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Statutory out-of-home care Designated Agency Recordkeeping Information Sheet

Purpose

This information sheet outlines the requirements of designated agencies to manage and retain records relating to children and young people in statutory out-of-home care (OOHC). A designated agency is an organisation that is accredited by the NSW Children's Guardian (OCG) to provide statutory OOHC services in NSW.

Records referred to in this information sheet are those documents and information that capture the development, context, history and identity of a child or young person in statutory OOHC, or which provide evidence of the services and activities carried out by the organisation.

Records may be created, received or maintained in physical form (paper) or electronically. This includes email, letters, documents, text messages, plans and reports, as well as information in databases and information systems.

All staff are responsible for making and keeping full and accurate records. As these records have enduring value, it is vitally important they are managed effectively.

Why keeping records is important

- Records are a significant part of a child or young person's time in care and contribute to their life story
- To be able to provide a record of life story back to the child or young person, which may occur at any time including later when they are adults
- Records allow a child or young person to know how their safety, welfare and wellbeing were being advanced
- They allow a child to know who was in their life during in their time in care
- They support casework decision making, and provide a record of decision making within the agency
- Records support the monitoring of the provision of quality services and support the ongoing accreditation of the agency as a provider of statutory OOHC services
- They allow sharing of relevant information that promotes the safety, welfare and wellbeing of children and young people
- Records provide evidence of carer authorisation, probity checks, training and support
- To meet legislated recordkeeping and reporting requirements.



Objectives of records management

- To ensure that adequate records of business activities are being created and maintained, and that these records are authentic and reliable
- To enable records to be arranged effectively to facilitate quick retrieval of information that can be provided back to the child or young person
- To ensure that records required for legal, administrative and fiscal purposes are retained for as long as they are needed
- To ensure that records no longer required are transferred to FACS for secure and safe storage
- To identify and protect vital records essential for the designated agency's operations
- To ensure that adequate storage accommodation is provided for the records and that these are kept safely and securely in an appropriate environment.

What records need to be kept?

This information sheet relates to records for children and young people. It does not contain advice on corporate and administrative records related to your agency.

Section 160 of the *Children and Young Persons (Care and Protection) Act 1998* provides the legislative foundation for the maintenance of records.

The Act states that *“Each designated agency must ensure that written, photographic and other records relating to the development, history and identity of a child and young person for whom the Minister has parental responsibility and for whom it has supervisory responsibility are maintained and are accessible to the child or young person.”*

The NSW Child Safe Standards for Permanent Care 2015 provide a number of requirements for recordkeeping. The standards can be accessed in full from the NSW Children's Guardian website:

(<https://www.kidsguardian.nsw.gov.au/statutory-out-of-home-care-and-adoption/nsw-standards-for-permanent-care>).

Records identified in the standards include, but are not limited to, the following:

- Critical incidents occurring within the care environment (standard 2)
- All reportable allegations (standard 3)
- Social and cultural information regarding children and young people and their families (standard 4)
- Family details and personal histories (standard 4), which includes items such as birth certificates, school reports and personal photographs



- The views of children and young people as part of decision making (standard 6)
- Emotional, social development and behavioural needs assessments (standard 8)
- Health and medical information (standard 9)
- Case meetings, planning processes and the views of all participants (standard 14)
- Records for each carer, guardian or adoptive applicant, including details of the rationale for authorisation, personal details, the details of any allegations or complaints against the person and other information relevant to the engagement of the person. (standard 19)

Where should records be stored?

Agencies should review their physical storage of records to ensure that they are secure, protected and accessible. To prevent unauthorised access, all sensitive physical information must be stored in locked cabinets or within document filing rooms when not in use and before leaving work at the end of the day. Access to information is for those staff approved to do so for legitimate business purposes only. Duplicate copies of sensitive documents should be disposed of in secure disposal bins. Ensure printed documents are collected as soon as they are printed. Additional care should be taken when taking client related records out of the office.

Staff should not store records in their own personal drives, separate from the agency's official records system. This applies to emails and text messages and those sent or received for work purposes are official records. If an email or text message needs to be kept to document a transaction or decision, then it should be captured into the agency's official records system.

Records disposal

Original records relating to children and young people must be retained and must not be destroyed. These records will become State archives and are to be retained permanently.

