INCIDENTS AND ALLEGATIONS OF CHILD SEXUAL ABUSE

Guideline on creating and keeping records for the safety and wellbeing of children

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Introduction

Child centric approach

The importance of creating complete and reliable records for the safety and wellbeing of children cannot be overstated.

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) recognised that inadequate records and recordkeeping practices ‘contributed to delays in or failures to identify and respond to risks and incidents of child sexual abuse’.¹ The safety and best interests of children must be at the core of an institution’s operations;² in this Guideline we refer to this as a child centric approach.

Public authorities have a heightened responsibility to ensure they protect vulnerable members of society such as children. Institutions that care for or provide services to children must keep the best interests of the child uppermost in all aspects of their conduct, including recordkeeping. The creation of complete and reliable records is vital to identifying risks of abuse and responding appropriately. The creation of these records protects the rights and entitlements of victims/survivors of child sexual abuse and other forms of abuse should they ever need to exercise them.

It is important to recognise that problems with recordkeeping are not just a thing of the past with the Royal Commission hearing accounts of poor practices from present day institutions. Public authorities must dedicate time and resources to creating good records of their interactions with children and managing them appropriately, which aligns with the Royal Commissions definition of a child safe institution.³ Staff may need to be trained in the importance of these records in the protection of child safety, but also more importantly the responsibility staff have to the individuals whose lives are documented in them.⁴

Purpose

The purpose of this Guideline is to:

- empower public authorities that care for or provide services to children to keep the best interests of the child uppermost in all aspects of their conduct, including recordkeeping.
- guide public authorities in the identification of records that may provide corroborating (relevant) evidence of contact with children which may be relevant to any investigation of child sexual abuse.
- address recommendations 8.1 - 8.4 from the Final Report, Volume 8: Recordkeeping and Information Sharing of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission)
- support the Child Sexual Abuse Incidents and Allegations Retention and Disposal Schedule.

¹ Royal Commission into Institutional Responses to Child Sexual Abuse Final Report: Volume 8, Recordkeeping and Information Sharing, p 9
² Royal Commission into Institutional Responses to Child Sexual Abuse Final Report: Volume 6, Making institutions child safe, p 9
³ Royal Commission into Institutional Responses to Child Sexual Abuse Final Report: Volume 6, Making institutions child safe, p 12
⁴ Royal Commission into Institutional Responses to Child Sexual Abuse Final Report: Volume 8, Recordkeeping and Information Sharing, p 9
Relevance and scope

This Guideline is aimed at all Queensland public authorities (departments, local governments, statutory authorities and bodies, universities, Ministers, Assistant Ministers, courts and Government Owned Corporations):

- that provide, or have at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families.\(^5\)
- including those without specific child safety related functions i.e. child safety is not their core function but run regular or irregular programs or services that may involve direct or indirect contact and interaction with children e.g. tours of facilities where children may attend, administering a program that is operationalised by another public authority or is the reporting/responding institution that responds to allegations in other institutions e.g. police services.

Legislative requirements and responsibilities

This Guideline is issued by the State Archivist under s.25 of the Public Records Act 2002 (the Act). The Executive Officer of a public authority has a statutory obligation under s.7 of the Act to ensure their public authority makes and keeps full and accurate records of activities. Obligations of the Act extend to all employees of a public authority, including external contractors where functions are outsourced, and volunteers.

It is the public authority's responsibility to maintain access to records for the minimum authorised retention period issued by the State Archivist, irrespective of changing technology (unless the records have been transferred to Qld State Archives (QSA). If a format becomes obsolete or falls out of use, it is the public authority's responsibility (and expense) to find a solution. The how to keep and care for records section of this Guideline provides options regarding the ongoing management of records.

Records relating to the safety and wellbeing of children, specifically sexual abuse, are covered under disposal authorisations xxxx, xxxx, xxxx, xxxx which outline the minimum period these records must be retained. Disposal of public records before these minimum periods are reached and/or without authorisation from the State Archivist may be a breach of s.13 of the Act.

