

Providing Access to Sensitive Records: The Personal History Index (PHIND)

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Two groups within our society, Indigenous Australians and former child migrants, are facing similar difficulties in accessing information about themselves and their families of birth. Attempts are being made to facilitate the access by individuals to information and records about themselves – information which may not only be confidential, but which also can be regarded as sensitive. This article, a version of which was originally presented at the Australian Libraries and Information Association Local Studies National Conference in Guildford, Western Australia in November 1999, looks at how access is being managed, with particular reference to PHIND, a Personal History Index for former child migrants from the United Kingdom and Malta to Catholic Homes in Australia.

Introduction

Sensitive material may cover different types of information, for example, commercially sensitive records, adoption records, health information or national security issues. The focus of this paper is the records of Indigenous people and the records of children who came unaccompanied to Australia from the United Kingdom and Malta as child migrants. There are striking similarities between the Stolen Generation and child migrants, although most

published literature relates to Indigenous records. Both groups have been separated from their birth families and have been trying to find and re-establish links with their families of origin. This article includes a case study on a project to provide a finding aid for records of child migrants called PHIND, the Personal History Index.

The Federal Government's Information Paper on proposed legislation for the protection of privacy in the private sector states that sensitive information 'includes information revealing racial or ethnic origins, political opinions, religious or philosophical beliefs, trade union membership, or details of health or sex life.'¹ Sensitive personal information can also be defined as 'that which would induce substantial distress in a reasonable person if made publicly available.'²

A major category of sensitive records for Indigenous people are secret or sacred materials. This is an area where guidance from Indigenous people with local knowledge will be required to determine what material fits into this category. A number of submissions made to the Australian Law Reform Commission as part of its review of the *Archives Act 1983* pointed out that some records released under open access after 30 years could be distressing to Indigenous people and their communities and that revelation of secret or sacred material could contravene customary law.³

The Aboriginal and Torres Strait Islander Protocols for libraries, archives and information services highlight that:

- many collections may include sensitive material that needs to be handled with care;
- consultation with indigenous communities should be undertaken to develop and manage the collections; and
- the existence and availability of collections should be promoted whilst conditions for access need to be explained.⁴

The Australian Society of Archivists (ASA) has also recognised that archivists have a responsibility in regard to records of Aboriginal and Torres Strait Islander peoples, and in 1996 issued a Policy Statement in this regard.⁵ This acknowledges that archives may 'contain information which is not known to Aboriginal people, which is regarded as secret/sacred by them, or which is presented in a manner which is offensive to them'.⁶ Archives and archivists have a responsibility to assist Indigenous people 'to make maximum use of archival holdings and services and to facilitate Aboriginal access to records of their own cultural heritage and historical experience'.⁷ This policy statement also goes on to emphasise the importance of consultation.

There are four main aspects to providing access to sensitive records:

- ascertaining that the records actually exist, and are available – there is an inherent problem with sensitive records in that because of the information they contain people feel the need to destroy them;
- having determined that the records exist, deciding how to make this knowledge available – this is where finding aids are important;
- formulating an access policy which outlines who can access the records and under what conditions; and finally
- having some knowledge of the contents of records, including the language used at the time, and providing counselling services if required.

Availability and existence

An obvious point is that you cannot access records that do not exist. Records may not exist because they were never created, or they have been destroyed for some reason.

Privacy legislation

Reference has been made to the Information Paper on the Federal Government's proposed legislation for the protection of privacy in the private sector. This is something all archivists need to be aware of, although it will not affect collections of information that were in existence prior to the commencement of the proposed legislation. However, it will have an impact on future collections of information, which will determine what records are available in the future. For example, National Privacy Principle 10 refers to sensitive information: 'This principle places limits on the collection of sensitive information about individuals'.⁸

After the introduction of privacy legislation in New Zealand, the then Director and Chief Archivist of the New Zealand National Archives stated that a universal concern in countries with privacy legislation was 'how does one protect the rights of the individual while at the same time ensuring that information valuable for research is retained. For archivists, there is also the question of how to ensure that material is not destroyed by interim custodians, anxious to abide by the provision of privacy legislation'.⁹

