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State Records
of South Australia



General Disposal Schedule No. 32

Records of Relevance to the Royal Commission
into Institutional Responses to Child Sexual Abuse

Effective from 18 February 2014 to 31 December 2023

Version 2

Approved by SRC

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Approval for the commencement of this schedule

State Records Act 1997

Government of South Australia

General Disposal Schedule No. 32, Version 2

for

Records of Relevance to the Royal Commission into Institutional Responses to Child Sexual Abuse

Effective 18 February 2014 until 31 December 2023

Approved By

Jerry Thompson
Chair, State Records Council

A/ Director, State Records



Acknowledgments

Disposal freezes issued by the National Archives of Australia and the Australian Capital Territory Archives in relation to the Royal Commission have been referred to as a reference point in the development of General Disposal Schedule (GDS) 32.

Introduction

Background

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

On 7 March 2013 the Governor of South Australia issued an equivalent and concurrent instrument to establish the Royal Commission in South Australia¹.

The Royal Commission will inquire into what can be done to:

- better protect children against child sexual abuse in the future
- achieve best practice in reporting on and responding to allegations
- eliminate and reduce impediments to responding appropriately to child sexual abuse
- address and alleviate the impact of past and future child sexual abuse.

The Royal Commission will also have regard to:

- the experience of people directly or indirectly affected by child sexual abuse
- the need to focus on systemic issues, the adequacy and appropriateness of responses
- any changes to laws, policies, practices and systems that have improved the ability to better protect against and respond to child sexual abuse.

Under its Terms of Reference, the Royal Commission will focus its inquiries on the response of institutions, including South Australian Government agencies², to child sexual abuse and allegations of abuse that occur in an institutional context³.

¹ *The South Australian Government Gazette*, 7 March 2013, pp.720-722.

² "Agency" is as defined in section 3(1) of the *State Records Act 1997*, and specifically includes a 'municipal or district council'.

³ For further details, see the Letters Patent issued by the Governor-General of Australia – <http://www.childabuseroyalcommission.gov.au/LettersPatent/Pages/default.aspx>.



Note that the Terms of Reference are not limited to situations where South Australian Government agencies are the providers of accommodation and other services to children who may have been the subject of sexual abuse, but also include the role of South Australian Government agencies as the receivers of reports about non-government institutions.

Scope

Agencies need to apply GDS 32 in addition to other relevant general and operational records disposal schedules (RDS).

GDS 32 applies to any official records in any format of South Australian Government agencies that may be required:

- for the purposes of the Royal Commission
- for any subsequent actions by the South Australian Government
- to protect the rights and entitlements of stakeholders.

GDS 32, in effect, places an immediate destruction freeze on records of relevance (or likely relevance) that have been sentenced as temporary under another disposal schedule.

GDS 32 does *not* affect records that have been sentenced as permanent under another disposal schedule.

Penalties for the unauthorised destruction of records is specified in various legislation, including the *State Records Act 1997* and the *Royal Commission Act 1902*.

To provide some guidance to agencies, types of records that may be relevant are listed below. Such a list is not conclusive, however.

Objectives

The purpose of GDS 32 is to ensure that records of relevance (or likely relevance) to the Royal Commission are protected and available for the purposes of the Royal Commission and any subsequent actions involving the South Australian Government, for future reference and accountability purposes and to protect the rights and entitlements of stakeholders.

In order to achieve its aim, **GDS 32 protects official records of relevance (or likely relevance) to the Royal Commission by suspending authorisation to destroy any relevant records that could otherwise be legally destroyed under current disposal schedules determined by State Records and approved by the State Records Council.**

Records identified as relevant to the Royal Commission must be retained until 31 December 2023 (and for any additional period that may be determined by a review).



Implementation

GDS 32 is issued under the State Records Act.

The State Records Act was proclaimed in October 1997 to provide for the preservation and management of official records. GDS 32 is issued as a determination under section 23 of the Act.

