issues raised in the Commission's consultation paper. We believe that the Commission, in basing its consultation paper principles and consultative questions upon these prevailing approaches, is in danger of missing an opportunity for addressing the structural change needed to address the recordkeeping issues that the evidence highlights. Systemic solutions are needed in the recordkeeping field looking not to 'best practice' but to 'next practice'

1   Introduction

Records Continuum thinking is an attempt to grapple with the complexity of the recordkeeping mission. It recognises that all of its aspects — from the creation of frameworks, standards, systems and policy; through the initial, transactional creation and management of records; to their ongoing management throughout the multiple contexts of their continuing role and value — must be treated in a holistic manner (Reed, 2005a; Upward, Reed, Oliver, & Evans, 2013). Records Continuum thinking transcends simplistic life-cycle approaches to records management. Such approaches are concerned with the creation, management, and disposition of records as inventory management by 'owners' of transactional artefacts (Oliver, Evans, Reed, & Upward, 2010). Indeed records are "always in a process of becoming" (McKemmish, 1994) in a very real sense. As with the survivor-oriented inquiries into Out Of Home Care (OOHC) since the late 1980's (Swain, 2014), the Commission has found that records continue to be used in a variety of (perhaps unforeseen) ways that have profound impacts long after their immediate transactional context. Records Continuum thinking recognises records for their ongoing multi-valued evidentiary affordances.

Beyond the immediate transactional context, it acknowledges the role of recordkeeping as central to accountability and the continued well-being of all stakeholders in records.

The Commission was established to address systemic issues but appears to be basing its principles on contemporary 'best practice' in records management. Unfortunately, this 'best practice' is not good enough to meet the critical needs identified by the Commission as evidenced in many witness statements and submissions. Much of contemporary recordkeeping involves legacy life-cycle records management workflows rooted in organisational risk management; the commissioning of isolated and fragmented recordkeeping systems; a plethora of international, jurisdictional, and organisational recordkeeping and archival standards and policies; and prevailing commercial- and consumer-oriented recordkeeping, privacy, Freedom of Information (FOI), and other legislation.

For example, the consultation paper introduction appears to frame the principles in terms of incremental improvement to current practice, rather than necessary systemic change.

> We have opted to develop principles rather than recommend large-scale legislative or policy reform, noting the considerable variation in the regulation, size, function, resources and responsibilities of institutions within our Terms of Reference. The principles are intended to:
>
> • complement existing law and practice
>
> • promote and guide institutional best practice
>
> • inform future policy development and law reform. (p.7)

It also, implicitly re-enforces the legacy fragmentation of recordkeeping in two ways: Firstly, the consultation paper draws an (artificial) distinction between historical and contemporary records (Sections 3 and 4) despite a commonality of issues with respect to infrastructure, access, and agency.

This distinction is underscored in principle 4 where the solution to the premature or inappropriate disposal of records is seen as modelling the best available disposal schedules. Such instruments are, in fact, blunt instruments of legacy regimes. By generalising (or worse, ignoring) the needs of individuals and groups external to record-holding organisations, they do violence to the agency of participants in recordkeeping. On page 22, comments about the variation in retention of records about carers and employees by the OOHC providers, do not mention the perspectives of those subject to Care as having any bearing on their determination. Disposal schedules as one-size-fits-all policy statements are part of the problem; refining them will not bring about systemic change.

Secondly, the consultation paper identifies technical and policy issues from institutional perspectives. For example: it cites an institution's "lack of or inconsistent indexing" or "concurrent use of multiple indexing systems" (p. 15) while ignoring fragmentation across institutions and the deleterious effect of multiple information silos. Recognising that an individuals' records (whether of victims and survivors, or accused) are spread across multiple systems is a crucial point and has profound implications in terms of the need for network-wide design, oversight, monitoring, and evaluation.

This lack of oversight is one reason that initiatives such as the National Standards for Out-of-Home Care which, as the consultation paper notes (p. 21), provide non-binding guidelines for record-holders, are necessary but not sufficient measures to address the issues at hand. Similarly the variation in practice between record-holders (p.21) is not really addressed by any of the consultation paper principles. For example, is there any overlap between the records kept by OOHC organisations and schools (p.22)? Is there a need for network-wide oversight for risk management within the terms of reference of the Commission?

Similarly, to what extent are privacy and other legislation (e.g. FOI) suitable for the needs of all participants in records; rather than in consumer-relationship contexts? The same goes for issues with third party privacy (p. 33) and the need for seeking multiple permissions for access. What would be the effect of asking permission at the time of record creation? If different, how should that affect the consistency of approach from the time of record creation onward?