Dr Janet McCalman, in her acceptance speech for the 1999 New South Wales Premier's Community and Regional History Award for her book *Sex and Suffering* about the Royal Women's Hospital in Melbourne, made some excellent points about recordkeeping and the availability of records:

If *Sex and Suffering* is an effective book, it is not really because of my skill, but because somehow over the past 140 years, no one got round to throwing out all those dirty patient records; and no one became so paranoid about the privacy of the patients that they had to be burnt or shredded...The most important responsibility that the government bears for history is in the making, preserving and public management of records: records of its activities for the future scrutiny of an open society, and records for the stories of the human lives its agencies touched...These latter records of the interactions between individuals and the state and its agencies are often the only historical records we have of ordinary people. Government archives are essential to the writing of history from below.¹⁰

Withholding information

Many former child migrants, perhaps rightly, believe that information has been withheld from them in the past. This point was brought up in the UK House of Commons Health Committee report into 'the welfare of former British child migrants'.¹¹ Unfortunately at times a paternalistic attitude existed when someone else determined what an individual could or could not see in their own records. However, today this is not the case for most organisations involved in child migration. In the areas in which I am familiar, my own archives and the records held by the Catholic Migrant Centre, all information is passed to the individual when they access their own records.

Contrast this however with the Suffolk County Council Social Services. On their home page in a question and answer routine on access to personal records they state amongst the categories of information that they do not have to show an individual is 'information which might lead to serious harm to your physical, mental or emotional health'.¹² How is this determined and by whom?

Destruction of records

It is also difficult to convince some people that records about their childhood have been destroyed. The *Bringing Them Home* report states that 'between 1973 and 1985, for example, 95% of case files created by the SA Department of Family and Community Services were culled' in the belief that if the child had been successfully fostered or adopted, the files were of no further use.¹³

Similarly, many of the Family and Children's Services case files that relate to child migrants in Western Australia have been destroyed and all that remains is a summary Child Migrant Card which contains very basic information. No one can confirm when the destruction occurred, but it appears to have been around the 1970s.

We are all familiar with the ongoing controversy about whether name-identified census information should be kept. Anyone who has undertaken genealogical research in the UK will know what a wealth of information census

data holds. However, in Australia we destroy it, as we do with many other records which identify individuals by name. Dr McCalman also referred to previous planned research into comparative history of secondary education in New South Wales, South Australia and Victoria. NSW ruled that she and her colleague Mark Peel could not access any records that contained a student's name. South Australia 'played even more games' and refused access altogether. She states that 'we now know that they are destroying all their student records: the single most important archive of teaching, learning and human development that the state possessed'.¹⁴

Dr McCalman believes that 'with strong Public Record Acts, well-managed archives and professional care, we can protect the privacy of the living whilst preserving their stories for all time'. She concluded her acceptance speech by stating:

Great, untouched archives enable us to people our histories with the real men, women and children of the past. Yes, we have infringed their privacy; but we have also restored them to posterity so that we can share their lives and learn their lessons. We have made their lives count for the future, not be lost and forever forgotten.¹⁵

Finding aids

Whilst we as recordkeepers may have determined that records exist, it is inherent upon us to facilitate access to them, and the best way to do this is by means of a widely available finding aid. The lack of knowledge of where to access records can be frustrating for those trying to re-establish family connections. This is a theme echoed time and again when discussing records of Indigenous people and is a common complaint amongst child migrants.

Records relevant to forcibly removed children and their families – records which could assist searchers to discover their true identity, to locate family members and to begin the process of reunion – were usually created by a range of records agencies: protection boards, police, welfare departments, adoption agencies, education departments, hospitals and missions among others.¹⁶

This statement is equally true of records relating to former child migrants. A great deal of lateral thinking is required to try to identify what organisations may have been involved, where records may be held, if they still exist, and how to access them.

