

# Setting the Record Straight for the Rights of the Child

8-9 May 2017

[rights-record.it.monash.edu](http://rights-record.it.monash.edu) #RightsRecords



*The Setting the Record Straight: For the Rights of the Child Initiative has been established in partnership with Care Leavers Australasia Network (CLAN), the Child Migrants Trust, Connecting Home, CREATE Foundation, Federation University's Collaborative Research Centre in Australian History (CRAH), Monash University's Centre for Organisational and Social Informatics (COSI) and the University of Melbourne's eScholarship Research Centre (ESRC).*

## SUBMISSION TO THE ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

### ABOUT THE SUMMIT

The recordkeeping and archiving needs for childhood out-of-home care are part of one of society's "wicked problems",<sup>1</sup> namely how to ensure that the systems set up to protect children from abuse and neglect do not themselves cause harm and work to promote their best interests and wellbeing.

On 8 and 9 May 2017, approximately 180 participants gathered for the [Setting the Record Straight for the Rights of the Child Summit](#) at the Deakin Edge Federation Square, Melbourne to address this challenge.

Representing different community, organisational, government and professional perspectives we came together with a common concern that recordkeeping and archiving, despite improvements in response to a range of inquiries and apologies over the past two decades, continues to let down children caught up in child welfare and protection systems. With a shared recognition of the systemic nature of the problem, we met to discuss how to transform the way records for childhood out of home care are created, captured, managed, archived and accessed to meet lifelong identity, memory and accountability needs.

On day one we listened to and learned from Stolen Generations, Former Child Migrants, Forgotten Australians, Older and Younger Care Leavers about the impacts failings in recordkeeping and archiving systems have on people's lives. We heard that urgent action was needed now – not only to meet the needs of aging populations, but also to ensure that recordkeeping and archiving for children and young people in statutory care today contribute to enabling them to live up to their potential.

On day two we discussed ideas and actions to improve, ensure and enact rights in records and recordkeeping for people who experience childhood out of home care. This included imagining a future vision of a distributed participatory recordkeeping and archiving regime based on principles, which recognise the

- rights of multiple co-creators of the archive (individuals, families, carers, case workers, service providers, government agencies and regulators etc.) and
- rights of the individual over the management and access to these records for each of the co-creators.

In recognising that this requires a radical redesign of recordkeeping and archiving frameworks, processes, systems and technologies, we also discussed the improvements that could be made under existing discretionary powers.

With the insight, learnings, new connections and strengthened relationships developed over the 2 days, we resolved to develop and advocate for a unified, collaborative and strategic approach in order to address the recordkeeping and archiving challenges.

A key aim of the Summit is the building of a collaborative community, ready and able to proactively respond to the records and recordkeeping recommendations expected in the final report from the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) in December 2017.

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<sup>1</sup> The term "wicked problem" describes pressing social policy challenges, resistant to easy resolution due to complex interdependencies, and requiring new kinds of collaborative and innovative responses that transcend organisational and jurisdictional boundaries. See Australian Public Service Commission. (2007). *Tackling Wicked Problems: A Public Policy Perspective*. Retrieved from [http://www.apsc.gov.au/data/assets/pdf\\_file/0005/6386/wickedproblems.pdf](http://www.apsc.gov.au/data/assets/pdf_file/0005/6386/wickedproblems.pdf)

As Justice Coate highlighted in her keynote at the event poor records and recordkeeping put children at risk, contribute to failings in reporting and responding to abuse, and magnify impacts on victim and survivors. Good institutional/organisational recordkeeping practices, systems and cultures are essential to supporting the safety and wellbeing of children. We are therefore mutually concerned with ensuring that we have the infrastructure and attitudes in place to be capable of ‘setting the record straight for the safety and protection of every child’.