1.1 Principles

The consultation paper notes that some individual organisations already satisfy the spirit of the proposed principles (p. 46), yet they are not working together as an interconnected network of recordkeeping organisations. Many of the recordkeeping issues identified in the paper cannot be solved by individual organisations operating in silos.

Some specific concerns we have with the principles are:

1. **Principle 1**: Why is the focus on accurate records? Most recordkeeping standards, for example, ISO 15489 (International Organization for Standardization, 2001) describes the need for Authenticity, Reliability, Integrity, and Usability. Should the principle embody these traits as well? In fact most of the principles in the consultation paper are already covered by this standard which sets the bar higher than the principles proposed by the paper. Beyond mandating adherence to the standard, should the principles go further?
2. **Principle 2**:Why the focus only on creation of records? Would this principle be better couched in terms of "creation and ongoing maintenance"?
3. **Principle 3**: Should the principle emphasise that records relating to child sexual abuse are vital/high risk/high value/highly sensitive records and so must be managed to the highest standards of recordkeeping accountability?
4. **Principle 4**: No additional comment
5. **Principle 5**: Should the principle mandate that the law be strengthened to pro-actively require the ***disclosure***, discoverablity of, and access to, personal records?

   The point about disclosure is an important one as it is core to the Joinet-Orentlicher Principles, adopted by the United Nations Commission on Human Rights (Orentlicher & UN. Independent Expert to Update the Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity. 2005). Just as FOI implementation has demonstrated the practicality of disclosure of available records through information publication plans, holders of relevant child-welfare records need to disclose their holdings to

stakeholders. Activism by OOHC advocacy groups has brought about some changes in this area, including the establishment of services such as Find & Connect (Find and Connect Web Resource Project Team, 2011), but disclosure should be embedded in a principle. Should this principle also mandate the development of evaluation and monitoring regimes for disclosure, discovery and access?

The following points address the issues raised in the consultation paper from two perspectives: the need to consider recordkeeping in terms of networked and interoperable socio-technical infrastructure; and from the perspective of *participatory recordkeeping*, the idea that there are potentially multiple *participants* in records each with their own, values, perspectives, and need for agency in ongoing recordkeeping.

1.2 Recordkeeping Infrastructure

Recordkeeping systems do not exist in isolation, but within a network of organisations, records, metadata, systems, and stakeholders (PACG, 2011). This network needs to be purposefully designed and based upon a flexible, granular, and interoperable infrastructure (Anderson & Allen, 2009; McCarthy & Evans, 2012; Reed, 2005a). That this has not been done is evidenced by the many testimonies in this and previous inquiries that describe recordkeeping infrastructure as fragmented and dispersed, resulting in significant barriers to the sorts of agency in records that the consultation paper has identified, and the loss or inaccessibility of many vital records.

These issues cannot be addressed without the systemic design of socio-technical recordkeeping systems as *infrastructure* (Susan Leigh Star, 2002). We require "coherence" rather than "sameness" and facilitation of "the processes of aggregating [records] with other information objects and their movement into other times and spaces" (Upward et al., 2013). In particular, interoperability must be designed in from the start; it is not something that can be bolted on as an afterthought (Evans, 2007; Rolan, 2015). One way of promoting such interoperability is through the use of suitable standards.

1.2.1 Standards

Current recordkeeping and archival standards promote jurisdictional-specific implementation that neither affords interoperability nor attempts to address the needs of differing stakeholders (Evans, McKemmish, & Reed, 2009). Irrespective of how well collections of records may be documented or indexed, they remain isolated silos of information. Consequently they are appraised, arranged, and documented on a per-collection basis. We have 'soft' standards, suitable for backward compliance with existing systems, not as blueprints for future systems. We build stand-alone systems that are not designed for consumer-facing interoperability because our current frameworks are not trying to solve this problem. The result is a highly fragmented archival multiverse of institutional, corporate, community, and personal records. This is a world of recordkeeping fiefdoms.

This burgeoning development of localised and isolated recordkeeping systems, results in missed opportunities for interoperability (Evans, 2007; Rolan, 2015). The pace of technological change,

particularly as we transition into digital recordkeeping, is exacerbating this fragmentation and the inadequacy of existing recordkeeping paradigms (Cumming & Findlay, 2010). This disconnection of information and effective loss of records (Upward et al., 2013), leads to diminished utility of recordkeeping and the disenfranchisement of stakeholders in records at a community, organisational, and individual level.

