



Australian Government

NOTE FOR FILE
A REPORT ON RECORDKEEPING
IN THE AUSTRALIAN PUBLIC SERVICE

MANAGEMENT
ADVISORY
COMMITTEE

8



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SUPPLEMENTARY MATERIAL

Case studies of effective recordkeeping systems in small, medium and large agencies are at <<http://www.apsc.gov.au/mac>>

PREFACE

Recordkeeping is an essential part of every Australian Public Service (APS) employee's job. We all have an obligation to ensure that key decisions and events are recorded in a way that captures the important features of a discussion or decision, presents a faithful and accurate account of the key things that have occurred and can easily be retrieved when needed.

Recordkeeping has always been important to the APS, as one of the keys to good government. However, the Management Advisory Committee believes that a sharper focus on effective recordkeeping is timely.

This focus is required in response to the significant increase in the scale, breadth and complexity of records—it is now much easier for us to produce, disseminate and copy records due to information technologies, particularly email—and because of the difficulties associated with concurrently managing paper-based and digital recordkeeping systems.

The Terms of Reference for this Management Advisory Committee study on recordkeeping in the APS are to:

1. articulate the purpose of recordkeeping in the APS context, the 'business case' for it, and identify the impediments to effective recordkeeping
2. explain how record creation/keeping interacts with the Australian Government's information collection, use and disclosure obligations
3. explain how efficient and effective recordkeeping can be achieved in a modern Commonwealth agency, having regard to the increasing scale and complexity in recordkeeping brought about by the proliferation of electronic communications and new electronic media.

This report is directed to a general APS audience, because all APS employees have some recordkeeping responsibilities.

Specialist recordkeeping staff can find more detail in a series of better practice case studies available at <<http://www.apsc.gov.au/mac>>.

Management Advisory Committee
August 2007

EXECUTIVE SUMMARY

WHAT ARE RECORDS? (CHAPTER 1)

Records are defined in the *Archives Act 1983* (the Archives Act). Records include papers and documents, emails, spreadsheets, information in business systems, notebooks and diaries, and even Post-it® notes. Records also extend to formats such as photographs, films and sound recordings.

Essentially, if you can read it or obtain information from it, then it is a record.

Commonwealth records are records created or received in the course of APS employment. They can be:

- low-value records which should be disposed of when they are no longer current or useful
- useful or important records which should be retained as long as there is a business or legislative need
- useful or important records that need to be kept indefinitely by the National Archives of Australia (National Archives). These are known as retain national archives (RNA).

FOCUSING ON THE RIGHT RECORDS (CHAPTER 2)

To achieve efficient and effective recordkeeping APS agencies need to focus their finite resources on managing only the useful and important Commonwealth records.

Useful records help the organisation do its business; important records assist the organisation to meet its obligations. However, not all records need to be kept indefinitely.

Good administrative practice dictates that APS employees should be able to dispose of low-value records as soon as their usefulness expires. Continuing to keep low-value records in an agency impinges on efficiency and effectiveness and unnecessarily complicates the task of finding the more valuable or useful records.

Every APS employee has an obligation to ensure that their records are kept appropriately and that useful or important information is available to other staff in their agency.

The Management Advisory Committee encourages agency heads to implement recordkeeping policies and practices that ensure the most appropriate holding of records to maximise their value.

Legislation governing recordkeeping is not prescriptive—at the end of the day, we must use our judgement about when to create records and where to store them. The value of a record is not dictated by its format, but rather its content (e.g. whether it is trivial or important) its scarcity (e.g. whether it is unique, or one of many copies), and its context (e.g. the considerations that gave rise to its creation).

Even though a record has been created, this does not mean that the record needs to be kept. Agencies can dispose of non-essential records as part of normal administrative practice and records of short-term value via record disposal authorities approved by the National Archives.

The Management Advisory Committee notes that the processes needed to allow agencies to gain approval to dispose of non-essential and short-term records have been cumbersome and complex, and understands that the National Archives has developed more practical and straight forward processes for agencies to follow.

THE CASE FOR RECORDKEEPING (CHAPTER 3)

The *Public Service Act 1999*, the APS Commissioner’s Directions and the APS Values and Code of Conduct consistently carry the message that public servants are accountable for their actions and should be able to account for those actions. Effective recordkeeping is key to meeting these obligations, as well as assisting us to quickly and accurately respond to requests from Ministers and the Parliament.

The business case for good recordkeeping is clear—records are valuable assets and good recordkeeping supports improved productivity because it enables easy access to the information we need to make the right decisions at the right time.

Legal considerations, such as potential liability resulting from poor decisions and duty of care, also impact on recordkeeping obligations in the APS.

SUPPORTING GOOD RECORDKEEPING (CHAPTER 4)

Agencies can support good recordkeeping by making it as simple as possible for all APS employees to be good recordkeepers, and by rewarding good recordkeeping practices.

The Management Advisory Committee considers that staff contributions to effective recordkeeping practices should be a part of an agency’s performance assessment systems.

Agency heads are strongly encouraged to implement recordkeeping systems and processes that support general APS employees to get recordkeeping right, with a minimum of fuss. Recordkeeping is more likely to be done to the required standard if agencies recognise and encourage good recordkeeping and discourage poor recordkeeping.

The Management Advisory Committee notes that the DIRKS (Designing and Implementing a Recordkeeping System) process to obtain a records authority is relatively complex and resource intensive, and considers that a simplified version would be more widely accessible across the APS. The National Archives has acknowledged these issues and has developed an approach that will be much quicker and more practical for agencies. The new approach is a one-step process that will comply with the International and Australian Standard (AS ISO 15489) and should halve the net time it currently takes to obtain a records disposal authority. Agencies will have greater flexibility to target their effort towards disposal of records that provide the greatest concern. It will be much easier to do and be less resource intensive.

Effective recordkeeping can also be supported as part of an agency's broader information and knowledge strategy or framework.

Considerations that support good judgement about record creation and recordkeeping include the context and financial value of the event or decision, and the benefits (versus potential liability and cost) of creating the record.

HOW RECORDKEEPING INTERACTS WITH INFORMATION COLLECTION, USE AND DISCLOSURE OBLIGATIONS (CHAPTER 5)

Under the Archives Act, the Commonwealth owns Commonwealth records including their inherent intellectual property.

Commonwealth records can be used only as authorised by the Commonwealth or by the law, and information contained in Commonwealth records may only be disclosed with authorisation or in accordance with the law.

There are several other Acts which also set out how Commonwealth records should be used, disposed of or disclosed. These include the *Financial Management and Accountability Act 1997*, the *Commonwealth Authorities and Companies Act 1997*, the *Freedom of Information Act 1922*, and the *Privacy Act 1988*. APS employees may also be required to provide Commonwealth records under a valid subpoena, other court-ordered discovery process of a valid statutory notice.

ASSESSING THE CURRENT AND FUTURE RECORDKEEPING ENVIRONMENT (CHAPTER 6)

Understanding impediments to recordkeeping is a critical step in identifying effective strategies to improve recordkeeping.

This includes being clear about the context in which agencies operate and the major factors that influence their need to create and maintain records. It also includes assessing recordkeeping capability and existing business systems.

Lifting the burden of recordkeeping for general APS employees—for example, through good systems designs that introduce common, simple and automated processes for creating and managing records—will result in higher quality recordkeeping.

Addressing other challenges will also raise the quality of recordkeeping, such as:

- ensuring that recordkeeping is managed strategically and viewed as part of the broader information and risk management frameworks
- supporting recordkeeping with effective and user-friendly processes and incentives
- focusing corporate resources on managing only the important and useful records
- integrating recordkeeping more effectively with IT and other functions
- keeping pace with technological change including emerging approaches to records management architecture, especially developments that can automate the recordkeeping process.

CHAPTER 1. WHAT IS A RECORD?

KEY MESSAGES IN THIS CHAPTER

- If you can read it or obtain information from it, then it is a record, but not all records need to be retained indefinitely.
- Every document created or received in the course of APS employment is a Commonwealth record. However, only a small percentage of records are of such significance that they will need to be retained by the National Archives.
- There are different types of Commonwealth records: low-value; important and useful (‘current Commonwealth records’); and those that need to be retained as national archives.
- Useful or important records assist APS employees to perform their duties efficiently, effectively and ethically—useful records help the organisation do its business and important records assist the organisation to meet its obligations.
- Useful or important records require a high degree of corporate management to ensure they are readily accessible to all those in an agency who may require access to the information they contain.
- Official records should be created as close as possible to the event, action or decision they relate to. Equally, the more important the matter, the more comprehensive the record should be.

DEFINING RECORDS

The *Macquarie Dictionary* (4th ed. 2005) defines ‘record’ as ‘an account in writing or the like, preserving the memory or knowledge of facts or events’ or as ‘information or knowledge, preserved in writing or the like’.

Generally speaking, in Commonwealth legislation the ordinary definition of record has been extended to include ‘information stored or recorded by means of a computer’.¹

RECORDS IN AN APS CONTEXT

The *Archives Act 1983* (the Archives Act) helps us understand what a record is in an APS context, and our recordkeeping obligations as APS employees. The Archives Act defines:

- what Commonwealth records are
- what *valuable* Commonwealth records are
- when and for how long they must be kept
- when they can be disposed of.

¹ Section 25 of the *Acts Interpretation Act 1901*.

The Archives Act does not define records prescriptively or provide an exhaustive list, as this would be impractical, if not impossible.

Instead, definitions are principles-based which means APS employees must use their judgement about recordkeeping just as our private sector counterparts do when they create, keep and dispose of their business records.

Archives Act definition

According to s. 3 of the Archives Act (definitions):

*... **record** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microform, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is, or has been, 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.*

Updated definition

A bill currently before the Parliament to amend the Archives Act includes an updated definition of record that is not format specific. At the time of writing, the proposed new definition is:

*... **record** means a document, or an object, in any form (including any electronic form) that is, or has been, kept by reason of:*

(a) any information or matter that it contains or that can be obtained from it;
or

(b) its connection with any event, person, circumstance or thing.

Note: For the definition of document, see s. 25 of the Acts Interpretation Act 1901.

The reason for the updated definition is explained in the Explanatory Memorandum to the Bill:

This item repeals the current definition of 'record' which is format specific. To conform to the Australian and International Standard AS ISO 15489–2002 Records Management, this item inserts a new proposed definition which is not format specific. Both documents and objects can be records. The definition clarifies that a record does not have to be in a concrete form—it can be in any form, including an electronic form. A record can include a photograph, film, map, plan, model or painting. It can also include a sound recording, coded storage device, magnetic tape or disc, microform, and more modern technologies such as digital video discs and compact discs. Other examples of records in electronic form are emails, Internet sites, case management systems, financial accounting systems, inventory management and procurement systems, personnel management and HR systems, building management and access control systems and geographical systems.

The new proposed definition gives legislative authority to the policy direction issued by the National Archives in 1995 that provides for electronic records to have the same status as paper records. This means that records include all emails, letters, briefs, memos, minutes, diaries, notes, Post-it® notes, lists and documents (however described, whether in digital or hardcopy form, and including drafts of same), SMS messages, hard drives, back-up tapes and so on.

