

# SUBMISSION 1: PROGRESS IN IMPLEMENTING THE RECOMMENDATIONS OF THE VICTORIAN OMBUDSMAN AND AUDITOR-GENERAL ON RECORDS MANAGEMENT

## PURPOSE

Records management provides the foundation for sound governance and the maintenance of the rule of law. It promotes accountability and enables transparency of decision making. It underpins Freedom of Information and Legal Discovery.

The Records and Information Management Professionals Australasia (RIMPA) has provided *Submission 1 (this document)* in response to the Family and Community Development Committee's question:

### ***What is the progress in implementing the recommendations of the Victorian Ombudsman and Auditor-General on records management specifically related to ward records?***

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

- 1.1. Progress on recommendations – Key considerations for the Committee.
- 1.2. Management of Care Leaver Records – A History of Neglect
- 1.3. The Inadequacies of the Victorian Legislation for Records Management.
- 1.4. Impacts of poor records management on legal discovery and FOI.
- 1.5. Concerns with the management of current care leaver records.
- 1.6. Recommendations

For a detailed analysis of the impact of current records management by religious and other Non-government organisations on people who, as children, were criminally abused (question 2) see Submission 2 as provided by (RIMPA).

## **1.1 Progress on Recommendation – Key Considerations for the Committee**

The Victorian Ombudsman tabled his report *Investigation into the Storage and Management of Ward Records* by the Department of Human Services in Parliament on 1 March 2012. The report found that the department:

'Does not have a thorough appreciation of the number of persons whose personal history is contained in its archives, nor where to find all the records relevant to these people. This presents significant barriers... in trying to locate all relevant records relating to a person's time in care'<sup>1</sup>.

The Ombudsman considered that the department should:

'Take immediate action to ensure that it has a thorough understanding of the records it holds in its collection so that care-leavers can be assured that they have been provided with all the available information regarding this often traumatic chapter of their lives'.<sup>2</sup>

In April 2012 the Victorian Auditor-General tabled a report on Freedom of Information examining the extent to which Victorian public sector departments and Victoria Police meet the requirements of the Freedom of Information Act 1984 and associated guidelines. One of the report's recommendations concluded that the department should:

'Improve its records management practices to minimise loss of documents and enhance access to information'.<sup>3</sup>

A summary of key findings from both the abovementioned reports is provided as Appendix A.

<sup>1</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

<sup>2</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

<sup>3</sup> Freedom of Information Report, Victorian Auditor-General, April 2012

RIMPA is limited in its ability to provide the Committee with assurance that any of the recommendations in table Appendix B have been implemented in accordance with legislated government record keeping standards or adequately resourced to ensure satisfactory completion.

Any information regarding progress with the successful implementation of the recommendations as provided by RIMPA is primarily consolidated information that has been made publicly available by the DHS. To this extent RIMPA has provided a professional evaluative commentary on what DHS has reported in relation to meeting the recommendations.

Additionally in its commentary, RIMPA has provided a list of concerns and potential questions the Committee may wish to ask of DHS, along with the recommendations as Appendix B. These concerns and potential questions are of an evaluative nature that will assist the Committee to ascertain DHS compliance to the Auditor-General and Ombudsman Recommendations.

RIMPA has no power to compel DHS to confirm whether implementation of these recommendations is adequately funded, effectively planned or cognoscente of key risks.

RIMPA is also concerned with how the DHS will deal with the conflict of interest of having to ensure the accessibility and discoverability of records which may contain evidence of abuse, as per obligations under the Public Records Act 1973, and by communicating existence of these records exposing the department to a likely increase in potential litigation. This conflict on interest also applies to religious and non government agencies.

As this record collection is historically and legally significant comprehensive governance measures should be ensured to protect records from further maladministration and destruction.

## **1.2 MANAGEMENT OF CARE LEAVER RECORDS – A HISTORY OF NEGLECT**

### **Department of Human Services (DHS)**

DHS has a long standing and well documented history of poor and neglectful records management. DHS record management failings date as far back as 1976 and as recent as 2012. The Report of the Committee of Enquiry into Child Care Services in Victoria (Norgard report) stated as early as 1976 that:

The Social Welfare Department's present provisions for record-keeping and for reviewing the progress of its wards require thorough overhaul. Inefficiency in these fields can result in real – sometimes permanent – harm to individuals.<sup>4</sup>

The record-keeping standards in children's homes were also evaluated:

Some organizations document children's progress and social relationships most competently; in others, little may be known of children and their families except what exists in the memories of senior staff. It is still possible in some organizations for much effective knowledge of a child's past to vanish with a retiring staff member. The Committee recommended mandatory annual reviews of children in care to prevent children becoming 'lost in the system'<sup>5</sup>.

Both the *Lost Innocents* (2001)<sup>6</sup> and the *Forgotten Australians* (2004)<sup>7</sup> reports highlight extensively the dependency of Australian care leavers and their legal representatives have on records for establishing identity, connecting with family, reconfirming memories, and substantiating cases of abuse and compensation claims. Records as documentary evidence in longitudinal (historical) cases become even more significant where witness testimony may not be readily available.

More specifically, Victorian care leavers who pursue claims of abuse against religious and other non-government organisations are required to provide evidence (records) of their institutionalisation. However, the Victorian Government and care organisations have legal responsibility for the long-term management of these documents/records. Care leavers would not have necessarily had access to or received their records during

<sup>4</sup> Committee of Enquiry into Child Care Services (1975 - 1976)

<sup>5</sup> Committee of Enquiry into Child Care Services (1975 - 1976)

<sup>6</sup> Senate Inquiry : *Children In Institutional Care Report No 1 : Forgotten Australians* (2004),

<sup>7</sup> Senate Inquiry : *Children In Institutional Care Report No 1 : Forgotten Australians* (2004), p.256

their institutionalisation as children or juveniles. Additionally, Care leavers may not know all institutions that they were sent to as children.

Many of the children in Victoria's non-government institutions were also wards of state. These institutions were not heavily supervised by DHS before the 1930s, records of inspections and other oversight activities can be found in the archival records of agencies such as the Hospitals and Charities Commission and the Children's Welfare Department<sup>8</sup>.

Since the implementation of the *Children's Welfare Act 1954*<sup>9</sup>, the Department of Human Services<sup>10</sup> had defined inspectorial responsibility for religious and non-religious organisations. This is particularly so for the placement of state wards. However, it was common practice of the time for the department to capture information on multiple clients (both wards and voluntary placement) in a single inspection or incident report (per visit). Consequently, even though religious and non-government agencies may not have valuable records, important care leaver evidence relating to these organisations may be located within the DHS record collection. This is reinforced in the Senate Inquiry Report<sup>11</sup>:

*In a study of state wards in Victoria, Kate Gaffney has noted that in order to receive state wards and those children committed to government care, an institution needed to meet government standards and consent to annual inspections. Institutions that met these standards were 'approved' and received funding on a per capita basis for state wards in their care. However, such institutions were not restricted to accepting only state wards and thus state wards could be and were, mixed with children who had been admitted to private care perhaps by a parent who had voluntarily placed the child in return for a small fee paid to the institution.*

Records pertaining to non government institutions are also consequently stored at the Department of Human Services. These have potentially been 'received' under the provisions of the *Public Records Act 1973*, rendering them public records. As stated by an ombudsman's investigation into the Department of Human Services:

*In the course of my investigation my officers also established that a collection of former ward records had recently been discovered amongst a number of records marked for destruction by the department. The collection relates to the Tally Ho Boys Training Farm, an institution that closed in 1986. The 'Who Am I?' project team have noted that Wesley Mission Victoria (who ran Tally Ho) have 'next to no information' about this institution.<sup>12</sup>*

It is important to note that the Public Records Office has had standards for the management of records since 1997 and the obligation for an agency to comply is expressed in the *Public Records Act 1973*. Despite the fact that some records date back to the 1930s, DHS has always had an ongoing obligation to maintain records in accordance with standards.

