



Records Management Responsibilities for Ministerial Offices during Caretaker Period

This advice sheet provides information concerning the management and custody of ministerial office records before, during and after the caretaker and post-election periods. It also provides advice about the record disposal practices to be applied to Ministerial Office records.

Records created or received by a Minister or a Ministerial Office in the conduct of business are official records, regardless of format, and must be managed in accordance with the *State Records Act 1997* (the Act).

Ministerial office records

There are three common types of official records created by and/or received in a Ministerial Office:

- Ministerial records
- Cabinet records, and
- Portfolio (agency) records.

Ministerial Office staff should note that the electronic versions of the above are defined as official records under the Act (this includes the management of emails and social media accounts).

Official records should be managed within a recordkeeping system. If a Minister has responsibility for multiple portfolios, the records are to be managed in such a way that clearly differentiates between portfolios and the management of the records. This separation will assist in the transfer of records to the portfolio agency, a departmental Chief Executive or State Records (as appropriate). It also assists with the destruction of records at the end of a Minister's term or following a change in responsibility.

Obligations during Caretaker period

Following the announcement of a forthcoming election, government enters into a period referred to as the 'caretaker period'. Such a period is based on conventions established by the Westminster system of government and has been formally adopted by most states, including South Australia.

Where planned disposal has not already occurred, the following record disposal actions now need to take place:

Ministerial records required for ongoing business should be retained within the Ministerial Office until the outcome of the election is known. However, preparations must be made to prepare for a possible change of government – Refer to Attachment 1 for an outline of activities required during and after Caretaker period.

Cabinet records - as outlined in *Caretaker Conventions and Pre-Election Practices* (Department of the Premier and Cabinet, September 2017):

“Successive governments have accepted the convention that ministers should not seek access to documents recording the deliberations of ministers in previous governments, particularly to Cabinet documents. For this reason, at the beginning of the caretaker period, all Cabinet documents – including originals, copies, and drafts in both electronic form and hard copy – should be returned to the custody of chief executives for storage until the result of the election is known.

Each chief executive should advise the Deputy Chief Executive, DPC, when they have accounted for all Cabinet documents and have ensured that the documents are securely stored.

Ministers’ offices must not retain copies of Cabinet documents during the caretaker period. If the government is returned, chief executives will return Cabinet records to the appropriate office, ensuring that ministers have the information necessary to resume their portfolio duties. If the government is not returned, it is the responsibility of chief executives to store or dispose of Cabinet documents in accordance with the State Records Act 1997.

The only exception to the requirement to return Cabinet documents is the Office of the Parliamentary Counsel. OPC retains Cabinet documents in order to continue working on projects that, according to the determination of OPC, can be progressed during the caretaker period. If there is a change of government, OPC will then return these documents to the relevant chief executive”

Portfolio (agency) records should be returned to the records management unit of the responsible agency if they are no longer required for current business use. Records required for ongoing business during the caretaker period should be retained.

Ministers Offices and the relevant department should establish an Agreement concerning the movement and management of physical and electronic records, both prior to the election and after the outcome of the election is known.

Refer to Attachment 1 for an outline of activities required during and after Caretaker period.

The email accounts and contents of mobile phones of Minister’s and ministerial staff will contain official records and are not to be deleted until they have been adequately assessed.

Private records

A Minister may accumulate private or personal records during their term of office. Records created or received by a Minister in their capacity as a Member of Parliament, as a member of a political party or as a private citizen are not official records for the purposes of the Act. These records should be maintained outside of the Office’s recordkeeping system, and should be managed and disposed of in accordance with the wishes of the Minister.

These records may include electoral and political party matters, including leadership, constituency matters and party organisation, caucus affairs and political appointments.

These records are likely to be managed on a day to day basis alongside official portfolio and ministerial office records, for example on mobile phones and in email accounts. As a

result the destruction of these records must be approached with caution to reduce the likelihood of official records being destroyed unlawfully.

Following an election – no change in Government

Where the outcome of the election results in no change to government or Ministerial responsibility, the following applies:

Ministerial records continue to be managed and maintained by the returned Minister.

Cabinet records - are sent back by the Chief Executive/s to the Minister if the records are still needed for ongoing business. The returned Minister is then responsible for the Cabinet records until the next election.

Portfolio (agency) records retained by a Ministerial office during the election may be further retained post-election if still needed for current business or returned to the records management unit of the responsible agency.

