

Reframing Practice to Activate Human Rights

The Charter of Lifelong Rights in Childhood Recordkeeping in Out of Home Care
(=Alternative Care)

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<https://www.monash.edu/it/clrc>

Builds on two Indigenous led, community-centered research projects: Indigenous Archiving and Cultural Safety, 2018-2020 (PhD project – Kirsten Thorpe); ARC Trust and Technology Project, 2006-2010 – foundational partnership research on First Nations Rights in Records <https://www.monash.edu/it/indigenous-engagement/research> (led by Prof Lynette Russell, Monash Indigenous Studies Centre;

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Acknowledgement

We acknowledge the First Nations peoples who are custodians of the unceded land of Australia which always was, always will be Aboriginal land. We pay respect to Elders, past present and emerging, and to Aboriginal and Torres Strait Islander participants and to all First Nations and Indigenous peoples here today.

The Charter of Lifelong Rights in Childhood Recordkeeping in Out of Home Care in Australia

- Context:
 - Why a Charter of Rights?
 - What is the problem?
- Is it a world-wide problem?
- How does the Charter address the problem?
- Overview of the Charter
- Implementation toolkit
- Impact and future directions

The Context: Why a Charter of Rights?

‘Axiomatic principle: every child placed in the custody and control of a welfare agency should absolutely expect that the agency will keep full and accurate records about their experience in **Care** and in a contemporary situation the child should participate in the process of making and keeping those records.’

Dr Frank Golding OAM

Orphans, non-Indigenous working class children and Indigenous children removed from their families to orphanages, children’s homes and more recent forms of statutory care (kinship, foster and residential care)
First Nations children stolen from their families in a policy aimed at “breeding out Indigeneity” and destroying Indigenous culture
Children taken from single mothers under forced adoption policies
British child migrants/deportees sent to Australia post WW2
Refugee children separated from their parents ...

What is the problem? Australia's journey to address rights of children in Care

National:

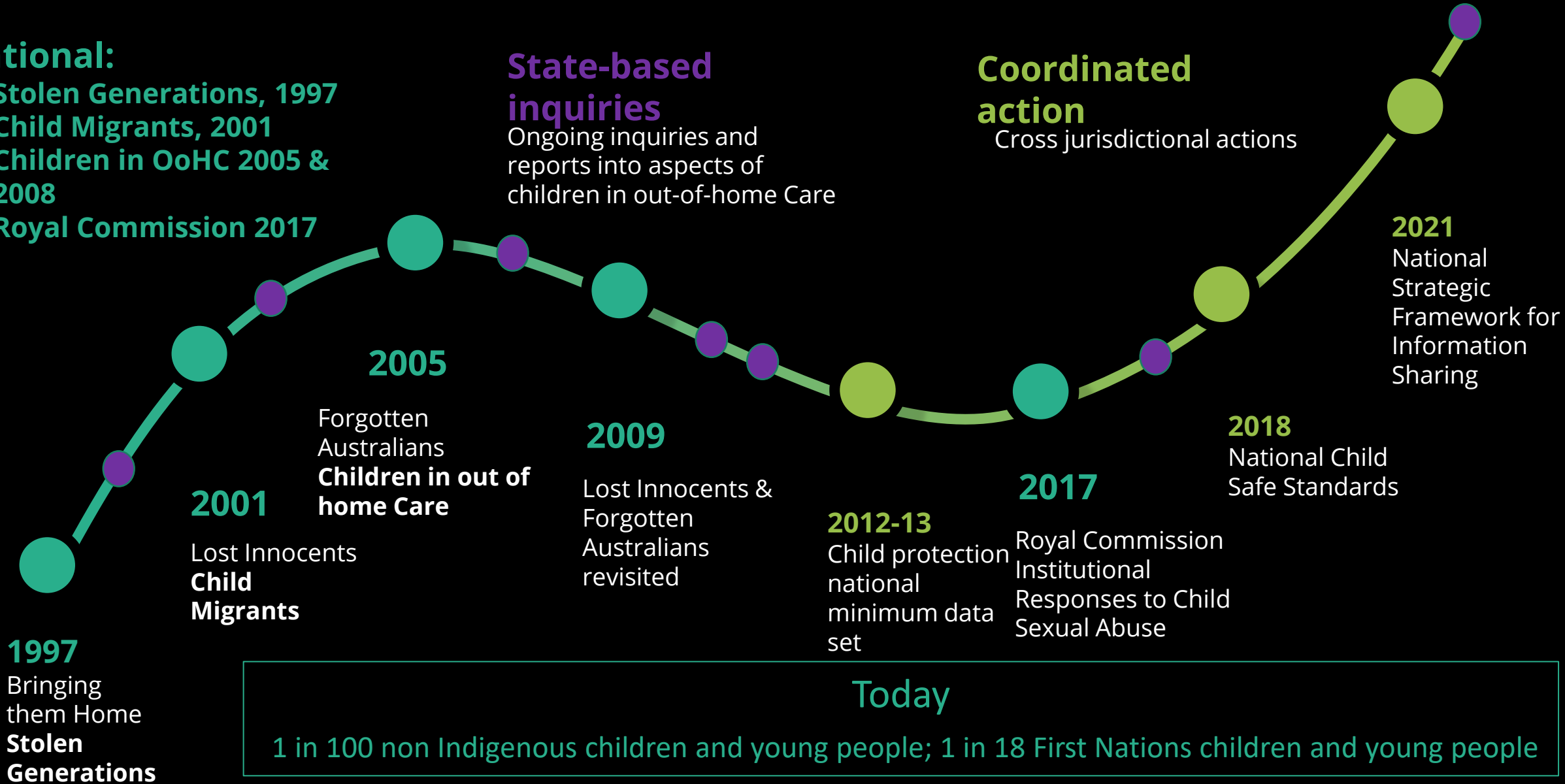
- **Stolen Generations, 1997**
- **Child Migrants, 2001**
- **Children in OoHC 2005 & 2008**
- **Royal Commission 2017**