## DRAFT STRATEGIC PLAN

The development and implementation of a ten year strategic plan to transform recordkeeping and archiving frameworks, processes and systems in Australia is a further key aim of the Summit. This plan will transcend the boundaries of individual organisations, sectors and jurisdictions, be supported by targeted research, and lead the design and development of critical systems infrastructure

Since the event, the Summit Planning Group has been working on developing a communique and an initial outline of this plan. The aim to make this available by the end of June and then over the following 6 months to work with Summit participants and other interested parties on its further development and refinement. As this is a grassroots initiative, it will be a case of being opportunistic and looking for synergies in existing advocacy, research and development work. Dialogue with the RCIRCSA in this process would also be welcomed.

## GUIDING PRINCIPLES AND ELEMENTS

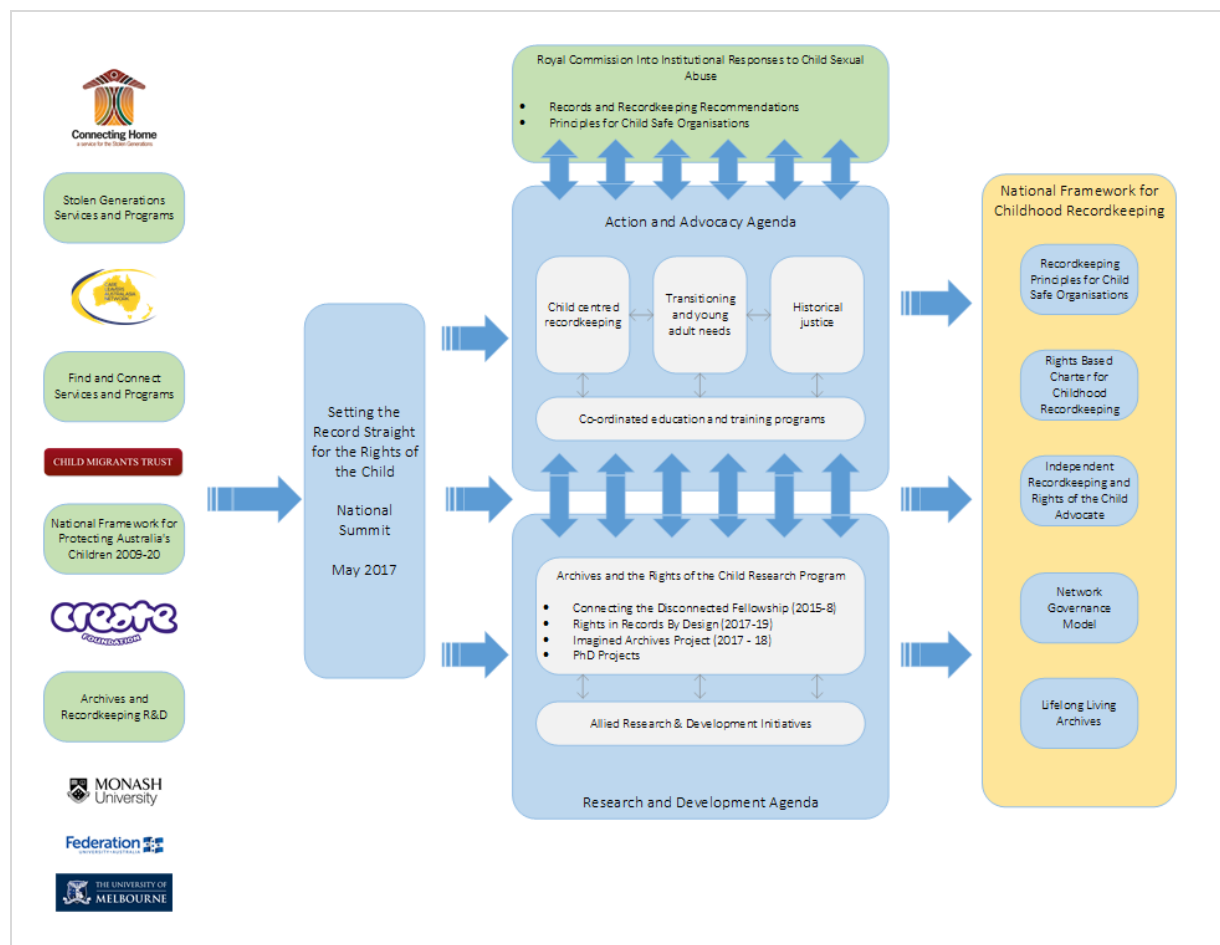


Figure 1: Towards a National Framework for Recordkeeping for Childhood Out of Home Care