It is important to note that these examples do not cease to be records simply because the information contained in them may be brief, unimportant or valueless or even embarrassing to the author or the Commonwealth.

It follows from the definitions associated with the Archives Act that, at least for most practical purposes, if you can read it or obtain information from it, it is a record under the Act.

COMMONWEALTH RECORDS

For the purposes of the Archives Act, a ‘Commonwealth record’ is essentially a record that is the property of the Commonwealth or of a Commonwealth institution.

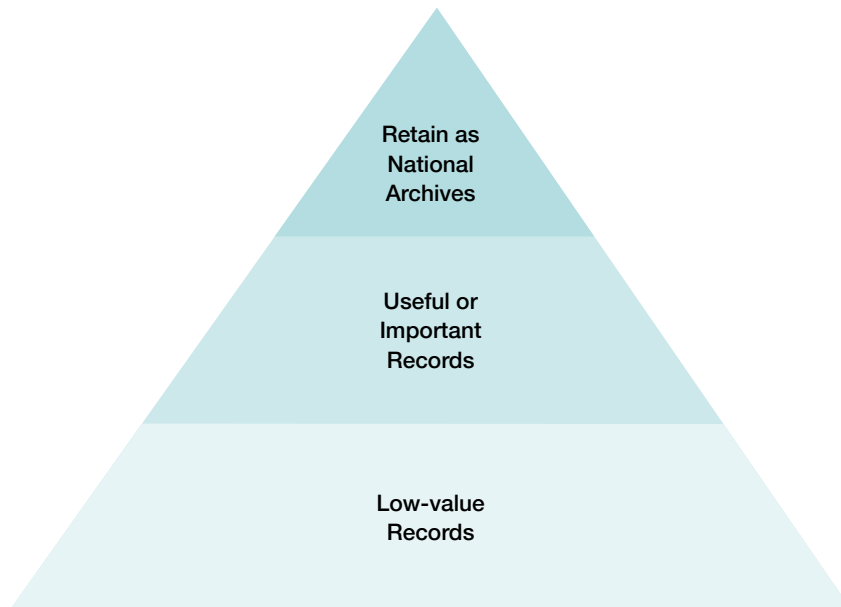
A record is the property of the Commonwealth if created or received in the course of APS employment.

DIFFERENT CLASSES OF COMMONWEALTH RECORDS

Not all records are of equal value. There are three general classes of Commonwealth records, each forming a smaller and more valuable subset of the last:

1. all Commonwealth records including low-value or ephemeral records (rough calculations, duplicates, working papers)
2. useful or important Commonwealth records (‘current Commonwealth records’) including records needed for business continuity (such as financial records required under the Financial Management and Accountability and the Commonwealth Authorities and Companies Acts and procedures, advice and periodic reports)
3. useful or important Commonwealth records that are to be retained as national archives (RNA), that is, they are to be kept indefinitely. These would include significant policy documents, and records of significant decisions (including Cabinet Decisions, documents on major events or public issues).

Figure 1: All Commonwealth records



There are hundreds of different categories of records, with many different levels of importance, which may rise and fall subject to many different variables. The most obvious variables are:

- the passage of time (which will typically, but not always, devalue a record)
- public interest in the subject matter (this will invariably raise the value of a record)
- actual or contemplated claims or litigation (this may transform otherwise insignificant records into important evidence)
- Freedom of Information (FOI) applications, subpoenas, or other legal discovery obligations (this will raise the importance of a document, i.e. it cannot be disposed of while subject to an FOI or other court/tribunal ordered discovery obligation)
- new but similar enterprises or projects (this is the knowledge management rationale behind recordkeeping: it is useful to have access to records dealing with similar themes as they may provide helpful precedents or highlight potential pitfalls and solutions, and help us avoid re-inventing the wheel)
- drafts being superseded by finals (the former then usually becoming 'low-value records', see discussion below).

Records are evidence of something occurring. The closer to the relevant event, action or decision a record is created, the greater its reliability and evidentiary value. Accordingly, it is desirable that records, especially important records, be created as closely as possible to the relevant event, action or decision.

USEFUL OR IMPORTANT RECORDS (‘CURRENT COMMONWEALTH RECORDS’)

Under the Archives Act, a ‘current Commonwealth record’ essentially means ‘a Commonwealth record that is required to be readily available for the purposes of a Commonwealth institution’.²

Only Commonwealth records that are useful or important will ever fall within the class of ‘current Commonwealth records’.

Useful or important records assist APS employees to perform their duties efficiently, effectively and ethically. *Useful records* help the organisation do its business; *important records* assist the organisation to meet its obligations.

Both kinds of records are significant and need to be well managed at a corporate level. Examples include Commonwealth records that assist an agency to achieve its outcomes or some other legal, commercial or accountability imperative, or that are likely to have historical significance.

‘Current Commonwealth records’ are probably what most APS employees think about when they talk about records.

The broader definition of Commonwealth records covers many facilitative or transitory documents that might be created, acquired or collected by APS employees during day-to-day business, but which in reality are not that important or valuable to the Commonwealth. Examples of these types of records are drafts of documents that do not record significant changes in policy or direction, and informal notes and diaries. These records, which fall outside the class of ‘current Commonwealth records’, do not have to be kept on agency corporate recordkeeping systems. It is up to each agency to determine the extent to which corporate recordkeeping systems are used for such lower value Commonwealth records.

It may be reasonable and permissible, for example, to keep lower value Commonwealth records on devolved agency record storage systems (such as personal diaries, notebooks and computer hard drives), subject to direction or applicable agency recordkeeping policies. These records should only be retained as long as there is a business need to do so. Low-value records can be destroyed using a records disposal authority issued by the National Archives or under the normal administrative practice provisions of the Archives Act (see Chapter 2).

All Commonwealth records need to be managed to some degree, but it is the *useful or important* Commonwealth records (‘current Commonwealth records’) that require a high degree of corporate management to ensure they are readily accessible to all those in an agency who may require access to the information they contain.

² Section 3 of the *Archives Act 1983*.

While it is not possible to be prescriptive, useful or important records will typically document interactions/correspondence between an agency and *external* entities, such as:

- Ministers and/or Ministers' offices
- members of the public (e.g. letters/ministerials, decisions affecting rights, interests or entitlements, and other citizen support services)
- the private/commercial sector (e.g. commercial negotiations, contracts, licenses, disputes, information collection)
- interest groups (e.g. community organisations, lobbyists)
- other government agencies, either Commonwealth or state (e.g. Australian National Audit Office, Commonwealth Ombudsman)
- Parliaments, legal institutions or political organisations (including Senators and Members of Parliament) and the media.

Useful and important records also include important *internal* communications and administrative/business documents such as:

- personnel/HR matters (e.g. leave requests, merit selection process documents, documents relating to performance matters or disciplinary matters)
- budgetary/financial documents and systems
- documents that record an agency's important actions or decisions (including reasons for such) as distinct from an agency's 'thought processes' especially early deliberative processes (typically represented in drafts and requests for comment)
- governance documents (e.g. records created to meet an agency's statutory and administrative reporting obligations, and records created to account for the effective, efficient and ethical use of resources provided to deliver programmes).

COMMONWEALTH RECORDS THAT ARE RETAINED AS NATIONAL ARCHIVES (RNA)

Good administrative practice dictates that Commonwealth records which are no longer useful or important for an agency's business needs are either disposed of or retained as national archives (RNA).

Records classified RNA are considered to be of such national significance or public interest that they should form part of the 'archival resources of the Commonwealth', and should be transferred to the care of the National Archives in accordance with arrangements approved by the National Archives.

Only a small percentage of Commonwealth records are of such significance that they must be kept indefinitely.

The objectives that the National Archives and agencies must take into account when considering whether records should be regarded as retained as national archives (RNA) relate to:

- significant issues faced in governing Australia
- the structure and functioning of the Commonwealth and its institutions
- protection and future wellbeing of Australians and their environment
- interaction of people with the government
- an understanding of aspects of Australia's history, society, culture and people.

CHAPTER 2. FOCUSING ON THE RIGHT RECORDS

KEY MESSAGES IN THIS CHAPTER

- Agencies should focus their finite corporate resources on managing useful and important records so they are readily available to the Commonwealth when required. Corporate management means active management by the agency's official corporate recordkeeping systems (hard copy and electronic).
- Useful or important records should be filed in corporate recordkeeping systems as soon as practicable after their creation.
- Judgement and commonsense is required to determine whether a particular Commonwealth record is useful or important.
- The value of a record is not dictated by its format, but rather its content (e.g. whether it is trivial or important) its scarcity (e.g. whether it is unique, or one of many copies), and its context (e.g. the considerations that gave rise to its creation).
- Many low-value Commonwealth records should be disposed of when no longer useful, in accordance with normal administrative practice (NAP).
- Agencies can dispose of other records using their own agency records disposal authority or a general disposal authority such as the Administrative Functions Disposal Authority (AFDA).
- Personal emails (i.e. emails which do not relate to the business of an agency) are not Commonwealth records and should not be retained.

NOT ALL RECORDS SHOULD BE KEPT INDEFINITELY

While the number of records generated within the APS is growing exponentially, only a small number of highly significant records will ever be considered to be records to be retained by the National Archives. These would include things such as the records of Cabinet deliberations and Ministerial decisions, legal documents, major reports and significant policy papers.

Every agency can use the following to dispose of records:

- normal administrative practice (NAP) which can be used for many low-value records (such as short-term and transitory records like background notes, office messages, meeting requests and low-value emails)
- general disposal authorities, such as the Administrative Functions Disposal Authority (AFDA), that cover functions and records common to every Commonwealth agency

- records disposal authorities issued to individual agencies covering their agency specific records.

Agencies are permitted to dispose of short-term or transitory records (such as background notes, office messages, meeting requests, and drafts of reports and briefs which do not reflect significant policy changes) as part of normal administrative practice. Destruction under normal administrative practice (NAP) usually occurs because the records are duplicated, unimportant or for short-term use only and cover both paper and electronic records. The National Archive's more detailed advice on normal administrative practice (NAP) can be found at <http://www.naa.gov.au>.

Many records have to be retained by agencies for defined periods because of their ongoing business need. These may include financial and personnel records or records relating to travel and entitlements. General disposal authorities and records disposal authorities are used to document how long these records should be kept and to authorise their disposal.

Records of administrative functions commonly performed by most agencies are authorised by the National Archives for disposal under the Administrative Functions Disposal Authority (AFDA).

The retention or destruction of other useful or important records (such as policy, strategy, government advice) is determined by records authorities approved by the National Archives. These authorities also document and identify the records that need to be kept indefinitely as national archives.

RECORDS THAT SHOULD BE CORPORATELY MANAGED

No APS agency can corporately manage every Commonwealth record, especially with the exponential increases in electronic communications. No agency ever tried to do this even when all records were in hard copy.

Efficient and effective recordkeeping in the APS can best be achieved if agencies focus their finite recordkeeping resources on the corporate management of *useful* or *important* Commonwealth records.

Corporate management means active management by the agency's official corporate recordkeeping systems. Official systems typically have higher levels of records management functionality (e.g. paper file creation systems/corporate electronic document management systems) than devolved storage systems controlled by individuals (e.g. diaries, notebooks, personal email folders and hard drives, CDs, DVDs, flash drives).