State-based inquiries

Ongoing inquiries and reports into aspects of children in out-of-home Care

Coordinated action

Cross jurisdictional actions



What is the solution?

“good records and recordkeeping practices are integral to the realisation of many of the rights of children enshrined in the United Nations Convention on the Rights of the Child... In particular, the creation and management of accurate and detailed records is fundamental to children’s rights to identity, nationality, name and family relations. The rights of children to be protected from all forms of physical, mental and sexual abuse are promoted by good records and recordkeeping.”

Royal Commission into Institutional Responses to Child Sexual Abuse 2017

- UN Universal Declaration of Human Rights 1948
- UN Convention on the Rights of the Child 1989
- UN Declaration on the Rights of Indigenous People 2007
- UN Guidelines for the Alternative Care of Children 2009

Is it a world-wide problem?

The problems identified in the Australian context are present in many countries around the world. Children and young people impacted include:

- Working class children in the UK, Ireland, and Scotland
- First Nations and Indigenous children in Scandinavia, Canada, NZ
- The left-behind children in China
- The Timor Leste children taken back to Indonesia by Indonesian soldiers
- Refugee children separated from their parents worldwide.

Setting the Record Straight For the Rights of the Child

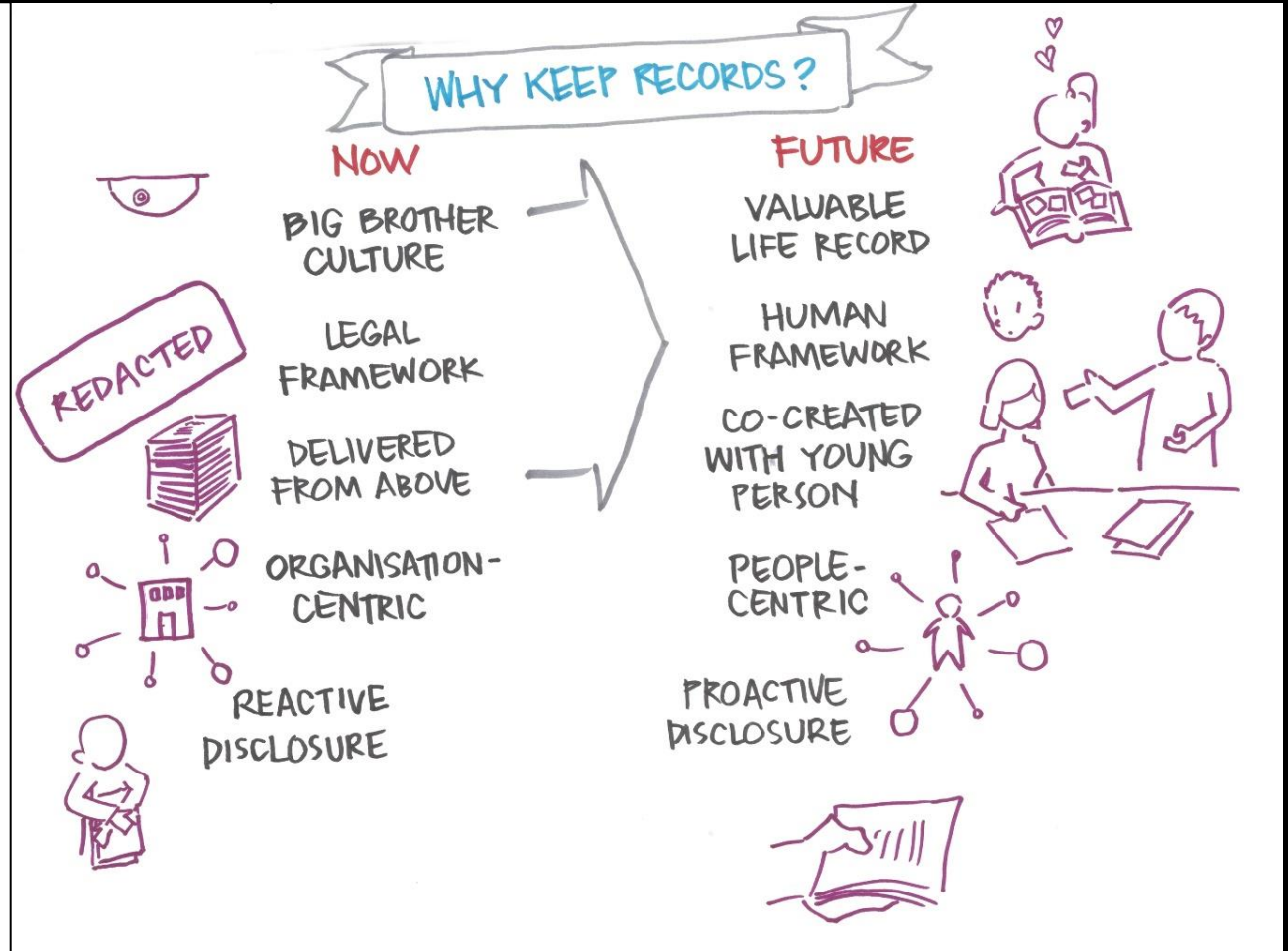
Setting the Record Straight for the Rights of the Child