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## NATIONAL APPROACH

With the Summit again highlighting the negative impacts that variations across different jurisdictions have on people's lives, progressing a nationally consistent and unifying approach is vital. We propose working towards a **National Framework for Recordkeeping for Childhood Out of Home Care** by 2020.

This National Framework enlarges on the anticipated recordkeeping principles for Child Safe Organisations from the RCIRCSA to meet the full gamut of identity, memory and accountability needs for all those who experience childhood out of home care.

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## RIGHTS BASED

A core element of a national framework is a unifying **Rights Based Charter for Childhood Recordkeeping**. The development of this Charter will be progressed by the partnership working with stakeholder communities and supported by research undertaken in the Rights in Records by Design Australian Research Council (ARC) Discovery Project.

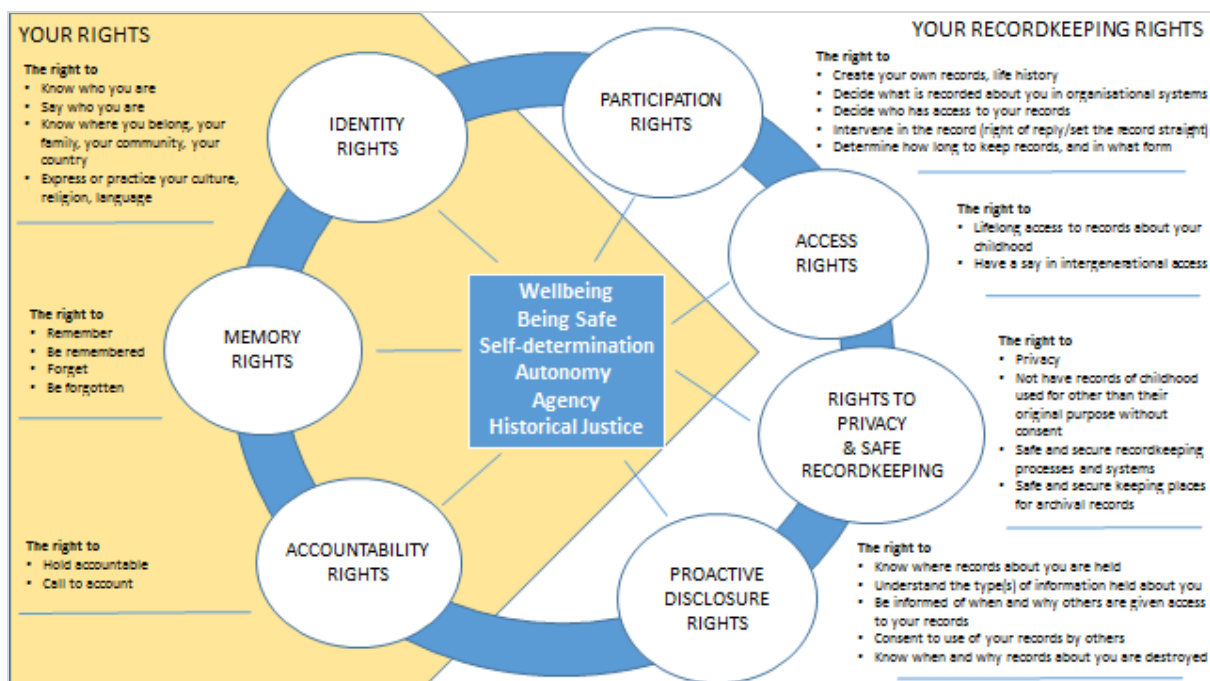


Figure 2: Towards a Rights Based Charter for Childhood Recordkeeping

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## INDEPENDENT ADVOCACY, GOVERNANCE AND OVERSIGHT

The Summit again revealed the structural inequalities in existing frameworks, where those who need to account for decisions, actions and inaction, control records creation, management, access and use. Discussion highlighted the need for an independent archival regime, supported by safe and secure archival keeping places to address the conflict of interest in childhood records continuing to be held and controlled by the agencies responsible for child welfare and protection services, that are also answerable for any abuse and neglect whilst under their care. Examples were raised of the impacts on adult lives of use of childhood records of care experiences under the current unmediated access regime. Use should instead be governed by an independent archival regime, and subject to disclosure/consent processes administered within that regime, to address issues of misuse/abuse of records in care leavers' lives.

The need for independent advocacy, governance and oversight is vital to reflect a child/person centred and rights based approach. Mechanisms and models for an **Independent Recordkeeping and Rights of the Child Advocate** will need investigation as part of a national framework.

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## SOCIOTECHNICAL TRANSFORMATION

Creating safe and secure keeping places for childhood records is also a key element of a national framework through the development of **Independent Lifelong Living Archives**. This will require sociotechnical transformations that go beyond automating existing recordkeeping and archiving processes and systems and their incremental improvements. Reimagining the way that people, processes and technological systems work together is required, along with configuring processes and systems to represent and enact multiple rights in records and recordkeeping. The goal is to design and develop child/person-centred, participatory, interoperable, networked infrastructure able to support lifelong identity, memory and accountability needs.