This Guideline falls under the Records Governance Policy, which sets out the foundational principles of recordkeeping for all Queensland public authorities to meet minimum recordkeeping requirements now and into the future.

Identifying relevant records

How to determine relevant records for the present and the future

That depends on what functions are performed and who for. Public authorities must carefully assess how their business interacts with those under the age of 18. Even if a core function is not directly related to children (e.g. roads, utilities, agriculture) there will be scenarios where a public authority and its employees interact with children. Not many public authorities would have zero contact with children even if it is on an ad hoc or infrequent basis.

The three main considerations will be:

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\(^5\) Royal Commission into Institutional Responses to Child Sexual Abuse Final Report: Volume 1, Our inquiry, p 17
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- What business does the public authority conduct
- What is the level of interaction with people under the age of 18 (U18’s)
- What is the nature of the interaction with U18’s

The following workflow expands on this child centric approach:

The Royal Commission recognised that uncertainty exists for institutions as to what records may provide evidence for, or be relevant to, a current or future allegation or disclosure of child sexual abuse. Such records could be considered contextual records of an event or incident or records that may provide corroborating evidence of interactions with children. It can be reasonably assumed that records that provide corroborating evidence of interactions with children may be relevant to an investigation of child sexual abuse. However, it is important to recognise that relevant records needed for an investigation might have been created to document a different activity e.g. leave records are primarily created to pay the correct entitlement to an employee, but they also provide evidence of an employee’s whereabouts at a certain time. These records could be relevant to prove whether someone was in the same location as a child in the event of an investigation. Similarly records relating to the marketing of an event such as photos, plans, blog posts can provide evidence of interaction between an adult and child. Determine what

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6 The relevant disposal authorisations for these records are XXXX, XXXX Child Sexual Abuse Incidents and Allegations retention and disposal schedule
would be the best evidence of the interaction to retain as corroborating evidence to confirm the when and what - evidence of the event, attendees and activities. This could be a summary record of the interaction including the photos.

These contextual records have been separated into two groups:

- Evidence of contact and interaction – children’s records - 60 years after age of majority
- Evidence of contact and interaction – adults records – 60 years after separation

These retention periods supports a child centric approach, allows for a period of delayed disclosure and takes into consideration the average age a victim/survivor of child sexual abuse comes forward to make an allegation. During the Royal Commission (2013-2017) private sessions, the Royal Commission identified that victims frequently do not disclose child sexual abuse until many years after it occurred. Survivors who spoke during a Royal Commission private session took on average 23.9 years to tell someone about the abuse. The average age of a victim/survivor who spoke at a private session was 52 years old.

Understanding the retention periods

The Incidents and Allegations of the Child Sexual Abuse Retention and Disposal Schedule (RDS) is a specially created schedule in response to the recommendations of the Royal Commission. The four-disposal authorisations covered in the RDS override any pre-existing disposal authorisations in any schedule (agency specific, sector and general) except where a retention period is greater than those in this RDS. This means:

- retention periods in another approved retention and disposal schedules that cover child sexual abuse can still be used if the minimum retention period is longer e.g. 120yrs
- records relating to broader activities about the safety and wellbeing of children may be covered under other current disposal authorisations e.g. Child Safety Retention and Disposal Schedule, Education and Training Sector Retention and Disposal Schedule.

QSA will periodically review the RDS and consider whether it should be broadened to cover all functions and activities relating to the safety and wellbeing of children.

