

# STATE RECORDS

of South Australia

## Management of Records in a Minister's Office during Caretaker and Election Period

This advice sheet provides information concerning the management and custody of Minister's Office records before, during and after caretaker and post-election periods. It also provides advice about the disposal practices that should be applied to Minister's Office records.

Records created or received by a Minister or a Minister's 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).

### Minister's office records

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

- Minister's portfolio records
- Cabinet records, and
- Agency (portfolio) records.

Electronic versions of the above, including emails and social media, are defined as official records under the Act.

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 or that allows the separation of records should portfolio responsibilities change.

### Obligations during Caretaker period

In the period immediately preceding an 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.

The following actions need to take place:

**Minister's portfolio records** required for ongoing business should be retained within the Minister's Office until the outcome of the election is known. Where records are not required for ongoing business they should be sentenced and disposed of appropriately e.g. destroyed or transferred to State Records or an Approved Service Provider (ASP).

Preparations should be made 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 *Guide to Caretaker Conventions and Pre-Election Practices 2021* (Department of the Premier and Cabinet):

*“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 – 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 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.*

*Other Records: Records made or received by a minister or minister’s office in the conduct of business are official records and must be managed in accordance with the State Records Act 1997.”*

**Agency (portfolio) 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 / election 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.

The email accounts and contents of mobile phones of Minister’s and minister’s staff are likely to contain official records and are not to be deleted until they have been assessed, this should be with the assistance of the Office Manager.

## **Where sentencing cannot occur prior to an election**

Where a Minister’s Office has not been able to resource sentencing prior to an election, records can be boxed and listed and stored at an ASP, with State Records approval.

Approval is sought from State Records by completing the ‘Approval to store unsentenced records with an ASP’ form located on State Records website.

These applications received by State Records from Ministers during the caretaker period will be given priority.

## **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.

## Obligations following an election – no change in Government

Where the outcome of the election results in no change to government or a Minister's responsibility, the following applies:

**Minister's records** - continue to be managed and maintained by the returned Minister.

**Cabinet records** - are sent back to the Minister by the chief executive/s if the records are still needed for ongoing business. The returned Minister is then responsible for the Cabinet records until the next election. If Cabinet records are not required for ongoing business, they should be sentenced and managed accordingly by the agency.

**Agency (portfolio) records** - retained by a Minister's 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.

## Obligations following an election – change in Government

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

Under the Act **Minister's records** become the responsibility of the incoming Minister, who has responsibility for that same Minister's portfolio. The new Minister's Office becomes the 'agency responsible' for all records transferred by their predecessors (either to State Records or an ASP). The Minister's Office is responsible for ongoing costs associated with the management of those official records and for determining and providing access to those records.

It is important to note that successive governments have accepted the convention that Minister's and their minister's staff do not access these records other than to ensure business continuity.

Consideration should be given to the establishment of administrative arrangements for managing access to Minister's records in line with this convention. The incoming Minister's statutory right of access to those records must be recognised and upheld, through the Act, and through other policy frameworks.

**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 DPC caretaker conventions. Minister's Offices seeking access to Cabinet records of their predecessor/s should make requests for access through Cabinet Office.

**Agency (portfolio) records** retained by a Minister's 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 Minister's 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, Minister's records become the

responsibility of the incoming Minister. The outgoing Minister's Office needs to prepare records for transfer to the incoming Minister. The transfer of Minister's 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.

For further records management advice contact [staterecords@sa.gov.au](mailto:staterecords@sa.gov.au).

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## Need further assistance?

