SUBMISSION 2: THE IMPACT OF CURRENT RECORDS MANAGEMENT BY RELIGIOUS AND OTHER NON-GOVERNMENT ORGANISATIONS ON PEOPLE WHO, AS CHILDREN, WERE CRIMINALLY ABUSED

PURPOSE

As stated by Angela Sdrinis:

"The lack of records and documented information contributes to the difficulties that are faced in litigating claims for damages for people abused in care. This is because it is obviously harder to prove allegations where no documentary evidence exists but also because where documentary evidence does exist, claimants believe it is either false or does not tell the whole truth, proving the contrary can be virtually impossible to do so many years after the events. In other words, the written word becomes the 'truth' and carries more weight in a court of law than the claimant's own evidence." 1

In Victoria, the onus is on the abuse survivor to prove that the abuse occurred. This is essentially an impossible task if the survivor is unable to gain access to or prevented from getting access to the records and documents that substantiate abuse claims. Effective records management is thus critical to enable this access. Without it, care leavers are effectively denied the opportunity to participate in the justice process. The emotional and psychological impacts of the discovery process on Care Leavers should not be underestimated.

The Records and Information Management Professionals Australia (RIMPA) has provided *Submission 2* (this document) in response to the Family and Community Development Committee's question:

What is the impact of current records management by religious and other non-government organisations on people who, as children, were criminally abused?

To answer this question (RIMPA) will focus on the following areas:

- 2.1 Identifying poor records management by religious and other non-government organisations (referred to in this submission as providers of institutional care or institutional care providers)
- 2.2 RIMPA's advocacy of the Care Leavers Australia Network (CLAN)
- 2.3 Results of the 2013 survey of Victorian CLAN members about the impact of records management on their ability to obtain information in regard to their time in care.
- 2.4 Potential approaches to improve access to care leaver records
- 2.5 Recommendations

While this submission discusses care leavers, the discussion is inclusive of, and applies to those care leavers, who, as children, were criminally abused.

¹ Information Quarterly, May 2012, Angela Sdrinis, page 39

2.1 Identifying poor records management by religious and other non-government organisations.

The 2004 Forgotten Australians report² made recommendations aimed at addressing records management inadequacies identified across private institutions and government agencies that provided institutional care for children. Consequently, the private institutions and government agencies made commitments to address those inadequacies. They also reported that steps taken would facilitate access for care leavers to their records and therefore their identity.

2.2 RIMPA's advocacy of CLAN

The Care Leavers Australia Network (CLAN) is a 'support, advocacy, research and training group' for people who 'were brought up in 'care': as state wards, foster children or Home children raised in orphanages, Children's Homes, and other institutions, and in foster care'³.

Frustrated with the lack of improvement in facilitating access to care leaver records, CLAN approached RIMPA in 2011 to act on behalf care leavers Leonie Sheedy and Frank Golding

Since then, RIMPA has provided support to CLAN through advice, raising awareness throughout the records and information profession, and assisting in gathering statistical data that can inform the Royal Commission into Child Abuse.

This statistical information was gathered through the completion of a survey on the experience of Victorian Care Leavers when accessing their records. Appendix 2 identifies the survey questions.

2.3 Results of the 2013 survey of CLAN members about the impact of records management on their ability to obtain information in regard to their time in care.

In early 2013, RIMPA assisted CLAN to conduct a survey of Victorian Care Leavers' experiences in accessing vital information about their time in care. The results of the survey show that despite commitments made in 2004 to address inadequate records management by providers of institutional care⁴, care leavers continue to experience difficulty in accessing their records and information.

The survey revealed that of those care leavers that received records:

- 70 per cent of respondents believe they did not receive their records in full;
- Only 10 per cent believed they did receive their records in full;
- More than 65 per cent of respondents were disappointed with the level of details in the records received, with 30 per cent frustrated with the level of censorship;
- 50 per cent reported mistakes or inaccuracies, with 8 per cent stating the records were not actually about themselves;
- 40 per cent of respondents were angry with the way the events were interpreted;
- 40 per cent said the information was not truthful; and
- 25 per cent required counselling after receiving their records.

² Senate Inquiry: Children In Institutional Care Report No 1: Forgotten Australians (2004),

³ Care Leavers Australia Network, About CLAN. Accessed on the Wide Web on 3 April 2013 at http://www.clan.org.au/page.php?pageID=32

⁴ resulting from the recommendations of the Forgotten Australians report

These results provide clear examples of the continuing detrimental effects of the poor records management of institutional care providers. They also suggest that little has changed since the 2004 report detailing the obstacles to accessing records, the emotional trauma experienced by care leavers, and their frustrated attempts at piecing the facts of their lives and identity.

The value of records to care leavers

Survey respondents also provided insight into the value their records hold for them. Key examples of comments demonstrating the powerful role these records play in the lives of care leaves include:

- "I know who I really am and where I have come from";
- "My mother's letters that were sent to me that I was never [sic] allowed to read were
 in my file. They tell a story that I have not been able to understand for most of my life";
 and
- "That I am no longer a member within a system that did not care that I was a human. I would like to know the reasons why?".

The outcome of attempts to access care leaver records

The survey asked respondents to detail their attempts to access their records. Key responses shown below highlight the absence of improvement in the records management of institutional care providers. They also suggest the continuing failure of these institutions to properly facilitate access to what may be considered among the most important tools for care leavers to rebuild their lives.

- "We never got anything";
- "As it turns out, the records proved not only inaccurate but had been drastically censored. More than ¾ had a black texta link through the paragraphs"
- "The DHS person contacted me by phone and said they found the folder with my name on it but nothing inside it. It took 3 months after I applied";
- "I have tried to apply for my files 3 times and on one occasion the Uniting Church told me that there were so many old files to go through and they wouldn't go through them"; and
- "I tried to get more information but was denied access by the FOI".

The impact on care leavers of not having access to their records

Respondents also described the impact of not having access to their records or where records were incomplete or inaccurate. The examples provided below describe the feelings of disconnectedness, abandonment and betrayal caused when care leavers are denied full and accurate records of their time in care.