If an employee, for example, prints off an important email and places it on a file issued by the agency's file registry, which has recorded that file as being

in that person's custody, the record is being corporately managed. Similarly, if the employee transferred the email into an agency's digital recordkeeping system such as an Electronic Document Management System (EDMS), it is also being corporately managed.

A record is not being corporately managed if it is being kept on a computer hard drive, personal email folder or even the agency's email system.

The difference between a corporately managed record and one being managed personally by an APS employee is most apparent when the APS employee leaves the agency. Records committed to corporate storage systems are not lost to the agency when an employee leaves, whereas records kept on informal systems are likely to be lost unless they are transferred into the agency's corporate recordkeeping system/s before the employee leaves.

There appears to be an ill-informed assumption that if employees can find their own emails/documents when *they* need them, then that is sufficient. This is not consistent with the APS Values (see Chapter 3) or good administrative practice.

Useful or important records should be filed in corporate recordkeeping systems as soon as practicable after their creation, with appropriate attention to classification issues for sensitive records. It is unacceptable for these important and sometimes sensitive records to be inaccessible to the rest of the agency, or even potentially giving rise to a Commonwealth legal liability because the agency is unaware of their existence.

Not all emails need to be retained. The same rules that apply to paper records apply to emails, and judgements need to be made about their content, scarcity and context. Since email has largely taken the place of what previously may have been informal telephone conversations or corridor meetings, the great majority of emails will not have great value to the Commonwealth.

However, emails that relate to the business of an agency are Commonwealth records and need to be kept according to the business needs which should be articulated in policies and procedures of each agency. Given the largely informal nature of email, it is important that APS employees judge the value or importance of an email, and transfer it as quickly as possible where necessary to the corporate recordkeeping system.

Personal emails that do not relate to Commonwealth business are not Commonwealth records and should not be kept.

The use of personal notebooks should be limited to making initial or contemporaneous personal notes of meetings, for later transcription into a more formal record if required. Even if they are not considered useful or important

records, personal notes taken in the course of APS employment are still Commonwealth records, and therefore potentially subject to disclosure under the *Freedom of Information Act 1982*.

In some agencies, and the Management Advisory Committee considers this best practice, departing employees are required to certify that they have transferred all records relating to their official duties from personal recordkeeping systems to corporate recordkeeping systems. This requires departing employees to ensure that any important or useful records kept on email, diaries or personal folders are available for the purposes of the Commonwealth. Other Commonwealth records that are not useful, whether they are held on corporate or personal systems, should be appropriately disposed of in accordance with the Archives Act (see the section on ‘Disposing of low-value Commonwealth records’ below).

Agencies that are recordkeeping very effectively have simple and clear policies that identify and promote the use of corporate recordkeeping systems for useful or important records.

Approach to corporate management of records

The proposed approach to corporate management of records is similar to how agencies manage any other valuable asset, from stationery to computers, and cabcharge vouchers to Commonwealth vehicles.

Agencies focus their corporate attention on what is valuable and high risk, and we trust the professionalism of APS employees to responsibly assume custody of the rest, subject to appropriate guidance and direction.

By adopting such an approach, agencies can focus their limited resources on those records they must manage and will also be able to define their corporate recordkeeping assets in qualitative, as well as quantitative, terms.

This approach is entirely consistent with advice provided by the National Archives:

Not all records are kept indefinitely. There are pragmatic reasons for this, and community attitudes to recordkeeping also play a part.

The Commonwealth creates vast quantities of records every year, and there is strong pressure to economise in the areas of records storage, maintenance and servicing. Most records are in formats that deteriorate over time or require constant vigilance to keep accessible. Attempting to preserve them all indefinitely would be prohibitively expensive and futile under current technological and resource constraints.

Just as important is the prevailing view, within the community, that not all records need to be retained; that it is acceptable or desirable to dispose of records when

they are no longer required. This view is reflected in standard business practice and at all levels of public administration in Australia. The Government's funding for the management of Commonwealth records is premised on the assumption that only a very small proportion of all records created will be retained indefinitely.

In this environment the Archives operates on the general principle that Commonwealth records should not be retained longer than reasonably required.³

Judgement and commonsense are required to determine, on objective grounds, whether a particular Commonwealth record is useful or important, and should be filed in a corporate recordkeeping system so that it is readily available to the whole agency.

The value of a record is not dictated by its format, but rather its *content* (e.g. whether it is trivial or important) its *scarcity* (e.g. whether it is unique, or one of many copies), and its context or the considerations that gave rise to its creation (e.g. if it is to meet a legal obligation, the context alone suggests it is a high-value record, as it is evidence of that obligation being met).

Integrating recordkeeping systems with the disposal framework is important in ensuring records that do not need to be retained can be readily identified. The National Archives' Administrative Functions Disposal Authority (AFDA) lists functions and activities common to all APS agencies, and outlines the basis on which records relating to these activities should be retained, and those which could be disposed of after a period. It allows, for example, the disposal of an agency's principal accounting records (such as journals and ledgers) seven years after the last action.

Ensuring that these classifications (even at their highest level) are used in the creation and classification of files can significantly streamline the process of disposal.

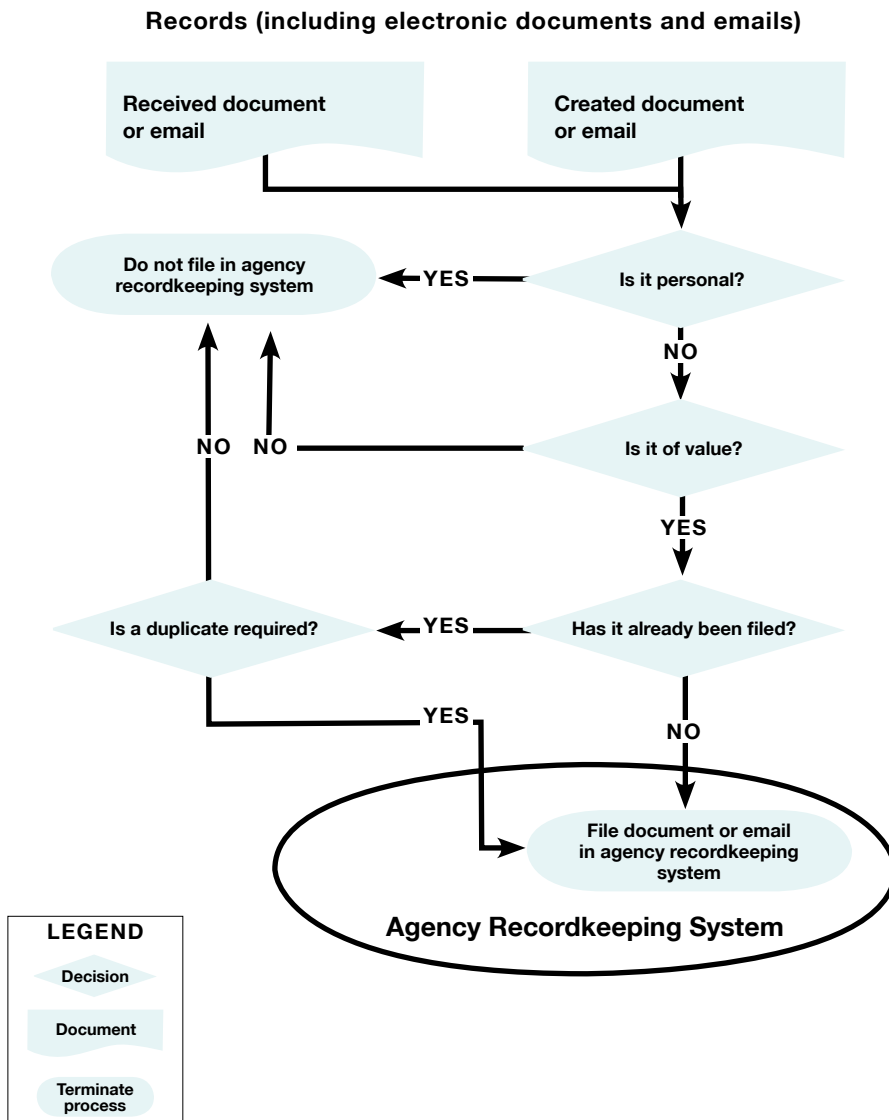
If due care and diligence require a record to be made, it is sufficiently important to be kept in a corporate recordkeeping system.

Better practice example

The following flow chart, based on a model developed by the Department of Education, Science and Training (DEST), asks the simple question: *Is the record of value?* In other words, is the record useful or important, or is there an ongoing business need for it to be retained? This might include, for example, financial records required under the *Financial Management and Accountability Act 1997*.

³ National Archives of Australia 2003, *Why aren't all records retained?*, <http://www.naa.gov.au/recordkeeping/disposal/why_keep/records.html>

Figure 2: Based on DEST Management Instructions for Corporate Administrative Records describing the difference between records of short-term and lasting value⁴



More details are in the complete DEST case study at <http://www.apsc.gov.au/mac>. This diagram is underpinned by DEST policies and procedures.

⁴ Department of Education, Science and Training 2005, Management Instructions, Corporate Administrative Records.

Disposing of low-value Commonwealth records

It is up to agencies to determine appropriate internal policies relating to keeping and disposing of low-value records. A recordkeeping policy provides an agency with the practical guidance it needs to achieve the strategic objectives documented in its information management framework.

An effective recordkeeping policy:

- defines the recordkeeping responsibilities of all staff within the organisation
- has strong Executive support and is authorised by the agency head
- is known and understood throughout the organisation and supported by an effective recordkeeping system which includes guidelines, training and awareness-raising for staff
- ensures that resources are not wasted on the management of records that do not need to be retained.

In establishing such policies, agencies must consider the extent to which low-value records use up valuable space on Commonwealth IT systems, having regard to the obligation to use Commonwealth IT systems in the most efficient, effective and ethical manner.⁵

Good administrative practice dictates that APS employees should be able to dispose of low-value records as soon as their usefulness expires, and dispose of them as simply and efficiently as possible. Disposal of some material within this category in accordance with each agency's own policies and procedures is allowed by the *Archives Act 1983* as a disposal under a 'normal administrative practice'.⁶

Continuing to keep low-value records in an agency impinges on efficiency and effectiveness and unnecessarily complicates the task of finding the more valuable or useful records. Unmanaged low-value records will grow rapidly in number, and it is not practical or desirable to manage them in the way we must manage more valuable records.

Only a relatively small percentage of emails (including 'email threads'), unsolicited correspondence, drafts, paper notes and SMS text messages received in the course of APS employment will have lasting value, and will therefore need to be kept in an agency's corporate recordkeeping system so they are readily available for the purposes of a Commonwealth institution.

⁵ Section 44 of the *Financial Management and Accountability Act 1997*.

⁶ Section 24(2)(c) of the *Archives Act 1983* allows for the destruction or disposal of Commonwealth records 'in accordance with a normal administrative practice, other than a practice of a department ... of which the Archives has notified ... that it disapproves'.

Examples of documents that could be expected to be disposed of under normal administrative practice include:

- conversational, personal or other unimportant emails which record no significant information, action or decision
- most draft documents and working papers which do not record a significant change of policy/direction
- informal notes/notepads/diaries, where any significant information has been properly transferred to the agency's corporate recordkeeping systems
- superfluous copies of any Commonwealth record.