8-9 May 2017

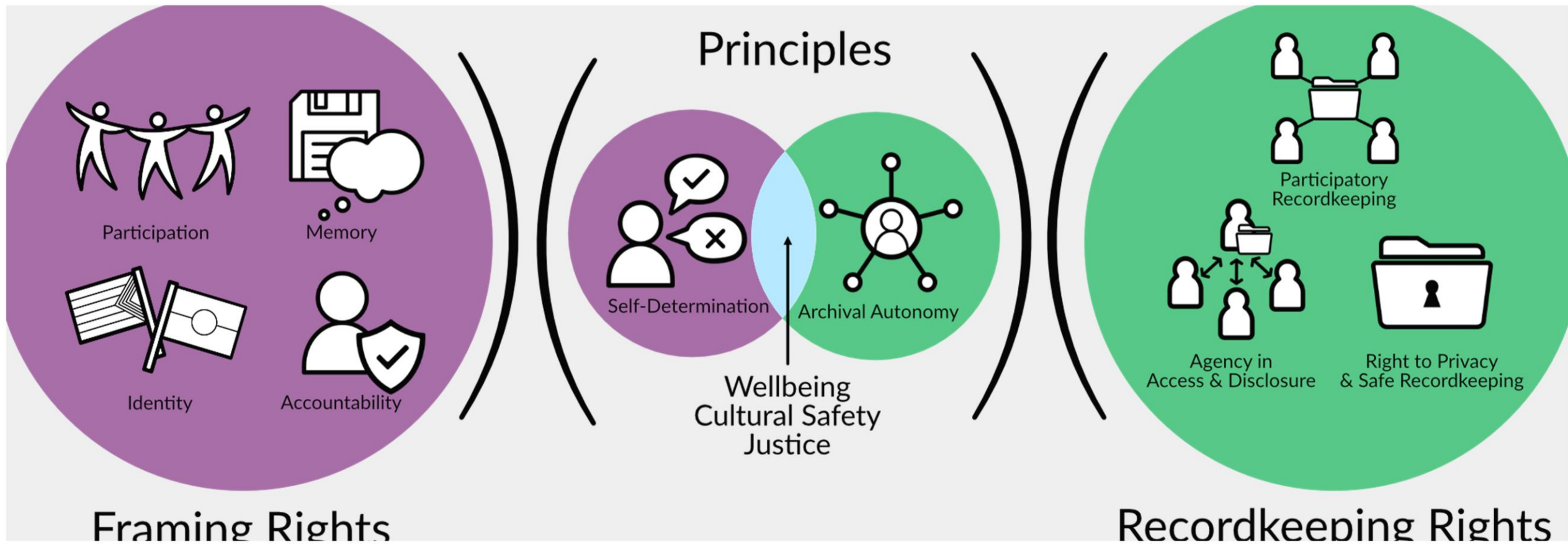
rights-record.it.monash.edu #RightsRecords



CHILD MIGRANTS TRUST



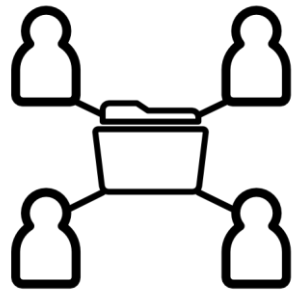
The Charter – a summary



Framing rights:

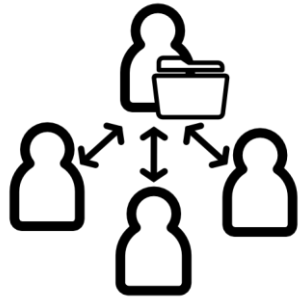
Participation 	Memory 
Rights to participate in decision making/have a voice in all matters that impact on you	Individual and collective memory rights
Collective community right to participate in developing frameworks, legislation, policies and processes that impact them	Rights to remember/forget To be remembered/forgotten
Identity 	Accountability 
Rights to cultural, family and self identity; to know who you are, where you belong and to practice your culture	Rights relating to holding society, governments and service providers to account for actions that impact on you as an individual or community

Participatory Rights in Recordkeeping



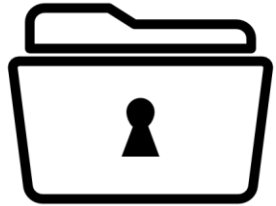
- Creating records about you in organisational settings, creating your own personal records
- Deciding or consenting to what is recorded in organisational and archival systems about you
- Deciding or consenting to how your records are used and who has access to your records
- Intervening in/challenging the record (right of reply/setting the record straight/truth telling)
- Determining how long to keep records, and in what form
- *Cultural, self identity and family rights in records*
- *Refusal and deletion rights*