Infrastructure is the embodiment of standards (Hanseth, Monteiro, & Hatling, 1996; S. L. Star, 1999) that attempt to establish uniformities that persist across space and through time (Timmermans & Epstein, 2010). Standards may be classified as either *Reference* standards, *Quality* standards, or *Interface* standards (David, 1987). Recordkeeping and archival standards such as AS/ISO 15489 (International Organization for Standardization, 2001) or AS/ISO 23081 (Standards Association of Australia, 2006) have thus far been conceptualised as Reference standards, largely concerned with the classification of records, and striving for internal consistency within collections. Little consideration has been given to interoperability in the form of Interface standards. Existing standards serve to perpetuate recordkeeping systems that privilege the concerns of record-holders over stakeholder access. A suitable recordkeeping infrastructure, however, requires both Reference and Interface standards. The guidelines identified in the consultation paper could also be embodied as Quality standards for recordkeeping systems.

1.3 Participatory Recordkeeping

An infrastructural approach will open up possibilities for *participatory recordkeeping* that embraces multiple participants, a diversity of perspectives, and an inclusiveness of engagement (Huvila, 2015). A participatory approach to recordkeeping could begin to address the disenfranchisement of stakeholders and their perspectives in records. From a records continuum perspective, the assumption that an intra-organisational approach will suffice for all participatory needs of record participants is misplaced (O'Neill, Selakovic, & Tropea, 2012; Rolan, 2016). A networked approach together with network-wide oversight — particularly in the case of vulnerable participants such as children — is actually necessary to deliver the sorts of outcomes that the Commission has identified. Participatory engagement with records is only workable in terms of a networked and interoperable recordkeeping infrastructure described above.

Communities, families, or other participant groups are not homogeneous (Huvila, 2008). This, together with the contested nature of records, means that seemingly competing access rights may need to be *negotiated* between multiple participants (Department of Social Services, Commonwealth of Australia, 2015; Gilliland, 2013; Iacovino, 2015; Ross, McKemmish, & Faulkhead, 2006). Systems need to provide space for such negotiations (which themselves must be subject to ongoing recordkeeping).

These rights extend beyond access. The agency of participants in recordkeeping should include input into which records should be created, preserved for their enduring value and, possibly, destroyed when they no longer have value (Caswell, 2014). It should also involve contributing to the documentation of records; and controlling access to records in which they are referenced (Department of Social Services, Commonwealth of Australia, 2015). The fact that an individual's or

family's records may be dispersed amongst disparate organisations, means that systemic interoperability of recordkeeping systems as described above is needed to facilitate such participation. While the need for access to material is dependent on the contexts of creation (Bingo, 2011), it should be recognised that individual rights are not absolute and need to be tempered by the need for accountability for past actions (Iacovino, 2015).

Some victims or survivors seek to prevent the destruction of their records by those avoiding accountability (Find and Connect Web Resource Project, 2013) or due to administrative policy (Australian Human Rights, 2014). Others would prefer to destroy records that may have no residual administrative value, but continue to perpetuate ongoing trauma (O'Neill et al., 2012; Russell, 2005). Similarly, many participants express the need to be able to control access to their records by, say, researchers, questioning the need for any third-party access. If subjects of these records cannot achieve this essential agency, their records remain "weapons of affect", retaining their potency long after the subject has left Care, perpetuating dislocation and trauma (Wilson & Golding, 2015, p. 11).

There is obviously a tension between those who would see their records destroyed, those who would prefer them kept as evidence, social or historical researchers, and record-holders that treat the records as simply objects subject to disposal schedules. It is apparent that, in these situations, destruction or retention of records should be treated on a case-by-case basis, weighing their impact on those affected against societal, evidential, and historical needs.

2   Question 28

An infrastructural approach necessarily requires all potential recordkeepers to be able to participate. To this end, the sixth principle, directed at enforcing the initial five principles, is essential. Suitable infrastructural recordkeeping systems can be designed that do not present an insurmountable impost on smaller organisations.

3   Questions 30, 31, & 32

For many reasons described above, oversight for recordkeeping is required, however this needs to be across jurisdictions or individual sectors. Beyond advocacy, this function needs to also include monitoring, evaluating, and reporting on recordkeeping practices. There are a number of models by which this could be done, for example: via a Child Commissioner role; an audit function; as part of the role of a national archival authority; or via some sort of institutional shared responsibility rather than yet another agency silo.

4   Additional Recommendations

The Commission should declare another principle: that recordkeeping frameworks be designed to be interoperable in order to facilitate participatory disclosure, discovery, and access of personal records across their various locations and contexts.

To this end, the Commission needs to recommend a review of standards to ensure that they promote the design of an interoperable socio-technical network of records and recordkeeping. The role of a recordkeeping organisation from this perspective is to facilitate the stewardship of part of this network (Caswell, 2014), while interoperating with others to provide consistent, controlled, and accountable access to records.

We would welcome any opportunity to discuss this response or any of these points in more detail with the Commission.

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