

Response To: Consultation Paper – *Records and Recordkeeping Practices*, Royal Commission into Institutional Responses to Child Sexual Abuse (September 2016)

SCOPE and Introduction

This submission provides the Northern Territory's preliminary response to the Consultation Paper on Records and Recordkeeping Practices released by the Royal Commission into Institutional Responses to Child Sexual Abuse ("Royal Commission") on 2 September 2016.

The Northern Territory is committed to cooperating and supporting the work of the Royal Commission. This includes the creation of accurate records and the exercise of good recordkeeping practices by institutions that care for or provide services to child.

Following (in bold) is a list of questions the Commissioners have requested be addressed in their report and suggested responses follow. Responses are of a general nature and are based on basic records management principles. Some questions, where a specialised knowledge or experience is required to address the question, a response of "No comment" has been noted.

Good records management practices, as recommended in standards such as the NTG Records Management Standards and similar standards in other jurisdictions, when diligently applied, will address many of the issues raised by the Commissioners.

There are many specialised requirements which relate specifically to the management of information dealing with children in institutional care. From a records management view, it is not uncommon for special handling requirements needed for the management of information and records in particular disciplines, to be integrated into work procedures and systems. Many of the responses below recommend this approach, which needs to be backed-up with adequate induction and training.

Recordkeeping practices appropriate to the documentation and handling of child sexual abuse, in short, need to be embedded into normal business practices and not be regarded as a separate duty.

Wherever possible, the new dataset will be designed around specific metadata collection, mandated data fields and automatic workflows to expedite records collection, business processing and corporate reporting/alerts.

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

A value of recordkeeping and a culture of transparency and accountability should be supported from the all levels of the organisation. Responsibilities for the creation, management and disposal of records must be clearly defined, approved and supported from the highest levels of the organisation. Providing a governance framework that supports the creation and maintenance of full and accurate records will ensure that care leavers and other stakeholders can access the information they need now and into the future.

Chief Executive Officers of the NT public sector organisations have a duty to ensure that their organisations comply with the records and archives management responsibilities under the *Information Act (NT)*. Public sector organisations must “implement practices and procedures to safeguard the custody and ensure proper preservation of its records” (s.133 (1)(a)).

The adoption of Principle 1 will directly influence a culture of best practice, child centred record keeping and records management practices in institutions. The principle would need to underpin complementary policies, procedures, workforce training, practice standards, service standards, tools and templates to ensure the principle is applied in practice.

In consultation with key stakeholders (frontline service providers and those responsible for the long term preservation of records) consideration should be given to adopting a national guideline for the management of records concerning institutional contact with children.

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

Training in record keeping responsibilities and practices should be provided to all staff and integrated into ongoing training programs. Supervisors should undertake more formalised training to ensure they have the competencies to mentor good records and record keeping practices with their staff and the skills to monitor and measure quality good record keeping practices.

Under the *Information Act (NT)*, a public sector organisation must keep full and accurate records of its activities and operations. Training could include case studies and examples relevant to the institution to better understand the importance, significance and impact of good record keeping practices. Staff also need to be trained in order to understand the rights of access that may apply to records and how the tone and language used in records may become publicly available (for example under Freedom of Information applications).

While a centralised service may provide more general training in records management and systems training, it would be beneficial if a specialised training and governance service was established to improve and monitor record keeping where there is disclosure of abuse. The impact of poor record keeping on victims and survivors of any kind of abuse in the Child Protection system cannot be understated (where there are inadequate, lost, destroyed, inaccurate, insensitive or non-existent records).

3. What role governments may play in promoting good institutional records and record keeping

The promotion of the International Standard for Records Management and the records management and archives management standards, advices and procedures in the relevant jurisdictions, as well as the provision of training and advice will assist in promoting good record keeping. Governments should endorse and support the appointment of qualified and experienced records managers to manage records and information in these institutions.

Government may provide advice and assistance to non-government organisations in the development of policies and procedures. This could be through the use of tools available online to outline the minimum requirements for best practice recordkeeping and the publication of records disposal schedules that could be adapted for use by these institutions to suit their specific circumstances.