Section 23 of the State Records Act states that no official records may be disposed of without a determination made by the Director [Manager], State Records and approved by the State Records Council.

GDS 32 was first approved by the State Records Council on 27 March 2013. GDS 32 Version 2 was approved on 18 February 2014 and is effective immediately until 31 December 2023, retention subject to a review at that date.

GDS 32 has been issued in electronic form via the State Records website (www.archives.sa.gov.au) to allow ease of use and greater accessibility.

Any modification of the Schedule by end users is not permitted. Changes can only be made with the approval of State Records and the State Records Council.

Updates/Amendments

GDS 32 Version 2 is effective immediately from 18 February 2014 until 31 December 2023, retention subject to a review at that date.

GDS 32 may be reviewed earlier as instructed by the Crown Solicitor's Office, State Records or the State Records Council. Amendments approved by the State Records Council may be issued during this period.

Previous Disposal Schedules Revoked

GDS 32 Version 2 supersedes GDS 32 Version 1. The intent of GDS 32 has not changed between versions. Only additional information has been added to better assist agencies with the implementation of the GDS.

GDS 32 does not revoke any other disposal schedules. However, it temporarily suspends, for the period of the freeze, the operation of disposal classes relevant to records described below.

Complementary Disposal Schedules

A South Australian Government agency needs to use GDS 32 in association with other General Disposal Schedules and the agency's operational records disposal schedule/s. There may be some overlap between records protected by GDS 32 and GDS 27 and South Australian Government agencies must comply with both disposal schedules.



Consultation

In developing GDS 32 consultation occurred with the Crown Solicitor's Office.

Record Formats

GDS 32 applies to records in any format. This includes paper, microform (film or fiche), audiovisual, graphic, photographic and electronic media (eg emails, documents created by word processing and other office applications, databases and business systems).

Access Rights and Responsibilities

A South Australian Government agency needs to ensure that official records, irrespective of format, will remain accessible for the duration of the designated retention period. By "accessible" it is meant that the information contained within a record remains readable for the life of the record. In addition, "accessible" also refers to the retrievability and availability of a record. Whether stored on or off-site, a record needs to be able to be retrieved and made available as soon as practicable (and, in any case, within 30 days).

With respect to the Royal Commission the State of South Australia may be required to disclose documents that are, or have been, in the State's possession and are directly relevant to any issue raised by the Royal Commission. The Commission will have the power to issue a summons to compel the production of any books, papers, documents or records.

Further Information

For advice on implementing GDS 32, including queries about relevance to the Royal Commission, contact the Crown Solicitor's Office. It should be noted, however, that legal services provided by the Crown Solicitor's Office, through the Attorney-General, do not extend to local government authorities. However, councils may seek assistance from the Crown Solicitor's Office with identifying records of relevance to the Royal Commission. Councils are also open to obtain their own independent legal advice concerning records of relevance (or likely relevance) covered by GDS 32 and their destruction.

For general advice on records appraisal, disposal, destruction, transfer and storage, contact Government Recordkeeping, State Records.

For changes or updates to GDS 32, please also contact Government Recordkeeping, State Records.



Contact Details

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Approved by SRC



Categories of Records that may be Relevant

In broad terms, GDS 32 covers records relating to child sexual abuse which has occurred or is alleged to have occurred involving:

- South Australian Government programs or activities and/or
- South Australian Government officials and/or
- South Australian Government premises.

This is in relation to the Royal Commission Terms of Reference where:

- a '*child*' is defined as someone under the age of 18 years
- an '*institution*' includes South Australian Government agencies that provide programs and services for training, educating, caring for, or addressing the wellbeing of children and agencies that do not have programs that deal directly with children but provide the means through which adults have contact with children, eg on Government premises
- '*institutional context*' includes settings not directly controlled by the institution, eg activities of staff on official travel, interstate or overseas postings, official representation
- an '*official*' of an institution includes volunteers and contractors as well as employees.