Paul Macpherson presented a paper at the 1999 ASA Conference on records of Indigenous people, and again echoed the situation faced by former child migrants:

It is almost impossible to know where to start looking. Those who have searched for information about their family background and those...who have tried to help them

may well have developed some understanding of good starting places, of likely sources of some information about some people, but the inherent difficulty remains, even for experienced searchers.

A single comprehensive record detailing what happened to an individual person taken from his or her family does not exist in Commonwealth records because it was never created.¹⁷

Following on from recommendations made in 1997 in *Bringing Them Home*, the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, the National Archives of Australia has commenced an indexing project called the Bringing Them Home Name Index. The index is, simply, a pointer or a finding aid. It indexes the names of Indigenous people contained in Commonwealth records, and provides references to the relevant record. To see the information itself the Commonwealth record needs to be viewed. The index is not available to the public but has to be searched by NAA reference staff.¹⁸

Provision of a finding aid is very important, particularly because records are not necessarily kept in logical places. Also at the 1999 ASA Conference, Loris Williams spoke about her own family's search for information about themselves.¹⁹ Some records were held by the South Australian Museum, yet this family originated in Queensland. Who would have thought to look there? Similarly, PHIND has discovered that extracts or original birth certificates for former child migrants from UK are held on shipping files at the National Archives offices in Adelaide, Sydney and Melbourne. Again, not a logical first point of call.

Access policies – who can access records?

In 1991 the Royal Commission into Aboriginal Deaths in Custody recommended that all governments should provide access to archival records which would assist Aboriginal people to re-establish family and community links with those from whom they were separated because of past government policies.²⁰ The National Archives of Australia responded to this recommendation by consulting widely with Northern Territory Aboriginal groups and formulated a Memorandum of Understanding (MOU) under which arrangements were adopted to assist Aboriginal people to access open-period Commonwealth records, that is records over 30 years old.²¹ The Australian Law Reform Commission recently recommended that a similar agreement be negotiated for records under 30 years old.²²

Sensitive personal information would usually be exempt from public access. Many who have undertaken research in the NAA would have come across

material that had been expunged. However, the MOU allows access to this information by the subject of the record, or by family members under certain conditions.²³

There is a similarity amongst access protocols for records of Indigenous people. Usually the individual is permitted to access their records on proof of identification. Third parties may access the records with a written letter of authorisation from the individual if they are alive, or on proof of death if deceased. This basic approach to access is followed by the Memorandum of Understanding, by John Oxley Library,²⁴ and by the Queensland Community and Personal Histories Unit.²⁵

There are two major issues which need to be considered when formulating an access policy:

- firstly, withholding information on third parties, which includes family members, can possibly mean withholding information which may be the missing link in a person's history; and
- secondly, balancing that against a need for privacy of the third party.

The *Bringing Them Home* report questions:

whether a distinction can be made between, on the one hand, third party identifying information which permits a searcher to identify his or her own family and community links and, on the other, information which is solely personal to the third party. In Queensland information about the immediate family of the searcher will be revealed but 'sensitive' information about third parties will not be.²⁶

Content of the records and counselling

For forcibly removed people and their families the information recorded about them by government agencies is almost certain to raise painful memories and their files will almost certainly contain information that will cause pain if not trauma and despair.²⁷

There is a lot of emotion involved in accessing sensitive records. Often the language used is inappropriate by today's standards. The MOU provides a warning:

Please be aware that this file may contain information of a sensitive and/or distressing nature. At the time these files were compiled much of the language used was racist and offensive.²⁸

This sheet also lists counselling services available in the Northern Territory.