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

Stakeholder consultation is important in the development of policy frameworks and procedures, with many models available with varying levels of involvement. Advisory committees can provide an avenue for stakeholders (such as representatives for care leavers and parents) to assist in the development and monitoring of recordkeeping practices.

Consultation would be beneficial to determine what the expectations of the child, care leaver or parent might be with regards to the information created and maintained by institutions. Consultation would also provide for a greater level of transparency between all parties.

As stakeholders in the records being created, these people or their advocates could form a reference group that informs recordkeeping practices and policy direction. It would also provide a forum for stakeholders to understand that the importance of 'their record' often extends beyond them as individuals, to include the accountability of the institution and its employees. A group such as this could help in broader education in relation to both the *Privacy Act (NT)* and *Information Act (NT)* so that stakeholders understand the parameters of legislation and its impact on children, parents and others.

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 have a responsibility to keep full and accurate records of their activities. The international standard on Records Management, ISO 154895, defines the four characteristics of authoritative records as authenticity, reliability, integrity and usability. Records relating to child sexual abuse could include the records of the institution that might be used as evidence of the incident, such as staffing and child attendance records.

The records created relating to reporting of child sexual abuse would need to meet specialized protocols as required by any relevant legislation. The language used should be clear, precise, accurate and without

judgment or emotion. Procedures should be developed to provide details of the documentation required for reporting child sexual abuse, the language and manner used in preparing reports, and may include templates and a glossary of appropriate language. Incident and investigation records will contain highly sensitive and personal information and institutions will need to adopt appropriate security and access procedures for these records.

Specific records relating to child sexual abuse should be created separate from the individual's case file (though be cross referenced to it). Special handling and security measures should also be put in place whenever a specific record of this type is created, linking the creation of the record with work procedures and other reporting or treatment protocols related to child sexual abuse.

The language and detail required to document these types of records should be explained in work procedures, which may include a glossary of terms. Particular elements or components which should be included to adequately capture a record of an incident need to be detailed in procedures and be made known in training.

Depending on the level of reporting and detail contained within an incident or investigation file consideration will also need to be given to the sharing of that information and how that sharing of information will occur so as not to potentially breach the *Criminal Code Act (NT)* (reproduction of child abuse material).

Documentation should capture observations of a child over time in recognition that the indicators of child sexual abuse may be subtle at first.

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

The development and implementation of records management procedures and training for staff and volunteers will support the creation and management of full and accurate records of the activities of the institution. This will ensure that records which may be relevant as evidence for an investigation have been created. Only trained individuals and professionals should be involved in the creation and management of records concerning child sexual abuse.

The creation of records relevant to adequately documenting incidents must be seen as essential and central to the duties associated with a position. Keeping accurate and complete records needs to be integrated into standard work processes and systems and not be considered as a duty which is "in addition" to the work or care being provided to the child.

Training can be utilised and shared across government, the community and not-for-profit sectors for improved records management across all industries. Staff training should specifically upskill staff in the signs of child sexual abuse so they are well placed to document any observations or indicators of child sexual abuse on their records. Training on how to write clear, concise, objective file records is also essential.

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

Many types of media are available including images, sound, and video, allowing a child's views or experiences to be reflected in a record about them. Recordkeeping systems allow many different media formats to be attached or linked to the record, capturing multiple facets of a record in one system.

Children's views and experiences can be accurately reflected in their records by improved use of child friendly tools and resources to seek the views of children e.g. the use of tools with clear, non-complicated language, illustrations or visual cues; ability to provide on line feedback. Giving children an active voice in decision making and ensuring there are opportunities for them to participate and offer feedback is another way the child's experiences can be accurately reflected.

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

Quality checking of records can be undertaken as part of compliance monitoring or audit of recordkeeping of an institution. Establishing standards and procedures, and training to meet these standards is vital to ensuring accurate records are created and maintained. With respect to case files, periodic reviews of case files by supervisors or specific work groups assigned to review classes of records, may be appropriate provided adequate security and privacy protocols are in place.