The National Archives has developed further guidance on what can be disposed of under normal administrative practice, available at <http://www.naa.gov.au>.

Low-value records of the type described above, unless and until disposed of under normal administrative practice, are still Commonwealth records. This means that APS employees need sensible direction on the extent to which they can keep records on non-corporate, individual systems. Such directions could include, for example:

- limits on the amount of records stored on individual APS employees' non-corporate computer drives
- limits on how long such records are kept.

Records of short-term value can be disposed of via record disposal authorities approved by the National Archives (see more detail in Chapter 5).

CHAPTER 3. THE CASE FOR RECORDKEEPING

KEY MESSAGES IN THIS CHAPTER

- Good recordkeeping helps agencies meet their accountability, commercial and legal obligations.
- There is a compelling business case for good recordkeeping—it provides the means to access the information needed to make the right decisions at the right time, increasing productivity and improving the bottom line.
- Records need to be created and kept when due care and diligence require it.

GOVERNANCE AND ACCOUNTABILITY

Good recordkeeping is a necessary element of good governance. Good recordkeeping supports efficiency and accountability through the creation, management and retention of meaningful, accurate, reliable, accessible and durable records of important government activities and decisions.

Good records are necessary for government to keep track of what it has done, so that future activities can be examined on the basis of a comprehensive and accurate knowledge of what has occurred and what has been decided in the past.

Retaining the corporate memory of government, in the form of records, helps public servants perform their duties efficiently, effectively and ethically, and ensures that we maintain audit trails necessary for public accountability and transparency.

Good recordkeeping also helps to protect the legal, financial and other interests of government. Ultimately, good recordkeeping saves the government, and hence the community, money. Good records are vital corporate and national assets and good recordkeeping is essential for a useful, reliable and durable historical record.

LEGISLATED APS VALUES

The enactment of the *Public Service Act 1999* was part of the Australian Government's public service reform agenda which, amongst other things, was designed to improve accountability in the APS.

To do this, the Act expressly set out, for the first time in legislation, the important values and culture that the Parliament expects of the APS, and provided a clear statement to those in the APS, and to the Australian people, of the conduct that is expected of public servants. These APS Values define the public service ethos and provide the philosophical underpinnings of today's APS.

The integration of the APS Values into the way the APS works is an essential factor in achieving high performance. The APS Values provide the real basis and integrating element of the public service—its professionalism, integrity and impartial and responsive service to the government of the day.

Because the APS Values are set out in legislation, they have legal as well as moral weight.⁷ Agency heads are obliged to uphold and promote the APS Values and APS employees are required, under the APS Code of Conduct, to behave at all times in a way which upholds the APS Values.

RESPONDING TO MINISTERS AND THE PARLIAMENT

The Public Service Commissioner's Directions 1999⁸ assist agencies to determine the scope and application of the APS Values. It is important to note that 'agency heads and APS employees must comply with Commissioner's Directions'.⁹

While *all* the APS Values apply to all aspects of APS employment, the following Value is particularly relevant to recordkeeping:

... the APS is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament, and the Australian Public (see s. 10(1)(e) of the Public Service Act)

Guidance provided by the Commissioner explains what this Value requires and its relevance to APS recordkeeping:

- Ministers are accountable to Parliament for the effectiveness of their portfolios, but for operational efficiency they must be able to delegate substantial powers to staff in APS agencies.
- APS staff are accountable for the way in which they administer government policies. Ministers must therefore be able to have confidence in the performance of the APS and must also be able to account to Parliament, and through it to the public, for actions undertaken by the APS on the Government's behalf.¹⁰

For agency heads and APS employees, the practical application of this Value and its associated Direction above, means that:

- agencies must meet their statutory and administrative reporting obligations
- agencies are able to account for the effective, efficient and ethical use of resources provided to deliver programs
- staff understand the accountability framework in which they operate

⁷ *Public Service Act 1999*, s. 13, <<http://www.comlaw.gov.au>>

⁸ *Public Service Act 1999*, issued under s. 11 as required, <<http://www.comlaw.gov.au>>

⁹ *Public Service Act 1999*, under s. 42(2), <<http://www.comlaw.gov.au>>

¹⁰ Public Service Commissioner's Directions 1999, Direction 2.6, <<http://scaleplus.law.gov.au/html/instruments/0/26/0/2004072601.htm>>

- agencies are able to provide timely, regular and comprehensive information and other support to Ministers to help them meet their accountability obligations to Parliament and the public
- agencies maintain efficient and effective management systems, including goal setting and high quality performance management
- agencies are able to account effectively to review bodies for the administration of government policies and utilisation of public resources.¹¹

It is vital to the good reputation of the APS that we can respond quickly and accurately, when our Ministers require it, to requests or demands from the Parliament, and that our recordkeeping systems and practices allow us to meet these obligations.

Indicators that an agency and its employees are meeting their accountability requirements under the Public Service Act are that:

- an agency's reporting arrangements provide a clear account of the agency's performance and the effective, efficient and ethical use of resources for the achievement of outputs and outcomes in the reporting period
- an agency is able to demonstrate that due process has been followed in its actions and decisions, including through the existence and maintenance of good recordkeeping systems.¹²

In a flexible operating environment, the effectiveness of the APS is measured through the achievement of its outputs and outcomes within the integrity framework provided by the Values.

The agency's reporting arrangements (i.e. its records) provide an account of the effectiveness of its outputs during the reporting period, and an agency should, through its records, be able to demonstrate that it has directed its resource priorities towards achieving the outcomes expected by the government.

THE APS CODE OF CONDUCT

Public servants occupy positions of trust within the community. Many public servants have access to significant public resources and exercise judgements that can materially affect large numbers of citizens. The public and the Parliament need to be confident that public servants, in exercising their functions, have the highest standards of conduct and that any deviations from those standards are addressed and dealt with in a fair and systematic way.

¹¹ Public Service Commissioner's Directions 1999, Guidelines, <<http://scaleplus.law.gov.au/html/instruments/0/26/0/2004072601.htm>>

¹² Public Service Commissioner's Directions 1999, Guidelines, <<http://scaleplus.law.gov.au/html/instruments/0/26/0/2004072601.htm>>

The APS Code of Conduct articulates the standards of behaviour required of APS staff and is also a measure against which a public servant's behaviour can be tested.

In Australia, the common law duties which generally apply to everyone are often supplemented by legislation specific to particular enterprises. Most relevant in an APS employment context is the Public Service Act, particularly s. 13 which sets out the APS Code of Conduct.

With respect to recordkeeping, the Code provides that:

- *an APS employee must act with care and diligence in the course of APS employment* (this provision essentially codifies the common law duty to take reasonable care, which means that if an APS employee breaches their duty of care in the course of their APS employment, they have breached the APS Code of Conduct as well)
- *an APS employee, when acting in the course of APS employment, must comply with all applicable Australian laws*
- *an APS employee must use Commonwealth resources in a proper manner*
- *an APS employee must at all time behave in a way that upholds the APS Values and the integrity and good reputation of the APS.*¹³

REQUIREMENTS TO CREATE CERTAIN RECORDS

All APS employees (including the Senior Executive Service, agency heads¹⁴ and relevant statutory office holders) are bound by the APS Values and Code of Conduct. Those in the Senior Executive Service have the additional function, by personal example and other appropriate means, of promoting and upholding the APS Values and compliance with the Code of Conduct of the Public Service Act.¹⁵

This means that APS employees (including the Senior Executive Service), agency heads and relevant statutory office holders *must* create, keep and maintain a record of a particular decision, meeting, transaction or occurrence if:

1. the law requires it (i.e. a specific statutory provision requires)
2. a lawful and reasonable direction given by someone who has authority to give such a direction requires it (e.g. if your supervisor directs you to prepare minutes of a meeting)
3. due care and diligence require it¹⁶

¹³ *Public Service Act 1999*, s. 13(2), (4), (8) & (11), <<http://www.comlaw.gov.au>>

¹⁴ *Public Service Act 1999*, s. 12, <<http://www.comlaw.gov.au>>

¹⁵ *Public Service Act 1999*, s. 35(2)(c), <<http://www.comlaw.gov.au>>

¹⁶ Due care and diligence requires creation of a record if a public servant, when presented with a particular decision, meeting, transaction or occurrence, would reasonably be expected by an ordinary person to create a record of that occurrence. While this test may appear imprecise, in practice it reflects commonsense and requires only the same level of judgement that we expect of ordinary citizens when engaged in every aspect of social or commercial interaction. If on the rare occasion an APS employee is in doubt as to whether a formal record of any particular decision, meeting, transaction or occurrence is required, prudence suggests that a record should be made, or guidance can be sought from the employee's manager.

4. the APS Values or the maintenance of the integrity and the good reputation of the APS require it.

In extreme cases, a failure to keep good records, or misuse Commonwealth records, may well expose the employee to Code of Conduct, as well as civil or even criminal proceedings (see the section below on ‘Recordkeeping and the law’).

As indicated in points 1 and 2 above, in some areas the law is very prescriptive, and in those circumstances, obligations to create records are clear cut, for example:

- Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* requires, in certain circumstances, the provision of a written ‘statement of reasons’ for an administrative decision
- the Financial Management and Accountability Act Regulation 12 requires the recording in writing, as soon as practicable, of the terms of an approval of a proposal to spend ‘public money’
- Section 69 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* requires an employer to create and maintain records of all accidents and dangerous occurrences, of which the employer is required by s. 68 to notify the Safety, Rehabilitation and Compensation Commission
- the minutes of health and safety committee meetings must be kept and retained for not less than three years pursuant to s. 34 (7) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*
- Regulation 4.19 of the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 provides that an employer must ensure that records are made and kept concerning relevant tests, maintenance, inspection and commissioning of plant while it is operable at work
- the regulations also oblige an employer to keep and maintain a register at each workplace for hazardous substances that are used at work (Regulation 6.14).

But such explicit legal obligations are by far the exception and not the rule.

In general, legislation in this area is principles-based, rather than prescriptive.

Agencies can give directions through managers, Chief Executive Instructions, or mandatory policies on recordkeeping obligations regarding certain transactions or subject matters, having regard to workflow and risk analysis. Agencies should also consider arranging working environments to support these directions and so support effective recordkeeping. However, at the end of the day staff will still need to use their judgement.

Agency heads can increase the probability of staff making consistently correct judgement calls by implementing systems and supporting processes/policies that help staff identify their recordkeeping obligations and other statutory obligations specific to their legislative and operational environments.

THE BUSINESS CASE FOR AGENCIES

Records as valuable assets

If only HP knew what HP knows, we would be three times more productive ...

Lew Platt, former CEO of Hewlett-Packard

Increased productivity, whether by making better decisions or avoiding incorrect ones (informed by useful records), is perhaps the most obvious business case for recordkeeping.

It is in the Commonwealth's commercial interests to keep good and useful records, in the same way it is for Hewlett-Packard, or any other multi-billion dollar enterprise.

This self-evident truth is why small, medium and big business spend a lot of money on recordkeeping, even when there is no legal requirement to keep the vast majority of records that business creates and keeps. Those records have value, and if managed properly, become a valuable asset and resource of the business and, in many cases, represent the majority of the assets or resources of a business.