Disclosure and access rights in records and archives



- Right to lifelong access to your records (including rights to receive copies, timely and low cost access and special accelerated access where circumstances require this)
- Right to have a say in intergenerational access
- Right to know and be informed of where your records are held
- Right to understand the types of records held about you
- Right to be informed of when and why others are given access to your records
- Right to consent to use of your records by others
- Right to know when and why records about you are destroyed
- *Rights regarding records expertise:*
 - *find, locate, interpret and advocate*

Privacy and Safe Recordkeeping Rights



- The right to individual and collective privacy as understood in your culture and worldviews
- The right not to have your records used for other than their original agreed purpose without consent
- The right to safe and secure recordkeeping infrastructure, processes and systems
- Safe and secure keeping places for archival records
- *Personal recordkeeping rights:*
 - *The right to a secure personal recordkeeping/archival space*
 - *The right to a safe, secure, and trusted infrastructure for managing, preserving and transmitting your records*

Endorsement



Government of South Australia
Attorney-General's Department

STATE RECORDS
of South Australia



State Archives & Records

- **Council of Australasian Archives and Records Authorities**
- **NSW Information Commissioner**
- **NSW Privacy Commissioner**

Implementation Toolkit

BEST PRACTICE GUIDE



Best practice examples aligned to specific charter rights

PRACTICAL ADVICE

1. Child Protection and Recordkeeping – Overarching Issues
 - Consent
 - Age Appropriate
 - ‘Best Interest of the Child’
 - Safety and Wellbeing
 - Competing Rights
2. What records are made about a child
3. How information in records will be used or shared
4. Recording the Child’s view on managing their records
5. Creating child centred records
6. Selecting Apps
7. Recordkeeping and Lifestory resources
8. Recordkeeping expert advisor
9. Access to records
10. Talking back to the record
11. Destroying records

Summary implementation recommendations

Out-of-Home Care

Implementation Strategies for Recordkeeping Regulators

Records kept for and about children in Out of Home Care have an impact for a lifetime. Empowering children to participate in decision making and recordkeeping, to know about and have free access to records throughout their time in Care and at any time in their life can significantly affect life chances. Recognising this, Recordkeeping Regulators can constructively engage with all layers of the child protection system to enable child-centric recordkeeping.

Endorse/Adopt

Develop

Pilot

1

Endorse and promulgate the Charter of Lifelong Rights in Childhood Recordkeeping in Out-of-Home Care.
The Charter provides a mandate for reconceptualised child-centred recordkeeping.

4

Develop, in conjunction with peer organisations, **National Standard on Recordkeeping for children in Out-of-Home Care aligned to Child Safe Standards.** Cross jurisdictional, national recordkeeping standards enable consistency and a focus on child-centred recordkeeping.

7

Work with partner organisation to **pilot implementation of national standard.**
Provide proactive support to early adopting service providers.

2

Endorse and promulgate Best Practices Guidance for Service Providers - within and between jurisdictions.
Adopting uniform Best Practice Guidance for Service Providers focusses recordkeeping on requirements of children.

5

Develop jurisdictional arrangements for ensuring long term retention of service provider records.
Orphaned records, left with private organisations which may or may not continue to provide Out-of-Home Care services have been clearly identified as a problem for children leaving Care. Incorporating proactive measures to provide long term maintenance and access to these records is required across all jurisdictions.

8

Work with Children and Young People sector Regulators to develop audit methodology for recordkeeping for children and young people.
CYP Regulators monitor and investigate service provider practices on behalf of children – incorporating recordkeeping into these processes assists implementation of best practice.

3

Support implementation of Best Practice Toolkit.
The Toolkit addresses consistency of practice and identifies achievable improvements in practice.

6

Develop model recordkeeping contract clauses for service providers of OOHC.
Service providers need contractually binding requirements for recordkeeping, during and after contract terms.