The focus should be on ensuring adequate capture in the first instance, as monitoring which uncovers inadequate recordkeeping may not result in the correction or updating of a record where circumstances do not allow for the reconstruction of the record. In addition, Information/Privacy Commissioners, Auditors-General or Children's Commissioners may have a role in assisting to reinforce the importance of compliance with best practice recordkeeping and exposure of poor practice.

Electronic records should be maintained in a recordkeeping system that captures detailed metadata that creates a history of changes to the record over time. Electronic records should be secured against further update; this feature is available in recordkeeping systems. Paper records should adhere to practices that ensure the completeness of the record such as folioing, certification of copies, notes where papers have been removed from file and transferred to another record. Sensitive paper documents can be maintained in sealed envelopes where seals will be broken if tampered with. Paper records should also be stored securely to ensure limited access to the records when not in use.

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).

Creating full and accurate records of the activities of a public sector institution is a requirement under legislation. Security and privacy controls relevant to the nature of the record and its contents are critical to

protect access to personal and sensitive information. Good recordkeeping practice ensures that records should be discoverable when required or authorised for legal proceedings.

When potentially distressing information could be disclosed, appropriate support and counselling should be made available to affected individuals. The protection of Third Parties and their information is a complex and vexed area that has been well documented and discussed in the publication *Access to records by Forgotten Australians and Former Child Migrants: Access Principles for Records Holders and Best Practice Guidelines in providing access to Records* (Principles and Guidelines).

Particular consideration should be given to the victims of sexual assault who may not elect to disclose a history of child sexual abuse to family or loved ones, and the impact upon those parties where information has been sourced by other parties. Special consideration should also be given to those victims of child sexual assault who have fallen pregnant and relinquished a child for adoption in recognition that there are increased sensitivities associated with adoption records.

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

The resourcing implications for institutions to index large volumes of unindexed historical records would be significant. It is important that professional archivists manage this work to ensure that most effective and efficient methods for ensuring accessibility are employed.

The information captured must be relevant, accurate, accessible and complete. The implications will also depend on the expectations of the project, for example, to either:

- describe the records at the file level, or
- describe and index the records, or
- describe, index and digitize the record.

Where records are able to be digitised and subjected to optical character recognition (OCR) technologies, the possibility of automating the creation of indexes and accessing records is available. However the costs can be substantial and are related directly to the volume of records to be processed. Checking and other verification process necessary for quality assurance are in addition to raw conversion costs.

Where handwritten and bound volumes require indexing, the costs are a function of the time required for human cataloguers and indexers to analyse the records and manually create the indexes - a meticulous and painstaking job. The amount of detail captured in the index will also affect the scale and duration of a project due to its complexity.

Once placed with National Archives, that agency should become responsible to adjust any format requirements (e.g. upgrade from .MSG (office 2003) to 2020 standard, or for maintaining a system which is backwards compatible).

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)

Identifying the storage location of all relevant records is essential to improving access. Records may be held in a variety of locations onsite, and offsite (including secondary storage and archives), in a variety of formats, hardcopy and electronic. Understanding the type of record and the information contained within the records is crucial to determining the relevance of particular records. All records should be documented to ensure that knowledge of all relevant records is obtained in the first instance. Records management and archives management professionals can advise organisations regarding the appropriate procedures for managing these projects.

Prioritizing the indexing of historical records is the most appropriate approach to the use of resources. Consultation with stakeholder groups would assist in identifying issues relevant to these projects. The prioritization of indexing projects should take into account a range of factors such as:

- current use of the records
- current accessibility to the records
- anticipated use and assessment of the relevance of the information in the records

Many other factors will also influence the priority of indexing project. The age of the records can affect the priority in numerous ways. Improved access to records relating to elderly care leavers may also assist in identifying people who may be vulnerable and require additional levels of care in supported care facilities.