Of greater significance is that DHS' neglectful and sub-standard record keeping directly contradicts its response as past of the Victorian Government Response to the Senate Enquiry in 2009 that states:

*The Department of Human Services established archives in 1990 and at that time gathered together records from the various institutions and Regions. As far as can be determined, all Government records relating to care leavers are under professional archival control.*<sup>13</sup>

These records were not under professional archival control. The unindexed state of the records would have had the same functional weight as destruction, which means that the DHS would not have known that these records exist. RIMPA concurs with the Victorian Ombudsman's Office Report that the unindexed state of the DHS records were clearly in cases irretrievable and undiscoverable:

*Because these records are unindexed, we had a fairly large collection which really could not be discovered, it was almost like looking for a needle in a haystack. It was almost impossible to satisfy both the identity requirements and the legal requirements.<sup>14</sup>*

<sup>8</sup> These records are currently housed by DHS and the Public Record Office Victoria (PROV)

<sup>9</sup> <http://www.findandconnect.gov.au/vic/biogs/E000174b.htm#related>

<sup>10</sup> and its predecessor departments

<sup>11</sup> *ibid.* P.258

<sup>12</sup> Investigation into the storage and management of ward records by the Department of Human Services, March 2012, p.14.

[http://www.ombudsman.vic.gov.au/resources/documents/REPORT\\_Investigation\\_into\\_the\\_storage\\_and\\_management\\_of\\_ward\\_records\\_by\\_DHS\\_-\\_Mar\\_2012.pdf](http://www.ombudsman.vic.gov.au/resources/documents/REPORT_Investigation_into_the_storage_and_management_of_ward_records_by_DHS_-_Mar_2012.pdf)

<sup>13</sup> Victorian Government response to the Forgotten Australians report recommendations September 2009 , page 11  
<http://www.clan.org.au/images/Victorian-Government-response-to-the-Forgotten-Australians.pdf>

RIMPA, as a professional standards organisation, is deeply concerned about the potential for a denial of justice for State Wards and other Care Leavers who have approached DHS for the purpose of restorative justice and who may have been denied the evidence necessary to support their cases due to poor record keeping practices at DHS. DHS has had since 1976 to improve its record keeping.

## **RELIGIOUS and NON GOVERNMENT ORGANISATIONS**

Religious and Non religious Organisations have been on notice regarding past and likely quality of care issues and the prospect of litigation since the late 1990's.

RIMPA has limited knowledge of the records management practices of non- government organisations however RIMPA is particularly concerned about two aspects that would have serious adverse repercussion for care leavers if record keeping is not optimal.

Firstly, there is no legislation to compel non-government organisations to maintain and retain the historical records of Care Leavers. Unless legal proceedings and a discovery process has commenced or is likely to commence, a non-government organisation may destroy Care Leaver records, records that often also contain adoption information.

Secondly, even if the records are subject to discovery, there is the possibility of an organisation not providing records to the Care Leaver in their entirety because the records are unidentifiable or poorly described. The RIMPA would further be concerned if the organisation is taking the 'let's leave the records undescribed and undiscoverable as it is all too costly both to identify and describe the records as well as the potential of opening ourselves to liability'.

While RIMPA does not have evidence of this practice, we would seek of this Committee to ask a simple question of non-government organisations:

"Are all your records relating to care leavers including minute books, admission and discharge registers, photographs etc, held at either your organisation or an external storage provider, in a discoverable state so that you are confident that the Care Leaver is receiving their records in their entirety?"

"Have records of former care leavers been destroyed post the relevant Senate Reports?"

We would like to also reinforce the valuable work of the University of Melbourne's Who am I? Project in identifying the impacts of poor record keeping on care leavers. The project was funded by an Australian Research Council Linkage grant and brought together staff from the University of Melbourne and Australian Catholic University with a number of partner organisations including the Department of Human Services, past and current care providers, the Centre for Excellence in Child and Family Welfare, the Victorian Aboriginal Child Care Agency and representatives of support services including the Care Leavers of Australia Network (CLAN).<sup>15</sup>

## **1.3 THE INADEQUACIES OF THE VICTORIAN LEGISLATION FOR RECORDS MANAGEMENT**

### **Records Management within Victorian Government – Historically Problematic**

The Public Record Act 1973 (the Act), the oldest archival act in Australia, establishes a co-regulatory framework for the purpose of ensuring sound management of public records in Victoria. The role of PROV is to assist public sector agencies, in order to achieve the Government's records management objective. Agencies are required to comply with the Public Records Act 1973 and the standards. PROV has provided assistance in the past

<sup>14</sup> Victorian Ombudsman's report Investigation into the Storage and Management of Ward Records by the Department of Human Services, March 2012, pages 25, point 127,

[http://www.ombudsman.vic.gov.au/resources/documents/REPORT\\_\\_Investigation\\_into\\_the\\_storage\\_and\\_management\\_of\\_ward\\_records\\_by\\_DHS\\_-\\_Mar\\_2012.pdf](http://www.ombudsman.vic.gov.au/resources/documents/REPORT__Investigation_into_the_storage_and_management_of_ward_records_by_DHS_-_Mar_2012.pdf)

<sup>15</sup><http://www.cfecfw.asn.au/sites/www.cfecfw.asn.au/files/Who%20am%20I%20paper-Archiving%20Workshop%20Report%20by%20R.%20Tropea%2C%20G.%20McCarthy%2C%20C.%20Elkner.pdf>

Archiving%20Workshop%20Report%20by%20R.%20Tropea%2C%20G.%20McCarthy%2C%20C.%20Elkner.pdf

through consultancy, training and standards & policy. The accountability for records management rests with a Head of a Public Office.

A potential contributing factor to the the records management issues identified in this submission pertaining to Victorian Government and specifically DHS, is the weakness in Victoria's legislation and enforcement model as it relates records management.

Currently there is no compliance monitoring regime, no agency compliance reporting, no defined community complaints process and woeful penalties for destruction.

An analysis of the legislative framework for record management within Victorian government by RIMPA has identified that records management legislation and its enforcement model has been problematic as far back as 1996 and as current as April 2012. Currently the legislation is not enforceable as PROV has no legislative power to monitor compliance with the standards.

Victorian Government has addressed some but not all the regulatory recommendations pertaining to regulation arising from the following key reports:

- o Report 18 - Inquiry into the Public Record Office Victoria, October 1996 by the Parliament Accounts and Estimates Committee. (Report and Response) Appendix C outlines the recommendations relating to regulation rather than public access.

Key recommendations that possible may have negated the DHS situation are highlighted in green.

