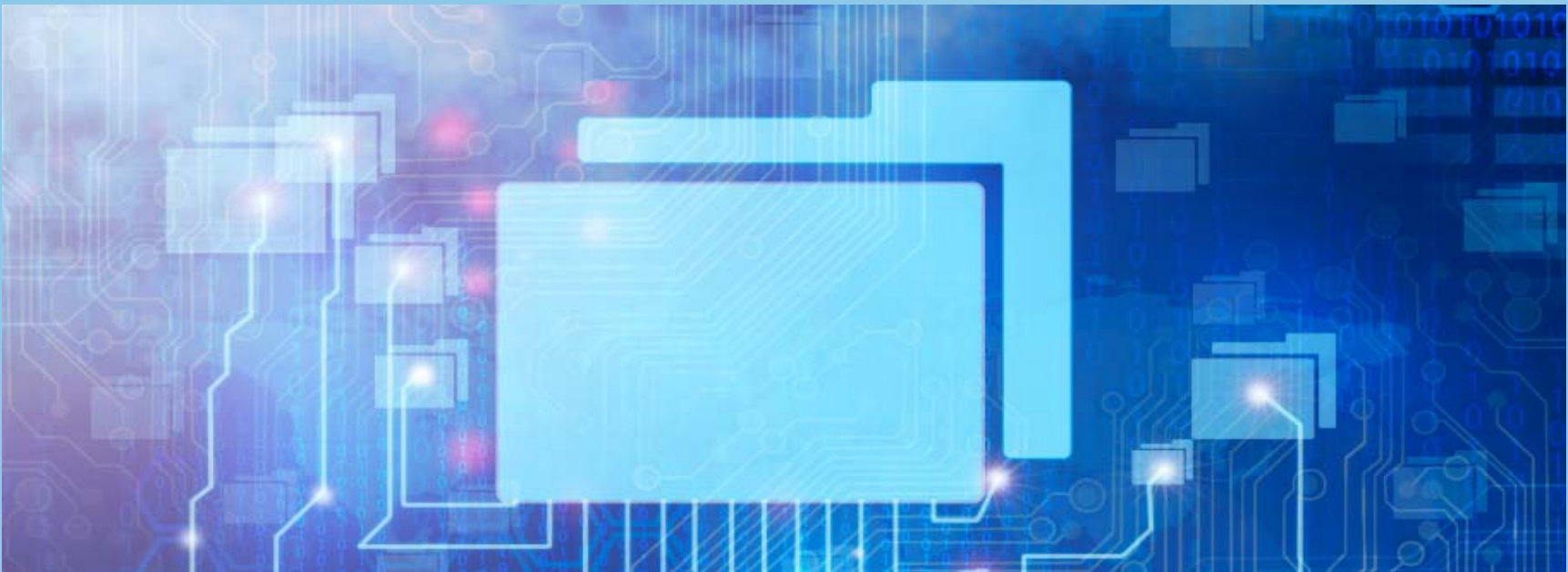


Royal Commission into Institutional Responses to Child Sexual Abuse

Final Report recommendations – PROV actions
PROV advice to agencies



Recommendations

- *Final Report Volume 8 Recordkeeping & Information Sharing* – PROV focussing on Recommendations 8.1-8.4

In parallel - improving PROV processes and information for Care Leavers seeking access to records – guidance on website, *DSS Access Principles*.

Approach – working with key Victorian government agencies & other Australian jurisdictions

i.e. through CAARA Working Group led by National Archives of Australia

Final Report recommendations 8.1 & 8.2

8.1 - *To allow for delayed disclosure of abuse and take account of limitation periods for civil actions for child sexual abuse, institutions that engage in child-related work should retain, for at least 45 years, records relating to child sexual abuse that has occurred or is alleged to have occurred.*

8.2 - *The National Archives of Australia and state and territory public records authorities should ensure that records disposal schedules require that records relating to child sexual abuse that has occurred or is alleged to have occurred be retained for at least 45 years.*

PROV actions to address 8.1 & 8.2

PROV is:

- Reviewing 100+ current & expired RDAs to identify classes that relate to child sexual abuse incidents.
- Will develop GDA for child sexual abuse incident records which will replace classes in those RDAs.
- Thinking we will put a direction in the RDAs to point people to the GDA.