Records over 100 years of age are likely to be less accessible (e.g. due to the standard of file titling at the time) and are likely to be very fragile. Indexing these records would have a significant benefit in locating information that may not have previously been identified and would avoid unnecessary handling and damage to the records. The records may also contain medical or family history information that is important for reconnection of families.

Records of defunct or closed institutions may also be a priority as they may fill a void of information not available through other sources.

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

Indexing is a very valuable tool to improving access and discoverability of information relevant to research. Indexing projects should be planned in consultation with the relevant stakeholders including a records manager or archivist. Undertaking a pilot sample index is an important stage of the process as the method, level and type of indexing (including the fields captured) are dependent on the type of record, and the information contained in the record.

A controlled language needs to be established for consistency of indexing and for ease of searching. Indexing complements archival description of records by adding additional levels of access. Use and

accessibility of the index must also be considered, particularly in relation to the privacy of information indexed and the access provisions of the records.

The types of information determined to be relevant for indexing retrospective or historical records should also inform the current recordkeeping practices of the organisation to ensure that relevant information is captured at the time new records are created. This will avoid the necessity for future indexing projects and will improve access to all records. This knowledge can also assist in the design of new business systems and workflows.

The basic principle is to apply some measure of control (through indexing) at the highest level so that the location of collections or series of records can be identified. This will result in the creation of control records that are used to manage the records over time. Records may need to be sorted to separate records with different functional purposes. For example records that contain information about children should be separated from administrative records.

When all records are arranged into series of similar types of records they should be indexed based on the box or shelf location at this level so that the entire collection of records is known and searches for documents can be directed to particular containers (boxes or shelf locations) for specific records that fall within the high level descriptors of the containers. The detail at this level should simply describe the overall type of record and the date range.

Additional descriptors such as record number range (e.g.1-1000, 1001-2000) or alphabetic descriptors (e.g. A-D, E-G or Adams – Davis, Edwards- George) could be added to assist searching at the box level. The condition of the records should be assessed at this stage so that records at risk of further deterioration are identified. Once indexing is complete at this high level the overall collection should be known and it will be easier to prioritise the individual indexing of records based on the type of records and its risk of loss through deterioration.

Individual records will require minimum metadata to ensure that each is unique. Record numbers should be assigned where none exist and titles must be recorded. The index for the records should contain enough information to be able to identify the correct child – full name, other names, date of birth, and perhaps birth parents if known.

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

The *Information Act* (NT) requires government records to be transferred to the organisation that inherits the function of the records. In the case of a government institution that closes, the records would be inherited by its parent agency. The inheriting agency would be responsible for the management of the records until the end of the retention period, or the transfer to the archives service for permanent records. The NT Archives Services (NTAS) within the Department of Tourism and Culture also manages the archives of community organisations which have been donated to the archives. Prior to closure of a non-

government institution, the institution may negotiate for its permanent records to be donated to the NTAS, with access determined by agreement.

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

Records disposal schedules for Northern Territory government records, are approved jointly by NTAS, the NT Records Service (Department of Corporate and Information Services), and the chief executive of the agency responsible for the function of the records.

The process for developing a records disposal schedule within an agency involves stakeholder consultation relevant to the function of the records. Understanding the views of stakeholders is important when making decisions about the creation, retention and disposal of records.

Where the records are considered personal within the meaning of privacy legislation, options to transfer or return to the individual or a family should be made available. To canvas and represent at the individual level would be difficult to achieve particularly in the Northern Territory due to transient nature of the population. Considerable resourcing would be required to identify and locate persons concerned.

A national recommended retention period based on significant consultation with key stakeholders (child, care leaver, parent, RM SME and Institution) is preferable. The Council of Australian Governments (COAG) has previously endorsed the retention of all records relating to sexual offences or crimes against children to be held for a minimum of 35 years. A recommended minimal national standard by which institutions can be guided by would be preferable to ensure accessibility.

A reference group could be established to enable the individuals or their representatives to discuss retention and disposal (and other) issues concerning records about them. It would also enable the institutions to provide advice concerning the use of, and access to, records.