- o Records Management in the Victorian Public Sector, Victorian Auditor General's Office (March 2008) Appendix D summarises the recommendations.

It seems that reoccurring and documented recommendations relating to strengthening the Public Records Act 1973 to incorporate the establishment of a compliance program that allows systematic monitoring of agency adherence to required recordkeeping procedures, standards, the operation of recordkeeping systems and progress in delivering key records management strategies have been chiefly ignored by Victorian Government.

### **Key areas of current legislative responsibility (Public Records Act 1973) - have they been exercised?**

As mentioned earlier PROV is an important component of the co-regulatory framework for records management in Victoria.

According to the latest Retention & Disposal Authority - Records of Child Protection & Family Services (DHS), clause 1.2.1, only the summary record of a client in care must be managed as state archive (permanent) for post 1989 case records. Yet specifically clause 1.2.2., states that the whole case record which predates 1989 is required to be managed as state archive (permanent)<sup>16</sup> indicating its significance to PROV as an important archival record. This contradiction means that most records created today would only have the summary record retained and the bulk of the record would be deemed temporary and subject to less stringent records management control and certainly not archival control chiefly under the responsibility of the Department. This places a significant onus of responsibility on the DHS to manage the records for extensive retention periods which become even more problematic when these records are managed electronically.

RIMPA would be concerned if Care leaver records are not under full archival control and afforded all the protection associated with a record being of permanent value and maintained within PROV storage and management systems.

<sup>16</sup> <http://prov.vic.gov.au/wp-content/uploads/2012/08/PROS08-12ChildProtectionFamilyServicesRDAVar1-WebVersion201208161.pdf>, page 13

Despite the value of these historical records specifically to the Public Record Office Victoria, RIMPA is unaware of whether PROV had exercised any of its legislated powers and in the past inspected, reported on or enforced penalties regarding the sub-standard state of DHS record keeping.

A list of key PROV responsibilities and potential questions the Committee may wish to ask are provided in Appendix E.

### **RIMPA raised concerns with Records Management with Victorian Government**

RIMPA has raised records management concerns previously with Victorian government (Hon Premier Baillieu, The Hon Robert Clark MLA, The Hon. Daniel Andrews, MP, The Hon. Martin Pakula, MLC George Brower, the Victorian Ombudsman, Des Pearson, the Victorian Auditor General) on the 23 August 2011. <sup>17</sup>

This letter emphasised the following concerns:

An analysis of the Victorian Auditor General's reports (2005 – 2011) and the Ombudsman's Office reports (2007 - 2011) has demonstrated that record keeping compliance breaches are prolific (approximately 300 references), reoccurring and have high risk implications for government agencies, the community and outsourced organisations.

The frequency of these breaches and the criticality of the impacts are of a particular concern to RIMPA.

Despite a 2008 Victorian Auditor General's Office, Records Management in the Public Sector the Public Records Act 1973 and its corresponding regulatory model remains chiefly unchanged, ineffective and fails to address current high risks with government record keeping.

This becomes an even greater risk as Victorian Government continues to outsource government business and conduct business electronically. Discoverability of records under FOI and government reputation will be compromised if records are not created, illegally destroyed, rendered illegible, undecipherable or incapable of identification.

Clarification was sought about any progress by Department of Premier and Cabinet (DPC) on:

- The review and strengthening of the Public Records Act 1973,
- The review and strengthening of the current record keeping regulatory model with a focus on agency monitoring,
- The alignment of the record keeping legislation and its regulatory model with the review of the FOI Act and establishment of the FOI/ Information Management Commissioner,
- Transparent and proactive self – reporting in annual reports of agency level of record keeping compliance.

<sup>18</sup>

Yet despite changes to the Crimes Act 1958, specifically section 254, have been implemented in 2006 criminalising documents that are deliberately destroyed or concealed, rendered illegible, undecipherable or incapable of identification despite their value in current or likely litigation the current Victorian Legislation and enforcement model remains chiefly unchanged.

With the exception of the Victorian Ombudsman's Office and Victorian Auditor General's Office RIMPA has to this date received no other response.

## **1.4 Impacts of Records Management on Discovery**

Religious, Non religious Organisations and Victorian Government have been on notice regarding past and likely quality of care issues and the prospect of litigation since the late 1990's as evidenced by the Bringing them Home, The Stolen generations report (1997) <sup>19</sup>and the "Wilum Naling – Knowing Who You Are Report

<sup>17</sup> <http://www.rimpa.com.au/assets/2012/03/RecordkeepingVictorianGovernment.pdf>

<sup>18</sup> <http://www.rimpa.com.au/assets/2012/03/RecordkeepingVictorianGovernment.pdf>

<sup>19</sup> [http://humanrights.gov.au/social\\_justice/bth\\_report/](http://humanrights.gov.au/social_justice/bth_report/)

(2006<sup>20</sup>)", (*A Report to the Victorian Government from the Victorian Koori Records Taskforce*), as well as a both the *Lost Innocents* (2001) and the *Forgotten Australians* (2004) reports.

The interdependencies between records management legislation (Public Records Act 1973), FOI legislation and Legal Discovery can not be ignored. Ineffective records management legislation directly leads to failures in Freedom of Information (FOI) and legal discovery. If records are not created, poorly managed or indexed and disposed of unlawfully discovery becomes almost impossible.

In an article in the *Information Quarterly* May 2012, titled *Getting Records from the Gate Keeper*, Angela Sdrinis emphasised:

Former wards often want their records precisely for the purpose of getting information about other people ie, family members including parents, the identity of their 'carers' who are also sometimes their abusers and other people who came into their lives whilst they were children because, unlike those of us who can rely on remaining in contact with extended family and childhood friends, people growing up in care are almost always dislocated and have no such links to their childhood memories.

Further, 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, and 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.

Presumably if one or more of these former wards had applied for their records, these un-catalogued documents would not have been provided because the Department would not have 'known' they existed.

In other words, the Department is using its own current failures in the cataloguing and retaining of records, to protect itself against past failures such as the sexual assault of the children that were in the Department's care.<sup>21</sup>

In the paper, *How Can Care Leavers Achieve justice? Legal and Practical Issues* (2010) Angela Sdrinis and Penny Savidis (Ryan Carlisle Thomas) emphasises the difficulty in satisfying discovery orders when records management is problematic:

Even once people tell their story, there can be difficulties getting evidence to support their claims. When defending these claims, the other side often ask for corroborative evidence. Such evidence can come from a number of sources, including people's wardship records or records from the specific institutions where they were placed. Wardship records are only available if people were Wards of the State under control of the government. Although the government has kept some wardship records, others have been destroyed and are not available to back people up when they say they were at a particular Home or placement, and there for a particular length of time. (Page 3)

We also often find that trying to locate records from individual institutions where care leavers were sent is a much harder task than locating wardship records and that they are usually very brief. Many institutional records have been lost or destroyed by the institutions in question, or they were poorly maintained and only have a few dates of admission and discharge. We have had a number of situations where clients have been told by government agencies or institutions that they have no records but then the records have been located at a later date under a different name or birth date or by a different person searching the records. (page 4) 22

Examples of specific cases are sited:

By way of example, we had a client who was privately placed by his parents at a boys home. Because he was a private placement, the Victorian Department of Human Services did not have any Wardship records for him. The institution where he was privately placed also had no records for him despite the many years he said he had spent there. They were trying to suggest that our client had not been there for as long as he said he had. It was a case of his word against the institution's until he miraculously managed to find his father's cheque stubs in his belongings. His father had kept records of each and every payment he had made to the institution in question to care for our client. Lo and behold, the dates of the payments matched our client's claims about the length of time he had been placed at the home. We have also has some success stories where

<sup>20</sup> <http://prov.vic.gov.au/wp-content/uploads/2011/05/WilamNalingReportJune2006.pdf>

<sup>21</sup> *Information Quarterly* May 2012, titled *Getting Records from the Gate Keeper*, page 39

<sup>22</sup> *How Can Care Leavers Achieve justice? Legal and Practical Issues* (2010) Angela Sdrinis and Penny Savidis Ryan Carlisle Thomas <http://www.clan.org.au/images/CLANconferencepaper.pdf>

clients have managed to find photos that their family members took of them at a Home to help prove that they were sent there in the absence of any other record. 23

We had one client who was a private placement and had a strong recollection of being abused at the Home where he was placed, but had no records to back up the fact that he was there. He believed that he had been at the Home for many years, and could draw a very good map of how the Home looked at the time he was there, and name a number of perpetrators who were at the Home at the time he claimed he was there..... The institution in question did not accept that he was there for as long as he claimed, and initially offered no compensation. We rang dozens of other clients to try to get some supportive evidence with no luck, perhaps because our client was a quiet child. Ultimately we found one other client who remembered him, and luckily this was enough to encourage the other side to make an offer of compensation. However, if there had been records to support the length of time he was there, I have no doubt that the compensation paid would have been higher. 24

## 1.5 Future Concerns with Records Management and Current Care Leaver Records.

Recent changes to legislation have led to an increased focus on the essentiality of records management. These include changes to:

- Evidence Law contained in the *Evidence Act 2008 (Vic)*;
- Document unavailability provisions (section 89A) of the *Evidence Miscellaneous Act 1958* and
- Criminal penalties where evidence has become unavailable through neglect, omission or deliberate acts of commission in the latter case, via the *Crimes (Document Destruction) Act 2006*.

Records management is becoming increasingly electronic as such, insufficient integration of data and inadequate future planning means that electronic records as evidence of lives - and, in some cases, records integral to litigation arising from abuses and negligence - may not be managed to ensure discoverability.

Currently the Department of Human Services (DHS) outsources services for child protection through funding agreements with not for profits and uses the CRIS (Client Relationship Information System) and CRISP systems to manage client information in both electronic and hardcopy form. Religious and non government organisations would also be producing electronic records / documents. Careful future planning should be put in place to ensure that these records are made available in the future and not subject to technological obsolesces or maladministration. Care should be given to the long term retention and safe keeping of the record in its entirety with the onus of responsibility for maintaining the record on DHS.

Records management provides the foundation for sound governance and the maintenance of the rule of law. It promotes accountability and enables transparency of decision making. The adoption of standards as a code of practice to guide religious institutions, non government and government organisations in determining consistent levels of performance and reliability are essential. These standards must be mandated in any service agreements between DHS and the not for profit service providers. Ideally DHS must provide in its service agreements, records management instructions that are clear, concise and consistent with standards issued under the Public Records Act. The instructions should clearly indicate how Care leaver records are to be maintained and most importantly how the records are to be disposed of e.g. archived, once the client leaves care.

If the Public Records Act 1973 is not strengthened to enforce compliance to Standards, electronic records of Care Leavers will be prone to technological obsolescence and irretrievable.

## 1.6 Recommendations

RIMPA strongly encourages the Family and Community Development Committee to make the following recommendations:

<sup>23</sup> How Can Care Leavers Achieve justice? Legal and Practical Issues (2010) Angela Sdrinis and Penny Savidis Ryan Carlisle Thomas <http://www.clan.org.au/images/CLANconferencepaper.pdf> page 4

<sup>24</sup> How Can Care Leavers Achieve justice? Legal and Practical Issues (2010) Angela Sdrinis and Penny Savidis Ryan Carlisle Thomas <http://www.clan.org.au/images/CLANconferencepaper.pdf> page 5

1. That Victorian government instigate, communicate and enforce a formal legal disposal freeze enforced by religious and non-government organisations immediately resulting in the ceasing of destruction of all records relating to those who have been in care. That the term 'destruction' be seen to incorporate the definition of the Crimes Document Destruction Act 2006 to encompass documents that are 'destroyed, rendered illegible, undecipherable or incapable of identification'<sup>25</sup>
2. That the Public Records Office Victoria instigate, communicate and enforce a legal disposal freeze on government records relating to state care in line with the disposal freeze enforced by the South Australian Government, through the South Australian Records Office in January 2011.<sup>26</sup>
3. That DHS (as lead agency) adhere to the legislated PROV requirement strategic management specification, 2.4 Outsourced Activities & Privatisation Contracts: agreements or legislative instruments for outsourcing or privatisation must specify records management and monitoring practices that meet government and legislative records management requirements.<sup>27</sup> Record keeping requirements be implemented through the incorporating records management contractual clauses in the funding agreements of not for profits.
4. That DHS continue to action and fund as a matter of priority the record keeping recommendations documented in Victorian Ombudsman's report: Investigation into the storage and management of ward records.<sup>28</sup>
5. A review of the current legislative framework is instigated as a matter of priority aimed as assessing the gap between current record keeping practice, Evidence Law, Administrative Law (Public Records Act 1973, FOI and Privacy) requirements within the context of longitudinal hardcopy and electronic records to ensure that maladministration of evidence is not replicated for current care leavers.

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<sup>25</sup> Public Records Office Victoria Advice to Agencies: Crimes (Document Destruction) Act 2006 and Recordkeeping, page 13

<sup>26</sup> The South Australian disposal freeze involved a freeze on records required for legal proceedings relating to alleged abuse of former children whilst in state care through the implementation of General Disposal Schedule No. 27 -[http://www.archives.sa.gov.au/files/management\\_GDS27.pdf](http://www.archives.sa.gov.au/files/management_GDS27.pdf)

<sup>27</sup> PROS 10/10: Specification 1: Strategic Management page 11

<sup>28</sup> Investigation into the storage and management of ward records by the Department of Human Services, March 2012, p.14.

## Appendix A

- Both the Victorian Ombudsman's report Investigation into the Storage and Management of Ward Records by the Department of Human Services, March 2012 and the Victorian Auditor General's Office, Freedom of Information Report, April 2012, highlight the impact of poor records management on discoverability of records.