- "The blacking out of information in my records left me wondering about what and why, causing me to have no way of knowing the truth and leaving me feeling hopeless and sad":
- "It's as though I was invisible to the statement governments of Victoria and the Mercy nuns for 13 years. I got 65 pages from DHS and 10 pages from MacKillop";
- "a lost soul looking for a paper trail";
- "the truth did not come out. Caused me so much harm"; and
- "I didn't get all the facts about my past. I was put in a mental ward with adults as a 12 year old. Caulfield Convalescence and 2 others. Men sexually touched me and I was suicidal. None of this was in my records. None of my health records provided rhematic fever, arthritis and most probably from sleeping in wet beds as a part of my institutional abuse".

2.4 Improvement to Access

In addition to the survey questions detailed in the previous section, respondents were also asked to provide their opinions on potential courses of action to resolve the issues they continue to face when accessing their records.

RIMPA acknowledges that numerous examples are shown below. However, RIMPA felt it necessary in order to properly convey the frustration, outrage and erosion of trust in the transparency and accountability of care provider institutions caused when their approaches to records management repeatedly fail those who rely on those records most:

- "When getting to leaving care age, people should tell Care Leavers that they can
 access their records much earlier and explain the process of applying for records. I
 have support now at this age, but I wish I could have looked at my records earlier.
 And an improvement in child care services";
- "For government and past providers to be honest and do not block out any information. It is our information not the governments or past providers. Also give original photos, letters, and envelopes not copies! I firmly believe that all information on holiday hosts, foster families, names should be given as these people were adults and they knew what they were doing in taking a child from an orphanage and in foster parents getting paid to do so. Their names should be released. I also would like to know who, when and where has had access to my family the names of DHS workers who had access to my state ward files. I want Australia to commit to the UN Rights of the Child that state governments have an obligation to provide a child with identity";
- "DHS need to be open and honest to speak up if our records have been destroyed
 or if accessed by other family members. It's cruel to leave us thinking they are still
 there somewhere. DHS needs to contact us and not wait for us to apply for access.
 Just send the files to Care Leavers even DHS need closure on historical files";
- "Cost free or minimum amounts. All relevant information to that person about relatives should be given to them. There shouldn't be any time limit on this thing and records to be kept forever. Should not be any time limit on court cases";
- "Personally the former staff have done a pretty good job covering up and I believe anything missed has been heavily edited and/or just plain cut out by the staff of the time. Have a law passed that all records be sized by the states from all institutions. Just like the law that banned us from knowing our parents when we left orphanages! Who took all our records related to the convent! So the government should take all records from all institutions records found any edited/missing/cut/destroyed/misplaced/unaccounted for/not photocopied/vital or appropriate sections are damaged/shonky or straight lied to than that institutional provider should be ordered to pay a sum suitable as if that offence had covered and a cover up had occurred. The proof is in the pudding! Make the bastards pay!";
- "Nothing should be censored, it should be proven that no papers are missing and nobody should be posted or just handed their records. Let them be read where there is a professional counsellor there. The toughest person will fall apart reading their files."; and
- "Church organisations should be more open and honest when it comes to accessing records. I believe vital information has been withheld from me".

2.5 Recommendations

RIMPA strongly encourages the Committee to make the following recommendations:

- 1. That a record keeping assessment framework be developed prescribing mandatory standards, compliant with AS ISO 15489, AS ISO 30300 and AS ISO 16175 and PROV standards applicable to religious organisations, non government and government organisations. This framework should be used as the basis to determine and report on the status of the record keeping and record discoverability.
- 2. That independent annual auditing and reporting occur of the status of the record keeping and record discoverability within religious, non government and government organisations subject to oversight by the Victorian Ombudsman and the new FOI Ombudsman where applicable.
- 3. That relevant agencies and institutions be held accountable to these standards and report annually on progress and compliance in their annual reports.
- 4. That through its COAG alliance, the Victorian Government works with the newly created federal regulator the Australian Charities and Not-for-profits Commission to take a lead role in service performance monitoring of Charities and Not-for-profits. Service performance reporting by these organisations must include adherence to record keeping frameworks that are inclusive of accessibility to records (evidence). Penalties for non adherence may include loss of not-for-profit, tax exempt status

Appendix 1: Extracts from the 2004 Forgotten Australians report which detail the impact of Poor records management on Care Leavers.

Below are examples of some of the issues that have been reported from 2004 and that continue to exist:

Many care leavers provided the Committee with details of their attempts to find records about their childhoods. There may be no records left or the records are scattered amongst a number of agencies. It is often a process of perseverance and luck. One witness recounted that, because of the complete lack of records from a Salvation Army home, the only records establishing that they had actually been at the home were a junior soldier entry and the registration records at the local school.

"For those people who have been state wards and home children, the outcome is often lost contact with siblings and with their family and place of origin. The Committee received many submissions from people who had recollections of two, three, four or more siblings but they had not seen or heard from them in many years. Other care leavers reported that they had found that they had siblings only when, many years later, they viewed their files. Some remembered parents, but did not know why they had been placed in care.

This is not only a heartbreaking experience but also one that has a major impact on an individual's sense of self and identity. There are no siblings to share birthdays or anniversaries. There are no photographs, no medical histories, no school reports or personal mementos. Many care leavers have been described as leading adult lives as 'parentless people', feeling that they belong nowhere, isolated and being unable to establish attachments which the majority of people take for granted.

This problem of loss of identity is further exacerbated by the challenges faced by care leavers in their search for the past through records held by both government and non-government agencies. Former care leavers and their legal representatives cannot access records (evidence) because records have not been kept.

Page 253, 9.1, 9.2, 9.3

One care leaver stated:

"Not only did I lose my identity, but I lost my Mother, my Father, Brothers and a sister, my family home, my bedroom, my toys, my family photos, my school friends at St Kevin's at Cardiff, Aunties, Uncles, my hometown friends and connections...education all blown away like points off the stock market just as through it never existed".

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Former care leavers and their legal representatives cannot get access to full records (evidence) because the records are incomplete as a result of multiple placements.

"Piecing together family histories from very incomplete records in multiple possible placements often from only slender leads is a challenging task, even for experienced professional researchers."

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As one care leaver stated:

"It is not just a matter of overcoming psychological barriers to telling the story. It is also about finding the raw material. In my case (and it is not unusual) I had to locate resources in up to a dozen different locations and persevere with government agencies in the face of what, to put the kindest interpretation on it, could be described as passive compliance with FOI laws. In recent years NSW, Queensland and the Catholic authorities have made significant progress in making data more accessible but other states lag well behind".

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Former care leavers and their legal representatives cannot get access to records (evidence) because they have been destroyed.