Imagine having at your fingertips all the information, or better yet, the exact information you need to make the right decision, at the right time. This is a strong rationale and driver for good recordkeeping.

Of course, a good recordkeeping system will not guarantee that you have all the relevant information at your fingertips, but it will ensure that you have the means to access all the relevant information that your agency has in its possession.

The bigger the enterprise, the greater the argument for an efficient recordkeeping system (as bigger enterprises generally hold more records) and the greater the requirement for supporting resources.

The bottom line

A particular activity's contribution to an organisation's bottom line is one of the best indicators of the business case for that activity.

If information is an asset of the organisation, then the value of that information is almost entirely dependant on the organisation's ability to access that information when it is advantageous to do so. Other than the ability to receive that information from the organisation's own employees *orally* (and such communications, unless confirmed in writing, are typically reserved for less important matters), the only way an organisation can access its own information is through accessing its records.

Records represent the physical manifestation of a typical APS employee's labour (e.g. the documented advice, reports, briefs, accounts, letters, emails) and are the property and a valuable asset of the Commonwealth.

The Commonwealth is obliged to use such assets for the benefit of the Australian public, within the boundaries of the law.

The appropriate and timely disposal of low-value records can also reduce storage costs for agencies.

In summary, the business case for good recordkeeping in the APS is that:

- good records are a valuable asset in their own right, and essentially make up the tangible corporate memory of an agency—the better and more focused an agency’s records are, the smarter the agency is
- good records are worth far more than the cost of their production
- good records can significantly reduce potential liability
- ensuring low-value records are not retained unnecessarily can reduce the costs of recordkeeping and storage.

RECORDKEEPING AND THE LAW

Obligations (and liabilities) created by knowledge

People can justifiably defend incorrect decisions made because they were not aware of facts or issues that they could not reasonably have known about. However, it is far less justifiable for decision makers to defend incorrect decisions if their employer or agency was aware of the relevant facts or issues. If such ignorance can be blamed on poor recordkeeping, the agency could be liable for any damage caused.

The courts have long held the view that the relevant state of knowledge when attributing liability for a poor decision or action of a corporation or a government agency, is the actual or ‘constructive knowledge’ of the corporation/agency, not that of the individual decision maker. This means if an employee of an agency acquires particular information in the course of their employment, that knowledge is typically attributed to the agency, whether or not the employee has properly communicated the relevant information (by recording it or otherwise) to the rest of the agency.

This, in and of itself, is sufficient basis for APS agencies to have clear policies and training for its employees so that they:

- understand that information created or received in the course of their APS employment is created/received and attributable to and must only be used for, the purposes of the Commonwealth
- understand how to communicate and record relevant and important information to and for the agency so that the agency can act on it.

APS executives need to ensure their agencies promote clear policy on recordkeeping.

APS employees have a responsibility to understand and follow their agency’s recordkeeping policy.

Duty of care

People can generally be expected to act in ways consistent with moral norms, especially when those norms also represent commonsense and prudent commercial practice. However, societies will occasionally mandate these norms and practices by law. This generally occurs where there are significant perceived benefits to the widespread adoption of these norms and practices, and/or severe consequences if they are rejected.

Most Western democracies support the concept (either under statute or general law) that nearly all citizens owe a ‘duty of care’. This requires people to take reasonable care to avoid actions (or omissions) that could cause foreseeable harm to others (e.g. physical, economic, reputation). The greater the likelihood of foreseeable harm, the greater the duty to take care.

While APS recordkeeping does not immediately spring to mind as an inherently risky activity, there are some higher risk activities which require greater levels of care, particularly those affecting the liberty, welfare, and entitlements of Australians.

APS employees have a general duty to take reasonable care. Accordingly, any failure to exercise due care and diligence with regard to recordkeeping which results in financial loss to third parties (i.e. someone other than the Commonwealth or the APS employee) may result in liability for damages (monetary compensation awarded by a court). While such damages are generally borne by the Commonwealth—through the Commonwealth’s obligations to indemnify employees who have acted in good faith—if damages arise as a result of wilful or gross negligence, the liability to pay such damages may also fall on the individual APS employee.

Clearly, where important matters (e.g. matters relating to a person’s liberty, wellbeing, legal rights, proprietary interests, income) need to be recorded accurately and comprehensively, failure to do so, if it causes the person loss, may well result in compensatory damages.

The greater or more likely the foreseeable harm, the higher the duty to comprehensively record whatever information is required to avoid the harm.

CHAPTER 4. SUPPORTING GOOD RECORDKEEPING

KEY MESSAGES IN THIS CHAPTER

- Recordkeeping is more likely to be done to the required standard if agencies recognise and encourage good recordkeeping and discourage poor recordkeeping.
- Workflow/risk analysis is a key consideration when developing policies to support good recordkeeping. This can be achieved through the National Archives' DIRKS process (Designing and Implementing a Recordkeeping System), which can provide a guide for identifying which records must be created and kept.
- Recordkeeping can also be encouraged as part of a broader information and knowledge strategy or framework.
- Considerations that support good judgement about record creation and recordkeeping include the context and financial value of the event or decision, and the benefits (versus potential liability and cost) of creating the record.

STRENGTHENING THE REASONS FOR INDIVIDUAL APS EMPLOYEES TO BE GOOD RECORDKEEPERS

A strong indicator of how important recordkeeping is to an agency is the strength of the agency's 'business case' or reasons given to its employees to maintain good records.

Recordkeeping is more likely to be done to the required standard if agencies:

- recognise and encourage good recordkeeping (e.g. through performance ratings/pay, promotions/improved promotional prospects, public recognition)
- discourage bad recordkeeping (e.g. through poorer performance ratings and promotional prospects, loss of performance pay, underperformance action or, in extreme cases, disciplinary action/termination of employment).

This is one of the most fundamental impediments, or *opportunities*, for an agency to improve its recordkeeping capability: improve the business case for individual staff to be good record keepers, and make it easier to do.

The Management Advisory Committee recognises that the business case for individual APS employees to meet their recordkeeping obligations needs to be reinforced.

While different approaches will be appropriate for different agencies, the fundamental ‘economic levers’ are the same:

- Recordkeeping needs to be made simpler and easier for the majority of APS employees—and this will require a shift of emphasis towards the use of recordkeeping specialists and enabling IT solutions.
- This may require a resource reallocation—but should not necessarily result in a cost to the overall budget. Though short-term expense may be incurred in changing recordkeeping frameworks, this can be offset by increased productivity by freeing up the time of most APS employees, and the expected efficiency gains from more ready access to useful records. If it does not, it is probably evidence that recordkeeping obligations may not have been appropriately met in the past.
- Agencies may need to consider whether good recordkeeping practices are currently being sufficiently recognised and rewarded (e.g. through agency performance management/performance pay regimes).
- Poor recordkeeping needs to be dealt with through training, under agencies’ performance management frameworks, or for very serious failings, through code of conduct proceedings if appropriate.

THE NATIONAL ARCHIVES’ DIRKS PROCESS

Workflow and risk analysis is a key consideration when developing policies and directions to support good recordkeeping.

Workflow and risk analysis can be achieved through the DIRKS process (Designing and Implementing a Recordkeeping System) developed by the National Archives.

The DIRKS methodology consists of the following eight steps:

1. preliminary investigation (Step A)
2. analysis of business activity (Step B)
3. identification of recordkeeping requirements (Step C)
4. assessment of existing systems (Step D)
5. identification of strategies for recordkeeping (Step E)
6. design of a recordkeeping system (Step F)
7. implementation of a recordkeeping system (Step G)
8. post-implementation review (Step H).

Of the eight steps comprising DIRKS the National Archives had, in the past, promoted the use of the first three steps surrounding the appraisal component to agencies requiring a Records Disposal Authority. The Management Advisory Committee considers that, as it currently stands, the DIRKS process, particularly steps B and C, is often too complex and resource intensive. The National Archives has developed a new one-step process for agencies for obtaining disposal authorities that will comply with the International and Australian Standard (AS ISO 15489).

For agencies, the new process will:

- comprise only one step with one supporting document
- focus only on higher level business activities (i.e. high level roles and responsibilities)
- be supported by implementation advice so that they can take prompt disposal action
- be flexible so that agencies can:
 - focus on core business for disposal authorisation
 - focus on particular categories of records that are creating storage problems and incurring costs.

INFORMATION AND KNOWLEDGE STRATEGIES

Recordkeeping in the context of broader knowledge objectives can also be facilitated and encouraged through adopting and promoting an information and knowledge strategy or framework.

In its most recent report into recordkeeping in the APS, the Australian National Audit Office (ANAO) encouraged agencies to adopt just such an approach.¹⁷

Such ideas are not new. In 1993, the Information Exchange Steering Committee proposed an information model for electronic documents and records which could be used to manage workflows, policy, procedures and information management processes based on their importance and relevance to APS organisations.¹⁸

It characterised information as being ‘owned’ by an individual; a work group; or, the whole organisation or agency, and emphasised different management processes including the role of normal administrative practice to dispose of records.

The Australian Bureau of Statistics successfully uses this model, incorporating the DIRKS process, to manage its information environment (see <http://www.aps.gov.au/mac> for the full case study).

¹⁷ Australian National Audit Office 2006, *Recordkeeping including the Management of Electronic Records*, Audit Report No. 6, 2006–07, Recommendation no. 2, para. 3.20, <http://www.anao.gov.au/director/publications/auditreports/2006-2007.cfm>

¹⁸ Information Exchange Steering Committee 1993, *Management of Electronic Documents in the Australian Public Service*, Department of Finance, Parkes, A.C.T.

MAKING A JUDGEMENT ON RECORD CREATION

Whether a record is required to be made of a particular occurrence depends on all the relevant circumstances, but in the absence of a specific legal obligation to do so, it comes down to judgement.

In most instances, the judgements will be reasonable easy, and similar considerations apply to decisions about when you should create a record, as to decisions about whether it is a valuable or useful record that needs to be corporately managed.

If a record of a particular occurrence/decision/action is necessary for administrative or business purposes then such a record should be created, with as much information as required to make it useful or fit for purpose.

Relevant considerations

Often the pros and cons of a particular judgement call will be readily apparent, but the following indicators are useful to assist APS employees make reasonable decisions on when to create (or when not to create) a record.

As a simple guiding principle, the more important the occurrence the greater the requirement to create a record, and the more comprehensive that record needs to be. Importance in this sense means the greater the benefit to the Commonwealth if a record is made and/or the greater the risk/cost if a record is not made. Factors that will impact on this assessment typically include:

- Context—is it an important communication? Generally speaking, all official external communications will be important, while internal communications will generally be more important the more senior the people involved, or if they document a direction or decision that authorises action.
- Financial value—the higher the value, the more likely due care and diligence require the making of a record in relation to any decision or action with financial implications (see also Financial Management and Accountability Act, Regulation 12), which requires any approval of expenditure of public money to be recorded in writing as soon as practicable.
- Benefit—would ready access to such a record materially benefit the Commonwealth or the agency, as distinct from being of mere transitory, facilitative use to individuals? And would access to such a record provide a material benefit greater than the cost of producing such a record?
- Potential loss or liability—would the lack of access to such a record expose the Commonwealth to loss or liability?