Shown below are those findings of greatest concern to RIMPA:

Victorian Ombudsman's report:

- The investigation concerns the records held by the Department of Human Services (the department) relating to former wards of the State of Victoria. (point 1)
- The department currently holds in storage around 80 linear kilometres of historical records stored in boxes at numerous locations. (point 4)
- The department has not inspected or indexed a considerable portion of these records. Accordingly, it cannot provide an accurate estimate of what portion of this total holding relates to wards of the state. (point 5)
- Despite having had the majority of these records in its archives for over 15 years the department has only indexed and catalogued records relating to 26 of the 150 plus years worth of records relating to wards and institutions it holds. The majority of these records remain in large part uninspected, unindexed and unscanned. (point 6)
- The department is aware that private institutions hold documents relating to many wards of the state housed by them in the past. The department has advised that while it has contractual arrangements with a large number of these institutions they do not cover the storage and management of ward records. (point 8)
- The department receives around 1,200 requests a year from former wards of the state and adoptees wishing to access records relating to their time in care. (point 14)
- Requests to the department for access to records are often not met because records are unable to be found. Some of these requests are made in urgent circumstances. An internal departmental report noted that in the three years prior to May 2011 approximately 21 per cent of all searches for records relating to Freedom of Information requests for former ward and adoption records resulted in no documents being located. In addition, many requests return minimal documentation relating to wards who were in the care of the state for many years, indicating that not all the relevant documents originally created have been found. (point 15)<sup>29</sup>

Victorian Auditor General's Office:

- From January 2008 to December 2010, 21 per cent of DHS's ward of the state hardcopy records could not be located in response to FOI requests. This figure represents 389 clients who were not able to access personal information. The ongoing trauma experienced by many such 'Forgotten Australians' is well documented. Former wards report that, because they grew up without their families, they require their records to develop reference points in their lives such as family traits and likenesses.
- These issues are wide ranging, as DHS estimates 90 per cent of its documents are not properly managed as records. Since DHS does not have a robust record keeping system, records are stored in network drives, hard drives, portable devices and emails. Records that have not been managed in accordance with better practice are difficult to locate, requiring more resources to search for them. In some cases these records cannot be located.
- Acknowledging the issues with its records management, DHS's Corporate Services Division submitted a request for funding in May 2011. The request sought \$8.16 million initially and a further \$448 000 per annum thereafter to establish and maintain an electronic document and records management system (EDRMS).
- An EDRMS can improve access to information, safeguard the corporate memory and minimise the risk that documents are lost as a result of a disaster or movement of staff.

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<sup>29</sup> Victorian Ombudsman's report Investigation into the Storage and Management of Ward Records by the Department of Human Services, March 2012, pages 3-4, [http://www.ombudsman.vic.gov.au/resources/documents/REPORT\\_Investigation\\_into\\_the\\_storage\\_and\\_management\\_of\\_ward\\_records\\_by\\_DHS\\_-\\_Mar\\_2012.pdf](http://www.ombudsman.vic.gov.au/resources/documents/REPORT_Investigation_into_the_storage_and_management_of_ward_records_by_DHS_-_Mar_2012.pdf)

- Although there were factual inaccuracies in the EDRMS business case, it did correctly state that DHS lacks a strong information management culture, and manages its information in an ad hoc and inconsistent manner.
- The request for funding was denied. The issues regarding DHS records and subsequent impact on FOI requests therefore remain unresolved. <sup>30</sup>

### Appendix B: Recommendations, Conditions of Acceptance, Progress to Date, RIMPA Concerns

| Recommendations   | Conditions of Acceptance   | Progress to date   | RIMPA Concerns   | Potential Questions that may be asked by the Committee   |
|---|--|--|--|--|
| <p>Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman</p> <p>Recommendation 1<br/>In consultation with the Keeper of the Public Records and relevant stakeholders, develop a three year plan with specific actions, timelines, measures of progress and funding strategies for the identification, indexing, conservation, storage, management and provision of ready digital access for all records relating to former wards of the State of Victoria.<sup>31</sup></p> | <p>The department accepts the need for the identification, indexing, conservation, storage, and management of records relating to former wards, which must be done in a systematic way in tandem with other records in the departmental holdings that could potentially contain information on former wards.</p> <p>The department's collections include administrative records pertaining to a range of clients including Mental Health and Disability clients as well as former wards. The department is able to identify the ward files and ward index cards in its custody; however it is not possible to identify 'all records relating to former wards' until all collections are fully examined.</p> <p>Given the scope and complexity of records in the department's collections and</p> | <p>This recommendation has been met with the completion of the Ward Records Plan, yet RIMPA has concerns about the viability of the project.</p> | <p>The Department of Human Services should have imposed a legal freeze or hold on these records.</p> <p>The DHS ward plan doesn't provide details on the adequacy of funding considerations. This project is an expensive undertaking. Any business case should be independently scrutinised for adequacy.</p> <p>The DHS ward plan doesn't provide details on the adequacy of project</p> | <p>Have records been destroyed since the senate reports (1999) and the OV and VAGO reports (2012)?</p> <p>Details of what records have been destroyed should be provided with departmental assurance that records pertaining to former care leavers / wards have not been destroyed.</p> <p>What funding is allocated to the project and what business modelling has been undertaken to ensure its adequacy?</p> <p>What is the current governance</p> |

<sup>31</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

| Recommendations  | Conditions of Acceptance   | Progress to date   | RIMPA Concerns  | Potential Questions that may be asked by the Committee   |
|--|--|--|---|--|
|  | <p>the unknown quantum of former ward records held by funded agencies, a three year timeframe for completion is not realistic. The implementation of the plan would be subject to appropriate resourcing being available.</p> <p>The requirement to provide 'ready digital access' will be considered in the plan but the department cannot fully commit to this as many ward records, such as those contained within bound handwritten registers, are unsuitable for digitisation. In addition, there is significant cost associated with full digitisation of all records.</p> |  | <p>governance. Currently the DHS governance is comprised of internal DHS representatives. There is no detail on how the Public Records Office will be involved as a key stakeholder.</p> <p>DHS should have identified the unique qualifications and skills needed to complete this project. The DHS ward plan suggests that these records will be processed by internal staff.</p> | <p>structure? Names and positions of representatives should be supplied.</p> <p>Has and will DHS use internal staff to complete the project?<br/>Has and will external staff be used?<br/>How will DHS be assured of staff competency?<br/>How will these staff be managed to ensure quality assurance?</p>  |
| <p>Recommendation 2</p> <p>Include within the plan priorities for action where the documents may be at risk and/or may need to be readily accessible for any known, pending civil proceedings and/or are being sought by former wards with foreshortened life expectancy.<sup>32</sup></p> | <p>The department takes its recordkeeping responsibilities seriously and seeks to minimise risk to the collections ... the quantum of ward records cannot be known until the department's records have been assessed, identified and separated. Further, the age and health of a former ward must have been noted and identified or potential criminal or civil</p>  | <p>Not outlined in any detail in the plan. Quality assurance plan to be developed but has to date has not been supplied.</p> | <p>DHS will have to confront the conflict of interest of ensuring accessibility and discoverability of records, as per legislated records management obligations, and making records which evidence of abuse discoverable that will likely increase the potential litigation as a consequence of communicating the existence of such records.</p>                                   | <p>Who is responsible for quality assurance? How is independent quality assurance going to be managed</p> <p>How is the DHS capturing records containing abuse, securing records and protecting these records from destruction?</p> <p>Can the DHS give examples of the logistics and type of priority action that it has, or will employ, to locate</p> |