### Contact State Records

**Tel** (+61 8) 8204 8791

**Email** [staterecords@sa.gov.au](mailto:staterecords@sa.gov.au)

**Web** [www.archives.sa.gov.au](http://www.archives.sa.gov.au)

## Attachment 1 During Caretaker Period

Completed/Action Required	Activity (in no particular order)
	<p>Identify and document all official records of the Minister's Office in all formats (hardcopy and electronic)</p> <ul style="list-style-type: none"> <li>• Identify records held onsite</li> <li>• Identify records held at an ASP</li> <li>• Identify records held at State Records</li> </ul> <p>(FOI Officers may 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 Minister's portfolio.</p>
	<p>Forward any existing Cabinet submission files and Cabinet notes held onsite to the chief executive of the relevant agency</p>
	<p>Box and list onsite hardcopy records (sentence if possible) for each Minister's portfolio</p> <ul style="list-style-type: none"> <li>• Liaise with department CE/RM Unit</li> <li>• Prepare transfer of unsentenced records to ASP if required</li> <li>• Complete and submit State Records approval to store unsentenced records at an ASP if required</li> <li>• Transfer temporary records to an ASP</li> <li>• Transfer permanent records to State Records (where this cannot occur seek exemption approval from State Records to store at an ASP)</li> <li>• Provide all listings to CE Office/RM area</li> </ul>
	<p>Business System/EDRMS Management</p> <ul style="list-style-type: none"> <li>• Provide access to CE Office/RM Unit</li> <li>• Develop procedures to manage systems if there is a change of government</li> </ul>
	<p>Network Drive Management</p> <ul style="list-style-type: none"> <li>• Back up of network drive/s and provide copy to CE Office/RM Unit</li> </ul>
	<p>Social Media Accounts of Minister and Minister's staff</p>

Completed/Action Required	Activity (in no particular order)
	<ul style="list-style-type: none"> <li>• List account details including passwords and give copy to CE/RM area of relevant Minister's portfolio</li> <li>• Prepare for closure of accounts and transfer ownership if change of government occurs</li> <li>• Capture and archive official records content on social media accounts in recordkeeping system if this has not already occurred</li> </ul>
	<p>Management of Government IT Assets of public servants and Minister's staff including the Minister (hard drives, mobile phones, tablets, USB's etc)</p> <ul style="list-style-type: none"> <li>• Migrate official records from government assets to network drive/s or EDRMS</li> <li>• Ensure no wiping of hard drives until this has occurred</li> <li>• Ensure no wiping of minister's staff mobile phones until assessed for official records (this should be done through the Office Manager)</li> </ul>
	<p>Destruction of records</p> <ul style="list-style-type: none"> <li>• Verify appropriate sentencing has occurred and records are due for destruction taking into account any disposal freezes</li> <li>• Authorising officer (generally the Office Manager) to approve destruction of records to ensure records can be destroyed</li> <li>• Ensure confidential and secure destruction occurs</li> <li>• Amend agency record keeping systems to reflect record destruction</li> <li>• Retain destruction reports approval in line with GDS 30 and forward to CE Office/RM Unit</li> </ul>

## Following an Election – Change in Government

Completed/Action Required	Activity (in no particular order)
	<p>Minister's Records</p> <ul style="list-style-type: none"> <li>• Incoming Minister to accept responsibility and manage records of previous Minister(s)</li> <li>• Outgoing Minister's Office to provide file level listing of record holdings to the incoming Minister (through the Office Manager)</li> <li>• Any records needed for current business to be retained in the Minister's Office</li> </ul>
	<p>Cabinet Records</p> <ul style="list-style-type: none"> <li>• CE/Portfolio agency take responsibility of Cabinet documents (these are not returned to the incoming Minister's Office)</li> <li>• Minister's Office requiring access to Cabinet records should do so through the Cabinet Office and their Office Manager</li> </ul>
	<p>Social Media Accounts</p> <ul style="list-style-type: none"> <li>• Following capture/archive of official records, outgoing Minister to update or delete social media account</li> <li>• Change passwords on accounts and allocate new account administrator or create new account</li> <li>• New Minister should establish separate social media accounts to capture duties undertaken in their minister's capacity documenting government business and not to be used for personal or political purposes i.e. future campaigning</li> </ul>
	<p>Network Drives</p> <ul style="list-style-type: none"> <li>• Apply security to segregate records of incoming/outgoing Minister</li> <li>• The new network structure to be provided to incoming Minister's Office</li> </ul>
	<p>Business Systems/EDRMS</p> <ul style="list-style-type: none"> <li>• Apply security to segregate records of incoming/outgoing Minister</li> <li>• Read only access (files) of previous office to be provided to incoming Minister's Office (through the Office Manager and/or Department)</li> </ul>

Completed/Action Required	Activity (in no particular order)
	<p>Unsentenced records held at ASP</p> <ul style="list-style-type: none"><li>• File level listings of unsentenced records held at ASP to be provided to incoming Minister's Office</li><li>• update access details/nominated users</li></ul>
	<p>Records held at State Records</p> <ul style="list-style-type: none"><li>• Update agency responsible and nominated users</li></ul>