

TAHO

Tasmanian Archive + Heritage Office

State Records Guideline No 9

Managing Ministerial Records

Table of Contents

1	Purpose.....	4
	1.1 Authority.....	4
2	Cabinet Documents.....	5
3	Ministerial Records.....	5
4	Agency records.....	5
5	Personal and political records	6
6	Classification of records	6
7	Disposal of records.....	7
8	Disposal of cabinet documents	7
9	Disposal of ministerial records.....	8
10	Disposal of agency records	8
11	Disposal of personal and political records	8
12	Definitions.....	9
	Further Advice	9
	Appendix I - Compliance checklist.....	10

Information Security Classification

This document has been security classified using the Tasmanian Government Information Security classification standard as PUBLIC and will be managed according to the requirements of the Tasmanian Government Information Security Policy.

Document Development History

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Amendments in this Release

Section Title	Section Number	Amendment Summary
All	All	Document imported into new template
All	All	Addition of MUST, SHOULD and RECOMMEND statement throughout Guideline
Disposal of Cabinet documents	8	Edit to statement on destruction of records
Disposal of ministerial records	9	Various
Disposal of agency records	10	Clarification of agency and Minister's Office responsibilities

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State Archivist

I Purpose

The *Archives Act 1983* stipulates that records of Ministers in their formal capacity are State records as defined by the Act and are therefore required to be managed in accordance with the provisions of the Act. This guideline has been developed to inform Ministers and their staff about policies relating to the management of State records and to provide a framework for the management of records in their custody.

I.1 Authority

This guideline is issued under the provisions of Section 10A of the *Archives Act 1983*. Guidelines issued by the State Archivist under this Section set standards, policy, and procedures relating to the making and keeping of State records. This section also requires all relevant authorities to take all reasonable steps to comply with these guidelines, and put them into effect.

Keyword	Interpretation
MUST	The item is mandatory.
MUST NOT	Non-use of the item is mandatory.
SHOULD	Valid reasons to deviate from the item may exist in particular circumstances, but the full implications need to be considered before choosing this course.
SHOULD NOT	Valid reasons to implement the item may exist in particular circumstances, but the full implications need to be considered before choosing this course.
RECOMMENDS RECOMMENDED	The item is encouraged or suggested.

'MUST' and 'MUST NOT' statements are highlighted in capitals throughout the Guideline. Agencies deviating from these MUST advise TAHO of the decision to waive particular requirements.

Agencies deviating from a 'SHOULD' or 'SHOULD NOT' statement MUST record:

- the reasons for the deviation,
- an assessment of the residual risk resulting from the deviation,
- the date at which the decision will be reviewed, and
- whether the deviation has management approval.

Agencies deviating from a 'RECOMMENDS' or 'RECOMMENDED' requirement are encouraged to document the reasons for doing so.

2 Cabinet Documents

Cabinet documents include records that are circulated by the Cabinet Office of the Department of Premier and Cabinet and documents circulated by other agencies responsible for the administration of cabinet committees.

Cabinet documents are defined as:

- official records, or copies of records of deliberations or decisions of the Cabinet
- records, or copies of records, proposed by a Minister for the purpose of being submitted to the Cabinet for consideration
- records containing information about a deliberation or decision of the Cabinet

3 Ministerial Records

All records (regardless of format) created or received by a minister in the course of undertaking his or her portfolio responsibilities are 'State records' under the meaning of the *Archives Act 1983*. This does not include records that are related to personal or party political activities. In a Minister's Office, Ministerial records are those that relate to portfolio business and include the following types of records:

- records that reflect internal deliberations involving a Minister and his or her staff on official matters relating directly to the Minister's portfolio that are not referred to an agency
- records dealing with portfolio business that originated in an agency and were subsequently annotated by the Minister or his or her staff
- records dealing with portfolio business – including replies to correspondence - prepared in the Minister's office
- communications between Ministers on policy matters directly relating to the portfolio of the Minister
- correspondence from the Premier, other ministers and members of Parliament to the Minister respecting his or her portfolio
- records documenting official assignments from the Premier which are outside of the Minister's current portfolio but may be expected to lead to the creation of a new agency or additional responsibilities being assigned to an existing agency
- records concerning administrative matters that pertain only to the Minister's duties or office.