"The Committee received much evidence about the record retention practices of different departments, agencies and individual institutions, ranging from almost total loss or destruction to well kept and fulsome records."

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Former care leavers and their legal representatives cannot get access to records (evidence) because records are not indexed, unidentifiable and consequently undiscoverable.

"While it is important that care leavers can identify where their records may be stored, for records to be easily accessed they must be indexed and preserved. Indexing the records of an institution can be complex. Some records are in very old registers which are difficult to read and fragile to handle while others have been stored haphazardly and must be carefully scrutinised to ensure that accurate indexes can be made"

Page 262, para 9.35

Former care leavers and their legal representatives cannot get access to records (evidence) because they are dispersed over multiple institutions and difficult to consolidate.

"Records that could provide care leavers with details of their childhoods are often scattered across a number of agencies and stored in a variety of locations. These might range from State child welfare departments, courts, homes and non-government agencies. Some records have also been moved to state archives and libraries. This makes the task of accessing the relevant records especially difficult. These might range from State child welfare departments, courts, homes and non-government agencies. Some records have also been moved to state archives and libraries. This makes the task of accessing the relevant records especially difficult.

- o It is not just a matter of overcoming psychological barriers to telling the story. It is also about finding the raw material. In my case (and it is not unusual) I had to locate resources in up to a dozen different locations and persevere with government agencies in the face of what, to put the kindest interpretation on it, could be described as passive compliance with FOI laws. In recent years NSW, Queensland and the Catholic authorities have made significant progress in making data more accessible but other states lag well behind.
- o I contacted the Salvation Army, told them my story and asked for information on [my brother]. I was told that they had no records from the Nedlands Boys Home. They didn't even refer me to Child Welfare and also owing to my own family commitments and finances I was unable to continue searching. (Sub 184)
- Since I began this 'learning about our past' process in 1998, I have received grudging and minimal
 assistance and in some cases rejection from these three institutions responsible for care]. At this
 stage I have formally received no files from these primary sources and have had to rely on
 sections of files from secondary sources.
- Evidence was received during the inquiry that the availability of records may be dependent on the status of the child placed into care. Those children who were state wards are often more successful at obtaining records because governments established personal files for each state ward. However, many children who were placed in privately run institutions may not be so fortunate in tracing records.
- Ms Gaffney considered that non-wards sent to non-approved institutions, may have a particularly difficult time tracing their histories and finding answers because they were largely invisible to the State authorities and thus would not appear in State records. It is likely that these scenarios were

repeated in other States. Because we were not legally 'Wards of the State', we have no records except for admission data.

"I just want to find who my mother was. I have tried everything to find her and all I know is that her name was Shirley Brown on my birth certificate. I was never a State Ward, so cannot find out anything about the circumstances of my birth. If I had been adopted, I would be able to have that information. I just want to find my mother. (Sub 153)"

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9.23 CLAN also noted the problems of children in non-state homes and stated that 'agencies and organisations which ran Homes in the past do not appear to have felt the same obligation as governments to retain records'. One example provided by CLAN was that of the non-state Home where one of the organisation's founders was placed. It operated from the second half of the 1940s until the late 1970s. There are no records for this Home or the hundreds of children who passed through it.

9.25 The problem of locating records is exacerbated in cases where children were moved many times from children's homes to foster care. In addition, many homes no longer exist or the names of homes and institutions changed during their period of operation.

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9.30 The Victorian Government is currently working on a resource manual to the records of indigenous children in care: Finding Your Story. However, as with many homes Australia-wide, the Victorian Public Records Office has found that the records of both indigenous and non-indigenous children are kept in the same record keeping systems. As a consequence, Finding Your Story will contain information on all Victorian children's and babies homes, orphanages, foster care programs, family group homes etc that it was possible to find information on. The information includes the name of the home, the location of records and access conditions and procedures.

22 The Department of Human Services also provides services for former wards. The Department's Adoption Information Services assists former wards to obtain their records and provides counselling, support, search and mediation services.

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Destruction of records

9.38 The Committee received much evidence about the record retention practices of different departments, agencies and individual institutions, ranging from almost total loss or destruction to well kept and fulsome records.

9.39 While former state wards may be more successful than non-wards in locating information, this is not always the case. The Committee received evidence that there has been considerable destruction of state records. For example, in Western Australia many government records have been destroyed. The Department for Community Development indicated to the Committee that the first record of destruction of files dated back to July 1938 when 12 000 files were destroyed from the period 1886-1920. Files were also destroyed for the period 1921-1927. From 1951 the Department established a system of selection of files for retention. From 1960 it was agreed that adoption files would be destroyed after five years from the date of the order; migrant files would be destroyed five years after expiry of term or date of final action; and ward files would be destroyed 10 years after expiry of term or date of final action. These destruction times were amended over the years. From 1980 adoption files were transferred to the Adoptions Branch and no files were destroyed. The Department indicated that now client files were held permanently and stated: In the early decades a lot was destroyed, according to the policies of the time. In retrospect we can now see the wisdom of holding on to records.

9.40 In South Australia it has also been reported that many government records have been destroyed and the Department of Family and Youth Services may only hold the index card of those who have been in care. The Department stated that records were destroyed in the late 1970s and early 1980s 'because of a prevailing philosophy and community concern at the time that it was inappropriate for the Government to hold files containing personal information about citizens'. However 'these days we have strong policies and

practices in place to make sure that records are properly preserved and can be available to people seeking to access their personal information to put the stories of their background together'.

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9.41 In New South Wales, CLAN stated that state ward files were randomly selected and destroyed.33 The destruction of ward files seems to have been a widely accepted practice and the Committee suspects that similar practices have occurred in other States.

9.42 Witnesses also reported difficulties in accessing state records in Queensland where an oft cited reason for the inability to locate records was that they had been destroyed in the Brisbane floods of 1974. 9.43 In some private institutions, the retention of records has also been haphazard. As noted in For the record, 'even when records were maintained, there has been no requirement or expectation that they be kept indefinitely'. CLAN for example, stated that it knows of institutions which existed for many years and housed hundreds of children, for which there appear to be no records extant. One care leaver related trying to find records of a Salvation Army home in South Australia: The Salvation Army [home] was shut down in 1973, I think. It had been open for 30 years, but all the records they have in South Australia at Nailsworth, which I have tracked down as well, would not fill this folder. It is 30 or 40 years of a home run by the Salvation Army which filled the whole journal of what happened.

