

Submitted electronically  
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**Royal Commission into Institutional Responses to Child Sexual Abuse  
Submission to consultation paper on Records and Record Keeping**

Thank you for providing Northcott with the opportunity to provide a submission to the current consultation on the issues of Records and Record Keeping.

**About Northcott**

Northcott was established as The NSW Society for Crippled Children in 1929 by the Rotary Club of Sydney. Northcott's purpose is to build an inclusive society where people can live the life they choose. This is achieved by assisting people with disability to develop their skills and achieve their goals - including their potential for independence and ability to participate in their community. Northcott supports over 13,000 people with disability and their families across NSW and the ACT. Northcott employs over 700 staff, providing more than 100 services from 34 sites and offices across NSW and the ACT. Northcott provides services to people with a broad range of disabilities including physical, intellectual, sensory, acquired and degenerative disabilities.

Northcott has been providing support to people with a disability for over 85 years. Today, our services broadly fit into six streams: Accommodation; Individual and family support; Employment and life skills; Recreation and respite; Therapy; Equipment and technology. Historically, we have also run hospital schools and holiday homes for children with polio, social clubs for adolescents with physical disabilities, home-based schooling, special schools, public orthopaedic hospitals, long-term residential care for young people, 'sheltered workshops' for young people, a pre-school kindergarten, and a hostel for children. Northcott moved to its model of community-based services which support people to access mainstream education, healthcare, employment and community life during the 1980s.

**About this submission**

This submission makes some general comments and responds to a number of the questions contained within the issues paper.

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## **Questions for submission:**

### **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.**

- Ensure comprehensive recordkeeping, child protection and incident reporting policies and procedures and consult stakeholders in their development and review.
- Conducting regular customer file audits
- Provide staff with guidelines/procedures related to good recordkeeping practices
- Emphasise the importance of good record keeping practices by promoting the reasons good recordkeeping practices are beneficial to the organisation and to the people who access services.

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

- Awareness of legislation, organisations policies and procedures and examples of best practice.
- It would be helpful for online mandatory training modules to be created that emphasise staff requirements and the significance of good records and record keeping practices

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

- Development of Best Practice Guidelines and free training.
- If mandatory extended retention periods are enforced, allow storage of institutional records with NSW Government State Records. Previously institutional organisations were allowed certain services with the government e.g. using secure destruction bins via government.

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

- Consult children, parents and others in the development and review of relevant policies, procedures and safeguarding practices.
- Involvement of children, parents and others on relevant committees.
- Invitations to view records relevant to them

### **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.**

- Should record the words used by the child or other person making an allegation (exact quote if possible). Without probing for details, record accurately any information given about who was alleged to have been involved (alleged abuser and anyone else present), what was alleged to have taken place, where it happened and when
- Records should involve notes from interviews with other people involved, including the potential perpetrator and witnesses.

- Detailed records of any investigations that took place relating to incidents of child sexual abuse.
- Any other documents/records that victims/survivors may request be kept within their file at the time of the incident or thereafter.

**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.**

- Clear policies and procedures and best practice guidelines for staff to reference.
- Free training that is easily accessible (perhaps online training) to highlight significance of good records and record keeping practices as well as techniques on creating/maintaining accurate records.

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

- Involve children in service planning and the development and review of their goals.
- When the record is created, consult with children and seek their input on the design /format of records where appropriate e.g. including personal stories, friendships, experiences, personal development

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

- Regular, in depth customer file audits by the organisation or an external auditor

**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)**

- Maintaining privacy and confidentiality of the incident within the organisation i.e. how many people have access to the file within the organisation?
- How much detail should be recorded versus how much detail does the victim/survivor want documented?
- Will some organisations find it too difficult and too expensive to offer services for children at risk? Will they just cease to do it?
- How costly will this be? Will there be further pressure on administrative and overhead costs, especially in regards to costs being imposed by NDIS pricing and government outsourcing.

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

No comment

**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)**

No comment

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

- Records relevant to child sexual abuse should be flagged to allow them to be easily located, retrieved and associated. For example, at Northcott within our Client Management System there is the function where a record can be flagged if a critical incident occurred. When Northcott used paper file systems, a red dot sticker was placed on the file to note that a critical incident had occurred. According to Northcott procedure these files were kept “indefinitely”

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

- A government organisation should accept the handover of records in these circumstances. Given the “new world” of the NDIS, there is an expected churn of non-government organisations over the next few years. It would make the most sense for the records of organisations that no longer exist to be kept by government.