Clearly, where an important action arises from a meeting—and where certainty is required regarding the extent of the action and the reasons for it—a comprehensive record should be kept.

Such a situation can be distinguished from ‘brainstorming’ style meetings where ideas are freely exchanged for further consideration, rather than action. In these circumstances, far less detailed records may be required (perhaps as memory aids rather than authoritative accounts of what views were expressed), and often no record will be required at all, at least until something worth recording has transpired.

Generally speaking, APS employees will recognise the situations when a record is required. The more difficult task is making a *good* record that is ‘fit for purpose’. As identified in the first chapter, if an APS employee has written anything down in the course of their employment, whether it is a well considered letter, or a hastily scribbled Post-it® note, they have created a Commonwealth record. Whether either example will be fit for purpose or need to be corporately managed depends on the context.

Advice from the Auditor-General

In his report on Magnetic Resonance Imaging Services, the Auditor-General acknowledges the need for good judgement, both in deciding when to create a record, and what to include:

The level and standard of documentation considered necessary to support an administrative process is always a matter of judgement for management as part of an organisation’s control environment. Nevertheless documentation is important for an agency to:

- *demonstrate it has taken all reasonable steps to identify and manage risks;*
- *provide assurance to management that the administrative processes are adequate and have integrity;*
- *record significant events and decisions;*
- *be able to review its decisions and processes thereby identifying strengths and weaknesses in the process, drawing out lessons for the future;*
- *in some circumstances provide support for the Commonwealth’s position in the event of a legal challenge; and*
- *meet accountability obligations to the Government, Parliament and other stakeholders.*

The level and standard of documentation needs to match the circumstances. However, it would be expected that both the level and standard of documentation would increase as the consequences of decisions and actions increases. While it is not necessary to record every meeting, prepare file notes of every conversation or retain all emails, it is important to record and to maintain in an accessible form:

- *significant decisions by Ministers, and the basis for them including advice on options and risks;*
- *programme decisions, including decisions affecting individuals or individual businesses that may be subject to administrative review, together with the basis for the decisions and the authority for making the decision;*
- *significant events, including meetings and discussions with Ministers or stakeholders or members of the public which may be significant in terms of policy or programme decision-making.*¹⁹

It is not possible to exhaustively list the situations which require the creation of Commonwealth records. However, the Management Advisory Committee is confident that the overwhelming majority of APS employees have sufficient judgement, and/or have ready access to guidance if in doubt, to identify when a Commonwealth record is required to be created and filed.

¹⁹ ANAO 2000, *Magnetic Resonance Imaging Services—Effectiveness and Probity of the Policy Development Process and Implementation*, Performance Audit No. 42, <<http://www.anao.gov.au/director/publications/auditreports/1999–2000.cfm>>

CHAPTER 5. HOW RECORDKEEPING INTERACTS WITH INFORMATION COLLECTION, USE AND DISCLOSURE OBLIGATIONS

KEY MESSAGES IN THIS CHAPTER

- The Commonwealth owns the real and intellectual property in all Commonwealth records and they can only be used and disclosed for the Commonwealth purposes.
- Commonwealth records can only be disposed of in accordance with the Archives Act using a records disposal authority or a general disposal authority such as the Administrative Functions Disposal Authority, or for low-value or ephemeral records under normal administrative practice provisions.
- An APS employee who misapplies, improperly disposes of, or improperly uses Commonwealth records may be in breach of the Financial Management and Accountability Act.
- Most Commonwealth records are subject to the Freedom of Information Act. The real possibility that documents may be released under this Act reinforces the responsibility on APS employees to maintain a high degree of professionalism in their work.
- Records that contain ‘personal information’ require special treatment under the Privacy Act.

COMMONWEALTH RECORDS ARE THE PROPERTY OF THE COMMONWEALTH

ARCHIVES ACT

As explained in Chapter 1, if an APS employee makes a record or creates a document in the course of their employment then it is a ‘Commonwealth record’ as defined by the *Archives Act 1983*.

The Commonwealth owns Commonwealth records—not just the physical records/documents but also their inherent intellectual property, typically the copyright (which essentially is the right to make copies of all or part of the record/document).

This means a Commonwealth record can be used only as authorised by the Commonwealth or by the law and an APS employee can only use or copy Commonwealth records for the purposes of the Commonwealth. To do otherwise is against the law.²⁰

²⁰ Public Service Regulations 1999, Regulation 2.1, <<http://scaleplus.law.gov.au/html/pastereg/3/1557/top.htm>>

In addition, information contained in Commonwealth records is only to be disclosed with authorisation or in accordance with the law.²¹

The Archives Act sets out the legal framework for managing Commonwealth records.

The main provisions of the Archives Act are discussed in the previous chapters. As noted in Chapter 2, Commonwealth records may only be disposed of in accordance with the Archives Act. Section 24 of the Archives Act explains how this can be done. For practical purposes, generally records can be disposed of either:

- under normal administrative practice
- under a record disposal authority.

Many low-value records can be disposed of under a normal administrative practice. However, disposal under a normal administrative practice is not available for records which are covered by a record disposal authority.

Disposal authorities essentially prohibit the disposal of classes of Commonwealth records before a certain time or, occasionally, at all, for those records classified as ‘retained as national archives’ (RNA).

Guidance on which, if any, records can be disposed of under normal administrative practice needs to be provided to employees by their agency.

There are two types of disposal authorities:

1. general disposal authorities (GDA) that cover common functions across government. The most important GDA that every government agency can use is the Administrative Functions Disposal Authority (ADFA) which covers 17 common functions, carried out by every Commonwealth agency including Community Relations, Financial Management, Government Relations and Personnel and Property Management.
2. records disposal authorities (RDA) that cover agency specific records (see Chapter 4).

The National Archives is currently updating the Administrative Functions Disposal Authority (AFDA), including expanding its coverage and taking into account changes to legislation and user feedback.

The National Archives is also developing practical guidance for agencies on when and how to use each of these different disposal methods and how they can be better coordinated and integrated.

Staff should take care not to unintentionally dispose of a Commonwealth record outside of the provisions of the Archives Act. Inappropriate and unlawful disposal is an offence under the Archives Act, and a breach of the APS Code of Conduct.

²¹ Australian Public Service Commission, APS Code of Conduct, <<http://www.apsc.gov.au/conduct/index.html>> and *Crimes Act 1914*, s. 70, <<http://www.comlaw.gov.au/>>

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT

Commonwealth records also fall within the meaning of ‘public property’ as defined in the *Financial Management and Accountability Act 1997*.

An APS employee who misapplies, improperly disposes of, or improperly uses Commonwealth records may be in breach of the Financial Management and Accountability Act.²²

FREEDOM OF INFORMATION ACT

APS employees should be familiar with the basic operation of the *Freedom of Information Act 1982* (FOI Act).²³ A brief description of the Act follows, however employees should make further inquiries and seek advice where necessary. The Attorney-General’s Department provides guidance on the operation and effect of the FOI Act.²⁴

Most documents of most agencies are subject to the FOI Act.²⁵ For practical purposes, a document includes any, or any part of, a Commonwealth record.

The FOI Act generally requires agencies, if presented with a valid FOI request, to provide access to ‘documents’ in their possession within certain timeframes. Where access is granted it is unconditional. Agencies cannot grant access subject to conditions such as confidentiality, or impose any other limitation on the applicant, although agencies have some control over the *form* of access granted.²⁶

The real possibility that documents may be released under the FOI Act reinforces the responsibility on APS employees to maintain a high degree of professionalism in their work.

The use of intemperate, ill-considered or careless language is unprofessional and is potentially a breach of the APS Values and Code of Conduct, and may expose the author, their agency, and perhaps innocent third parties, to unnecessary embarrassment.

The FOI Act allows individuals to seek amendment or annotation of their personal information held by an agency if the information is incomplete, incorrect, misleading or out-of-date. This right to amend personal information is also legally enforceable. This means it is essential that agencies maintain their capability to amend or annotate records containing personal information.

²² *Financial Management and Accountability Act 1997*, s. 41, <<http://www.comlaw.gov.au/>>

²³ Sourced from FOI advice provided by the Attorney-General’s Department.

²⁴ See <http://www.ag.gov.au/www/agd/agd.nsf/page/Freedom_of_Information>

²⁵ Some agencies are excluded from the operation of the FOI Act completely (e.g. ASIO) and some agencies are excluded from the operation of the FOI Act in relation to certain classes of documents (e.g. CSIRO in relation to documents in respect of its commercial activities).

²⁶ *Freedom of Information Act 1982*, s. 22.

Agencies can refuse to provide access to a document where an exemption provision applies. Exemptions are based on what is ‘necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held’.²⁷ The exemptions are designed to provide a balance between the rights of applicants to access documents and the need to protect the legitimate interests of the government and third parties who deal with government.

Exemptions exist to protect classes of documents, such as Cabinet documents and documents subject to legal professional privilege, irrespective of their content. Exemptions also exist to protect documents based on their content, where release would impact on an identified public or private interest. These would include documents concerning the deliberative processes of agencies, and documents containing personal or commercially valuable information. For most of these ‘contents exemptions’ to apply, agencies must be satisfied that real harm to the relevant public or private interest would result from release of a document.

Agencies can also refuse to process FOI requests where to do so ‘would substantially and unreasonably divert the resources of the agency from its other operations’.²⁸ Therefore, overly broad FOI requests can be declined after giving the applicant reasonable assistance and opportunity to narrow their request.

Exemptions in the FOI Act should not be considered lightly or assumed to apply. The objective of the FOI Act is ‘to extend as far as possible the right of the Australian community to access to information in the possession of the Government of the Commonwealth’, and the Administrative Appeals Tribunal (AAT) and courts have interpreted exemptions in light of this objective.

The FOI Act provides for a Minister and certain principal officers to issue certificates which state conclusively that the documents specified in them are exempt documents. Such conclusive certificates can be issued only in relation to particular kinds of documents, for example, documents affecting national security, relations with other countries or the states, or documents created for the deliberative processes of an agency.

Applicants who are dissatisfied with an agency’s decisions under the FOI Act can seek a review of those decisions.²⁹ In most cases, an agency is required to undertake an internal review of its original decision before an applicant has a right to seek review by the AAT. The AAT can review most decisions of agencies under the FOI Act, including the decision to issue a conclusive certificate.

²⁷ *Freedom of Information Act 1982*, s. 3(1)(b).

²⁸ *Freedom of Information Act 1982*, s. 24.

²⁹ *Freedom of Information Act 1982*, Part VI.

PRIVACY ACT

The *Privacy Act 1988*³⁰ contains the Information Privacy Principles (IPPs) which apply generally to Commonwealth agencies. The IPPs regulate the handling of ‘personal information’, from collection and storage to use and disclosure.

Personal information is any information or an opinion about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. It is a very wide definition, and might, for example, include information about an individual whose identity might be ascertainable only when the information is combined with other information that is available to the agency.

Collecting personal information

Consistent with the IPPs, personal information should only be collected for a lawful purpose directly related to a function or activity of the agency collecting the information. Where an agency collects personal information, the agency must take steps to ensure the person providing the information is generally aware of the purpose for which the information is sought, any law requiring the collection of the information, and any other person, agency or organisation which will usually receive the information from the agency.

