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30 September 2020

Dear Ms McDonald,

Thank you for the opportunity to provide comment on the draft revised Charter of Rights placed on line on September 25.

The research project *Rights In Records by Design*<sup>1</sup> focusses on the lifelong impact of records on those who have experienced out-of-home care. This project is connected to the 'Setting the Record Straight for the Rights of the Child' initiative (see <https://rights-records.it.monash.edu/>), under which initiative a National Summit was held in May 2017. Amanda Shaw, the then SA Guardian for Children and Young People, and Simon Froude, the SA Director, State Records, Privacy Committee of SA, both attended this Summit.

The Rights In Records by *Design* project explores the impact that recordkeeping and/or lack of recordkeeping and access to information about decision making has on Care-experienced people, not only during their time in care, but for their subsequent identity, well-being, rights and entitlements, and social connections. The research has been undertaken involving a range of community stakeholders, particularly from Care Leaver advocates connected with CLAN and CREATE.

Our research has included a comparative analysis of Charters prepared by all States and Territories. Dr Antonina Lewis created a comprehensive mapping of all the Charters against rights to: Safety, Respect, Fairness, Health & Wellbeing, Culture, Identity, Connection, Education, Accountability, Participation, Information, Recordkeeping and Privacy. These categories were derived from the UN Convention on the Rights of the Child.

Using this analysis framework the revised SA Charter performs strongly against most of the rights, but could go further to incorporate emerging best practice in recordkeeping. Participatory rights are present (although the right to be heard is not quite the same as the right to have your opinion recorded), and rights to involvement in planning around decisions that affect an individual, and for post-care planning are also covered. Similarly, the right to privacy and to know about sharing of personal information are included.

We suggest the Charter would be strengthened by including a right to recordkeeping. The NSW Charter contains the right 'to keep a record of your time in care'. In keeping with the style of the SA

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<sup>1</sup> Rights in Records by Design, ARC Discovery Project DP170100198, Chief Investigators Associate Professor Joanne Evans (Monash University), Associate Professor Jacqueline Wilson (Federation University), Professor Sue McKemmish (Monash University), , Associate Professor Philip Mendes (Monash University), Professor Keir Reeves (Federation University), and Dr Jane Bone (Monash University)

Charter this could be expressed as: *I have the right to a comprehensive record of my care*. This umbrella right could further be developed to include further elicitation of meaning along the following lines:

**I have the right to a comprehensive record of my time in care**

This means:

- having comprehensive records made of all decisions affecting my care
- having my opinions on decisions affecting my care included in the record
- being able to access the records about me (without cost) at any time while I am in care and for the whole of my life
- being able to include alternative interpretations to the official record during my time in care or at any time in the future
- being able to contribute to, and own, a personal record of my life and experiences in care (life story)

We would be pleased to further discuss our extensive research findings relating to the creation of a Charter of Lifelong Rights in Childhood Recordkeeping Out-of-home Care.

Yours sincerely

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