9.44 Records may have been lost because a specific event, for example, many of the records of the Tally Ho Home were lost in a fire. In other cases, records cannot be found because they have been moved or misplaced. CLAN stated that it had received information from a Melbourne City Mission worker who reported that they had 'come across' a box of files in the archives related to state wards who had lived in a children's home. CLAN commented: These are records that presumably nobody knew about until this moment, and we cannot know how many people had applied for access to them, only to be told they no longer existed. The worker discovered them guite by chance.

9.45 Whatever the reason for the destruction of files, the outcome is still the same: care leavers are neither able to trace families nor piece together their history. They also feel hurt and betrayed. As CLAN commented 'these are children . these are families . who were not considered interesting or important enough to even have their records kept'. As a consequence, 'it is very difficult to establish and maintain a sense of identity in the face of such apparent indifference on the part of the authorities who were supposed to "care" for you'.

9.46 A further problem that has arisen relates to the preservation of records which are old and fragile. Constant handling and inadequate storage leads to further disintegration. Mercy Community Services for example, indicated that it had records dating back to 1868. It has stored all records relating to adoption using digital imaging and it has a long-term plan for the digital copying of all records.

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9.47 The United Protestant Association, for example, stated: UPA has records for just over 3 300 children who were in UPA care over a fifty year period. Record keeping in our early days was a mixed bag, with some files containing reasonable amount and some scant information.

9.48 The reasons for lack of information are varied. Sometimes the records were culled or destroyed. In some instances, where there was no legal requirement, records were not kept. It was noted in For the Record that: The records kept at many agencies before the 1950s were often very limited. Until the 1970s there were very few or no legislative requirements or guidelines for the types of records that should be kept. The most common and reasonably widespread form of client records is an admissions register. Punishment books are also reasonably common!...Some institutions have old photos, even old film, which can be very helpful.

9.49 It was also stated that the lack of records may have been a deliberate policy. Catholic Welfare Australia commented: For many reasons some institutions did not keep minimal records or in some cases people have not been able to access their records and this has been a source of great pain and frustration. There appears to have been a deliberate choice in some cases not to have too many details of a child's life recorded so that the child could "start afresh" without the stigma of illegitimacy, or broken relationships.

Of course, that has meant that people have often felt devastated because the records that they have been able to access are so scanty and superficial. Also the sheer pressure of the day to day work must have also contributed to not writing up records not to mention the issue, of what kind of information should have been kept which was not e.g. medical and dental records. As stated previously no uniform standards applied until recent decades.

9.50 Mercy Community Services also stated that sometimes only very limited written records are available. Mercy commented that 'it can be difficult to accept that several years of a life can be recorded by no more than some one-line entries in a register'. While other information was kept at the time, it may have been disposed of soon after the person left care. The significance of such records was not always appreciated at the time and 'it is also difficult to explain that there are some years where we have no records at all (most of the 1950's)'.

9.51 Examples of the absolute minimum of information provided in response to requests were shown to the Committee. The following information given to one person illustrates that a period of their life consists of one line!

Other care leavers stated: On request for information about myself while in St Brigid's [from 4 to 16 years of age] I was sent one sheet of paper giving me a date of entry. I think that sums it up correctly, these institutions hold no memory, no photos, no medical, school reports nothing, and yet somehow we are meant to become model citizens, HOW? I received in the post [from GSS Abbotsford] an A4 sheet of paper stating my mothers name, dob, place of birth, religion, parents, date of admission & date of discharge. That was it. No explanation of what she was doing there in the first place or any reports on any medical conditions she may have had or any outings or basically any information that was telling except her date of admission & discharge. As you can imagine I was more than just a little disappointed that my mother's 2 1/2 years at this institution were worthy of such minor details.

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9.52 Difficulties are not only encountered by care leavers with the agencies which cared for children. Other institutions also may hold records relating to care leavers. For example, one witness told of trying to access New South Wales Children's Court records: Western Sydney Records Centre Kingswood holds the Children's court Transcripts 1900-1960. Missing is the 1939-1950. When asking the most important question is why are the war years missing? One receives all kinds of answers from being lost to being burnt to being packed away. Under the Archives Act brought in 1960 all records should have been released. Why were the 1939-1950 withheld?

9.53 The impact of the paucity of information provided can be devastating. I find it more difficult to believe that my time at 'Lynwood' cannot be found, which makes me sick to my stomach when I think about it, as I feel I grew up a no name nobody. After 18 years as a 'Ward of the State' and some 32 years later, I finally get enough nerve to have the audacity to ask the system for whatever relevant details they may or may not have on me during my childhood. I get two sheets of paper with about 9 or 12 lines on it, I look at these two sheets and I am devastated, 18 years of my life on two sheets of paper. I ponder and wonder this can't be all of my 18 years on two sheets of paper.

9.54 Many care leavers cannot understand why there are no records. One witness stated: The most you get is date of entry and date of exit. There are no records of childhood diseases, siblings or parents. Why did not the government have inspectors to see that relevant data was recorded, not just notations in an exercise book.

Another care leaver noted:

No one can find any records about me. Our lives were changed forever by this action and I have never been given or it seems now that I will never have any context for this life changing action. Why is this? Why have I never been told as an adult why the government came and took us?

9.55 Even after a long and complex search of records, many care leavers are disappointed with the outcome as they are unable to find answers too many questions and they feel that they have been abused a second time. One care leaver stated: I looked forward with great anticipation to receiving those records, hoping that they would give me an insight into those four terrible years that my memory had successfully blocked out. But my hopes were in vain. My total records consisted of one line . who my parents were and the date of my admission to the orphanage. I sat down and cried my heart out. It was as though the emotional abuse of the orphanage was still continuing. As though Frank and I never existed. I was told by MacKillop Family Services that there were ample records for all other boys who were at the orphanage, however, as Frank and I were private admissions by our father, we only rated one line each.