<table>
<thead>
<tr>
<th>Record groupings</th>
<th>Retention period unpacked</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegation or incident of child sexual abuse</td>
<td>99 years after allegation or incident of child sexual abuse</td>
</tr>
<tr>
<td></td>
<td>keep related records for a minimum of 99 years after an incident and allegation is made</td>
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<tr>
<td></td>
<td>the 99yrs could be triggered after an incident is noted when a child is 10. If the child comes forward about the incident when they are 55 the records are still available for the child.</td>
</tr>
<tr>
<td>Evidence of contact and interactions (corroborating evidence)</td>
<td>Children – 60 years after the age of majority</td>
</tr>
<tr>
<td></td>
<td>the trigger is activated when a child turns 18</td>
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<tr>
<td></td>
<td>The records are required for the child and delayed disclosure</td>
</tr>
<tr>
<td>Adults – 60 years after separation</td>
<td>the trigger is activated when the adult leaves a public authority, which could be retirement or leaves the Qld public service.</td>
</tr>
<tr>
<td></td>
<td>The records are required for the child and delayed disclosure</td>
</tr>
<tr>
<td>Governance practices</td>
<td>Permanent</td>
</tr>
<tr>
<td></td>
<td>Transfer the records to QSA when they become inactive</td>
</tr>
</tbody>
</table>
Corroborating evidence example:

**Scenario** = Tour conducted by a public authority  
**Sample evidence** = Timesheets of employee conducting tour

- ☑️ No contact with children: retain for payroll and personnel related activities (as per GRDS)  
- ☑️ Contact with children: retain as evidence of adult and child interaction (as per above RDS)

**The national redress scheme**

The National Redress Scheme (NRS) was enacted in response to the Royal Commission. The Scheme provides support to people who experienced institutional child sexual abuse and will run for 10 years from 1 July 2018. The Queensland Government ‘considers the national scheme to be of critical importance to acknowledging the horrific experiences of child sexual abuse that people experienced in institutions that were supposed to care for and protect them.’7

Records covered by the above disposal authorisation **are not** records of applications to the National Redress Scheme. A separate appraisal of records generated in the operation of the redress scheme will be undertaken in the future. For further information on the National Redress Scheme and how it relates to the Royal Commission see [https://www.nationalredress.gov.au/](https://www.nationalredress.gov.au/)

**Tools and scenarios**

Use the following tools to identify the relevant services and programs undertaken by your public authority that involve children and the level of evidence required to support the contact and interaction. Example scenarios have been provided below to illustrate these steps.

The purpose of these tools is to assist public authorities to identify the level of evidence required to validate and/or corroborate claims about a past, current or future incident or allegation regarding the safety and wellbeing of children.

*Note:* Evidence refers to records about adults and children.

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**Step 1**

**Identify all programs and services undertaken by a public authority**

*Consider:*

- All functions and activities of a public authority.
  
  *Tip:* for a list of functions refer to annual reports, administration arrangements, and legislation the public authority was established under.
  
  *Tip:* List all functions and activities performed by the public authority then narrow the list. It’s important this decision-making process forms part of the defensible process – documenting why something was excluded is important. See the section on Defensible process for further information.

- The operational and strategic services offered by the public authority: internally (to employees, contractors, volunteers, trainees etc) and externally (to the community, other government entities, private entities etc).

*Note:* all public authorities should undertake this exercise. The Royal Commission defined institutions as: providing, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children. This includes those without specific child safety related functions where it is not the core function.

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7 Queensland Government Response to the Royal Commission into Institutional Responses to Child Sexual Abuse, p12  
Step 2

Do any programs and services involve a level of contact or interaction with children?

Consider:

- Look through the list of functions and activities developed in step 1 to identify the current and future services that involve (or may involve) direct and indirect contact with children. For example:
  - currently the public authority does not have any work experience school students but may do so in the future
  - all apprentices employed by the public authority are currently 18 years or older but apprentices under the age of 18 may be employed in the future
  - tours of the facility are currently limited to adults but may include children in the future.

- Interactions can take place in many different public authority settings, and can be regular, irregular or on an adhoc basis, e.g.:
  - tours of government facilities e.g. plants, venues
  - community facilities e.g. library, childcare
  - educational facilities, including offsite services e.g. school camps, tours
  - providers: training, transport
  - facilities: health, sporting, transport, youth justice, residential care
  - shelters - including domestic violence and homeless
  - hosting arrangements.