The development of a **Network Governance Model** is a crucial part of this transformation to define the ways in which the different components integrate to form an infrastructure. It will encompass the designing of an innovative and adaptive interoperability framework incorporating supporting policies, protocols, and tools requirements, as well as developing mechanisms for holistic oversight and accountability.

The development of conceptual reference models for the Lifelong Living Archive will be progressed through the Rights in Records by Design ARC Discovery Project. It will include connecting with other initiatives investigating and implementing child-centred recordkeeping, e.g. NSW FaCS ChildStory, Barnardos MyStory, etc.

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## ACTION AND ADVOCACY AGENDA

While acknowledging the need for structural transformations in the medium to long term, discussions at the Summit also canvassed what could be achieved through co-ordination of improvements to existing practices. These ideas will be used to form the foundation of an action and advocacy agenda

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## HISTORICAL JUSTICE

- Immediate priority access for older care leavers
  - Endorse and implement the Commonwealth Department of Social Services (DSS) access principles and guidelines
  - Use administrative discretion to release not to withhold
  - Configure FOI/RTI processes and forms around proactive disclosure i.e. the right of people to know what records are held about them
  - Full unredacted release of records unless it is clearly unlawful to do so
  - Explain and discuss redactions where they must be used
  - Lobby Birth, Deaths and Marriage Registrars for a consistent, agreed and national approach for free access to 2 generations (i.e. me, parents, grandparents) of certificates
- Support for adding to/annotating official records and specifying access controls
  - Normalise this existing right to incorporate individual's stories into the record
  - Present the person's story first
  - Enable access wishes to be clearly expressed and honoured, including informed consent for access by researchers
- Remediation of legacy systems
  - Continue advocacy for resources to remediate older systems, particularly name indexing and facilitation of connections to family

- Create clear plans for addressing older records
- Develop guidance for organisations transitioning from current service provider to legacy record holder
- Encourage and support initiatives that enable individuals and communities to tell their stories of 'care' experiences and the impacts of institutional systems

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#### TRANSITIONING AND YOUNG ADULT NEEDS