MIM'S STORY

Being a "Home child" and not a ward of the state meant very few records were kept of my formative years by the people looking after me. At the time, with the rest of our troubles, it didn't seem to matter. But now, as a 44-year-old woman, I want them desperately, and not just for sentimental reasons. There is other documentation, medical records in particular, that I need to understand what actually happened in that lost childhood and what the consequences might be in later life. Twenty-four years ago I was diagnosed with a blood disorder, thalassemia. My doctor says I have suffered with some form of dyslexia and maybe even autism. He wants to know where I might have got it from. I had to tell him I had no way of knowing. For the last few years I have been trying to find any record of our childhood, anything at all. I went to each of the Homes but they no longer exist or have changed and say they hold no records from that time. Mim finally discovered that the records of one of the Homes she and her sisters were in for a long period had been placed in the State Library of Victoria. Finally, everything we imagined we needed to know - medical history, photos, school reports, holiday visits - would be there to see. I live in Far North Queensland, and it took a while to be able to get back to Melbourne. When I returned last month, I was highly excited. I dreamt about the answers I might find: why I could not read or write properly until high school; what screening process the homes had for the people who were allowed to take us out on weekends and holidays. More importantly, did they record and monitor the uncontrollable behaviour problem I'd been afflicted with, and what was that medication they forced into me on a daily basis? I got to the State Library early and paced the foyer. The head librarian led me to the desk where a large book lay all by itself. My heart was thumping as he opened it. So there was the three-page history of our childhood. Mine was a whole two lines: M.S. Born Dec 1957. Sister of H.

"That's it?" I wailed. I burst into tears. "How can that be?" I thought. After all this time I have failed again. I have failed my sisters in finding their answers, too. But really, it is the system, the government, my parents that have failed too. Failed me, and thousands like me. That 60-year-old book contained hundreds and hundreds of lost children's names...and nothing else. I felt I was being ridiculed again. I wanted to create a scene. To yell and scream my years of frustration and wait for the police to forcibly take me away. Instead, I went to the nearest pub and got drunk. "How can that be?" I kept repeating to myself. Our whole depraved and abused childhood. Silenced. Vanished. Gone, just like that. I cried for myself and my sisters. I cried for all of the thousands and thousands of dysfunctional adults I have never met, who have experienced the same trauma as me. If we had been disabled, adopted, or if we had been imprisoned or sent to a mental asylum, would we not have had more documentation of our lives? Was that as far as the state's duty of care went?

Submission 22, p.13 (CLAN) Page 268

Information and comments contained in records

9.56 For those viewing files, the information contained in them can bring back painful memories and may include comments that are written in language that would not be acceptable today. People who have received information from their files have referred to comments which indicated that the welfare authorities were overly judgmental in relation to a family's social and economic situation. One care leaver stated: My parents may not have been the most admirable couple, but it is evident that the authorities took action on the basis of their own value judgements and personal preferences, instead of acting in the best interests of their children. Examples litter the files. My file from DoCS contained many judgmental comments about my mother and it seemed that they had no understanding that she was being constantly bashed by stepfather. Also in my DoCS file, the district officers observed that my stepfather was aggressive and smelt of alcohol but they never looked any deeper. They never seemed to review the file to see that there was a pattern and that he had a history of assault. It seemed easier for the welfare to keep moving me from place to place rather than address the real problem which was the physical abuse from my stepfather.

9.57 Other comments in files can cause pain and distress to the reader. CLAN gave the example of the use of 'high grade mental defective' as a not unusual term applied to emotionally disturbed children who appeared unresponsive to their 'carers' MacKillop Family Services also noted that other terms that were common in past psychological assessments 'cannot be read neutrally today'. MacKillop also stated that the phrase 'disposal of the child' was one that people accessing records find very offensive, 'because it reduces their life to that of a commodity that can be disposed of like something that no longer has any worth'.

9.58 Evidence of the lack of regard for the feelings of the child in care can also bring back traumatic experiences and feelings of inadequacy: Finding out what went on in my life as a small child and a young teenage girl was a little bit of a surprise. Also it made me angry, frustrated and upset. As I read my file everything that was said was from the foster families, I did not have any say on the way I felt or if I was happy with my life. No case worker, no counsellor, no support person. Did I matter or did they care what I was feeling as a child?

9.59 For those who were given very little information about their lives when in care, accessing files later often comes as quite a shock as they may reveal family secrets, reasons for events that were previously unknown or even information about unknown siblings. One care leaver stated: I found out a lot from that file . more than I really wanted to know. That's how I found out that I was classified as being "high grade mental defective" and sent to "homes" for mentally retarded boys. I was also able to piece together events into time frames. I had absolutely no idea about how long I was in certain homes or about time in general. I was not even able to tell the time in the homes. I also found out that the first time I was taken from my parents it was at their request. Do you know how painful that was for me? Everything I had suffered was because they didn't want me.

9.60 Care leavers are often distressed that many files contain not only simple errors such as misspelled or incorrect names and incorrect dates of birth, but also fundamental misinformation. The perpetuation of incorrect or unreliable information, which appeared to have been accepted at face value with minimal or no checking of its veracity, provided the basis in some cases for significant decisions that affected the child's life. Witnesses stated: Dad signed the forms and left. Our mother's signature was neither sought nor required. No one thought it necessary to check Dad's story...Nevertheless, without ever being verified, this 'fact' became indelible in the Department's file to be repeated in future documents. Once on the official file the 'facts' were re-cycled until they became permanent truth.

These mistakes were common, the files are something to behold, they are inaccurate & sloppy, they make me think of the saying: 'Never let the truth get in the way of a good story' as some of the stuff that is in my file are just "nice" stories, it never happened. They often confused you with another child I'm sure of that.

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The only records I have was a slip of paper from the Sisters of Mercy that gives an incorrect date of birth and a baptism date on it, and a piece of paper with details copied from a card file. Some of the details there are incorrect as well. It has no entry after 1953 when my mother died. It stated that my brother was at college and that I was discharged. I never left that hellhole until late 1956. I received the paper from Major Sanz and to my absolute disgust and dismay I was told 'we have not found a record of you being at Goulburn Boys Home [Gill]'. Instead, I received a copy from Bexley Boys Home stating that I had been there for about 6 ½ years, my birthday 11.2.41, being sent to my mother and my mother being my future guardian. None of this is correct, I spent about 9 years at Goulburn Boys Home [I was never at Bexley], my birthdate is 11.3.41 and I was sent to my FATHER, and my FATHER was my future guardian...How could they get it all so wrong? If they couldn't get the paperwork right is there any wonder they couldn't get the "care and training" right.