Step 3

Identify the level and type of contact and interaction with the child/ren

Consider:

- The nature of the contact/interaction by using the following criteria:
  - a child stays overnight e.g. camp, night in museum
  - a child is alone with an adult or another child e.g. toilet, class room, bus, medical consultation, tour
  - parents or guardians do not remain in close proximity e.g. child and guardian on separate buses
  - a child is in an environment which is not under public scrutiny e.g. alone in a public toilet

- Use this workflow and the scenarios as a guide to assess the type and level of contact and interaction with children. Remember to document decisions, which forms part of the defensible process.

Note: Consider the age of minority when looking through historical records. In 1974 the age of majority changed from 21 to 18 years old. This means any records created before 1974 relating to someone under the age of 21 was legally a minor.
Step 4

Identify the type of evidence needed to support these interactions

Consider:
- The results from this workflow to determine the level of evidence required to document all contact and interaction.
- What is the best evidence required to paint the picture of who, what, when, where, how and why? Not all records have to be kept so consider what the best evidence is, which could be a summary record of the interaction.
- Example of evidence – interaction during a tour conducted by a public authority
  - who was involved e.g. timesheets, attendance records, blue card, class roll
  - what was the interaction/contact e.g. tour outline, approvals, handouts
  - when did it take place e.g. calendar entries, work diaries, timesheets
  - where did it take place e.g. transport details, tour map, venue approvals
  - how (e.g. delivery format, tour length) e.g. tour program, slides, photos
  - why did it take place and does it link to core objectives of the public authority e.g. tour MoU, financial transactions, emails, blogs, tweets
  - evidence of a tour: proof the tour happened, who was involved, when and where it took place, why conducted, time period, topic, tour route, photos
  - evidence of tour that involved an incident – in addition to above, file note, reporting trail, incident form, internal and external communication.
- Do current business processes adequately cover interaction points with children and the type of evidence required to support the safety and wellbeing of children?
- Are new evidence types required, such as data entry fields in a business application, audio from body worn cameras, diary entries etc.
  - Consider how the evidence is currently created and managed – is this efficient and effective, should the evidence be captured in a different format?
- Keep a register or similar of child related records – to know where relevant records are located for redress requirements and good governance practices.

Note: The Royal Commission identified minimal records were created, therefore it is important consideration is made around the level of evidence required and the mechanisms to mitigate ongoing failure/lapses in creating and keeping appropriate records.

Defensible process

It is important decisions around the creation and management of evidence on the contact and interaction with children is documented and forms part of a public authority’s governance process. Consider:
- the results from the workflow to assess the interactions and level of risk in not creating and keeping appropriate records for the minimum retention periods under the Child Sexual Abuse Incidents and Allegations Retention and Disposal Schedule.
- how changes in business processes will be triggered or documented, which may impact the creation or completeness of the relevant evidence?
- appropriate mitigation strategies, such as:
  - use the public authority’s risk register as an annual health check
  - undertake periodical business process reviews to identify performance levels, sufficiency in evidence etc
  - is the evidence created and managed in trusted systems? (see the Records Governance Policy for further information)
  - deliver annual training sessions for employees on the importance of creating and keeping complete and reliable records.
**Scenarios**

The following scenarios demonstrate how this could work in practice:

**Public authority 1**
- Qld State Archives (QSA) run several programs that involve or may involve children.
- After listing all functions and activities QSA identified they run internal and external programs that need to be assessed further around the safety and wellbeing of children:
  - Public search room and exhibition spaces are open to all ages
  - Joint programs with education facilities i.e. schools and universities
  - Curated tours and school holiday programs
  - Work experience, volunteers and trainees
  - Evidence e.g.: attendance logs, blue card, photos, event information, interaction log, timesheets.