Following an election – change in Government

Where the outcome of an election results in a change to government Ministerial responsibility, the following applies:

Ministerial records become the responsibility of the incoming Minister, who has responsibility for that same portfolio. The new Ministerial Office becomes the 'agency responsible' for all records transferred by their predecessors (either to State Records or an Approved Storage Provider - ASP). The Ministerial Office is responsible for ongoing costs associated with the management of those official records and for administering public access determinations (in the case of permanent records).

The newly appointed Minister is the agency responsible for these records, the new Minister will have a statutory right to seek access to those records, whether they are stored with State Records, an ASP or with the relevant portfolio.

However it is important to note that successive governments have accepted the convention that Ministers and their ministerial staff not exercise this right to seek access to these records unless they have a requirement to do so for the ongoing management of the office and the portfolio.

In line with Westminster protocol an incoming government should act responsibly when accessing the records of a previous Government. Access should be provided to records which relate to issues of the day.

It is inappropriate for an incoming Government to use public resources to search through previous governments records other than to ensure business continuity.

In line with any agreement between the portfolio agency and incoming Ministerial Office, access requests for previous government records should be submitted and assessed by the Ministerial Office Manager.

Cabinet records become the responsibility of the Chief Executive (or the portfolio agency on their behalf), who is responsible for directly transferring the Cabinet submission files and Cabinet Notes to the custody of State Records as per the Caretaker Conventions. Ministerial offices seeking access to Cabinet records of their predecessor should make requests for access through Cabinet Office.

Portfolio (agency) records retained by a Ministerial office during the election may be further retained post-election if still needed for current business or returned to the records management unit of the responsible agency.

Transfer of records between Ministerial Offices following a change of Government

When there is a change in portfolio functions between Ministers, either as a result of an election or machinery of government changes, Ministerial records become the responsibility of the incoming Minister. The outgoing Ministerial Office needs to prepare records for transfer to the incoming Minister. The transfer of Ministerial files should include the following steps:

- Identify the records to be transferred between agencies (including electronic records)
- Identify any control records that apply to the records being transferred i.e. file registers, system reports, etc.
- Identify the scope of the records being transferred
- List the records to be transferred including those in offsite storage
- Prepare an agreement for transfer and ownership of records for the incoming Minister
- Incoming Minister to accept responsibility and manage records
- Transfer records no longer required to off-site storage after sentencing
- Update control records and provide a copy (where appropriate) to the incoming Minister
- Notify State Records of process conclusion

Sentencing

Sentencing is the process of identifying and applying a disposal action to records according to an approved disposal schedule. The process enables agencies to determine whether a record is of temporary or permanent value. For records of temporary value, sentencing will determine how long a particular record needs to be retained before it can be destroyed. Permanent records are required to be transferred to State Records once they reach 15 years of age or are no longer required for administrative purposes, whichever occurs first.

To sentence administrative records, Ministerial Offices should apply General Disposal Schedule 30. Administrative records are those that document activities which occur across all across government agencies.

To sentence operational records, Ministerial Offices should apply General Disposal Schedule 18. Operational records are those relating to functions and activities specific/unique to a Ministerial Office.

Destruction of records

Ministerial Offices are not authorised to destroy official records without first sentencing in accordance with the current version of GDS 30 and/or GDS 18. Ministerial offices are responsible for approving the destruction of their own records. The destruction process is described on State Records' website. A destruction guideline and checklist has been developed to assist with the agency approval process and this can be located on the State Records website.

Ministerial Offices are required to keep approved destruction lists of records destroyed in accordance with GDS 30.

Where Sentencing cannot occur prior to an election

Where a Ministerial office has not been able to resource sentencing prior to an election, records can be boxed and listed and stored at an Approved Service Provider (ASP) with State Records approval.

Approval is sought from State Records by completing the 'Approval to store unsentenced records with an Approved Service Provider (ASP)' form (please see Attachment 5)

Exemption applications received by State Records from Ministers during the Caretaker period will be given priority.

Please contact State Records staterecords@sa.gov.au for assistance with this process.