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Issues with access Government records

Freedom of Information

9.71 Freedom of Information (FoI) legislation has been passed in all Australian jurisdictions. The legislation covers personal information compiled by government agencies. The Committee heard evidence that some care leavers have experienced difficulty in accessing information under FoI procedures. There were cases where information was provided only after persistent efforts to pursue records and instances where large amounts of information were withheld. Care leavers were particularly angry that the material on files, even if years old, was still withheld. Witnesses stated: If we do not get the finances to help people for medical reasons or psychological reasons, at least give us the complete file. At least let us read and put the jigsaw puzzle together as to why we went into these institutions and why our parents were not given permission to come back and visit us. At least let us have our information about ourselves...Each time I have applied, I get that little bit more. I am trying again to get more information. I want to know more about my parents. I have got nothing. My mother is not of the mind to be able to tell me and my father died...I think the information is there; they just do not want us to have it. But I want it. Incidentally, in the freedom of information process that I started in 1994 and I still have applications in although I have been told on a

number of occasions, 'The files have been have all been released to you,' further files have been found upon pursuing particular matters. The censorship of the files was something that had disturbed me and I appealed as vigorously as I could without getting into the legal process. I managed to retrieve whole paragraphs from my own file. It galls me, having been a child in an orphanage and never told anything about my parents, that now, when I am in my 60s, I am being told, 'You can't see what's on your file.' It really galls me that some perfect stranger, a bureaucrat, can see what is on my file but that I cannot. So I go through this process of getting a letter with a paragraph missing and having to write another letter and then six months later getting response. That has taken a long time. It is now 2003; I started in 1994. I still have live applications before government departments for information which is my information. That really sticks in my throat. My endeavours to access my mother's personal records whilst at Parramatta Girls' Home have been thwarted by bureaucratic red tape [Freedom of Information]. A recent attempt at the State Archives in Kingswood resulted in numerous phone calls to various government departments with each department only too willing to suggest a further two phone numbers that might be helpful. All to no avail!...I am an adoptee, my birth mother is dead, my grandparents are dead and so is my natural father. Who may I ask are the bureaucracy protecting?

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9.72 Some care leavers find it hard not to take the view that organisations are trying to protect themselves when records are withheld or parts of records are excised. Witnesses stated: The Department has numerous files, reports and information but choose to release only minor non damning propaganda. I applied for my files, through freedom of information, through DOCS. When I got them, they were so small that I thought .Wow, are these my files? until I saw some of the other files. I applied for my real files and got them, but a lot had been taken out. Then I looked again at the first lot of files I had got and they were not even in them. So they all covered their tracks. They left us so screwed up, but they covered their tracks. 9.73 Bringing them home commented on the restrictive application of FoI. In some States, there are specific procedures for indigenous families in general or specifically for children taken into care. These procedures are less formal than FoI, discretionary and designed specifically for indigenous searchers. The report noted that 'while they are often slower than an FoI application, they are usually free of charge and research assistance may be available'.

9.74 During the inquiry, many witnesses commented on the lack of assistance provided by governments to care leavers seeking their files. Witnesses noted in most jurisdictions, assistance is provided to those who have been adopted to trace family, however, the same assistance is not provided to former wards of the state. One care leaver stated: I have found out from one to two that have been adopted that they have found out all the details. They have even found out that they have brothers and sisters. It is made a lot easier if they were adopted.

9.75 CLAN also commented that some State department websites do not contain any information for former wards attempting to access their files. On other sites, services for State wards are included with post-adoption services. As CLAN noted, State wards have not been adopted and would not, in the first instance, consider looking at adoption services to find out about former ward services.

9.76 CLAN also assists its members to obtain their ward files or information about the institution they spent time in. In Victoria, people who have been separated from their family of origin, including state wards and adoptees, can access the search and support services provided by VANISH.

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Non-government records

9.77 Freedom of Information legislation does not apply to records held by nongovernment organisations. The non-government organisations apply their own procedure to accessing records and some agencies are more open than others. A few months back we went and opened our files at Dalmar. Up until recently we were led to believe that they were burnt in a fire. About six years ago we got access to a few things from a file, where we saw letters, loving letters our father had written that we never saw.

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We got a few reports and things like that, but it was said that everything else was destroyed by a fire in the walk-in safe. It would have been hard to ignite a fire there.

9.78 MacKillop Family Services noted that 'we believe very strongly in a process of openness in terms of releasing our records. When we first set up our service it would be fair to say that we received some criticism from other providers for our willingness to be open to release records.

9.79 MacKillop went on to state that it had been given records by the founding agencies to look after and for it to provide access services to those records. Other congregations still hold their own records and provide the service. When MacKillop Family Services was formed, the board chose to fund the service. The service is consulted on a regular basis by Protestant and non-religious organisations and by other Catholic organisations about the model set up. MacKillop commented, 'it is probably true to say that for some organisations today there is a fear of engaging with people that have grown up in care in the past'. However, the board of MacKillop 'was not fearful about that and saw that to go forward we had to acknowledge the past, which was not always going to be good but was there'.

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Delays and cost of accessing records

9.86 The Committee received evidence of delays in the provision of files for access, particularly for people living in country and regional areas. One witness stated: It is not always so easy finding out about yourself. DOCS took three months to pull my file and another two weeks to copy the information I requested.

9.87 Relationships Australia commented that some people had to wait years to access their files: This morning I had a phone call from someone who has asked for their records in southern New South Wales. It has taken two months for them to get to the office, and now they have to wait because there is no-one available to actually go through the records with them as they are too busy. This is a common story told to us.

9.88 Witnesses also considered that having to pay for access to their personal information was demeaning and insulting. Even though it may be possible that the early files on us may have been destroyed, I find it very hard to believe as there are a few words about me which I acquired from FOI on request for which I was charged \$15.71 I was sent firstly to Ashfield Babies Home for approximately one year . I don't know the exact details as I resent paying \$50 for my 'records' to discover that there are no details as to who I was, only that I was there and I know that already. It is our information. We should not be putting our hands into our pockets at all. The government should be assisting us in every possible way for education, for psychological reasons, for medical reasons and for finding our personal information. That is the least they could do in assisting us.

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9.89 While many types of government records may be of interest to care leavers, they are expensive to access. For example, CLAN noted that many people who grew up in care went into the adult gaol system. Those wanting to access their prison records must pay \$30 (or \$15 if they are on a pension). CLAN also commented that many children became state wards because their parents failed or could not afford to pay the fees for their children in the care of the government or churches. As a consequence, many parents were sent to prison for failure to pay fees. In these cases, state wards are looking for information on their parents as well: 'if their parents were sent to prison it helps us to understand why our parents didn't visit us in the Homes for years and years'.