**Public authority 2**
- A Qld water utility deliver information sessions about their water treatment plant.
- They have a relationship with a local private school and provide guided tours to high school students.
- The tour lasts approximately 3 hours and is held once a year.
- The tour is led by an employee of the public authority and attended by teachers and students.
- While on site, students use the grounds during lunch, visit the onsite café and bathroom facilities.
- Evidence e.g.: emails, event program, visitor log, blue card, calendar entry, handouts provided to all visitors, consent forms etc.

**Public authority 3**
- A Passenger transport program is under review.
- To understand the needs of all clients and the effectiveness of all transport related services (e.g. general, school, accessibility), workshops and interviews will be held across the State.
- The workshops and interviews will include children and young adults.
- Interactions and contact with children will be run with and without guardians present in controlled workshops.
- Evidence e.g.: interview notes, photos, drawings made by children, calendar entries, invitations, timesheets, blue card, attendee log.

**Public authority 4**
- A public authority receives data from another public entity for analysis and performance reviews.
- The public authority does not interact directly with children but receives de-identified data that may contain adult/child interactions.
- The public authority analyses and interrogates the data, which differs from the original use of the data.
- Evidence e.g.: interviews, phone calls, social media posts, event data, customer feedback surveys.
- The public authority identifies different/new patterns and connections that relate to adult/child interactions.
- The public authority amends business processes to address these instances.
- Evidence e.g.: correspondence with data owner, data sharing agreements, analytical results, performance review.

*Figure 2: Public authorities – levels of interactions and contact with children*
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How to keep and care for records

Public records (data, information, metadata) are an asset to the Queensland public and government. The value of these information assets is realised through use and re-use, including by people other than the original creator or business unit. The Royal Commission identified failings in information shared between institutions with responsibilities for children’s safety and wellbeing, and between those institutions and relevant professionals. Having complete and reliable records managed appropriately will aid information sharing, which is necessary to identify, prevent and respond to incidents and risks of child sexual abuse.

With the release of this Guideline and new Disposal Authorisations, changes to current recordkeeping and business practices may change within a public authority.

The creation of new records may be required, existing records may need to be retained longer and retained in different formats and applications.

It is important these changes are identified, documented, appropriate changes made, and recordkeeping is supported and integrated in all levels of business and not managed as a separate activity.

For further information see https://www.forgov.qld.gov.au/recordkeeping

Digital records

Access to and use of digital records rely and depend upon a range of external factors, including software, hardware and media. Due to changes in technology, technological obsolescence and poor information management practices across the lifecycle of digital information place records at risk of losing their integrity and authenticity, or simply becoming lost or inaccessible. To make sure digital records (including digitised records) remain accessible consider a digital continuity strategy or plan.

The longevity of digital records can be compromised due to a number of factors, including:

- authoring software being upgraded at relatively frequent intervals (1 to 2 years)
- most digital storage devices have a limited life expectancy of around 5 to 7 years.

These factors present an increasing problem for digital records when considering the minimum retention periods listed in xxxx, xxxx, xxxx, xxxx (60+ years). Digital storage media will need to be maintained, refreshed and updated every 5 to 7 years to ensure records remain accessible. Consider monitoring this in a media refresh (migration) plan. It is important regular checks for deterioration is undertaken. Media may need to be refreshed sooner if there are signs of deterioration.

Digitisation

Physical records can be digitised to enable digital access, reduce the amount of physical records requiring physical storage, minimise the need for physical proximity and handling, and streamline business practices.

Physical source records that have been digitised can be destroyed under Disposal Authorisation 2074 if certain conditions are met. Currently, records with a permanent retention period are
excluded from this disposal authorisation. See the Dispose of Source Records Guideline for further information on digitisation.

*Note:* consider whether digitised copies of records are acceptable in requirements such as the National Redress and investigations relating to child sexual abuse.