It is important to note that while a record is about an individual, it is not solely about an individual. It also details the actions taken by the institution and its staff. The record serves to ensure accountability for the institution and its staff. The institutions must foster the understanding that records about these sensitive matters have a purpose beyond just what the subjects of the record may perceive. It will be important to demonstrate that the records are secure and subject to strict access controls.

Consideration should be given to victims and survivors or child sexual abuse recording their wishes about their client record on their file in recognition that some victims may not want their files open to be viewed by their children, grandchildren. The decision would be subject to review. A statement about their wishes regarding access to their file could be released if there were queries about their file from third parties in the future.

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

The types of records which may be relevant to child sexual abuse may include the records that provide evidence of the whereabouts of the person and their activities such as staff time sheets, child attendance records as well as the records of incident reporting, medical treatment and prosecution. It may not be possible to determine a single retention period for all records.

The current NT *Records Disposal Schedule for Policing and Crime Detection (Disposal Authority No. 2011/1)* requires the retention of records relating to sexual assault offences involving a child under the age of 18 years to be retained for 75 years from the date the action was completed on the record. Retention periods for temporary value records is a minimum period only, meaning that records cannot be destroyed earlier but may be retained for longer by the agency if required. Sentencing of records by the relevant agency will take into account current business requirements, legal action or disposal freezes. The agency may retain the records for as long as they consider necessary. The review of records disposal schedules is recommended every 5 years. The COAG endorsed the retention of all records relating to sexual offences or crimes against children be held for a minimum of 35 years – to be initiated across all jurisdictions.

The standardization of retention periods for records relevant to child sexual assault may be able to be achieved through the development of sector-wide policies defining the type of record and retention period, and could be based on existing disposal schedules. Records that actually identify child sexual abuse, for instance school records, should also be retained for significant periods of time to enable the victims to come forward in adulthood to make a claim or disclosure. Records should be disposed in accordance with authorized records retention and disposal schedules. Authorised Records Disposal Schedules of the NTG are required to be reviewed on a regular basis. The current records disposal schedules of the NT Police Fire and Emergency Services require review.

It is impractical to retain permanently every record that concerns a child e.g. school records. The sheer volume of the records created would overwhelm storage facilities. It may be possible to flag these records if the creating institution is advised of an incident to ensure the record is retained longer. This may require reporting protocols between institutions. The practical solution is for each institution to create a particular class of record that is easily identified as a case file pertaining to the child and use this to capture all relevant information. This will allow for the records to be easily identified for long term retention.

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

The appraisal of records and determination of retention periods takes into account a range of factors including the historical, and evidential value of the records, and the legal and business requirements of the organisation. For records appraised as having permanent value, the change to statutory limitations periods will not have any impact. The retention period for temporary records may be impacted, potentially extending the retention period of short term records. The retention of temporary records for longer periods has a financial impact on the organisation to meet the cost of storage. Accessibility of individual

records from a larger volume of stored records can also be affected in terms of timeliness and increased errors.

In recognition that there is increasing growth of out of home care service provision in the non-government sector, Government agencies like Territory Families will be required to ensure standards and practices for record keeping in funded agencies reflect contemporary record keeping practices and disposal schedules to ensure that the rights of victims and survivors of child sexual abuse are protected.

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 introduction of mandatory retention periods for records of institutions that care for or provide services to children would provide consistency throughout the sector. For NT government records, this would be addressed through an approved records disposal authority. A disposal authority will identify records which are of permanent value, and records of temporary value and their retention periods. The impact of mandatory retention period while improving the accessibility to records, will also have a financial cost for the storage and retrieval of records which may be required to be retained for longer periods than is current practice in some institutions. These costs can relate to physical storage and access, as well as the maintenance, support and migration of digital records over time.

Costs can be mitigated by identifying classes of records which should be kept long term, and which classes of records can be held for shorter retention periods (and destroyed), to minimise the volume of records held over the longer term. The improved use of electronic records management could reduce the cost of storing hard copy records and improve the transfer of information to a secure archive repository.

