

Statutory OOHC Fact Sheet 7

Designated agency

Record keeping requirements and Cloud-based technologies

The Office of the Children's Guardian (OCG) receives requests for advice from designated agencies about the use of cloud-based technology to store client files, in terms of meeting accreditation criteria and in particular, record security.

Cloud-based technology generally involves storing information on shared resources, which may be located outside of Australia.

The *Children and Young Persons (Care and Protection) Act 1998 (Act)* and *NSW Child Safe Standards for Permanent Care 2015 (Standards)* do not expressly prevent a designated agency from using cloud-based technology to store client files. However, where cloud-based technology is being considered, a designated agency should carefully review the requirements of sections 168, 169 and 170 of the Act and Standards 7, 17, 18, 19, 20 and 22.

In particular, a designated agency should consider whether the cloud-based technology will allow it to comply with requirements to:

- maintain records regarding the placement of a child or young person for 7 years after the designated agency ceases to be responsible for the placement
- deliver records to the relevant authority after the 7 year period expires, or if within that period, the agency ceases to be a designated agency
- restrict access to information about children and young people and their families
- maintain comprehensive records for each carer, staff member and volunteer.
- meet all record keeping, information security, confidentiality and privacy requirements in accordance with funding deeds, contract governance guidelines and program agreements with Family and Community Services.
- record the identity of those accessing information, so that any unauthorised access is identified and addressed in a timely and appropriate manner
- limit how the information stored using cloud-based technology can be accessed if practical, for example, only on computers located at the agency's office, and not on laptops or mobile phones
- clearly set out in arrangements with the technology provider, how the information is to be stored, with provision for avenues for redress if the provider breaches those arrangements
- ensure accessibility for the purpose of assessment and monitoring by the OCG, the NSW Ombudsman's office and other regulatory authorities
- ensure accessibility to allow the subject of the record to review their records when requested
- ensure accessibility for the purpose of records retrieval for court and other legal matters
- establish, implement, regularly review and update comprehensive policies and procedures regarding the use of the cloud-based technology which take into account technological advances.

Note: Section 14 of the Act makes specific provision with respect to records concerning Aboriginal and Torres Strait Islander children and young people placed in supported or statutory out-of-home care. Particular issues may arise with respect to the delivery of the records to the relevant authority when the seven year period referred to in section 170(2) expires, or when the agency ceases to be a designated agency.

It would be prudent for a designated agency to confirm with the relevant receiving authority (Family and Community Services) how the use of cloud-based technology may affect its ability to comply with section 170(2).

The designated agency should be particularly careful to ensure that the use of cloud-based technology does not lead to the loss of original documents that a child or young person is entitled to under section 169, such as a birth certificate, school reports, medical reports and personal photographs.

More information

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For more information, please contact the Accreditation Team on (02) 8219 3600 or email accreditation@kidsguardian.nsw.gov.au.