Aiming for mid 2019 GDA completion – *but agencies cannot destroy child sexual abuse incident records as likely to be needed for future legal proceeding.*

PROV Actions to address 8.1 & 8.2

Clause in PROV RDAs & GDAs

- *Disposal is **not** authorised under this Standard if it is reasonably likely that the public record will be required in evidence in a current or future legal proceeding.*

Also – in 2015 limitation periods for civil actions for damages founded on child abuse removed in Victoria. So the 45 years recommended by RC may not be sufficient.

Final Report recommendation 8.3

The National Archives of Australia and state and territory public records authorities should provide guidance to government and non government institutions on identifying records which, it is reasonable to expect, may become relevant to an actual or alleged incident of child sexual abuse; and on the retention and disposal of such records.

PROV actions to address 8.3

- PROV guideline to assist in identifying, creating, managing & retaining records which may become relevant to an actual or alleged incident. Sent by Keeper of Public Records to 354 agency heads & promoted via social media.
- Working group, led by National Archives of Australia, to develop guidance for all Australian institutions, whether government or non-government.

Final Report recommendation 8.4

All institutions that engage in child-related work should implement five principles for recordkeeping.

In summary –

- Creating and keeping full & accurate records should be integral part of leadership, governance & culture
- Full & accurate records should be created about incidents, responses, decisions affecting child safety & well-being
- Records should be maintained appropriately
- Records should only be disposed of in accordance with law or policy
- Existing rights to access, amend, annotate records should be recognised to fullest extent.

PROV actions to address 8.4

Principles 1 to 4 - consistent with PROV Standards. But will consider further as part of Standards Review & promote where possible.

Principle 5 - PROV works within the Victorian legal framework to ensure peoples existing rights to access, amend, annotate records are met. But considering if there is more we can do (*working with other jurisdictions on this*).

PROV guidance for agencies

Creating, Managing and Retaining Records for Current or Future Child Sexual Abuse Allegations

The usual Victorian public sector office responsibilities

- Head of every Vic public sector office responsible for ensuring full and accurate records created & managed in accordance with *PR Act 1973*. Including for outsourced or contracted provider arrangements.
- Offence to unlawfully destroy public records – lawful if done in accordance with a Retention and Disposal Authority, UNLESS it is reasonable to assume the record will be required in evidence in a current or future legal proceeding.

Guidance – policies & practices

Every public sector office which interacts with children must:

- Establish policies, processes & systems to ensure RK requirements are met.
- Ensure that employees, volunteers, contractors and outsourced providers understand and meet their recordkeeping responsibilities.
- Monitor and check recordkeeping activity to ensure that correct action is being undertaken and implement remedial action where necessary.

Guidance – full accurate incident records

Full & accurate records of incidents or alleged incidents and investigation must be created, protected, retained.

- Detailed, objective and include contextual & supporting information (*dates, names etc*).
- Identify & include supporting records or a copy of them (*make sure copies are high quality & complete, include details of where record sourced*).

Examples – letters or emails making allegations, witness statements, notes of conversations & meetings, medical reports, referrals to law enforcement, briefs of evidence, copies of rosters or sign on sheets.

Guidance – possible future allegations

Determine the records which should be created & kept – in case of a future allegation.

Risk assessment – based on types of interaction with children – risk will increase if:

- Children stay overnight.
- A child is likely to be alone with an adult or another child.
- Parents / guardians not in close proximity.
- Will be in environment where child not under public scrutiny or away from surveillance.

Then – what are the records which will be most needed, most helpful if a future allegation made.

Possibly, personnel records, rosters, attendance records, details of the program, policies etc.

Guidance – record retention

Offices need to retain the records for the minimum period specified in RDA plus any further time they might reasonably be needed in current or future legal proceedings.

Considering

- *Removal of civil action limitation*
- *PROV identifying child sexual abuse incident report classes in current & expired RDAs in 2018-19.*

Guidance – properly store & manage

- Store securely so cannot be lost, damaged, altered or tampered with.
- Store confidentially so privacy protected and only authorised people can access & use.
- Retain in such a way that records can be identified, retrieved, used for legitimate purposes.
- Ensure contextual information is retained with records, so that future users are able to understand them and provide good evidence.

In conclusion

Usual good recordkeeping methods & approaches apply

Good recordkeeping = good evidence

Assess risks for your agency

Think about future needs

Use Royal Commission recommendations to improve and promote good recordkeeping in your organisation