Further Information

For further information please refer to the following guidelines and schedules, available on State Records' website www.government.archives.sa.gov.au:

- Managing Records During Administrative Change Guideline
- General Disposal Schedule No. 18 for Ministerial Offices (GDS 18)
- General Disposal Schedule No. 30 for State Government Agencies (GDS 30)
- State Records of South Australia, Temporary Records Approved Service Provider (ASP) User Guide
- State Records of South Australia, Guideline for Temporary Records with an ASP
- Public Access Determination Guideline
- Destruction of Official Records – Agency Approval Process
- Exemptions from transfer

For further records management advice contact staterrecords@sa.gov.au

Attachment 1

During Caretaker Period

Completed/Action Required	Activity
	<p>Identify all official records of the Ministerial office in all formats (hardcopy and electronic)</p> <ul style="list-style-type: none"> • Identify records held onsite • Identify records held at an ASP • Identify records held at State Records <p>(FOI Officers will need access to these records during and after caretaker period)</p>
	<p>Provide copies of lists of records being held at ASP/and or offsite storage and forward to the CE/RM area of the relevant portfolio.</p>
	<p>Forward any existing Cabinet submission files and cabinet notes to the Chief Executive of the relevant agency with the exception of cabinet records that have been approved to be transferred to the custody of State Records.</p>
	<p>Box and list onsite hardcopy records (sentence if possible) for each portfolio</p> <ul style="list-style-type: none"> • Liaise with department CE/RM Unit • Prepare transfer of unsentenced records to ASP if required • Complete and submit State Records exemption to store unsentenced records at an ASP if required • Transfer temporary records to an ASP • Transfer permanent records to State Records (where this cannot occur seek exemption approval from State Records to store at an ASP) • Provide all listings to CE Office/RM area
	<p>Business System/EDRMS Management</p> <ul style="list-style-type: none"> • Provide access to CE Office/RM Unit • develop procedures in place to manage systems if there is a change of government • Prepare separate new folder structure for business system/EDRMS
	<p>Network Drive Management</p> <ul style="list-style-type: none"> • Back up of network drive/s and provide copy to CE Office/RM Unit • Prepare new network folder structure

Completed/Action Required	Activity
	<p>Social Media Accounts</p> <ul style="list-style-type: none"> • List account details including passwords and give copy to CE/RM area of relevant portfolio • Prepare for transfer of ownership of accounts if change of government occurs i.e. change passwords, allocate new admin user. • Archive official records content on social media accounts (further instructions to be developed and provided to portfolio agencies)
	<p>Management of Government IT Assets of public servants and ministerial staff including the minister (hard drives, mobile phones, tablets, USB's etc)</p> <ul style="list-style-type: none"> • Migrate official records from government assets to network drive/s or EDRMS • Ensure no wiping of hard drives until this has occurred • Ensure no wiping of ministerial staff mobile phones until assessed for official records
	<p>Destruction of records</p> <ul style="list-style-type: none"> • Verify appropriate sentencing has occurred and records are due for destruction • Authorising officer (generally the office manager) to approve destruction of records to ensure records can be destroyed • Ensure confidential and secure destruction occurs • Amend agency record keeping systems to reflect record destruction • Retain destruction reports approval in line with GDS 30 and forward to CE Office/RM Unit

Following an Election – Change in Government

Completed/Action Required	Activity
	Government IT Assets <ul style="list-style-type: none"> · Provide new IT assets to ministerial staff
	Ministerial Records <ul style="list-style-type: none"> • Incoming Minister to accept responsibility and manage records of previous Minister(s) (bearing in mind access to records under the Westminster Conventions) • Outgoing Ministerial office to provide listing of record holdings to the incoming Minister • Any records needed for current business to be retained in the Ministerial office • Access requests to previous government records in storage, on business systems or in EDRMS etc to be submitted and assessed by the Office Manager for continuity purposes
	Cabinet Records <ul style="list-style-type: none"> • CE/Portfolio agency take responsibility of cabinet documents (these are not returned to the incoming Ministers Office) • Ministerial offices requiring access to Cabinet records should do so through the Cabinet Office and their Office Manager
	Social Media Accounts <ul style="list-style-type: none"> • Transfer ownership of accounts and remove access to the outgoing government • Change passwords on accounts and allocate new account administrator (this could be managed by the portfolio agency until further instructions on how to archive this content is provided by State Records) • New Minister should establish separate social media accounts to capture duties undertaken in their ministerial capacity documenting government business and not to be used for personal or political purposes i.e. future campaigning
	Network Drives <ul style="list-style-type: none"> • Apply security to segregate records of incoming/outgoing Minister • A read only copy to be provided to incoming Minister's Office for discovery and access purposes allowing for business continuity. • The Office Manager should assess requests for access to previous government records • The new network structure to be provided to incoming Minister's Office

