



CLAN Charter of Rights in Records (Revised 19 October 2020)

Framing Rights

CLAN's Charter is consistent with the four Framing Rights of the proposed National Charter of Lifelong Rights

- Participation
- Memory
- Identity and
- Accountability

The Charter is an ethical extension of the rights of the child to the adult the child has become, and a response to the current needs of people who were institutionalised as children. Rights are warranted on the contemporary rationale for retaining historic personal records in archives, namely to help the person the record is about to exercise their right to:

- Make meaning of the circumstances of their childhood
- Connect, if still possible, with family and community
- Seek redress and other remedial action for abuse or neglect and
- Regain control over the records made about them in their childhood.

The CLAN Charter includes 10 rights grouped under three headings:

- Participatory rights
- Access and disclosure rights and
- Privacy and safe recordkeeping rights.

Participatory Rights in Recordkeeping

Right 1: The right to a comprehensive and authentic record

- Personal records should have contained key documents including—but not limited to—the person's birth certificate, the names and last-known addresses of members of the person's family, any court orders or documents related to the reasons for the person's placement, all medical and educational histories, the names of all people who visited the child during their time in custody, all documents related to transfers to other institutions including foster families and reports of all incidents, responses and decisions affecting child safety and wellbeing. Where there are gaps in the record, the agency has a duty to try to rectify the situation.

Right 2: The right to additional support where historic records have been lost, are incomplete, or inadequate.

- Archivists and other support personnel have a duty to search for and identify other archived records that may be relevant to the person's childhood experience to assist in providing a more complete narrative.

Right 3: The right to contribute to the record

- Children placed in the custody of institutions and agencies should have been informed of their right to contribute to their record, and to be helped to create a personal collection of items such as relevant photographs of people, events and places that were central to their time in 'care'. This right was usually not respected.

Right 4: The right to challenge, correct or complete childhood records

- When a record is incomplete, inaccurate or misleading, contains gratuitous personal judgments or opinions and uses language that is offensive, the person the record is about has the right to challenge, amend, add to, or complete the record, and archivists and records holders should inform them of this right and encourage and support them to exercise this right.

Right 5: The right to control the use of personal records

- Given that historical childhood records were made without the consent and knowledge of children in 'care', the person the record is about has the right to refuse to have those records released to others if there is a credible fear that doing so will compromise their human rights or those of others.
- The person the record is about has the right to make their wishes known as to intergenerational access to their records. This right should be respected but should not nullify the competing right of others with a valid claim to access the record into the future.

Agency in Access and Disclosure**Right 6: The right to know what records have been made and archived.**

- Agencies holding records should be proactive in disclosing what records they hold.

Right 7: The right to full access

- Full access must be given unless contrary to law. Where a record is withheld or redacted, the decision-maker should give specific explanations and the person requesting the record has the right to appeal such decisions.
- No request for records should be influenced by consideration of any real or perceived conflict of interest or administrative difficulties.
- Originals of personal documents such as family letters and photographs should be provided to the person, and copies kept in archival collections.

Right 8: The right to timely access through informal or administrative processes.

- Archivists, record-holders and support workers must expedite all requests for access to personal records using the maximum flexibility available under the law. Special consideration should be given to the frail, elderly, and those involved in litigation or redress claims.
- Legacy systems that operate with inefficient and outmoded finding, indexing, digitising, and cross-referencing tools should be resourced to remedy their deficiencies.

Right 9: The right to support in accessing, interpreting and understanding personal records

- Persons seeking personal records should be assisted to interpret the record with issues like historical context and unfamiliar or technical terminology.
- Persons seeking personal records have the right to request and be provided with a records advocate or other expert in locating, understanding and challenging records

Privacy and Safe Recordkeeping Rights**Right 10: The right to privacy and to safe and secure storage and handling of personal records**

- Personal records should only be used for the purposes set out in the Framing Rights (above) except where the subject of the records gives their informed consent for other uses.
- Persons seeking personal records have the right to a safe, secure, and trusted infrastructure for managing, preserving, certifying, and transmitting their records.
- No records should be destroyed or otherwise disposed of except in accordance with the law.