Agencies collecting personal information are required to ensure, as far as possible, that the personal information they collect is relevant to the purpose for which it is collected, up-to-date and complete, and that the collection of the information does not intrude to an unreasonable extent on the personal affairs of the person providing the information.

Storing personal information

Agencies storing personal information must take reasonable steps to ensure the information is protected against unauthorised access, use, modification or disclosure (i.e. the information must be stored securely).

Agencies are required to maintain records of holdings of personal information for inspection by members of the public.

Individuals are entitled to access their personal information held by agencies. Access provided in accordance with the provisions of the FOI Act (discussed above) is also considered to be compliant with the Privacy Act.

As is the case under the FOI Act, agencies have an obligation under the Privacy Act to make corrections to personal information to ensure that their records are

³⁰ Attorney-General's Department 2007 (2001), *An Outline of AGD Obligations under the Privacy Act 1988*, <<http://www.ag.gov.au/>>

accurate, and, having regard to the purpose for which the information was collected, up-to-date, complete and not misleading. It follows that agencies must include this capability in any recordkeeping system that contains personal information.

Agencies should not use personal information in their records, without first taking reasonable steps to ensure that the information is accurate, up-to-date, and complete. The more important the purpose (e.g. the greater the consequences of getting the information wrong), the more effort is needed to ensure the information is correct—and, of course, agencies should only use personal information in records for relevant purposes.

More information on the IPPs under the Privacy Act is available from the Office of the Privacy Commissioner.

Disclosing personal information

‘Disclosure’ means letting the information go outside the control of the agency, whether intentionally or not.

The Privacy Act prohibits the disclosure of personal information, subject to a number of exceptions.

Disclosures are permitted, for example, where:

- the individual has consented to the disclosure (impliedly or explicitly)
- disclosure is necessary to save life or limb
- disclosure is required or authorised by or under law
- disclosure is reasonably necessary for the enforcement of the criminal law, a law imposing a pecuniary penalty, or for the protection of the public revenue
- the individual is reasonably likely to have been aware, or made aware by the agency, of such disclosures.

The APS takes compliance with the Privacy Act very seriously. Breaches of the Act, in the course of APS employment may mean that an APS employee has breached the APS Code of Conduct.

Contracting out/outsourcing activities

The Privacy Act imposes obligations on agencies that outsource their functions.

Where the information is given to another person so they can provide a service to an agency, the agency must do everything it reasonably can to prevent unauthorised use or disclosure of the information while the information is in the possession of the other person (e.g. through the use of ‘confidentiality provisions’ in applicable contracts).

Agencies that are outsourcing must include privacy clauses in contracts where the performance of the contract will involve collecting or handling personal information on behalf of the agency.

APS employees involved in preparing contracts need to be aware of these provisions and their implications. This requirement, in effect, imposes the public sector privacy principles on contractors.

OTHER LEGAL OBLIGATIONS TO DISCLOSE COMMONWEALTH RECORDS/DOCUMENTS

While the FOI Act represents the most common way Commonwealth records are ‘released’ under law, APS employees also need to understand there are other times when an agency or an APS employee will be under a legal compulsion to provide Commonwealth records. The most common are:

- when required to do so under a valid subpoena or other court ordered discovery process
- when required to do so under a valid statutory notice such as under the Auditor-General’s Act or the Ombudsman’s Act. While the vast majority of requests from the Australian National Audit Office or the Ombudsman’s Office will be complied with on a voluntary basis, occasionally these offices may issue formal notices to assist in meeting their statutory responsibilities.

All Commonwealth agencies in receipt of such requests or demands are required to make all reasonable searches of any recordkeeping system, electronic or paper-based, where there is a reasonable belief that such may contain relevant documents.

FOI and discovery processes will be much easier and cheaper for the agency if sound recordkeeping policies and systems are in place, such as those discussed in Chapter 2 (e.g. minimising an agency’s ‘low-value’ record stockpile through disposal under normal administrative practice, and ensuring all useful or important records are corporately managed).

FRAUD CONTROL

The Commonwealth Fraud Control Guidelines are issued under the authority of the Financial Management and Accountability Act, and fraud control must be a consideration when developing new computer systems.

APS agencies need to consider the possibility of records being used in criminal or civil proceedings. Most state evidence laws contain the following basic requirements relating to the admission of computer-generated evidence:

- evidence showing the production of the records by the computer in question
- proving the accuracy and reliability of the computer
- proving its proper operation.

Authentication of records, in the first instance, is usually possible through the tender of an affidavit or written statement made by the person responsible for the computer systems or processes. The affidavit or statement is generally accompanied by a certificate that:

- identifies the document containing the information, and describes how it was produced
- gives the particulars of any device used in producing the statement
- deals with any matters that relate to the conditions above
- is signed by a person who holds a responsible position in relation to either the operation or the management of the relevant computer/activities.

If the evidence is challenged, this person may be called as a witness.

In the development and operation of a computer system, consideration should be given to how the above points will be established before a court if required.

CHAPTER 6. ASSESSING THE CURRENT AND FUTURE RECORDKEEPING ENVIRONMENT

KEY MESSAGES IN THIS CHAPTER

- Agencies that have a comprehensive awareness of their business and regulatory environments can prioritise recordkeeping attention on activities that pose the greatest level of risk.
- Agencies can assess their current recordkeeping capability against internationally recognised benchmarks by using tools developed by the National Archives.
- If business systems have recordkeeping functionality, they can provide a recordkeeping solution.
- Recent research shows that higher quality recordkeeping is achieved when the recordkeeping burden is lifted from general employees.
- Understanding the impediments to the practice of recordkeeping is critical in identifying effective strategies to enable good recordkeeping.³¹
- Records management needs to more effectively integrate with IT, and records and IT managers must remain up-to-date with developments in recordkeeping technologies, especially those which can automate the recordkeeping process.

FACTORS THAT IMPACT ON RECORDKEEPING

Before recordkeeping systems are implemented or improved, agencies need to assess the factors that impact on their recordkeeping and their current and future capabilities including strategic focus, policies and processes, employee skills and systems.

To improve recordkeeping, agencies must first understand the context in which they operate so they can identify the major factors that influence the need to create and maintain records.

This can be done by identifying the role, purpose and structure of an agency, and its legal, regulatory, business and political environment.

The first step in the National Archives' DIRKS methodology (Step A—Preliminary Investigation) is designed to help agencies undertake this assessment. With this understanding, an agency can articulate its approach to recordkeeping and recognise

³¹ Impediments are defined as challenges that adversely affect the effective management of government information and records.

the areas of business that attract the highest risk if records are not available when required.

Assessing business activities on a risk basis will identify the high risk areas of business that should receive priority recordkeeping attention. This includes analysing what records need to be created for business purposes, where they should be captured, how they should be managed, and how long they need to be kept.

RECORDKEEPING CAPABILITY

The International Recordkeeping Standard provides a descriptive benchmark against which agencies can assess the capability of their recordkeeping systems (people, policies and processes, technology and records) and identify areas of strength and vulnerability.

The National Archives has developed a new product, *Check-up*, to assist agencies assess their current recordkeeping capability against the better practice established in the International Records Management Standard (ISO 15489).

Check-up is an interactive tool for agencies to use in assessing:

- if they meet the minimum requirements for basic records management
- if they meet the higher standards required for records of importance and high risk business functions
- how they can improve their business information and records management.

Check-up can be used to prepare a ‘traffic-light’ report which will highlight an agency’s relevant risk areas. It will help to identify and develop tailored records management solutions to mitigate business risks.

EXISTING BUSINESS SYSTEMS

Nearly all information created and used in government administration today is in electronic form.

It exists as *structured* or *unstructured* information in the many business applications we have, the productivity tools we use for developing information ‘products’ (documents, spreadsheets and publications) and in the output of our various communication tools (email and messaging).

Structured data is a record created from data that has been collated and managed in a structured environment, often in database-type line-of-business information systems. The data captured is highly structured, predictive and repetitive. Recordkeeping capability can be designed and implemented as a feature of line-of-business systems.

Unstructured data is data not usually managed in a structured database. It is narrative and contextually structured such as Word documents, emails, presentations, web pages.

Information in structured or unstructured forms requires different management. The Management Advisory Committee considers the most effective current strategy for managing information in *structured* business systems is to extend recordkeeping functionality to these systems. To be managed as a record, *unstructured* data needs to be captured into a system with recordkeeping functionality.

SECURITY

Business systems that are used to manage sensitive information are required to comply with the Protective Security Manual and the Australian Government Information and Communications Technology Security Manual, ASCII 33.

Records with a security classification above the security level of an agency's electronic network and other electronic systems need to be maintained and stored securely in paper form to meet Australian Government security requirements. For most agencies, such records represent only a small proportion of their total record population.

LIFTING THE RECORDKEEPING BURDEN

Records are an inevitable output of business but effective recordkeeping requires decisions about when and how to create, capture and control records in relation to workflow processes.

Recent research shows that higher quality recordkeeping is achieved when the recordkeeping burden is lifted from general employees.³²

This can be achieved by analysing work processes to identify the points where records need to be created. The results can be made available as common processes or templates at a work group, whole-of-agency or even whole-of-APS level, as appropriate.

Expert records managers can further improve this analysis by identifying the form records should take, when and how they are captured into a recordkeeping-capable system and how they are controlled.

Good systems design can then enable the automatic creation, capture and control of records.

Effective records management is not a goal to be attained at the expense of agency outcomes. Rather, it is a necessary component of the business that achieves those outcomes.

³² J.T. Sprehe & C.R. McClure, 2005, 'Lifting the Burden', *Information Management Journal*, Vol. 39, No. 4.

When successful outcomes are well documented, they can be sustained within an agency over time, accurately reported and potentially reapplied across the agency. When outcomes are not well documented, however, the agency can neither leverage past successes nor avoid repeating past failures.

ADDRESSING IMPEDIMENTS TO EFFECTIVE RECORDKEEPING

Studies show that highly effective agencies tend not to dismiss the importance of information and records management in maintaining integrity and accountability.³³

Understanding the impediments or challenges and issues surrounding effective recordkeeping is a critical step in identifying effective strategies to enable good recordkeeping.

These impediments and issues can be strategic, resource, cultural or technical in nature, or a combination.

The following key challenges to effective recordkeeping have been identified in APS agencies.³⁴

Records and information are not managed strategically as agency business assets

Agencies should recognise that records and information are important business assets.

Recordkeeping often has a low profile and records management is not perceived as supporting agency business

Agencies need to view recordkeeping as part of their broader information and risk management frameworks. It is recommended that entities should, within the context of a broader information or knowledge management framework, develop strategies which address agency-wide recordkeeping responsibilities and identify all systems which contain records that need to be managed.³⁵

Support for records management is lacking

Agencies must acknowledge that recordkeeping is an integral part of 'doing business' and that they have legal and other obligations to create records. Not doing so affects the profile of recordkeeping in the agency as well as raising the level of risk. To be effective, recordkeeping regimes require sustained commitment from senior management.³⁶

³³ Public Service Commissioners' Conference, September 2006, 'Identifying Underperforming Agencies'.

