



PROACTIVE PROTECTION OF VULNERABLE PERSONS

Frequently asked questions

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1. Is the disposal freeze issued on 1 June 2018 still in place?

No, this disposal freeze was lifted on 2 March 2020.

Disposal authorisations relating to the proactive protection of vulnerable persons have been approved by the State Archivist in the GRDS. This includes disposal authorisation **1559**, which covers records related to ‘Evidence of interactions and contact with vulnerable persons’. See the [*Guideline on creating and keeping records for the proactive protection of vulnerable persons*](#) for guidance on identifying and managing records which may be evidence of interactions between a public authority and a vulnerable person.

2. How do records help to protect vulnerable persons?

The Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) noted that organisations must devote resources to keeping records, ensuring that staff are appropriately

trained in their recordkeeping responsibilities, and given time to undertake recordkeeping work. It highlighted the making and keeping of good records as a crucial activity for organisations who interact with children, and that records play a critical role in “identifying, preventing and responding to child sexual abuse”.

Consistent with the overarching requirements of the [Records Governance Policy \(RGP\)](#), the need for good recordkeeping should be embedded in public authority culture, be a priority and fostered by senior management. In the context of the proactive protection of vulnerable persons, this is to ensure that recordkeeping is not seen as an additional task but is instead seen as a crucial element of interacting with vulnerable persons.

3. Why did we broaden the scope?

There has been significant legislative change in Qld including changes to the *Civil Liability and Other Legislation Amendment Act 2019*, the *Limitation of Actions (Child Sexual Abuse) and Other Legislation Amendment Act 2016* and the introduction of the Human Rights Act 2019.

We broadened the scope to align with these changes and the recordkeeping obligations around them. For further information see our information guide on [Legislative change & vulnerable persons](#).

Also, during the RCIRCSA nearly 58% of survivors told Commissioners that they experienced other forms of maltreatment in addition to sexual abuse. This included emotional maltreatment, physical abuse and neglect. There are two current Royal Commissions that are also dealing with these expanded areas and we anticipate there will be recommendations from these.

4. When do we have to do this by?

When this advice is finalised and authorised, it will be just like any other disposal authorisation, effective from the date authorised.

Once authorised and released, the vulnerable persons disposal authorisation will be in effect. As with any other schedule that has been changed, you can only dispose of records using current disposal authorisations. An agency can control when any relevant resentencing is done e.g. you may only wish to resentence when undertaking a disposal program.

5. How does this interact with my core schedule?

Where a vulnerable person's disposal authorisation is inconsistent with a disposal action approved in an agency's core schedule, we suggest following the longer retention period. This is to ensure these specific records are available as a source of justice and support and as an avenue for redress.

6. The guidance is too general – my agency has complex needs

There are many Queensland public authorities that have complex business needs and we understand this can pose challenges in identifying and managing records related to interactions with vulnerable persons.

QSA is encouraging related sectors (e.g. education, health, local government etc.) to work together and develop common scenarios, record types etc. that are relevant and specific to that sector. Some sectors have already started developing a 'playbook' where they identify interactions with

vulnerable persons and then as a group discuss if these carry a risk to the vulnerable person and what action should be taken to mitigate and document. Start by talking with any associations your sector is involved in e.g. community of practice groups to see if this work has already been started.

We would like to remind agencies that for the most part, they will already have processes in place to create and manage records likely to be relevant to actual or alleged incidents of abuse. Public authorities already have common law requirements to take all reasonable care for the safety and wellbeing of their stakeholders. QSA's guidance reinforces these legislative and statutory responsibilities from a recordkeeping perspective.

We recognise recordkeeping as an organisational responsibility and understand how changes in an already complex environment will require a whole of business response. It is likely there are already other areas in each agency that are also dealing with non-recordkeeping findings from the RCIRCSA. Sharing and utilising the knowledge held by these areas e.g. legal, HR, risk, may further assist in implementing this guidance. Developing an internal working group may be a good place to start.