4 Agency records

Agency records are those records that the Minister refers to the agency or records created and maintained by the agency. Agency records include the following types of records:

- correspondence addressed to the Minister that is referred to the agency for action
- replies to correspondence addressed to the Minister prepared by agency staff
- replies to parliamentary questions, including background and other briefing notes (e.g. prepared for parliamentary purposes), prepared for the Minister by agency staff
- briefing notes, Minutes and other documents prepared by the agency for the Minister for purposes other than submission to Cabinet

5 Personal and political records

Personal or party political records (sometimes called 'personal papers') include subjects relating to the Minister's constituency business and role as a member of Parliament, party political matters and the private life and personal interests of the Minister. Personal or political records include the following:

- records concerning electoral matters of the Minister's political party
- correspondence from the public concerning matters that are not related to the portfolio of the Minister
- communications between ministers on policy matters not directly relating to the portfolio of the Minister
- correspondence from the Premier, other Ministers and members of Parliament to the Minister on matters not related to his or her portfolio

6 Classification of records

The various categories of records held in the Minister's Office should preferably be kept distinct from each other. This can be accomplished by creating and maintaining a separate series of Cabinet documents, Ministerial records, Agency records and Personal or Political records.

These classifications facilitate disposal of records at the end of the Minister's term and remove any possibility of Ministerial records or Cabinet documents being returned to agency files.

Large volumes of recorded information tend to flow from an agency to its Minister's Office; but little or none of it needs to be stored there. The agency should retain a copy of any document that it sends to the Minister's office. The Minister's office can choose to return such documents to the agency, add them to the series of Ministerial records, or keep them in a special set of copies of agency records.

6.1 Return documents to the agency

All records received in a minister's Office that reflect agency business and that originate within the agency or elsewhere may be sent to the agency either during the transaction of business, when an item of business has been sent to the agency either during the transaction of business, when an item of business has been completed or when the information has been noted.

6.2 Add agency records to Ministerial records

The Ministerial records series may contain material from various sources, including the agencies, that pertains to the Minister's portfolio responsibilities. Adding information from the agency to this series may make Ministerial records more useful, especially when the agency's records holdings are not immediately accessible. However, this increases the volume of records that the Minister's office must maintain and preserve.

6.3 Keep a special set of copies of agency records

Ideally, the record holdings of the agency can also meet the portfolio related information needs of the Minister's Office. However, for quick reference to those official matters in which both the agency and the

Minister's Office are involved, the Minister's Office may wish to maintain a complete or partial set of copies of agency records. These copies are authorised for destruction when reference ceases in the *Disposal Schedule for Records of Ministers of the Crown (DA No. 2339)*

The practice followed will depend on the Minister's preferences, the agency's ability to provide the Minister with relevant information in a timely manner, the nature and degree of the Minister's involvement in transacting the agency's business, and the information-sharing procedures agreed upon by the Minister and the head of agency.

7 Disposal of records

The *Archives Act 1983* recognises that State records are instruments of accountability which document the activities of Government on behalf of the community, and also the rights and obligations of both Government and citizens. To maintain this accountability the Act stipulates that employees of State or local government agencies (or any other person) **MUST NOT** dispose of records of any type or format without the written authority of the State Archivist and includes substantial penalties for contravention of this provision (Section 20).

Disposal of records includes their destruction, their removal from the custody of the creating agency, or their transfer to the Tasmanian Archive & Heritage Office. Effective disposal of records is an essential part of good records management. To be effective, it is **RECOMMENDED** that disposal procedures be planned and integrated into the records management program. This will also lead to improved records management systems, make more effective use of staff resources and reduce the space required to store records.

8 Disposal of cabinet documents

Procedures for the disposal of these records held in Ministerial Offices following a change of Government administration or when a minister ceases to be responsible for a portfolio, have been developed by TAHO and the Cabinet Office to comply with the requirements of the *Archives Act 1983*. The Cabinet Office will contact the Minister's Office requesting the return of all Cabinet documents for confidential destruction. Alternatively, the Minister's Office may arrange confidential destruction and certify the destruction in writing to the Cabinet Office. Following an election in which there is a change of Government administration the formal set of Cabinet records are transferred to TAHO.

