

Our reference: 2012/4206

Notice of Disposal Freeze:

Records related to institutional responses to child sexual abuse

To: All Commonwealth departments and agencies, all Commonwealth authorities, Commonwealth companies, other Commonwealth institutions and any other entity that holds Commonwealth records

This document is to notify Australian Government agencies and other agents or people in possession of Commonwealth records (**records**) that I have imposed a disposal freeze on Commonwealth records that relate to child sexual abuse. The National Archives of Australia has determined that a disposal freeze is necessary to ensure that relevant records are protected and available for the purposes of the Royal Commission and any subsequent actions by the Australian Government, for future reference and accountability purposes and to protect the rights and entitlements of stakeholders.

Background

On 12 November 2012 the Prime Minister, the Hon Julia Gillard MP, announced the Australian Government's intention to establish a Royal Commission into Institutional Responses to Child Sexual Abuse in Australia (**the Royal Commission**). The Governor-General issued the Letters Patent and Terms of Reference establishing the Royal Commission on 11 January 2013.

The Royal Commission will inquire into what can be done: to better protect children against child sexual abuse in the future; to achieve best practice in reporting on and responding to allegations; to eliminate and reduce impediments to responding appropriately to child sexual abuse; and to address and alleviate the impact of past and future child sexual abuse. It will also have regard to: the experience of people directly or indirectly affected by child sexual abuse; the need to focus on systemic issues, the adequacy and appropriateness of responses; and any changes to laws, policies, practices and systems that have improved the ability to better protect against and respond to child sexual abuse. Under its Terms of Reference, the Royal Commission will focus its inquiries on the response of institutions (including Australian Government agencies) to child sexual abuse and allegations of abuse that occur in an institutional context.

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Purpose

The purpose of this records disposal freeze is to assist in the identification of Commonwealth records that are likely to be required by the Royal Commission and any subsequent actions by the Australian Government, and to clarify requirements to retain relevant records.

Penalties for the unauthorised destruction of documents and records are specified in various Commonwealth laws, including the *Archives Act 1983* and the *Royal Commissions Act 1902*.

It is likely that some of the relevant records have been authorised for destruction under general and agency-specific records authorities issued by the National Archives or using a normal administrative practice (NAP). The purpose of this disposal freeze is to prevent any such destruction and to ensure that all relevant existing and future records are available for current and future actions.

The disposal freeze suspends the National Archives of Australia's permission to destroy any relevant records that could otherwise be legally destroyed under current records authorities issued by the National Archives and designates any relevant records as not suitable for destruction through a normal administrative practice (NAP).

Authority

This action is taken pursuant to paragraphs 24(2)(b) and 24(2)(c) of the *Archives Act 1983*.

Records affected

This disposal freeze applies to all Commonwealth entities and to others in possession of relevant Commonwealth records. It also applies to relevant records of defunct or predecessor agencies and records of relevant outsourced business that are held by other institutions.

The categories of records affected by the disposal freeze are described in *Schedule 1*.

Further information on relevant records authorities is included in *Schedule 2*.

In broad terms, the disposal freeze covers records relating to child sexual abuse which has occurred or is alleged to have occurred involving Australian Government programs or activities, Australian Government officials, or Australian Government premises as defined in the Terms of Reference for the Royal Commission where:

- a 'child' is defined as someone under the age of 18 years;
- an 'institution' includes Australian Government agencies that provide programs and services for training, educating, caring for, or addressing the wellbeing of children and agencies that do not have programs that deal directly with children but provide the means through which adults have contact with children eg. on Government premises;

- 'institutional context' includes settings not directly controlled by the institution eg activities of staff on official travel, overseas postings, official representation;
- an 'official' of an institution includes volunteers and contractors as well as employees.

These records may be individual client and case files, policy and other administrative records, records of legal and disciplinary proceedings, investigations, reviews, reports, inquiries and appeals, support or compensation records related to matters of abuse and allegations of abuse (see *Schedule 1* for specific categories).

The disposal freeze also covers agency control records which may identify records relevant to the disposal freeze such as registers of case files, card and electronic indexes of files and records, metadata identifying specific records in databases and other digital business systems.

The disposal freeze covers records in all formats, including paper files and documents, microfilm and magnetic tapes, audio and visual recordings, photographs and records created digitally, including but not limited to:

emails, documents created by word processing and other office applications, residing in designated document and records management systems, on shared work group spaces, on shared, local or personal drives or in any other locations/media, such as thumb drives, laptops and other portable devices.

The freeze also covers information in all relevant current and legacy databases and digital business systems such as those used for management of finance and human resources, client relationship or business-specific workflow and case management systems. It also applies to records which have not been captured into formal records management systems including emails, SMSs and other communications from personal devices, social media posts and personal notebooks and unregistered files or folders.

All records in digital formats, including information in databases and other digital business systems, must be maintained with all the necessary metadata so as to support retrieval and access to authentic and reliable information.

Normal administrative practice (NAP)

Under the terms of this disposal freeze agencies must not destroy any records that may be relevant to the freeze by applying a normal administrative practice (NAP). Any existing NAP policies and procedures in affected agencies should be amended appropriately to this effect.