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Overcoming problems of access

9.90 The Benevolent Society's Post Adoption Resource Centre outlined succinctly the needs of those seeking access to records: Care leavers need to have access, free of charge, to all file information held by a service provider, that relates to themselves and the reasons for their admission to care irrespective of their legal status at the time of their placement. They should also have copies of file material and original documents. They should have detailed specific information about all members of their family. It is essential that a sympathetic, experienced and suitably qualified person is available at the time of reading the file. It should also be ensured that there is a limited delay in the files becoming available. In the case of non-government past providers, there should be flexibility as to when and where the file is accessed, taking into consideration the care leaver's possible strong feelings about returning to the buildings associated with their experience in care.

9.91 CBERSS commented on the benefits of easy access to records: Quick and easy access to records about their own childhood is an important part of the healing process for CBERSS clients, as it would be for most people whose family ties were broken or damaged as children.

9.92 A number of suggestions were made in evidence to achieve better access to files and improve services for those searching for families. CLAN recommended the establishment of dedicated information and search services in all States specifically targeted to state wards and Home children to help locate family members and their own history. These services should include:

- Assistance with accessing their file(s), i.e. dealing with government or agency authorities. This is often a very daunting task for a Care Leaver: it is the first step to acknowledging what happened to them and there is often also apprehension about what the file will contain.
- Mediation with the agency which raised them as many people are reluctant to approach the agency, where in their opinion it failed in its duty of care, or allowed abuse to occur.
- Support in reading the file from somebody familiar with the attitudes and practices of the past care system.
- Meetings and/or mediation with persons identified from the file, for example a sibling or ex-carer. Support and facilitation services may be essential for people who wish to meet with and challenge excarers about issues still affecting them today. This is an option that should be available for Care Leavers who wish to have some closure with their past.

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9.93 CLAN also recommended that research be carried out to search for and locate records, collate histories of care locations, and perhaps establish a centralised records service for care leavers. CLAN stated that this is a fragmented history whose pieces must be pulled together as an important part of Australia's social history. In addition, all States should follow the lead of New South Wales and publish directories similar to Connecting Kin: A Guide to Records. This was also supported by other witnesses.

9.94 CLAN recommended that funds should be allocated to advertising nationally for records since in some cases records have simply ended up in agency basements or in an individual's spare room. CLAN noted that poor record-keeping combined with the incomplete retention of records by many organisations means that resources need to be allocated for proactive record searching to help fill in the gaps. Proactive searching may well turn up many more 'lost' or forgotten records than those currently available.

9.95 Other organisations also recommended that each State government appoint officers in the relevant agencies to have the sole responsibility for the needs of care leavers.

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9.96 As noted earlier, a major concern for both agencies and those seeking to access records is the preservation of records as many are old and in poor condition. Preserving, indexing and ensuring easy access to records is expensive and time consuming. Mercy Community Services recommended that the Commonwealth Government provide funding to allow past providers of institutional care to preserve, index and image their remaining records, as a service for past residents.

9.97 The Committee, in its report on child migrants, found that access to records was of fundamental importance to those who were searching for their families. The Committee made recommendations to improve access to records held by agencies in Australia and to assist those seeking family reunions. The recommendations included:

- the establishment of comprehensive signposting indexes to assist former child migrants to locate information about receiving and sending agencies;
- the establishment of a national index of former child migrants;
- the publication of directories to assist all former residents of children's institutions to access records;
- the establishment of a national group of all receiving agencies, other relevant bodies and Commonwealth and State governments to develop uniform protocols for accessing records and sharing information relevant to former child migrants, their families and descendants and to coordinate services for former child migrants;
- that all organisations holding records pertaining to former child migrants held make those records available immediately and unconditionally;
- where any organisation holds primary documents, including birth certificates, relating to any
 living former child migrant without their express permission, former child migrants be entitled to
 recover that document from the holding organisation; and
- all sending and receiving agencies be required to extend access to their records to descendants of former child migrants.

9.98 The Bringing them home inquiry also made extensive recommendations for enhancing access to the records of indigenous children who had been in care.

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These recommendations included the establishment and funding of a Records Taskforce by the Commonwealth and each State and Territory with both representatives of government and non-government agencies and indigenous user services. The Taskforce's aims would be to develop common access guidelines and advise government and churches generally on policy relating to access to and uses of indigenous personal, family and community information. It was also recommended that all common access guidelines incorporate the following standards:

- the right of every person, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same;
- no application fee, copying fee or other charge of any kind to be imposed;
- a maximum application processing period to be agreed by the Records Taskforce and any failure to comply to be amenable to review and appeal;
- a person denied the right of access or having any other grievance concerning his or her
 information to be entitled to seek a review and, if still dissatisfied, to appeal the decision or the
 matter free of charge;
- the right of every person to receive advice, both orally and in writing, at the time of application about indigenous support and assistance services available in his or her State or Territory of residence;
- the form of advice provided to applicants to be drafted in consultation with local indigenous family tracing and reunion services and to contain information about the nature and form of the information to be disclosed and the possibility of distress;
- the right of every person to receive all personal identifying information about himself or herself including information which is necessary to establish the identity of family members (for example, parent's identifying details such as name, community of origin, date of birth); and
- the right of every person who is subject of a record, subject to the exception above, to determine to whom and to what extent that information is divulged to a third person.

It was also recommended that the Commonwealth and each State and Territory establish an Indigenous Family Information Service as a 'one stop shop' service and that to support the Service, each government and church record agency nominate a designated contact officer.

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Conclusion

9.99 The search for identity is crucial for care leavers. For many, being in care has meant the loss of family and connection with their place of origin. Care leavers do not have the mementos of childhood that are taken for granted by most Australians: school reports; photographs; and happy memories of birthdays. 9.100 The task faced by many care leavers to access records and recover their lost past is immense. Records may be scattered across a number of agencies, they may be in a poor state, lack indexes and directories and agencies do not have the resources to adequately assist care leavers. Unfortunately, in many instances it is too late: the records have already been destroyed or lost. While there was no legal or statutory requirement for non-government agencies to retain records, the Committee was dismayed at the lack of care taken by many non-government agencies to retain and preserve

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the childhood history of those in their care. However, many records in the hands of government agencies have also been destroyed. The Committee considers that the destruction of ward records in South Australia stands out as being a particularly disgraceful event and reflects a lack of understanding of the importance of identity and the duty of care that governments have to care leavers.