Loris Williams in her paper at the 1999 ASA conference expressed some of the frustration and emotion that face a person tracing their origins and past:

An important aspect that must be considered is the emotional side of the process. The joy of discovery is often overshadowed by the pain experienced by people who are being forced to again confront the often painful experiences of the past...I saw both my mother and father experience emotional turmoil over the records, my mother because of what she was reading in the records and my father from the lack of records.²⁹

The *Bringing Them Home* report states that it is 'the right of every person to receive advice, both orally and in writing, at the time of application about Indigenous support and assistance services available in his or her State or Territory of residence'.³⁰ It is interesting to note that at the time of this report, all governments provided a counselling service in conjunction with access to adoption information, but only Victoria and Tasmania had extended the same service to ex-wards of the State including Indigenous people.³¹

Most archivists who work with records that contain sensitive information have no counselling qualifications. It is very important therefore that we are aware of what counselling services are available to researchers. I am fortunate in that the Christian Brothers provide funding for two organisations which, amongst other services, provide counselling, namely C-BERSS (Christian Brothers' Ex-Residents and Students Services) and the Catholic Migrant Centre, and many of my enquiries come through these two organisations.

Summary

To summarise what archivists should be doing:

1. Consultation is vital. You need to consult widely with stakeholders to:
 - identify information of a sensitive nature within your holdings; and
 - formulate access policies and protocols to establish who can access the information and under what conditions.
2. Having determined that your collection does contain sensitive information about, for example, Indigenous people, you need to promote the existence and availability of the collection and explain the access conditions.
3. Finally, familiarise yourself with what counselling and assistance is available within your local area so that you can provide this information should your clients require it.

PHIND – A case study

In 1997, as a result of an initiative of Br Tony Shanahan, the Province Leader of the Christian Brothers in Western Australia, a project was commenced under the leadership of Dr Debra Rosser to produce an index which would assist former child migrants to Catholic Homes in Western Australia to locate information about themselves. This information is widely dispersed in a variety of government and church organisations. The project was sponsored and funded by the three religious orders involved in child migration to Western Australia, namely the Poor Sisters of Nazareth, the Sisters of Mercy, and the Christian Brothers.

Firstly, a few background facts that might also help to remove some common misinformation. Child migration under Catholic auspices to Australia from the UK did not commence until 1938. In 1938 and 1939 110 male child migrants arrived in Western Australia aboard three ships. Child migration ceased during World War II and recommenced in 1947 when both male and female children were again sent to WA, the last arriving in 1965 from Malta. Western Australia had the largest number of Catholic child migrants – about 1100 – a far cry from the figure of 5,000 given on a recent Sixty Minutes report. PHIND has recently been extended to include child migrants to Catholic Homes in the rest of Australia. A total of ten religious orders or church receiving agencies were involved, with children initially going to one of fourteen Homes.³²

Consultation was an important part of establishing PHIND. As a first step, a focus group of former child migrants was convened and they were in the main supportive of the project, although some expressed concern about the interpretation of records by future generations. However, the index, like the Bringing Them Home Name Index does not provide the records, it only provides the pointers.

When the project was established, a Reference Group was formed. This consisted of:

- Br Tony Shanahan, current Province Leader of the Christian Brothers WA and SA
- Br Gerry Faulkner, immediate past Province Leader WA and SA
- Dr Debra Rosser, Project Leader
- Ms June Williams, the WA Equal Opportunity Commissioner
- Mr Des Pearson, the WA Auditor-General, and
- the author, the Province Archivist.

The main purpose of the Reference Group was to establish the Access Protocols. Ms Williams was very concerned about the protection of the privacy of third parties and about disclosure of information that was not publicly available. We based much of the Protocol for Access on Recommendation 25 of the *Bringing Them Home* report, because we believed it is as applicable to former child migrants who had lost contact with their birth families, as it is to the Stolen Generation. David Malcolm, Chief Justice of Western Australia, confirmed this when he launched PHIND on 2 March 1999. In his speech he made reference to the International Convention of Rights of the Child and Article 8 which states that it is the right of a child to preserve his or her identity, including name and family relations as recognised by law.⁵³

As well as being a member of the Reference Group, I assisted Dr Rosser in the research for the first stage of PHIND. We received cooperation from all agencies involved, in particular Family and Children's Services in Western Australia, the National Archives Perth office, and the Catholic Migrant Centre. Information from Admission Registers was provided by the three religious orders involved.