Duration

The disposal freeze will take effect on **31 January 2013 and will be in force until further notice by the National Archives.**

Action required

Agencies and other agents or people in possession of Commonwealth records should:

1. Ensure that all workers are informed of the disposal freeze.
2. Ensure that all workers responsible for records and information management, legal affairs, human resources management, internal investigations and information and communication technology (ICT) understand the full impact of the freeze.
3. Determine if they or their contractors and records service providers have any records due or overdue for destruction that come within the scope of the disposal freeze.
4. Any records already proposed for destruction must be checked to ensure they are not covered by the disposal freeze.
5. Retain existing and future records subject to the disposal freeze until further notice.

Impact

The processing, reviewing and storage costs arising from the implementation of this disposal freeze will be borne by the agencies or other agents or people concerned.

Inquiries

For inquiries about this disposal freeze, please contact the Agency Service Centre at recordkeeping@naa.gov.au or 02 6212 3610.

Issued by
David Fricker
Director-General
National Archives of Australia
31 January 2013

Schedule 1: Categories of records subject to the disposal freeze

The National Archives has identified and listed areas of Commonwealth information that are likely to be relevant to the Terms of Reference of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission). These categories are listed in this schedule. Guidance on the applicability of the categories to agencies is also included.

Agencies must review the categories in this schedule and assess the extent to which they are affected. Agencies that have other categories of records that may be relevant should review these against the Terms of Reference of the Royal Commission and advise the National Archives.

All relevant control records relating to creation and destruction of records should also be retained.

Summary

Record categories 1 to 3 apply to **all agencies**.

These are:

1. [Non-residential contact with people under 18](#)
2. [Worker whereabouts](#)
3. [Legislation, policies, program planning and agreements](#)

Record categories 4 to 6 apply to:

- agencies involved in past or current allegations;
- agencies that have reviewed relevant actions, decisions or cases;
- agencies that lead or participate in targeted operational responses.

These are:

4. [Abuse cases - incident reporting, investigation and resolution](#)
5. [Individual follow-up / support, compensation, counselling etc](#)
6. [Targeted operational responses](#)

Record categories 7 to 9 apply to several specialised agencies.

These are:

7. [Inquiries and research](#)
8. [Australian Government community services operations](#)
9. [Residential contact with people under 18](#)

Detailed schedules

Categories 1 to 3 apply to all agencies.

1. Non-residential contact with people under 18

Records related to the care and supervision of people under the age of 18 where workers (staff, contractors, volunteers and outsourced service providers) are in contact with children. Examples include:

- programs for school age children such as holiday programs;
- educational, trainee and cadet programs;
- volunteer and work experience programs;
- any occasion when children are present in the workplace;
- school visits to cultural institutions;
- police youth clubs or childcare services supported, funded or managed by agencies, or located on agency premises.

Examples of where this type of information is likely to be found include:

- trainee, student, cadet, volunteer and client case files;
- child attendance or registration records.

See also category 8. Agencies with operational programs that involve delivery of services to children, such as health screening tests and services should also refer to category 8 Australian Government community services operations.

2. Worker whereabouts

In the event of an allegation being made, information about the whereabouts of workers may be needed. Relevant information may establish the location of workers, when they are working either within the agency, on behalf of the agency, or outside the agency for example when travelling. This information is likely to be found in:

- attendance, leave and travel records;
- personnel files;
- records of out posted staff, overseas officers and locally employed staff and their families;
- records showing term of employment.

3. Legislation, policies, program planning and agreements

Information that directs or sets requirements for protection of children from sexual abuse at international, national, intergovernmental, whole of Commonwealth government and individual agency level including agency policies for programs involving children. These may be needed to show how agencies make decisions about these programs. Examples of relevant information include development, implementation, reporting or evaluation of:

- legislation, planning, policies, procedures and reporting mechanisms;
- codes of conduct, standards and values. Includes whole of government and agency child protection policies;
- agreements, contracts, joint ventures, memoranda of understanding related to the care of children, including outsourcing arrangements;
- whistle-blower information;
- processes for managing allegations concerning the care of children.

Categories 4 to 6 apply to:

- agencies involved in past or current allegations;
- agencies that may have reviewed relevant actions, decisions or cases;
- agencies that lead or participate in targeted operational responses.

4. Abuse cases - incident reporting, investigation and resolution

Records documenting actions taken to address allegations and cases of sexual abuse of children and related matters. Examples include:

- allegations made to agencies and agency responses and investigations. Includes cases which did not result in any penalties. This type of information is likely to be in case, personnel, counselling or discipline records;
- referrals to law enforcement authorities and briefs of evidence supporting cases, including evidence gathered for cases that do not proceed;
- reviews of actions, cases or decisions by organisations such as the Ombudsman, Australian Human Rights Commission, Privacy, Information or Merit Protection Commissioners, Tribunals or the Federal Courts.

5. Individual follow-up / support, compensation, counselling etc.

Records documenting support and remedial action to individuals. Examples include:

- claims, assessments, reviews and appeals for individuals;
- interventions, support or compensation and attempted or successful redress;
- counselling, mediation and medical records.