The Terms of Reference are not limited to situations where South Australian Government agencies are the providers of accommodation and other services. It extends to include the role of South Australian Government agencies as the receivers of reports and other information about non-government institutions that provide accommodation and other services to children who may have been the subject of sexual abuse.

Various classes of records may be of relevance and subject to the disposal freeze. In general, these may include:

- records directly related to a matter of abuse or allegation of abuse, including support and compensation records and targeted operational response records
- individual client and case files
- policies, procedures, program planning records, agreements
- records relating to government legislation and its implementation
- administrative records, including those that place a person at a location at a particular point in time or records documenting the whereabouts of employees, eg attendance, leave, travel records, timesheets, site access registers
- records of legal, disciplinary and/or appeal proceedings
- records of investigations, reviews or inquiries



- employee files/records
- control records which may identify records of relevance (or likely relevance), eg registers of case files, cards and electronic indexes of files and records, metadata identifying specific records in databases and other digital business systems.

The following is a list of more specific records that may be of relevance. It is by no means an exhaustive list.

When relevance is unclear, the determination of actual relevance needs to be the subject of advice from the Crown Solicitor's Office.

- **Children in State Care Commission of Inquiry 2008 records**, including:
 - any records of the Commission of Inquiry set up by the *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004*
 - any records provided by South Australian Government agencies to the Children in State Care Commission of Inquiry (referred to above).
- **School records**, including records relating to:
 - student assessment and achievement at school
 - attendance
 - behaviour and discipline
 - student work experience placement
 - case files of individual students
 - financial assistance to individual students
 - reports of accidents, incidents and injuries
 - reports relating to suspected abuse sustained at home
 - student health and hygiene matters
 - student's medical or psychiatric condition
 - home schooling
 - individual student observation
 - student management
 - admission/enrolment
 - photographs of individual students.
- **Medical records**, including:
 - Child Guidance Clinic Records
 - health facility client/patient files
 - Child and Adolescent Mental Health Services client files
 - files relating to attendances or treatment for sexual assaults.



- **Personnel records**, including:
 - personal files (paid staff, volunteers and contractors)
 - files regarding workers compensation claims, assessments, reviews and appeals
 - attendance, leave and travel records
 - records showing term of employment
 - counselling, mediation and discipline records.

- **Court records** of victims or alleged victims, including court history as children and adults, including:
 - records of the Adelaide Juvenile Court, Adelaide Children's Court and the Youth Court (various locations), Darlington Court of Summary Jurisdiction
 - child protection records which existed in the Youth Court, including committals to the Custody and Control of the Minister, Detention Orders, etc
 - files of cases before the Magistrates, District, Supreme and Youth Courts. These include files regarding trials for murder, rape and indecent assaults.

- **Court records** regarding offenders alleged to have abused a child.

- **Correctional Services records**, including:
 - prison health records
 - case files regarding offenders, including offender history, probation records etc
 - any files relating to institutions (eg Adelaide Remand Centre) for offenders and files regarding individuals who were placed at these institutions. These records may include log books.

- **Police records**, including:
 - records relating to the prosecution of offenders and any documents relating to victims (eg reports of offences, investigation files, prosecution files, interviews of witnesses etc)
 - criminal history of alleged offenders (ie foster carers or government employees)
 - records relating to the prosecution for offences of victims
 - Paedophile Task Force or Sexual Crime Branch records.

- **Public prosecution** files relating to prosecution of offenders or victims.

- **Training or education records**, including:
 - Training and Further Education (TAFE) student records.



- **Aboriginal Affairs and Reconciliation records**, including:
 - files relating to individual victims or alleged offenders
 - general correspondence files
 - minutes and agendas of Aborigines Protection Board and Aboriginal Affairs Board and associated documents and annual reports.

- **Communities and Social Inclusion records**, including:
 - files relating to victims, alleged victims or alleged offenders
 - general correspondence files
 - foster care files
 - files relating to institutions
 - minutes and agendas of Children's Welfare and Public Relief Board and associated documents and annual reports
 - operational and business plans, policies, procedures
 - records of review and evaluation of services and programs.