<sup>32</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

| Recommendations   | Conditions of Acceptance  | Progress to date  | RIMPA Concerns   | Potential Questions that may be asked by the Committee   |
|---|---|---|--|--|
|   | <p>proceedings known about so that the records can be appropriately prioritised.</p> <p>During the identification process ward records relating to former wards with limited life expectancy could be separated and given priority, however this exercise could affect the main objective in identifying and indexing all ward records. It is possible that once all records are in the electronic database reports can be obtained providing this information.</p> |   |  | <p>and provide access to records of Care Leavers with either foreshortened life expectancy or those Care Leavers engaged in legal proceedings?</p>   |
| <p>Recommendation 3</p> <p>Communicate the discovery of any further collections of records relating to former wards and institutions; to relevant stakeholders and support groups and via the department's website and the Find &amp; Connect (formally Pathways) website.<sup>33</sup></p> | <p>Accepted</p>   | <p>Communication Plan to be developed by not supplied.</p>  | <p>DHS is required to communicate the discovery of any further collections of records relating to former wards and institutions,</p> | <p>How will the discovery of these records be communicated?<br/> How will DHS communicate the discovery of records containing evidence of abuse?<br/> Will DHS notify past FOI or legal applicants of the discovery of records?<br/> In the opinion of DHS, how will this further evidence impact past compensation settlements with Care Leavers?</p> |
| <p>Recommendation 4</p> <p>Provide for the relocation of records of wards to specific</p>   | <p>Accepted</p>   | <p>Not outlined in any detail in the plan. Health and Human Services Records Storage Strategy will cover all hardcopy</p> | <p>DHS is required to provide a storage strategy that is compliant to PROV requirements.</p>   | <p>What does the Storage Strategy entail and how will it ensure that these records are managed</p>   |

<sup>33</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

| Recommendations  | Conditions of Acceptance   | Progress to date   | RIMPA Concerns  | Potential Questions that may be asked by the Committee   |
|--|--|--|---|--|
| <p>purpose document archival storage facilities.<sup>34</sup></p>  |  | <p>departmental records state-wide except for those in scope of the Ward Records Plan. This has been mentioned but not supplied.</p> |   | <p>according legislative requirements and to prescribed time frames?</p> <p>Secondary records storage companies are not archival facilities. Does this mean all records are being transferred to Public Record Office Victoria? Have negotiations with PROV commenced? Have any record transfers occurred? Or will they be sent to a Secondary Storage provider?</p> |
| <p>Recommendation 5</p> <p>Negotiate agreements with each non-government agency holding records of former wards of the state in order to either:</p> <ul style="list-style-type: none"> <li>● identify and index all such records and hand them to the department for further conservation and management; or</li> <li>● maintain them and provide assumed access under protocols formally agreed with the department.<sup>35</sup></li> </ul> | <p>Accepted in principle</p> <p>However the department has proposed:</p> <p>... While the department has previously accepted records from closed institutions, records created by external agencies or contractors only become public records when they are received by, and in the custody of, the department. The department does not have a legal responsibility to retrieve these records.</p> <p>The department proposes to negotiate agreements with non-government agencies currently funded by the department to identify and index all records of</p> | <p>Not outlined in any detail in the DHS Ward plan.</p>  | <p>DHS has stated that they will develop a plan to address Recommendation 5 of the Ombudsman's report with respect to ward records held by Community Services Organisations funded by the departments of Human Services and Health. This has been mentioned but not supplied.</p> | <p>Has a Records of outsourced service provision strategy or plan be developed?</p> <p>What progress has DHS made in implementing these requirements?</p> <p>It is unlikely that non government organisations will maintain Care Leaver records in perpetuity. How do DHS and PROV intend to secure these important records into perpetuity?</p>                     |

<sup>34</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

<sup>35</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

| Recommendations  | Conditions of Acceptance   | Progress to date  | RIMPA Concerns  | Potential Questions that may be asked by the Committee  |
|--|--|---|---|---|
|  | former wards of the state and provide access under protocols formally agreed with the department subject to funding. |   |   |   |
| Recommendation 6<br>Publish the three year plan on its website. <sup>36</sup>  | Accepted in principle  | This recommendation has been met with the completion of the Ward Records Plan, and its availability on the DHS website yet RIMPA has concerns about the viability of the project, | No concerns   |   |
| Victorian Auditor General's Office Report, Freedom of Information  |  |   |   |   |
| The Department of Human Services should: <ul style="list-style-type: none"> <li>improve its record management practices to minimise loss of documents and enhance access to information</li> <li>cease using section 22(6) for clients who have little or no money and are seeking their own records</li> <li>include community service organisations' records when processing FOI applications.</li> </ul> Agencies should review the findings relating to DHS and apply lessons where necessary in their own organisation. <sup>37</sup> | Accepted   | Development of Electronic Document and Records Management (EDRM) business cases for the departments of Human Services and Health.   | The ombudsman's reports highlighted the existence of Department of Human Services, Electronic Document and Records Management System Business Case, 6 May 2011. The department's May 2011 Business Case sought the investment of \$8.6 million to implement Electronic Document and Records Management across the department. | Is DHS and DH developing another EDRMS business case?<br><br>Has the DHS commenced including community service organisations' records when processing FOI applications? Has this been consistent? Can the DHS provide examples of how this has worked both for the department and the community service organisation? |

<sup>36</sup> Investigation into the Storage and Management of Ward Records by the Department of Human, Victorian Ombudsman, March 2012

<sup>37</sup> Victorian Auditor General's Office Report, Freedom of Information, pages 40-41, <http://www.audit.vic.gov.au/publications/20120418-FOI/20120418-FOI.pdf>

### Appendix C: PAEC 1996 RECOMMENDATIONS

1.1 The Public Record Office be retained. Paras 1.216 to 1.219

1.2 The Public Record Office be located in the Portfolio of Treasury and Finance. Paras 1.69 to 1.73, 1.717 and 1.118, 1.185 to 1.189

1.3. The Public Office be refocused to provide its functions according to the following hierarchy:

- Standards Development
- **Monitoring Records Management Performance.**
- Storage of the Archival Record.
- Provision of Public Access.

To ensure that all agencies manage effectively the State Records. Paras 1.119 to 1.135

1.4 All Public Record Office standards and schedules be subject to review every three to five years to reinforce 'best practice' principles in the management of the State's archival record; Paras 1.154 to 1.159

1.5 The Victorian standard for a records management system be based on the Australian standard; Paras 1.136 to 1.144 and 1.160

**1.6 The Public Record Office urgently ensure that all agencies implement records management and disposal plans that meet standards set by that Office; Paras 1.171 to 1.174**

**1.7 The Public Record Office initiate a continuous cycle of random audits of agencies to ensure that public records are correctly managed according to Public Record Office standards; Paras 1.175 to 1.179**

**1.8 The cost of audits undertaken by the Public Record Office be met by each agency in a manner similar to the services provided by the Auditor-General; Para 1.180**

**1.9 Any agency found to be holding records in an inappropriate manner be offered an opportunity to rectify the problem. If the agency fails to take the necessary action, the Public Record Office complete the task at the agency's cost; Para 1.181**

1.10 a realistic and fair contribution towards the cost of Public Record Office services, other than the development of standards and educational programs for agency records and information managers, the storage of permanent records and most public access services, be met by users; Para 1.205 and 1.206, 5.53 to 5.92

1.11 The position of Keeper of Public Records be renamed the Director of Public Records; Paras 1.191 to 1.193

1.12 The Public Record Office prepare an annual report to the Parliament on the management of records in the public sector; Paras 1.75 to 1.80