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

- Seek approval (from individuals discussed within records) for records reaching the end of their retention period to be disposed.
- Create an “Authority to dispose of records form” to be signed by relevant stakeholders.
- If individuals discussed within the records cannot be contacted, the period of retention of the records should be extended.
- A register of which records were disposed of due to victim/survivor consent should be kept and maintained.

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

- Ideally, these files would be kept indefinitely. However, ultimately there would be costs imposed on organisations regarding storage issues.
- It would be beneficial for the Royal Commission to recommend and enforce a retention period for such files to ensure consistency across organisations for survivors and victims of sexual assault.

- It may be of value to seek feedback of those involved and seek their approval to destroy or retain records for an extended period. All victims and survivors of child sexual abuse would not want the same outcomes regarding their records. It may work for some organisations to destroy files related to child sexual abuse on a case by case basis dependant on the wishes of the victim/survivor.

**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 would require organisations to keep records for many more years. This could bring about storage issues for both hard copies and data.

**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**

- Mandatory retention periods would be helpful in ensuring consistency in practice across organisations.
- Criteria should be set outlining which records would be mandatory to retain.
- The practice could be costly to organisations and place pressure on administrative and overhead costs.

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

- It is currently Northcott's practice to keep a register of the records that have been destroyed. Records that have been flagged as containing a "critical incident" are not destroyed and are kept indefinitely.
- The entry of the date for Paper File destruction date in Northcott's Client Management system assumes that the procedure has been followed. There is no authority noted.
- Keeping this register helps maintain accountability for the disposal of records and should be a common practice for organisations.

**19. How the Access Principles for Records Holders and Best Practice Guidelines in providing access to records have been applied in practice**

No comment

**20. Whether they have resulted in simplified and more open access processes**

No comment

**21. Whether and how they might be adapted to apply to access to the records of all the institutions within our Terms of Reference**

No comment

**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**

- Yes – the option to 'opt-in' should be removed and principles should be applied to all private institutions

**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**

- It should be considered that charges be paid by Government in line with the fees paid to organisations to provide copies as requested by subpoenas

**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**

- This reinforces the benefits of establishing a records advocacy service as some organisations do not have the resources to provide the appropriate support to victims and survivors of sexual assault when reading and interpreting records with potentially distressing content.
- It is also worth noting that it would not be appropriate for some staff to provide such support as they have not been trained in this area and may experience vicarious trauma as a result.

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

- Nationally consistent standards would be beneficial and ensure consistency and greater accountability.

**26. In relation to refusal of access and amendment, whether existing exceptions are appropriate in the context of records relevant to child sexual abuse**

- Some exceptions are open to interpretation and can be used as an excuse for an exemption in some cases i.e. the request is frivolous or vexatious, giving access will have an 'unreasonable impact' on the privacy of other individuals.

**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.**

No comment

**28. Whether a sixth principle directed at enforcing the initial five principles is required**

- A sixth principle would offer institutions a starting point to determine their own practices.
- In the absence of any legal enforcement, how will any record keeping such as that suggested be ensured.
- unless there is a legal requirement to keep records, some organisations won't; there would need to be absolute clarity around what ought to be kept; the privacy of those records; linking employee/customer/organisation records without being overly burdensome from a cost and administrative perspective.

**29. Whether it would be necessary or appropriate to adopt a two-tiered approach to the enforcement of recordkeeping 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 onus on some organisations would be likely to inhibit available services/events so a two-tiered approach is worthy of consideration
- There should be basic quality record keeping standards for all services which are consistent, however additional standards for OOHC and schools etc. may be beneficial due to the focus of their work with children.

**30. Whether a records advocacy service would be useful for victims and survivors of child sexual abuse in institutional contexts**

- A records advocacy service which is independent would be useful to support victims through providing support and advocacy around accessing and processing required information from other organisations.
- Providing a central place to address initial concerns would be valid
- Support customers through obstacles and barriers they are currently facing when accessing records
- Would need to be a free resource
- The service would need to have disability awareness and accessibility e.g. support for non-verbal victims/survivors of child sexual abuse.

**31. What powers, functions and responsibilities a records advocacy service should have.**

- The agency should focus its efforts on being a supportive advocate for the victim, accessing information alongside them in line with any other advocacy service.

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

- NSW Ombudsman/Children's Guardian

Should you require further information please contact Billie Preston, Manager – Prevention and Response of Abuse and Neglect [billie.preston@northcott.com.au](mailto:billie.preston@northcott.com.au) or (02) 9890 0119