- **Legislation, policies, program planning records and agreements**, including:
 - legislation, operational and business plans, policies, procedures and reports
 - codes of conduct, standards and values. Includes whole of government and agency child protection policies
 - agreements, contracts, joint venture agreements, memoranda of understanding related to the care of children, including outsourcing arrangements
 - whistle-blower information
 - records of processes for managing allegations concerning the care of children.

- **Targeted operational response records** relating to addressing allegations and cases of sexual abuse of children and related matters, including:
 - records of funding for support programs such as legal aid
 - records of processes for managing allegations of child abuse
 - records relating to the gathering and exchange of information about abuse
 - records of liaison with support groups and consultative forums on matters of abuse
 - evidence of agency responses and implementation of recommendations of any reviews and inquiries.



Impact on Agencies

Agencies Affected

At the time of approval of GDS 32, the Crown Solicitor's Office had identified the following South Australian Government agencies as potentially holding relevant records:

- Attorney-General's Department
- Courts Administration Authority
- Department for Communities and Social Inclusion
- Aboriginal Affairs and Reconciliation Division, Department of the Premier and Cabinet
- Department of Correctional Services
- Department of Education and Child Development
- Department of Further Education, Employment, Science and Technology
- Department of Public Prosecutions
- Health agencies (including public hospitals and community health and specialty needs services)
- South Australia Police.

While such South Australian Government agencies have been identified, GDS 32 is not limited in its application to these and in general can apply to any South Australian Government agency that holds records of relevance (or likely relevance) to the Royal Commission.

Action Required of Agencies

South Australian Government agencies need to:

- ensure that staff responsible for records management are informed of GDS 32 and the disposal freeze that it imposes
- sentence records against GDS 32 in addition to other relevant disposal schedules, eg GDS 15, GDS 20, GDS 27 and the RDS of the agency
- check if they or their approved service provider for records storage have any records due or overdue for destruction that come within the scope of GDS 32
- when relevance is unclear, liaise with the Crown Solicitor's Office to seek advice about the relevance of records and note that only the Crown Solicitor's Office can determine actual relevance
- withhold from destruction any temporary value records identified as relevant
- retain the records for the duration of the disposal freeze, ie at least until 31 December 2023, set by GDS 32 or until further notice.

The sentencing of records affected by the disposal freeze can continue. However, the records must be set aside and retained for the period of the disposal freeze. The records need to be retained by the agency – they will not be accepted for transfer to State Records.



The processing and storage costs arising from the implementation of GDS 32 will need to be borne by the South Australian Government agencies affected.

Disposal Determination

Item No.	Description (Disposal Class)	Disposal Action
1.	Where a South Australian Government agency decides an official record may have relevance.	Retain record. If relevance is unclear, seek advice from the Crown Solicitor’s Office as to actual relevance
2.	Where it is determined that an official record is relevant.	Retain until at least 31 December 2023, and for any additional period determined by a review

Once the above disposal determinations have been applied to an agency’s records, an agency needs to determine the next course of action using the table below.

	PERMANENT VALUE RECORDS	TEMPORARY VALUE RECORDS	TEMPORARY VALUE RECORDS PAST DUE DESTRUCTION
Records covered by GDS 32, ie records of relevance	Retain Permanently. Transfer to State Records following SRSA transfer procedures.	Retain until at least 31 December 2023. Sentence, list and store appropriately.	Retain until at least 31 December 2023. Sentence, list and store appropriately.
Records <i>not</i> covered by GDS 32, ie records <i>not</i> of relevance	Retain Permanently. Transfer to State Records following SRSA transfer procedures.	Retain Temporarily. Retain records until retention period defined in another GDS or RDS is reached, then follow SRSA destruction approval procedures.	Follow SRSA destruction approval procedures, ie complete an Intention to Destroy Records Report (ITDRR) highlighting that GDS 32 has been considered but is not applicable and seek SRSA approval to destroy.