7. I'm worried about the practicality of implementing this guidance

The advice may require a change in processes and procedures related to how some records are managed. For example, if your agency conducts tours for school students you may wish to analyse where the risk interactions occur and what to do to mitigate the risk.

The guidance aims to put some recordkeeping context around recent changes in the legislative environment in relation to public authority interactions with vulnerable persons (rather than trying to create a new set of recordkeeping specific requirements).

Implementing these disposal authorisations and new legislative requirements will be require input from areas across your organisation. Capitalise on the knowledge already within your business and get in touch with your HR, risk management and legal teams to work together to refine existing processes considering this guidance.

Changing business processes will not be new for any agency that mitigates risk e.g. requiring staff to record they have brought a child into work e.g. email to supervisor, entry into register etc.

8. Where do I start with my risk analysis?

The advice we have provided in our guidance is intended to be a common-sense logical approach to this problem that can be applied to the broad range of public authorities who will use it (500+). It is not individual guidance to your individual situation.

We understand that it can be overwhelming working out where to start. Some ideas to think about include taking into account things we have learnt from the RCIRCSA:

- Role of the perpetrator – power & authority
- Common location of abuse – private & away from public scrutiny
- Most common impact of abuse – mental health (it may be worth paying special attention to any records relating to mental health)

Thinking about how these relate to your agency and your interactions with vulnerable persons can be a good starting point.

Risk analysis and making and keeping records is not solely the responsibility of the records/IM team. It is important that other areas of your agency are involved (e.g. risk management, legal, areas with significant contact with vulnerable persons who understand current processes).

9. Do I have to document my decisions and risk analysis around vulnerable persons?

It is important that agencies document their decisions about how they are going to manage records relevant to vulnerable persons.

Should you decide that a record, or group of records, do not warrant retention under the disposal authorisation relating to interactions and contact with vulnerable persons, documenting how you have reached this decision and what the outcome of the decision means, will be essential to demonstrate you have taken all considerations and obligations into account.

You do not need to submit this document to QSA but we strongly suggest it is created as an accountability tool and as part of meeting requirement 2 of the [Records Governance Policy](#).

10. How does the new guidance relate to the RGP?

The [Records Governance Policy](#) (RGP) is mandatory for all Queensland public authorities. It comprises 6 policy requirements:

1. Agencies must ensure records management is supported at all levels of the business
2. Agencies must systematically manage records using governance practices that are integrated and consistent with broader agency frameworks
3. Agencies must create complete and reliable records
4. Agencies must actively manage permanent, high-value and high-risk records and information as a priority
5. Agencies must make records discoverable and accessible for use and re-use
6. Agencies must dispose of records in a planned and authorised way.

Our vulnerable persons guidance is consistent with the existing requirements in the RGP and reinforces the importance of the identification, creation and management of complete and reliable records relevant to vulnerable persons.

11. How long do we need to keep the records for? Where can I find the retention periods in the GRDS?

The [General Retention and Disposal Schedule \(GRDS\)](#) contains disposal authorisations for records of:

- incidents and allegations of abuse–vulnerable persons (1558 – keep 100 years after the creation of record)
- evidence of interactions and contact with vulnerable persons (1559 – retain until 31 December 2028). See additional detail below.
- governance practices – (1560 – keep permanently).

Disposal authorisation 1559 requires all public authorities to retain evidence of interactions and contact with vulnerable persons until 31 December 2028. It applies to interactions a public authority

may have with a vulnerable person where there is a higher risk of abuse occurring due to the nature of the interaction/s.

The recommended retention period allows time for vulnerable persons to request access to records during the course of the National Redress Scheme.

If your agency's core retention and disposal schedule contains disposal authorisations that also apply to records of vulnerable persons, you should always apply the longest retention period. For example:

- If your core schedule says to keep records of incidents for **120 years**, versus the GRDS that has a retention period of **100 years** – you should **use your core schedule**.
- If your core schedule specifies records relating to investigations should be kept for **50 years**, whereas the **GRDS says 100 years** – you should **use the GRDS**.

Note: this applies to records relating to vulnerable persons. Any other records created by your agency that are covered by both your core schedule and the GRDS, your core schedule takes precedence.