6. Targeted operational responses

Records documenting targeted operational actions or programs taken to address allegations and cases of sexual abuse of children and related matters. Examples include:

- programs such as the Northern Territory Emergency Response or Australian participation in the Virtual Global Taskforce. This includes all agencies leading or participating in targeted responses;
- funding for support programs such as legal aid;
- processes for managing allegations of child abuse;
- gathering and exchange of information about abuse;
- liaison with support groups and consultative forums on matters of abuse;
- evidence of agency responses and implementation of recommendations of any reviews and inquiries.

Categories 7 to 9 apply to several specialised agencies

7. Inquiries and research

Records documenting inquiries and research into child sexual abuse and related matters. Includes law reform and parliamentary inquiries and research initiatives into matters relating to child sexual abuse. Examples include:

- research and consultations, evidence collected or provided, submissions, published and unpublished reports and recommendations;
- all records requested and used by inquiries, such as the Commonwealth Paedophile Inquiry 1996-97;
- data of any current and past research such as surveys and questionnaires;
- responses to and analysis of the findings of any relevant inquiry bodies.

8. Australian Government community services operations

Records documenting the provision of community services and programs to clients under the age of 18. This includes services in territories such as the Australian Indian Ocean Territory. Examples of services and programs include:

- child protection and welfare;
- health, hearing testing;
- policing;
- crisis and emergency management;
- counselling;
- migrant and refugee services (non-residential).

Examples of relevant records for services and programs include:

- client files and records of visits where children are involved;
- planning, policies, procedures and reporting mechanisms;
- review and evaluation of services and programs;
- evidence of the whereabouts of children, for example child endowment payments.

9. Residential contact with people under 18

Records of children and their care where workers are in contact with children involved in residential programs. Examples of residential programs include:

- programs for athletes or other trainees;
- programs for cadets or junior recruits for the armed forces;
- hostels;
- detention centres;
- migrant and refugee resettlement programs;
- university colleges and summer schools;
- Australian Government residential facilities overseas.

Examples of relevant records include:

- client registers;
- worker registers;
- client case files including attendance and incident reports;
- enquiries, complaints, comments and reporting from parents, staff and public;
- records of managing incidents that may include child abuse allegations;
- reports received from medical practitioners, health professionals, psychologists, teachers, coaches, social workers, legal officers, counsellors, chaplains and case officers in relation to individuals or particular incidents;
- planning, policies and procedures and reports and reporting mechanisms;
- evaluation of accommodation, institutional cultures and services.

Schedule 2: Records authorities and practices relevant to the disposal freeze

The purpose of this schedule is to assist agencies to understand which records authorities and practices may be relevant to records that are subject to the disposal freeze. It is not intended to be an exhaustive list. Relevant records covered by records authorities issued after this disposal freeze takes effect will also be subject to the freeze.

Please note that records authorities identified here may still be used to destroy other records that are not covered by the freeze.

1. All relevant [agency-specific](#) Records Authorities (RAs) and Records Disposal Authorities (RDAs) in use by agencies. This includes pre 2000 records authorities that are still current.

2. Relevant General Records Authorities (GRAs) will include:

- [Advisory Bodies \(GRA 26\)](#)
(for example, attendance, leave and travel records for advisory body members)
- [Community Relations \(AFDA\) \(AFDA Express\)](#)
(for example, records of customer service, procedures, public reaction, reporting, travel and visits)
- [Compensation \(AFDA\) \(AFDA Express\)](#)
(for example, records of accidents, cases, claims, reporting)
- [Financial management \(AFDA\) \(AFDA Express\)](#)
(for example, accounting records for travel and accommodation)
- [Governing Bodies \(GRA 27\)](#)
(for example, attendance, leave and travel records for governing body members)
- [Government relations \(AFDA\) \(AFDA Express\)](#)
(for example, records of inquiries, representations, and visits)
- [Legal services \(AFDA\) \(AFDA Express\)](#)
(for example, records of claims, inquiries and litigation)
- [Occupational health and safety \(AFDA\) \(AFDA Express\)](#)
(for example, records of accidents to the public)
- [Personnel \(AFDA\) \(AFDA Express\)](#)
(for example, records of allowances, attendance, counseling, discipline, infringements, leave, performance management, reporting, security and travel)
- [Procurement \(AFDA\) \(AFDA Express\)](#)
(for example, records of complaints, compliance, contracting-out, and risk management)
- [Public or Official Inquiries \(GRA 29\)](#)

3. Predecessor general records disposal authorities and schedules

Although most pre-2000 general records authorities have been replaced, some relevant records may remain in consignments of personal history files and related records that were sentenced using these earlier authorities and schedules. These would include:

- *GDA 20 – Records Common to Third Level Agencies: Offices Controlled by State or Regional Offices;*
- *GDA 18 – Administrative and other records common to most State/Regional Offices and Overseas Posts; and*
- *GDA 17 – All Staff and Establishment Records.*

4. Normal administrative practice (NAP)

Under the terms of this disposal freeze agencies should not destroy any records that may be relevant to the freeze by applying a normal administrative practice (NAP).