1.13 The Public Record Office operate through four functional areas. The principal role of the Office should be to develop and implement records management standards under the control of the Director of Public Records. The three remaining areas should be of an operational nature reporting to the Director of Public Records. The four proposed areas are:

- Director of Public Records
- **Consulting and Audit Unit**
- Archives Management Unit
- Public Access Unit

Paras 1.194 and 1.195

1.14 To enhance the quality of liaison between agencies and the Public Record Office throughout the State, positions titled Regional Record Management Consultants be created. These positions be developed as field officers to manage the records of a region, industry type or ministry on an on-going basis; Paras 1.196 to 1.200

1.15 Periodic increases in operational activity from agencies be met by the employment of short-term staff fully paid for by the user agency; Paras 1.202 to 1.206

**1.16 The Public Record Advisory Council be reconstituted with a smaller membership that reflects expertise and independence. The function of the Council should be to provide policy advice, to the Minister, on the management of public records in Victoria; Paras 1.207 to 1215**

1.17 The Public Accounts and Estimates Committee review the management of public records in Victoria 10 years from the date of presentation of this report to Parliament, and Para 1.220

1.18 The Public Records Act should limit ministerial intervention solely to ensure compliance with the Keeper's statutory obligations.

Chapter 2. Storage and Preservation Responsibilities

The Committee recommends that:

2.1 The Public Record Office manage the storage of, and public access to, the State's permanent record; Paras 2.15 and 2.54, 2.55 and 2.83

- 2.2 Government agencies manage the storage of all active, inactive and temporary records to the standards set by the Public Record Office; Para 2.15
- 2.3 The Public Record Office immediately conduct a comprehensive survey of all agencies to determine the amount of records and rate of records growth as part of the planning process for a new archives facility; Paras 233 and 2.34
- 2.4 All records of the State be held in conditions which meet the current storage and preservation standard of the Public Record Office, The Chief Executive or principal officer of each agency be held accountable for this requirement; Paras 2.38 to 2.48**
- 2.5 The Financial Reporting Act 1994 and any other relevant legislation be amended to require every agency to report annually on its level of compliance with the standards set down for the care of the public record; Paras 2.49 and 2.50**
- 2.6 A new site for the storage of the State's archival record be established within five km of the Melbourne CBE), to contain the archival record, all staff of the Public Record Office and public access facilities. That this site be called the Melbourne Public Record Centre and that it be supported by the development of a regional archives network; Paras 2.84 to 2.100
- 2.7 The government, when developing the functional brief for the construction of the new storage facilities, investigate the use of high rack shelving systems and module based construction methods that allow a site life of forty years;
- 2.8 The Laverton repository be closed as it does not meet the standards for the long term storage of permanent records; Paras 2.75 to 2.80
- 2.9 The cost of establishing the new facility be met in part from the sale of the Laverton site; Para 2.8
- 2.10 The Public Record Office establish, on an annual basis, the anticipated storage requirements for government records for the next five year period, and Paras 2.61 and 2.62
- 2.11 the Public Record Office immediately conclude the sentencing and disposal of all unsentenced records held at the Laverton repository.
- Chapter 3. Electronic Records  
The Committee recommends that:
- 3.1 electronic records be considered on the same basis as the paper record; Paras 3.19 and 3.62
- 3.2 the Public Record Office urgently conclude development of an electronic records management standard that is hardware and software independent, capable of being implemented across the whole of government; Para 3.24
- 3.3 agencies be required to continually convert all electronic archival records in their care to the current software and operating systems of the agency so that they can be accessed by the Public Record Office; Paras 3.48, 3.50, 3.52, and 3.53

- 3.4 agencies seeking to implement an electronic records management system be required to select software that has been accredited by the government to meet standards established by the Public Record Office; Para 3.27
- 3.5 the responsible Minister meet with ministerial counterparts in other States and Territories to foster the development of a national electronic records management strategy, standard and protocols; and Para 3.66
- 3.6 the Public Record Office be part of the development, design and implementation team of any statewide information technology policy. Para 3.65
- Chapter 4. Records Management  
The Committee recommends that:
- 4.1 the State manage its public record through the development of 'best practice' procedures; Para 4.15
- 4.2 the Public Record Office develop standards for the care of each record from creation; Paras 3.26 and 4.21
- 4.3 model records management systems, integrating the standards process, be prepared and released by the Public Record Office; Para 4.25
- 4.4 a disposal schedule be agreed between each agency and the Public Record Office as a matter of urgency; Paras 4.32 and 4.34
- 4.5 the government develop, with the Office of Training and Further Education and the Public Record Office, an education program for all public sector records and information managers. That the program be structured to the broad needs of every government agency, from the largest to the smallest; Paras 4.36 and 4.45
- 4.6 responsibility for implementing sound records management practices be shared between agencies and the Public Record Office, and Para 4.48
- 4.7 each agency be required to appoint a senior officer, skilled in archives and information management, to implement an effective records management system. Para 4.46

## Appendix D: VAGO 2008 Recommendations

| Recommendations  |
|--|
| <p><b>Regulatory framework for managing records</b><br/>The Public Records Act 1973 should be comprehensively reviewed to make it relevant and appropriate to the contemporary public sector. Currently the Public Records Act 1973 is the oldest archival legislation in Victoria.</p>  |
| <p><b>Records management in the public sector</b><br/>In collaboration with the central agencies, PROV should assist all public sector agencies to:<br/>Adopt a more strategic approach to the management of their records, which encompasses:</p> <ul style="list-style-type: none"> <li>• gaining an understanding of the business</li> <li>• identifying records management needs and risks</li> <li>• assessing the adequacy of the existing recordkeeping environment and practices</li> <li>• developing a strategic plan to ensure records management objectives and needs are addressed.</li> </ul>  |
| <p>Review their procedures to ensure:</p> <ul style="list-style-type: none"> <li>• they cover all recordkeeping activities, including the management of electronic messaging and web-based information</li> <li>• they comply with records standards and advice issued by PROV</li> <li>• they are aligned with the agency's records management objectives and policies</li> <li>• take a more strategic approach to managing their records management staff.</li> </ul>   |
| <p>This would involve agencies:</p> <ul style="list-style-type: none"> <li>• having processes to identify staff needed to establish an effective records management function</li> <li>• periodically assessing the capability of their staff and comparing this capability with their identified resource requirements, to identify staff training and development needs for existing staff and the need for new staff with specific skills</li> <li>• developing a plan to manage and monitor their records management staff.</li> <li>• assess whether staff understand the importance of sound recordkeeping and their responsibility for managing records under their control. Based on the results of this assessment, agencies should review the mechanisms used to communicate with staff on records management .</li> <li>• use the results of their assessment of contractor compliance with their own agency's records management requirements to review their communications with contractors.</li> </ul> |
| <p>Ensure regular monitoring and evaluation of recordkeeping activities, which includes:</p> <ul style="list-style-type: none"> <li>• establishing a compliance program that allows systematic monitoring of agency adherence to required recordkeeping procedures, standards, the operation of recordkeeping systems and progress in delivering key records management strategies</li> <li>• generation of information on the performance of the records management function</li> <li>• ensuring results of performance monitoring are reported to senior management and that appropriate and timely corrective action is taken</li> </ul>  |