- Provide records and information about records as part of transitioning processes
  - Develop briefing material for people moving out of care about their records, and how to access them
  - Without removing any rights for full access to records, identify key and critical documents to provide a pathway through voluminous case files
  - Proactive disclosure - consider establishing a process of showing people their records and/or providing a copy as part of transition, along with explaining safe keeping and ongoing access protocols
  - Proactive disclosure of access to and ongoing use of childhood records
- Establish support services for access and interpretation of records
  - Collectively define age appropriate guidelines about what young adults might be able to see/need/understand
  - Establish independent safe keeping places for key documents

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#### CHILD CENTRED RECORDKEEPING

- Develop standard ways in which consent of third parties to share with the 'subject' can be expressed as records are created
- Continue to advocate for and support the development and implementation of child centred recording practices, e.g. using resources such as the [Who Am I Induction Kit](#), identifying best practices for records co-creation, etc.
- Collectively define age appropriate guidelines for access to records (i.e. what a child may be able to see/need/understand at what age) and participation in recordkeeping
- Establish benchmarks for safe and secure child-centred recordkeeping and archiving processes and systems

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#### EDUCATION AND TRAINING

- **Records release** training – work collaboratively to develop guidelines and training on how to release records with minimal redaction (i.e. only where absolutely necessary), including informative disclosure of reasons for redactions, accessible processes for appeal, effective monitoring and oversight to ensure fair and consistent practices **and specialised release mechanisms over reliance on generic FOI/RTI processes**.
- **Research ethics** – work collaboratively to devise protocols and obligations for researchers in dealing with access to case files and personal information in out of home care research.
- **Records creation** - lobby TAFE, universities and professional standards bodies to pay appropriate attention to writing case notes and other important aspects of recordkeeping in courses
- **Recordkeeping systems** – increase the knowledge and skills of social workers and recordkeeping professionals in managers for the development and implementation of child/person safe recordkeeping and archiving processes and systems

- School, professional and community education – support for impacted communities to create their own histories, exhibitions, memorials, commemorations, storytelling and other activities etc. to be incorporated into primary, secondary, university and other curricula

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## RESEARCH AND DEVELOPMENT AGENDA

The scope, size, scale and complex nature of the issues associated with recordkeeping and archiving discussed at the Summit indicate the need for a co-ordinated research and development agenda. This needs to work in concert with the action and advocacy agenda and towards the development of the national framework. While archival and recordkeeping researchers have a responsibility to take the lead in the development of this agenda, it must also be transdisciplinary and embrace the multiple community and disciplinary stakeholders of the child protection sector.

## RECOMMENDATIONS

The *Royal Commission into Institutional Responses to Child Sexual Abuse* represents a watershed moment for the archives and recordkeeping community and all stakeholders in the child welfare and protection sector in Australia. We highly commend the RCIRCSA for highlighting and seeking to address the records and recordkeeping challenges. We ask that the RCIRCSA's report and recommendations

- Acknowledges the special childhood recordkeeping needs for those who experience out of home care, past, present and future,
- Enables access to records as a way to enact historical justice and assist in (financial and non-financial) redress,
- Addresses the systemic problems with existing recordkeeping and archiving infrastructure,
- Tackles the current dysfunctions and disconnections through the development of a national and unifying approach,
- Establishes mechanism for independent oversight and advocacy, and
- Ensures the mandate, the resources and the implementation plan for the development of a national, participatory and independent recordkeeping and archiving regime able to represent and enact multiple rights in records.

In reflecting on the lessons to be learned from past inquiries we also ask that

- the implementation plan ensure that those responsible for implementing records and recordkeeping recommendations are held to adequate account, and
- the website and records of the RCIRCSA not disappear from the public arena once it winds up. They must remain accessible as a constant reminder of the size, scope and scale of the investigations and as a continual spur to implementing recommendations.

The Summit has demonstrated that there is a willing community ready to take up the challenge of transforming recordkeeping and archiving frameworks, processes and systems. We share with the RCIRCSA the goal of making sure that the future will tell a different story than the past.