Completed/Action Required	Activity
	<p>Business Systems/EDRMS</p> <ul style="list-style-type: none"> • Apply security to segregate records of incoming/outgoing Minister • Read only access (file and document titles) of previous office to be provided to incoming Minister's Office • Access requests to previous Minister's records held in business systems/EDRMS to be assessed by Office Manager
	<p>Unsentenced records held at ASP</p> <ul style="list-style-type: none"> • listings of unsentenced records held at ASP to be provided to incoming government • update access details/nominated users • Access to previous government records to be assessed by Office Manager

Attachment 2

Agreement between relinquishing Ministerial Office, Successor Ministerial Office and Director of State Records regarding the transfer and ownership of records.

Note: This form should be sent to State Records 14 days prior to transfer of ownership. Both the relinquishing Ministerial Office and Successor Ministerial Office should also keep a copy.

Name of relinquishing Ministerial Office and contact person:

.....

Name of successor Ministerial Office and contact person:

.....

In signing this agreement we hereby agree to the following:

- The relinquishing Ministerial Office transfers ownership to the successor Ministerial Office and all the records management rights and responsibilities that that entails;
- The successor Ministerial Office agrees to accept all records management rights and responsibilities for the transferred records;
- Access conditions are determined by the successor Ministerial Office in consultation with the relinquishing Ministerial Office and the Director of State Records.

The transfer of ownership of records will be effective by the

..... (Date).....

Signed –

Relinquishing Ministerial Office Date

Print name (Office Manager)

Successor Ministerial Office.....Date.....

Print name (Office Manager).....

Attachment 3

Description List documenting the transfer and ownership of records

Successor Ministerial Office Information

Name of Office:.....

Postal Address:.....

Contact Officer Name:.....

Contact Officer Position:.....

Contact Officer Contact Details

Telephone:.....Fax No:.....DX No:.....

Email Address:.....

Sentencing Officer Details

Full Name:.....

Company/Agency Name:.....

Telephone number:.....Email:.....

Description List of Records

Quantity of records to be transferred (in metres):.....

Physical location of records:.....

Date range of records:.....

I hereby state that, once approval has been received from State Records, transfer and ownership of records will take effect immediately/on.....(date).

Full Name:

Office Manager:

Signature: Date:

Attachment 4

Description List documenting the transfer of temporary records no longer required to off-site storage after sentencing

To be completed by the Ministerial Office arranging the transfer of records.

Ministerial Office Information

Name of Office:.....

Postal Address:.....

Contact Officer Name:.....

Contact Officer Position:.....

Contact Officer Contact Details

Telephone:.....Fax No:.....DX No:.....

Email Address:.....

Sentencing Officer Details

Full Name:.....

Company/Agency Name:.....

Telephone number:.....Email:.....

Approved Storage Provider (ASP) Details

Company Name:.....

Contact Officer Name:.....

Telephone number:.....Email:.....

Description List of Records

Quantity of records to be transferred (in metres):.....

Physical location of records:.....

Date range of records:.....

Attachment 5

Records Management Responsibilities for Ministerial Offices during Caretaker Period

Where an agency has not been able to resource item level sentencing the records may be stored at an Approved Service Provider (ASP) with State Records' approval.

Agency information

Agency name:	
Address:	
Contact name:	
Ph:	Email:

Details of records (attach a separate list if necessary)

Series and Consignment details (where known):	
Brief description of the records :	
Date range:	
Quantity (linear metres or boxes):	
Name of Approved Service Provider (ASP):	
Reason for requesting approval:	
Length of approval:	

Conditions of approval

I agree to the following conditions:

- The records will be adequately controlled, housed, listed and stored to meet any access requests, business needs and to ensure the records are maintained in good order and condition.
- If an extension of the approval is required, State Records will be notified in writing one month prior to the approval expiring.
- State Records will be notified in writing once the approval is no longer required.
- State Records will be provided with access to audit the records to confirm that the conditions are being met.
- The records will be sentenced in accordance with a current disposal schedule by appropriately trained staff or consultants.

Signature:	
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Name:	
Position*:	
Date:	

*The signatory should hold a senior position in the agency.

Please email the completed form to staterecords@sa.gov.au.

State Records use only

Approved

Not approved. Comments:

Signature:	
Name:	
Position:	
Date:	