PHIND was commenced well before the House of Commons Inquiry was established. It is interesting that one of the Inquiry's recommendations is that all relevant information held on former child migrants should be passed on and they stated that:

we believe it would be desirable for those concerned to be able to access information through a 'one-stop shop' rather than, as at present, to have to trawl hopefully around a succession of possible agencies. We do not envisage that a *comprehensive database would itself contain all records – it would be a facility pointing inquirers in the direction of the repositories containing relevant records.*⁵⁴

What was proposed was of course already being created by the PHIND project. Since the launch of PHIND, Family and Children's Services have produced their WA Child Migrant Referral Index, and the NSW Department of Community Services is also indexing their records.

In the course of extending PHIND, I made contact with a number of organisations involved in child migration. In particular, another seven Homes, six religious orders, five offices of National Archives and five successor agencies to the old Child Welfare departments.

There was a high level of cooperation from the religious orders involved, and from the NAA offices. Approaches were made to the welfare departments, who at the time were the official guardians of child migrants, requesting access to their records. There was mixed success, from initial refusal and a limited response in the case of South Australia (echoes of Dr Calman's experience) to

complete cooperation in the other States, although it took longer to get approval in some States than in others. All Departments were extremely concerned about the privacy of the individual, and our Protocol for Access was invaluable in reassuring the agencies that information would not be divulged in an inappropriate manner.

If any conclusion can be drawn from the experience of coordinating the second stage of PHIND, it is that many people were so concerned about privacy issues, they lost sight of the aim of the project – which is to assist former child migrants to locate information about themselves. The people who lose by the lack of cooperation are the former child migrants themselves.

Time is of the essence for those groups trying to reunite with their families of birth, whether they are child migrants or members of the Stolen Generation. Many of these people are of an age where it is likely that their parents are deceased, and any reunification can only be with family members of their own generation. Many of the searchers are themselves aged or have passed on. Despite this, the issue of accessing the records which will help to locate families of birth will not go away – the next generation is just as interested in tracing the birth families of their parents.

People search for a number of reasons. Firstly they may search to find their identity, so that they can feel 'whole' or feel a part of the community. People have an in-born desire to find their roots and origins and to learn about their cultural and personal history. One ex-resident of Clontarf said: 'If you are a non-person you never get peace until you know who your parents were, where you come from, and answers to questions like these. Then you can be satisfied. Then a great peace comes over you.'³⁵ Another former resident of Tardun reflected when he found his birth family: 'It's like there was an empty cupboard in my life and it's full now. I'm the happiest man in the world.' This is something that those of us who grew up with our families take for granted.

Often the desire to trace their origin becomes strong when there is a major milestone in the life of the person, for example, the birth of a grandchild, a death, or a marriage. And often it is the children of former child migrants who encourage their parent to start the search process because they want to know about grandparents or about hereditary health issues.

Opportunity and challenge

The issue of accessing sensitive personal records provides an opportunity as well as a challenge to us in our role as recordkeepers. The opportunity is identifying and facilitating access to these records by indexing, provision of finding aids and promotion of the availability of the records. The major

challenge facing us is how to get the balance right between protecting the privacy of individuals and the right of the person, whether child migrant or member of the Stolen Generation, to know their origins. This is no easy task, but we now have a number of tools to assist us in making our decision, in particular the *Bringing Them Home* recommendations and our own access policies.

It is appropriate to conclude with a quote from the *Bringing Them Home* report, modified so it is as relevant to child migrants as to Indigenous people:

The need to protect one person's privacy has to [be] weighed against the need to provide another with access to personal information. The refusal to release third party identifying information could deny ...[a] searcher the opportunity for reunion with his or her family and/or community...the Inquiry has come to the conclusion that at a minimum every searcher must be entitled to personal and family identifying information, including parents' and siblings' names and dates and places of birth, even where disclosure of that information might be thought to infringe third party privacy.³⁶

ENDNOTES

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