9.101 The Committee considers it imperative that the remaining records of children who have been in care are found, identified and preserved. The Committee is concerned that there are many instances where records of great value to care leavers are still being found in out of the way places, in cupboards and basements. Some agencies have attempted to centralise records but others still appear to have a somewhat cavalier attitude to these important documents.

9.102 All agencies, both government and non-government, have a duty to ensure that every effort is made to search for care leavers' records that have survived. Once records have been located, they need to be accurately identified, indexed and preserved. The size of this task varies from agency to agency, with some records being no more than boxes of loose papers and some being very old and fragile which require specialist preservation. The use of digital imaging and other new technology is required to allow greater access to records. There appears to be very few instances of agencies implementing a specific program to retrieve and preserve records and in some cases major agencies are relying on volunteer archivists to undertake this work. However, the Committee considers that the task is too important and care leavers have waited too long to access records for agencies to rely an ad hoc approach based on volunteer archivists. All agencies need to make a commitment of time and funds to improve identification and preservation of records.

9.103 The Committee also considers that greater effort is needed to identify photographs, films and other memorabilia that is of importance to care leavers in piecing together their childhood histories.
9.104 The Committee considers that access to records must also be improved. A first step taken by some State government and non-government agencies has been to provide directories to assist care leavers to locate records and to make contact with those holding the records. While this is an improvement, it does not go far enough.

The task of piecing together family history can be extremely difficult and a directory is only the first signpost on a long journey. The Committee was impressed with the work undertaken by the Western Australian Department for Community Development in developing the Children in Care database and protocols for sharing information between government and non-government agencies.

9.105 The Committee considers that an adequate response to those pursuing their history must include the following. First, all records relating to care leavers need to be indexed and cross-referenced. This would enable relevant records to be quickly accessed and all material held to be made available to the care leaver, including any photographs or other memorabilia. This is an expensive and time-consuming task, but the Committee considers that there

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is a moral obligation to ensure that all surviving information is made available. It is part of the continuing duty of care.

9.106 Secondly, there is an urgent need to improve access to records. The report on child migrants and Bringing them home examined the problems of access to records of former child migrants and indigenous people and how this might be improved. The Committee has found that similar problems exist in accessing the records of nonindigenous children removed from families.

9.107 The Committee has noted the comments and recommendations contained in Bringing them home relating to the Records Taskforce for indigenous records. The Committee considers that there is a need to establish a dedicated service for care leavers to support the search for their history. Such a service would ensure that complete and centralised registers of all records held by government and nongovernment agencies are established so that care leavers do not have to consult many agencies to locate records. The service would act as a vital first port of call for care leavers and provide information on procedures to access records. More importantly, the service would provide an advocacy and mediation role for care leavers who have had difficulties in gaining access to records or for example, have had information withheld under Freedom of Information legislation. Finally, such a service would ensure that all agencies holding records identify, preserve and make available all surviving records relating to care leavers and the institutions that housed them.

9.108 The Committee also considers that the principles and guidelines established by the Taskforce for access to government and non-government indigenous records should also apply to records of non-indigenous children. The minimum standards of access recommended in Bringing them home, also provide a valuable guide to what is required for all those seeking personal information about their time in care.
9.109 The Committee is particularly concerned that many government agencies do not provide dedicated services for state wards. In many instances state wards must use adoption services if they require assistance. As strongly emphasised in evidence, state wards were not adopted. To improve access, the Committee considers that all agencies, both government and non-government, which hold care leavers' records must provide a dedicated point of contact. In addition, agencies holding records and those receiving funding to provide assistance to care leavers, for example Relationships Australia, must ensure that their websites make specific reference to care leavers and wards to ensure that services can be accessed easily.

9.110 Evidence received by the Committee indicates that Freedom of Information requests often succeed only as a result of continued persistence on the part of the care leaver. Difficulties are also faced when third party information is contained in records. The Committee considers that while privacy principles are important, some agencies appear to interpret the principles more strictly than others even if the information is about parents and siblings or worse, use them as an excuse to deny access to information.

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9.111 Care leavers should be extended the most flexible interpretation of both Freedom of Information legislation and privacy principles in order to access all personal information and to facilitate reconnection with family. Care leavers should not have to pursue information time after time with the same agency. In some cases, care leavers have had to wait years for information. Care leavers are entitled to the fullest amount of information being made available at the time of initial request. Fees are also attached to requests which care leavers on low income find difficult to meet. The Committee considers that no agency should charge fees for the provision of personal and family information provided to care leavers.

9.112 The provision of counselling services varies greatly amongst record holding agencies. The Committee heard of some agencies which provide extensive assistance to those viewing their files, while others leave care leavers to 'fend for themselves' after viewing what can often be very distressing and disturbing information, or indeed finding that there is no information at all. The Committee is concerned that generally, support and counselling services for those accessing records are inadequate, particularly where care leavers are elderly or have suffered extensive abuse and require intensive and ongoing support.

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Appendix 2

Value of Care Leaver Records

1. How in	nportant t	to you is access y	our care leaver recoi	ds (circle and e	xplain)?						
Very Unin	nportant	Unimportant	Neither Important nor Unimportant	Important	Very Important						
2. Identify the reason/s why your care leaver records are most valuable.□ Personal history (things about myself / proof of identity)											
	☐ Family history (things about my family)										
	☐ Personal Resolution or Closure										
	Confirm n	nemories or events	5								
	As eviden	ce for Litigation									
	Other (ple	ase describe)									
3. Descri	be the imp	pact, if any, of you	u not having access to	your care leave	er records.						

Experience in Requesting Access to Care Leaver Records

4. Your requests for care leaver records access have been for (select)											
☐ Another Person's Records (relative / non-relative)											
\square Both											
5. Detail any requests (completed & ongoing) made for care leaver records.											
Name of Agency / Other		Request Type			Record Types Received						
Otilei		(FOI, Privacy, Unsure, Other)									
6. Based upon your personal experience, please rate the following.											
	Very Dissatisfied	Dissatisfied	Un	sure	Satisfied	Very Satisfied					
Ease of access process			[
Time taken on access process											
Financial Cost											
Support Provided by Agency			[
Expectations for Care Leaver Records											
7. Based on the value you place on your Care Leaver Records and your experience obtaining access, identify any lessons that need to be learned?											