Not all institutions in all sectors would be resourced to maintain records over long retention periods, and additional resources would be required to develop and maintain policies, procedures, guidelines and deliver staff training in best recordkeeping practice.

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

It is considered best practice to keep evidence of records that have been destroyed and the authority for the destruction. This would include the relevant approved disposal schedule, and record of the method and date of destruction. The international standard for records management¹⁰ states that destruction of records should be documented.

Records management control records the disposition of records over time, including the notifications of records destroyed. Destruction certificates are required to be maintained as permanent records in NT government agencies according to the Records Disposal Schedule for Administrative Functions of the Northern Territory Government (Schedule No. 2013/5).

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

The *Information Act (NT)*, deals with Access to Information (or Freedom of Information), Privacy and Records and Archives Management. Access to records in the custody of the NTAS is negotiated between the transferring agency and the NT Archives Service. Under the Information Act (NT), the open access period to records transferred to the NT Archives Service begins 30 years after the record was created, or if it is in the public interest, up to 100 years. The NT Archives Service has issued Archives Management Standards to support the requirements of the Information Act (NT), and includes the standards on public access to archives, and advice on procedures for obtaining access to records.

Recommended restricted access periods have been outlined in Archives Advice No. 3, which recommends restricting records with detailed personal or highly sensitive records for 75 or 100 years.

Records which are open to the public may be viewed at the NTAS. Requests for records which are not yet open to the public are referred to the agency responsible for the records. Under the *Freedom of Information* provisions of the Information Act (NT), a person can apply to access their own personal information whenever it was created. Access requests for government information can only be applied for records created after 1 July 1993 and is otherwise at the discretion of the agency.

The *Access Principles for Records and Best Practice Guidelines in Providing Access to Records (June 2015)* assist in better understanding access to records by Forgotten Australians. The principles are aspirational and will assist the NTAS in the review of standards, policies and procedures on the access to records in the custody of the NT Archives Service.

While those responsible for release of information are generally compassionate and pro-release, the Principles and Guidelines do not override legislative provisions that protect third parties and the identities of children who are or have been in care, so some of the difficulties identified in the report remain.

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

In the Northern Territory the processes for access provision have not changed, but the decision-making takes into account the Principles and Guidelines.

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 access principles could be adapted to a range of institutions, but in most cases access is legislated through FOI, Privacy or Archives legislation. In the Northern Territory's case, the *Information Act (NT)*, which combines the three legislative aspects of access to records, may require review to implement the principles. Standard procedures should be developed based on the principles and guidelines, which are agreed on and endorsed by government and non-government agencies likely to hold relevant records.

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

Ideally the same Privacy Principles should apply across all jurisdictions and across all private organisations, irrespective of their size. Privacy Principles do not generally discriminate regarding children or adults, with the same principles applying to everyone. Privacy and Information Commissioners should be encouraged by the Royal Commission to work together towards universal principles.

It has been suggested by some Northern Territory government departments that the Federal *Privacy Act 1988* could be amended to remove the exemption for organisations and businesses with a turnover of \$3 million or more, so that all private institutions, not only those that provide services to children, must comply with the Australian Privacy Principles.

It should be recognised that smaller institutions may not have sufficient resources to provide access to records or the resources to maintain records for the long term. Any change to the legislation will need to recognise that smaller institutions may require government support for storage of records for the long term and would need to negotiate agreements for access to their records. Such initiatives may encourage 'opt-in'.

There are significant inconsistencies between definitions and processes in the Guidelines and the *Information Act (NT)*. The guidelines at paragraph 2.2 define personal information, sensitive information and third party interest differently to the *Information Act (NT)* definitions. Further the guidelines recommend that the first names of the children (apart from family members) and full names of staff and carers be provided without third party consultation but that contact addresses will be withheld. Public sector organisations would generally be required to consult with those third parties before a decision was made. Without legislative reform, there will be difficulties in adapting the Guidelines to request to requests by child sex abuse victims to access public sector organisation records governed by the *Information Act (NT) (NT)*.