9

Practical guidance on maintaining records through technology system change.
Service Providers need practical assistance to ensure reliable records across systems changes

Charter of Lifelong Rights in Childhood Recordkeeping in Out-of-Home Care

Implementation Strategies for Children and Young People Commissioners or Regulators

...every child placed in the custody and control of a welfare agency should absolutely expect that the agency will keep full and accurate records about their experience in Care (and in a contemporary situation the child should participate in the process of making and keeping those records) Frank Golding

Endorse/Adopt

Incorporate

Review

1

Endorse and promulgate Charter of Lifelong Rights in Childhood Recordkeeping in Out of Home Care.
The Charter provides a mandate for reconceptualised child-centred recordkeeping.

4

Include recordkeeping in all reviews and monitoring of services.
Child-centred recordkeeping is a key component of all services. Incorporating recordkeeping in all reviews and monitoring activity ensures on-going attention to recordkeeping is adopted in practice.

7

Conduct recordkeeping audits on departments and Contracted Service Providers.
Working with Recordkeeping Regulators to develop practical audit methodologies enables effective reviews of practice.

2

Incorporate recordkeeping into existing Charters of Rights for Children and Young People.
Update existing Charters to include, at minimum, a reference to children's rights in records.

5

Ensure contracts for service provision and carers include lifelong recordkeeping rights for children.
Advocate for use of recordkeeping model contract clauses and monitor their implementation in practice.

8

Audit arrangements to ensure that records will be accessible for the child's lifetime.
Attention to life-long accessibility of records reinforces requirements beyond current systems.

3

Recommend adoption of Charter (and Recordkeeping Best Practices Guidance) for all service providers.
Promulgate recordkeeping improvement using best practice guidance to all providers as part of the protective framework for children.

6

Ensure recordkeeping is explicitly addressed in practice manuals, guidance to contracted service providers, carers.
Recordkeeping should be clearly specified and embedded in practices at all levels of the child protection system.

9

Call out recordkeeping deficits where they impede either reviews or rights of children and young people.
Explicitly referencing recordkeeping deficiencies or good practice in reviews keeps recordkeeping visible as a protective mechanism for children and young people.

Implementation experience – CAFS Ballarat

- CAFS is a service provider agency across a range of services including child protection, Out of Home Care
 - Proactively addressing a contentious past by transforming current practice
- Led by Dr David McGinniss, Australian Catholic University
- Training sessions for front line service staff
- Enthusiastic reception with staff eager to improve practice
- Immediate implementation question – why limit this to practice in out of home Care? It applies to practice across all services.

Future Directions – Guidelines for Regulators – Recordkeeping and Children's Commissioners

Influencing Policy/Legislative Reform

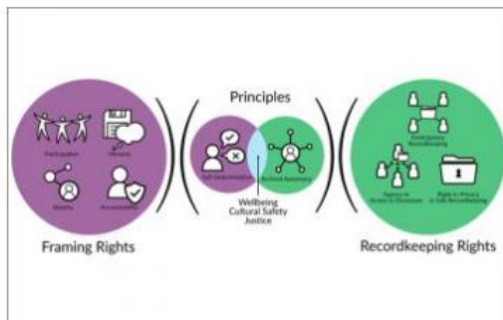
Website: <https://www.monash.edu/it/clrc>

Charter of Lifelong Rights in Childhood Recordkeeping in Out of Home Care

Addressing the critical, lifelong and diverse information needs of Australians who have, or are experiencing, out-of-home care.

This research was a response to the advocacy of care leavers, and the organisations that serve and champion them. It focuses on driving transformational changes in childhood recordkeeping.

The project's genesis was the [2017 Summit on Setting the Record Straight for the Rights of the Child](#).



The Charter

Download the PDF Charter and learn more about its background, foundations and priorities.



Endorsements

View the organisations that support, endorse and leverage The Charter.



Toolkit and outcomes

Use our practical strategies and advice to uphold best practices in recordkeeping for out-of-home care.

How relevant is the Charter of Lifelong Rights In Childhood Recordkeeping to other countries and jurisdictions where children and young people are displaced or in Alternative Care?

What role can/should archival institutions play in relation to Recordkeeping and Archival Rights for Children and Young People?

THANK YOU