9 Disposal of ministerial records

Ministerial records should be transferred to the Tasmanian Archives and Heritage Office when the Government administration changes or when the Minister ceases to hold the portfolio in question. Alternatively, if there is no change of Government administration, the records may be given to the Minister who takes over the portfolio responsibilities. Prior to transfer, any Cabinet documents, copies of agency records or personal/political records should be separated from the Ministerial records. Procedures for the transfer of records are contained in the *Disposal Schedule for Records of Ministers of the Crown* (DA No. 2339).

Public access to State records may be restricted, usually for a period of up to 25 years from their date of creation, as this is the statutory period for which access is restricted to Cabinet records by the *Archives Act 1983*. Records which deal specifically with people where there may be a need to protect privacy or contain other very long-term confidential information, may be restricted for a period of up to 75 years. Access restrictions are determined by the person who was the Minister when the records were created. TAHO should be advised of any restrictions either at the time of transfer or when the transfer documentation is completed. *State Records Guideline No. 4, Agency Determination of Access Conditions* provides information about, and stipulates the process for, consideration of possible access restrictions to be placed on records transferred to TAHO.

10 Disposal of agency records

Records returned to the agency are incorporated into the agency's records management system and will eventually be disposed of with the authority of the State Archivist.

The *Disposal Schedule for Records of Ministers of the Crown* (DA No. 2339) authorises the disposal of copies of agency records held in the Minister's Office.

11 Disposal of personal and political records

As Personal/Political records are not subject to the *Archives Act 1983*, the Minister may dispose of them as he or she wishes. The Minister may choose to deposit such records which are considered worthy of permanent retention at TAHO. Access to these records **MUST** be determined by the Minister at the time of making the deposit.

12 Definitions

agency - refers to the Government departments or authorities for which the Minister has been assigned administrative responsibility.

portfolio - refers to the Government departments and authorities and Acts or parts of Acts and other instruments of a legislative nature, for which administrative responsibility has been assigned to the Minister.

record - is a document or an object that is, or has been, made or kept by reason of any information or matter that it contains or can be obtained from it or by reason of its connection with any event person, circumstance, or thing. A document includes any printed or written material and an object includes a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan, or model or painting or other pictorial or graphic work.

relevant authority - means the Secretary or head of a Government department or agency, or the person directly responsible to the Minister concerned for the administration and direction of that department, service; or body. It means, in relation to a State authority or a local authority that is incorporated, that authority; or in relation to a State authority or a local authority that is unincorporated, the secretary, clerk, or other principal executive officer of that authority.

series - a set of records which have been created from or for the performance of a function or identifiable part thereof. The records comprising the series will usually be linked through a numerical, alphabetical, chronological or other identifiable sequence, or result from the same administrative accumulating or filing process.

State records - records of State government agencies/departments, State authorities, or local authorities. These public bodies are defined in Section 3 of the *Archives Act 1983*.

Further Advice

For more detailed advice please contact:

Government Information Strategy Unit
Tasmanian Archive and Heritage Office
91 Murray Street
HOBART TASMANIA 7000
Telephone: 03 6165 5581
Email: gisu@education.tas.gov.au

APPENDIX I - Compliance checklist

1.	All records (except those that are related to personal or party political activities) created or received by a minister are managed as State records.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.	A decision is made on the preferred method of managing 'agency records'.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3.	Ministerial records are transferred to the TAHO when the Government administration changes or when the Minister ceases to hold the portfolio in question. If there is no change of Government administration, the records may be given to the Minister who takes over the portfolio responsibilities.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4.	Cabinet documents, copies of agency records or personal/political records are separated from the Ministerial records before they are transferred to TAHO.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5.	Cabinet documents are returned to the Cabinet Office for confidential destruction following a change of government administration or when a minister ceases to be responsible for a portfolio.	<input type="checkbox"/> Yes	<input type="checkbox"/> No