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

In the Northern Territory, applications to public sector organisations for access to an individual's personal information are already free. It is the Northern Territory government's view that no fees or charges should be levied for care leavers, including their children or grandchildren, to access or obtain copies of records relating to the care leaver (or regarding the operation of the institutions which they had dealings with).

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

Individuals should be adequately briefed ahead of supervised and assisted viewing of records. Criteria need to be developed by the record holders to identify classes of records likely to require supported access.

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

National standards should be established. Those standards should be developed through consultation with the care leavers and the record holders, with the aim being to keep redactions to a minimum by being applied only when required by law.

It is difficult to envisage what nationally consistent standards for redaction should be when the content of records is not consistent, requirements for redaction are not consistent, third parties are not consistent, and the impacts of release or redaction are not consistent. Through consultation with care leavers and record holders, standards may be able to be developed that would minimize redactions and ensure they are only applied as required by law.

The National Archives redaction Toolkit may offer a useful framework for the creation of redaction standards which could include: the naming and storage of a redacted record; ensuring the original record remains intact; staff who undertake redactions are suitably trained in the relevant legislation; accountability of decision making where information has been redacted; a review of a decision to redact a record; transparency and accountability in redacted record storage and timeframes for releasing information.

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

Refusal of access, to any record which relates to a care leaver, in particular if relevant to child sexual abuse, should only be on the grounds that such access may affect the health and wellbeing of the care leaver. Amendment of original records may not be possible, in particular where they may later be the subject of further investigation or become evidence in a court. Addition of a note or addenda to the record, documenting the care leavers issue or concern regarding the record, must be allowed in all cases.

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.

Clear legal definition of who is a "third party", in particular within the context the normal operations of an institution, will clarify the proper application of third party exceptions. There may also be a need for policies, procedures, guidelines and staff training in best-practice application of any standard definition or proper application of exemptions.

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

Enforcement of records management requirements across jurisdictions, including the private sector is problematic. Compliance within the government sector can be difficult to achieve, and it is uncertain that the capacity of the private sector would support compliance. Best practice models can be promoted through sectors. Resources may be better placed in education and training on the implementation of the Five Principles, rather than on the enforcement of these.

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).

A two tiered (or multi-tiered) approach is effectively in place now. Government and large private institutions are required to, and are expected to, keep records to a higher standard than smaller or not-for-profit organisations.

Minimum standards of recordkeeping should, however, apply to all organisations irrespective of their size with respect to records dealing with children and in particular any sexual abuse of children. The minimum standards should be determined by consensus of relevant stakeholders.

Nonetheless, there is room for improvement in recordkeeping standards and practice of all institutions regardless of their size or status in relation to records dealing with child sexual abuse.

Adopting a national guideline in relation to child care/child sexual abuse records would support a consistent approach to the collection and management.

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

The Northern Territory government supports assistance provided to victims to access and use records. Records advocacy and support services already exist and have been utilised by care leavers and survivors of child sexual abuse. The Find & Connect services and web resource were developed with Australian Government funding to provide assistance to people who experienced institutional care including access to support and counselling, help to obtain personal records, trace personal histories and understand why they were placed into care. Continuation of these or similar services would appear to be useful.

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

The powers, functions and responsibilities of a records advocacy service should be developed through stakeholder consultation and looking at existing models. The service should include the identification of relevant institutions to target for requests to access records, the drafting of the applications to access records, liaising with the institutional record holders to facilitate processing and delivery of decisions in a timely manner, and to initiate and progress any available review or complaint processes.

A records advocacy service would be instrumental in raising the voice of victims and survivors to strive for continuous improvement in record keeping practices. A service would also play a pivotal role in championing for consistency in legislation, policies and practices across agencies, sectors and jurisdictions.

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

The existing services such as Link-Up and Find and Connect provide a vital service in assisting clients to access records but have not taken an active role in influencing the creation and management of records. Suggestions that have been received in internal consultation include the:

- Australian National Archive
- Victims of Crime
- Care Leavers Australia Network (CLAN)
- a child's legal representative.