Please contact FACS for advice on how long to retain paper records if you have undertaken a scanning or digitisation program. There are original paper records that must be preserved and for further information please refer to:

<https://www.records.nsw.gov.au/recordkeeping/advice/managing-digitisation-programs-and-projects>

NSW State Archives & Records can provide guidance on the physical storage of records. For further information please refer to:

<https://www.records.nsw.gov.au/recordkeeping/advice/solutions-for-storage>



How long should records be kept?

Section 170 of the *Children and Young Persons (Care and Protection) Act 1998* requires designated agencies to retain all records of children and young people in OOHC until they are transferred to the Secretary/FACS.

Section 170 (1) states that “*Each designated agency must keep the records made by it in relation to the placement of a child or young person in out-of-home care for 7 years after the designated agency ceases to be responsible for the placement of the child or young person*”.

Section 170(2) states that “*At the expiration of the 7-year period or, if, within that period, the agency ceases to be a designated agency, it must deliver the records required to be kept under this section to the Secretary.*”

The OCG’s *NSW Child Safe Standards for Permanent Care - Standard 17* states that “*Children and young people have a permanent record of their histories which contains all relevant documentation.*”

FACS retains records of all children or young people in OOHC on a permanent basis.

Transferring records to FACS

Both physical (paper) and digital/electronic records must be returned to FACS.

If an agency ceases to be a designated agency, it must return any records to FACS.

Discussion about the timeframe for the transfer of files to FACS should be in consultation with the local contract manager.

Seven years after the placement ceases

For the transfer of records relating to children and young people in statutory OOHC, where placements ceased seven years prior, the agency should compile all records into a single transfer to FACS once every 12 months or where otherwise agreed. Care must be taken when sending the records for multiple children and young people by ensuring individual records are appropriately identified.

Please refer to *Statutory OOHC designated Agency Retention of Records, Client Paper Files Information Sheet No: 2* for further details on the process to transfer paper records to FACS.

FACS entered into a Memorandum of Understanding (MOU) with the Government Records Repository (GRR) to facilitate arrangements for paper files.



Electronic/digital records

Digital records need to be returned to FACS. The process for the transfer will need to be discussed between agencies and FACS. Agencies should look to store and ultimately transfer records in digital formats which are in widespread use where technology to support the reading of those formats is expected to exist well into the future. When transferring digital records, it is important that all electronic information is linked through the child or young person's unique identifier, to ensure that all records are correctly matched and related.

Note that FACS cannot accommodate the transfer of whole business system databases. The information contained in these systems will need to be converted to an acceptable digital format prior to transfer to FACS. Care must be taken not to lose context, relationships or metadata when converting information for this purpose.

Access to records by a child or young person

Section 169 of the *Children and Young Persons (Care and Protection) Act 1998* describes the entitlement that children and young people in statutory out-of-home care to access their information.

The Act states that *“On leaving, or after having left, out-of-home care, a child or young person is entitled to possession, free of charge, of the originals of documents held in a file of personal information by the designated agency that had supervisory responsibility for the child or young person, by his or her authorised carer or by the Secretary, if the child or young person was under the parental responsibility of the Minister, including his or her birth certificate, school reports, medical reports, and personal photographs.”*

Key records resources

- [Children and Young Persons \(Care and Protection\) Act 1998](#)
- [NSW State Records recordkeeping advice](#)
- [Office of the Children's Guardian \(OCG\)](#)
- [Charter of rights for children and young people in out-of-home care in New South Wales](#)
- [Ombudsman NSW – Child Protection Keeping Records fact sheet](#)
- [NSW Government Information Classification, Labelling and Handling Guidelines July 2015](#)



Other related Information Sheets for designated agencies

- Statutory out-of-home care - Designated Agency Paper Records Transfer Information to FACS Sheet No: 2
- Statutory out-of-home care - Designated Agency Digital Transfer to FACS Information Sheet No: 3
- Statutory out-of-home care - Designated Agency Digital Records Systems Recordkeeping Information Sheet No: 4
- Statutory out-of-home care - Designated Agency Recordkeeping FAQs No: 5

Further Advice

For further information about the record transfer or retrieval process or to discuss the management of designated agency client records, please contact your FACS Contract Manager.

For technical and logistical support with records please contact:

FACS Staff Support Centre

Ph: (02) 9377 6000

Email - NGORecordsManagement@facs.nsw.gov.au