12. Why keep evidence of interactions until 31 December 2028 (1559 in GRDS)?

These types of records provide important evidence in that they:

- can be used to respond to a records request with more comprehensive information
- to help fill memory gaps or verify recollections
- provide evidence for legal matters or redress claims.

This timeframe is consistent with the provisions of the National Redress Scheme (NRS). By working with public authorities and other key stakeholders such as those involved in the NRS over the next few years, we aim to be able to better define the records relevant to this disposal authorisation to reduce the long-term impact on public authorities.

It should also be noted that the Royal Commission into Institutional Responses to Child Sexual Abuse made it clear that, even if it is theoretically legal to destroy a record under an existing disposal authority, if it could be relevant to a civil action case, this overrides the existing disposal authority and the record must be retained in line with minimum retention periods for potential civil action.

13. But what about all our existing records? Do we have to go back and resentence everything?

Many public authorities hold a large volume of existing records. Public authorities may choose whether to conduct a retrospective review of all existing records.

As an alternative to implementing a large-scale project to retrospectively review all existing records, some public authorities may choose to implement amended processes for identifying and retaining relevant records of interactions with vulnerable persons.

Example 1:

A public authority may wish to retrospectively sentence everything *up to a specific date*. For all other existing records held by the public authority past this date, they could potentially only be reviewed for relevance once they are due for disposal (i.e. as part of a regular disposal program).

Example 2:

A public authority has analysed and identified *critical records* relevant to vulnerable persons and will retrospectively sentence these. All other records will be reviewed for relevance once they are up for disposal.

14. But what about CCTV footage?

We have not focused on specific types of records (e.g. CCTV) as each public authority interacts with vulnerable persons in different ways, and these interactions are documented in equally different ways. We did not want to limit the types of records that may be relevant by listing particular types of records.

If your public authority decides that CCTV provides the best evidence of interactions, where that interaction has been identified as a higher risk of abuse occurring due to the nature of the interaction, then we would recommend that the CCTV footage be kept in line with relevant retention requirements. However, if there are other records that document the same high-risk interaction, then your public authority may prefer to keep that format instead of CCTV

15. What about dealing with third parties/contractors

As is already the case, public authorities remain responsible for recordkeeping obligations around any outsourced function. This still applies with the vulnerable persons guidance and will require agencies to include these requirements within their contracts/MOU's with third parties.

This includes all records that you transfer to a service provider and those that the service provider creates or receives on your behalf.

For a refresher on recordkeeping responsibilities and outsourcing see [Custody, ownership and responsibility for records during a MOG or administrative change](#)

16. What about Information Privacy?

The *Public Service Act 2008* prescribes the need for a complaints management system in all Queensland Government agencies. By their nature workplace investigations often collect personal information, and these requirements are the same when dealing with investigations of abuse.

It is vital for the maintenance of confidence in public authorities that appropriate control is maintained over confidential information including the appropriate restrictions on disclosure of information – especially in relation to allegations, disclosures, incidents, investigations related to abuse of vulnerable persons.

Talk to your legal team if you need further information on how you should be managing sensitive and personal information. The [Office of the Information Commissioner](#) may also be able to provide advice.

17. Secondary use of records

What if you have a copy of a relevant record relating to vulnerable persons that does not belong to your public authority and does not form part of the records generated in the course of your business activity?

This issue has been raised by agencies that use other agencies records in the course of their work e.g. audits, ombudsman's investigations, courts.

The responsibility for these records lies with the originating agency e.g. Courts use records originating from Police.

It is important to document and formalise who has responsibility for maintaining this information in line with the vulnerable persons authorisations.

18. So we have to keep digital records accessible for 100 years?

Digital continuity is an area that public authorities are already working in.

Many Queensland public authorities currently create and manage digital records that require long term retention. It is always prudent to review your digital continuity and preservation strategy to ensure digital records remain complete, reliable and accessible for the required time.

If keeping digital records long term is a new area for you take a look at our advice on the [Store, protect and care for digital records](#) page of our website.