| <b>Recommendations</b>   |
|--|
| <p>PROV should:</p> <ul style="list-style-type: none"> <li>• develop and provide advice and guidance to agencies on formulating records management objectives and policies, in conjunction with relevant agencies and industry groups</li> <li>• establish a program to assist senior agency staff to champion records management in agencies</li> <li>• assist agencies develop records management strategic plans by establishing guidance material and templates</li> <li>• continue to liaise with relevant agencies and the State Government in developing strategies that address skill shortages in the records management field</li> </ul>   |
| <p><b>Performance of PROV in facilitating sound records management in the public sector</b></p> <p>Records management standards</p> <p>PROV should:</p> <ul style="list-style-type: none"> <li>• review the records management standards regularly, at least every five years</li> <li>• review its communications approach to better assure agencies are aware of the standards and the legislative requirement for them to comply</li> <li>• closely monitor its standards review project, to ensure it is completed in accordance with project timelines</li> <li>• incorporate guidance on strategic records management principles and their application into the revised standards</li> </ul>   |
| <p><b>Assisting agencies</b></p> <p>PROV should:</p> <ul style="list-style-type: none"> <li>• gather comprehensive information on the critical business functions performed by agencies, their broad recordkeeping needs and the major risks facing the Victorian public sector</li> <li>• develop a strategic approach to the provision of its services and products</li> <li>• implement its Building Victorian Record Keeping Capability Strategy and introduce its planned competency-based training program</li> <li>• introduce additional training courses to address unmet agency training needs</li> <li>• review the communication of its training courses and implement strategies to raise agency awareness of them</li> <li>• make training courses more accessible to agency staff, particularly in rural and regional areas</li> <li>• to ensure continuous improvement, undertake a survey of course participants, after they return to work, to determine the extent to which the training has assisted them improve recordkeeping in agencies</li> <li>• in consultation with the VERS Steering Committee:</li> <li>• ensure that its revision of the primary capability performance criteria does not compromise the quality of systems developed and implemented by departments</li> <li>• establish realistic timelines for future reporting to government on stages 2 and 3 of VERS implementation</li> <li>• develop a comprehensive strategy to support agencies to establish VERS compliant systems. In doing so, it should consult with public sector agencies and industry groups to establish realistic and effective strategies and timelines</li> <li>• improve its communication with agencies so they are aware of the advice and guidance available</li> <li>• establish, for the benefit of its staff, guidance on the provision of advice to agencies</li> <li>• in consultation with agencies, develop a comprehensive, coordinated strategic approach to public sector education and awareness encompassing: <ul style="list-style-type: none"> <li>• a clear delineation of PROV and agencies' respective roles and responsibilities</li> <li>• identification of target audiences and appropriate communication mechanisms</li> </ul> </li> <li>• a program of regular activities to promote records management across the public sector</li> <li>• establish mechanisms to periodically report on the cost of providing its principal record services to the public sector. This will assist with determining whether it is using its limited resources cost-effectively.</li> </ul> |

| <b>Recommendations</b>  |
|---|
| <ul style="list-style-type: none"> <li>• establish a strategic framework to manage its relationship with agencies that includes:</li> <li>• an agency relationship management strategy, together with clear policies and procedures</li> <li>• a finalised charter/code of conduct for PROV services</li> <li>• mechanisms to ensure PROV is engaging all agencies</li> <li>• policies and procedures to manage agency relationships</li> <li>• a client management system to document interactions with agencies</li> </ul>  |
| <p>PROV's management of specific recordkeeping activities<br/>Retention and disposal of records<br/>PROV should:</p> <ul style="list-style-type: none"> <li>• review the adequacy of resources assigned to the review and approval of agency retention and disposal authorities</li> <li>• adopt a more proactive approach to assisting agencies in appraising their businesses and establishing appropriate retention and disposal authorities</li> <li>• assess the extent to which public sector records generated by agencies are covered by its records retention and disposal authorities</li> <li>• ensure that the procedural guidance, established for its staff, in providing agencies with advice and assistance on managing records retention and disposal, is up-to-date</li> <li>• monitor agency compliance with the records management standards on retention and disposal of records</li> <li>• ensure the review of records standards endorses a program of regular records disposal in line with established disposal authorities</li> </ul> |
| <p>Transfer of records to PROV<br/>PROV should:</p> <ul style="list-style-type: none"> <li>• require agencies to nominate a timeframe after which an agency's administrative use for its various permanent records expires and the records are transferred to PROV. This requirement could be included in the agency's RDAs</li> <li>• annually gather information on the level, nature and age of permanent records held by agencies to monitor agency compliance and identify future records workflow and storage issues. This information could be obtained by both surveying agencies and reviewing the archival holdings.</li> <li>• work with agencies holding large volumes of permanent records, to identify and resolve any impediment to the timely transfer to the archives</li> <li>• develop comprehensive and up-to-date procedures to guide its staff in managing records transfer and to ensure a consistent approach is adopted in dealing with agencies</li> </ul>  |
| <p>Records provided to agencies<br/>PROV should continue to pursue the recovery of long overdue, permanent records loaned to agencies<br/>PROV performance measurement and reporting.</p>   |
| <p>PROV should:</p> <ul style="list-style-type: none"> <li>• develop a suite of relevant and appropriate targets and indicators to measure its performance both in achieving its objectives and in the standards of recordkeeping in public sector agencies</li> <li>• develop comprehensive performance information that can be compared to the established targets to measure PROV performance</li> <li>• develop its capacity to report on its own and agency performance</li> </ul>   |

### Appendix E: PROV LEGISLATED POWERS

| Public Records Act 1973 Legislative Responsibilities |   | Questions  |
|--|---|--|
| Leg 1  | <p>Inspection of public office or other place 13A.</p> <p>Inspection of public office or other place</p>        | <p>What measures had the Keeper of Public Record's Office Victoria as per section 13A, undertaken to inspect, the Department of Human Services and the Minister DHS non compliance with the storage and conservation requirements of records relating to State Wards from 1990s to the current date?</p>                 |
| Leg 2  | <p>Keeper of Public Records to report to Minister 21.</p> <p>Keeper of Public Records to report to Minister</p> | <p>What measures had the Keeper of Public Record's Office Victoria, undertaken to report to the Minister responsible of the Public Records Act 1973, DHS non compliance with the storage, conservation and access requirements of records relating to State Wards from 1999 to the current date?</p>                     |
| Leg 3  | <p>Functions of Public Records Advisory Council (section 5)</p>   | <p>What measures had the Public Records Advisory Council, undertaken to report to the Minister responsible of the Public Records Act 1973, the Department of Human Services' non compliance with the storage, conservation and access requirements of records relating to State Wards from 1999 to the current date?</p> |
| Leg 4  | <p>SECT 19 Offence to remove etc. public record</p>   | <p>What measures had the Keeper of Public Record's Office Victoria, undertaken to enforce section 19 of the PRACT</p>  |

| <b>Public Records Act 1973 Legislative Responsibilities</b> |  | <b>Questions</b>  |
|---|--|---|
| without authority   | <p>(1) A person who unlawfully removes sells damages or destroys a public record shall be guilty of an offence.</p> <p>Penalty: 5 penalty units.</p> <p>(2) Destruction or disposal of public records by a public officer in accordance with standards established under section 12 is lawful.</p> | 1973 for records that have been destroyed or damaged whilst within DHS custody? |