³⁴ Impediments were identified by, amongst others, the MAC Project Team and Reference Group established to study and report on recordkeeping in the APS; Australian National Audit Office 2006, *Recordkeeping including the Management of Electronic Records*, Audit Report No. 6, 2006–07, <<http://www.anao.gov.au/director/publications/auditreports/2006-2007.cfm>>; and Australian Public Service Commission 2006, *State of the Service Report 2005–06*, <<http://www.apsc.gov.au/stateoftheservice/0506/index.html>> and previous reports.

³⁵ Australian National Audit Office 2006, *Recordkeeping including the Management of Electronic Records*, Audit Report No. 6, 2006–07, recommendations no. 2(a), 3(a) and (b) and 5, p. 27.

³⁶ Australian National Audit Office 2006, *Recordkeeping including the Management of Electronic Records*, Audit Report No. 6, 2006–07.

The business case for employees to keep good records has not been explained well enough

While the business case for commercial/government agencies to keep good records is self-evident and well accepted, the business case (incentives) for individual APS employees to be good records managers needs to be better explained and promoted (see Chapter 4).

Agency processes don't support records and information management

The transition from centrally-managed records and information management systems to devolved responsibility for information and records management to the desktop has created problems for identifying, managing and preserving agencies' information assets. Every employee remains a record creator but often there are not supporting systems or tools to manage the records and information even if they are created effectively. As a consequence, assets are often difficult to locate, cannot easily be shared, and are at risk of being lost. This undermines the agency knowledge base and effective decision-making.

Maintaining up-to-date awareness is challenging

Related to this is the task of maintaining the timely development of advice and guidance for agencies and employees on how to manage agency information assets created using new technologies. Because of the rapid pace of technological change, and the proliferation of electronic formats and technologies, it is difficult to keep advice, policies and procedures current.

The scale or volume of records and information that agencies need to manage in a digital environment can be overwhelming

Agencies need to focus on the corporate management of valuable and important records, and low-value records should not be allowed to 'clog up' finite IT systems.

Technological obsolescence can restrict access to records

The pace of technological evolution is an issue for electronic records and information that need to be available for long periods of time (e.g. more than seven years). In many cases, agencies need electronic records and information for longer periods in order to conduct ongoing business or preserve rights. At the broader level, records may need to be retained and transferred as part of the national collection.

There are challenges in maintaining and keeping electronic records and information in usable formats. In the most recent *State of the Service* report only 18 per cent of APS agencies indicated they had a digital preservation plan in place to ensure that corporate data remains accessible.³⁷

³⁷ Australian Public Service Commission 2006, *State of the Service Report 2005–06*, Table 8.3, p. 188.

Managing records in a digital environment is complex

A general lack of awareness of the unique characteristics of electronic records (and information) affects continued access. Critical issues include hardware and software dependency, indexing requirements for retrieval, formats, and requirements for migrating and refreshing the storage media.

Records management and information technology are poorly integrated

As information technology has extended its reach beyond hardware and file management into document management, there has been a convergence of responsibilities between records management and information technology. It is recommended that entities establish administrative arrangements that facilitate a collaborative approach between records and information management, information and communication technology and other related functions.³⁸

Usability issues can impact on record creation

Evidence from the *State of the Service* reports indicates that it is the design efficiency of electronic tools and software for recordkeeping that most often frustrates employees.³⁹ Poor usability impacts on productivity and contribution of content. The general need to make it much easier for users to create and broadly disseminate information should also be extended to usability of the recordkeeping aspects of systems and processes.

Ineffective implementation can undermine records management processes

When records and information management processes and procedures are not integrated into agency business processes, their implementation fails. There are risks in not defining records and information management responsibilities for employees, and in not communicating them to employees. It must also be recognised that different agencies have different missions, different levels of technological sophistication, and different needs based on the size of the agency or the culture of the workforce. These differences can also exist within agencies, particularly those which regularly undergo machinery of government changes.

Assuring the authenticity, reliability and integrity of electronic records can be difficult

The unique features of electronic records complicate agency efforts to create and maintain authentic and reliable records that support agency business processes. Because it is easier to duplicate and disseminate electronic information, agencies typically create more of it, in multiple copies, and send it to multiple users who maintain it in various locations. This makes it difficult to identify the essential records, or versions of those records, that document the activities of the agency, and more broadly, of the government.

³⁸ Australian National Audit Office 2006, *Recordkeeping including the Management of Electronic Records*, Audit Report No. 6, 2006–2007, recommendation no. 2(c) p. 27.

³⁹ Evidence from comments made by APS employees in response to the recordkeeping questions in the APS State of the Service employee surveys for 2003–2006 show that ‘time available to record keep’ and the ‘usability of recordkeeping’ systems are the two key issues for APS staff.

There is a capability/skills shortage

There is a shortage of skilled professional records management personnel, especially those who have successfully managed or worked in a digital recordkeeping environment. This is impacting on the effective transition from paper to electronic recordkeeping, especially as recent research indicates that professional records management staff can play a key role in freeing up general employee productivity.⁴⁰

EMERGING APPROACHES TO RECORDS MANAGEMENT ARCHITECTURES

The Management Advisory Committee notes that recordkeeping technologies are changing and that this presents opportunities for the future, particularly for smaller agencies that have not yet implemented electronic recordkeeping systems.

Emerging approaches provide options to better integrate recordkeeping technologies with other IT developments, purchases and outsourcing arrangements. They should also improve automation, usability and 'friendliness' of recordkeeping systems, helping to lift the recordkeeping burden from staff.

Emerging in-place solutions

Records management technology is transitioning from separate 'independent' records repository solutions to 'in-place' records management solutions for several reasons including:

- the increased focus on compliance and discovery in some countries
- greater interest in the records management market by mainstream software solution vendors
- acknowledgement of the scale and complexity of modern recordkeeping
- merging of records management functionalities into Enterprise Content Management (ECM) applications and the parallel development of message archive solutions
- more recently, the embedding of recordkeeping capability directly into mainstream collaborative and desktop applications.

Advantages of in-place solutions

Properly implemented in-place records management solutions have the potential to:

- better support management of risk
- significantly lift the recordkeeping burden from employees by automating the process of capturing records and business workflow
- reduce purchase, configuration and ongoing maintenance costs by removing the need to maintain separate content infrastructure
- improve the ability to retrieve records through better maintenance of context and better support of search
- support interoperability and better long-term migration options.

⁴⁰ J.T. Sprehe & C.R. McClure, 2005, 'Lifting the Burden', *Information Management Journal*, Vol. 39, No. 4.

Approaches that characterise the developing in-place solutions market include:

Platform

Platform solutions directly integrate records management functionality into a content or messaging archive application. Most solutions are based on ECM applications—collecting desktop, communication, publishing and business process content under a single storage infrastructure. ECM vendors believe organisations accomplish compliance and other recordkeeping objectives by managing and retaining content.

Message archives are a more recent development and have emerged out of discovery, compliance and security requirements. These solutions tend to be less sophisticated than ECM solutions, with records captured centrally and usually independently, of the context in which they have been created.

Linked-in

This approach is metadata driven, applying links to control and manage content and business processes in their original locations. A centralised console extends records management functionality across repositories, applications and workflow in a federated model.

Embedded

More recently, one of the major desktop application vendors announced that it is embedding basic records management functionality into its desktop and collaboration server infrastructure. This represents a ‘light’ approach to records management architecture but there are plans to extend the capability to incorporate content from other business systems as required.

This approach is likely to be attractive to agencies that are predominately desktop-based and have a minimum number of separate major business systems—providing a less complex, yet extendable, recordkeeping solution.

SHORT, MEDIUM TO LONG-TERM FUTURE

Analysts are predicting that in the short to medium-term, platform and linked-in solutions will dominate existing independent records management solutions. Both of these emerging approaches offer a more comprehensive management solution to managing the complexity of modern recordkeeping.

The embedding of records management capability as a standard feature in desktop productivity tools (i.e. email, chat, document authoring and collaboration tools) has considerable potential in the medium-term to long-term and is likely to become the predominant recordkeeping architecture in future.

APPENDIX 1: KEY PRODUCTS, INITIATIVES AND AGENCIES

This part of the report lists and briefly describes the purpose of products, initiatives and agencies that can be used in APS agencies to improve recordkeeping.

Australasian Digital Recordkeeping Initiative (ADRI)

ADRI is an undertaking of the Council of Australasian Archives and Records Authorities, the peak body of government archives and records institutions in Australia and New Zealand.

The primary objective of ADRI is to pool resources and expertise to find better ways to ensure that digital records are preserved and made accessible for the future.

The initiative promotes a single Australasian approach to digital public recordkeeping across all jurisdictions and provides a space for communication and information sharing between the members. The collaboration ensures the best possible strategic use of limited collective resources and broadens awareness and maximises the impact of the agreed approach to addressing the challenge of digital records.

The collaboration builds on and acknowledges many years of Australasian collaboration in developing concepts, tools, standards and strategies for good recordkeeping. The approach will add value to existing jurisdiction-specific initiatives.

Australian Government Information Management Office (AGIMO)

AGIMO develops whole of government information and communications technology (ICT) management policies to inform the design and implementation of government programmes and delivery of government services. AGIMO also provides assistance, guidance and advice to agencies applying ICT to government operations, and fosters the efficient and effective use of ICT by Australian Government departments and agencies.

Australian Government Information Interoperability Framework

This framework and guidance assists agencies to manage, transfer and exchange information across agency boundaries.

<<http://www.agimo.gov.au/publications/2006/may/iif>>

AGIMO's Better Practice Programme

This programme develops checklists and highlights innovative examples of new technologies used for information provision, service delivery and administration in a range of areas. The checklists aim to help managers put services online, improve existing services, or negotiate and manage contractual arrangements through which these services are provided, and include:

Use of Metadata for Web Resources

<<http://www.agimo.gov.au/practice/delivery/checklists/metadata>>

Archiving Web Resources

<<http://www.agimo.gov.au/practice/delivery/checklists/archiving>>

Selecting a Content Management System

<http://www.agimo.gov.au/practice/delivery/checklists/select_cms>

Implementing a Content Management System

<http://www.agimo.gov.au/practice/delivery/checklists/implement_cms>

Knowledge Management

<<http://www.agimo.gov.au/practice/delivery/checklists/knowledge>>

Designing and Managing an Intranet

<<http://www.agimo.gov.au/practice/delivery/checklists/intranet>>

Digitisation of Records

<<http://www.agimo.gov.au/practice/delivery/checklists/digitisation>>

Decommissioning a Government Website

<http://www.agimo.gov.au/practice/delivery/checklists/decommissioning_government_websites>

Australian Government Information Technology Security Manual (ACSI 33)

Electronic documents can exist in multiple places, including an electronic records management system. ACSI 33 complements the Australian Government Protective Service Manual and describes the policies and guidance required to achieve an assured information technology security environment, including guidance on destroying records in electronic form.

<http://www.dsd.gov.au/_lib/pdf_doc/acsi33/ACSI33_U_0304.pdf>

Australian Government's *Protective Security Manual (PSM)*

The PSM is issued by the Attorney-General's Department. It is the principal means for disseminating Australian Government protective security policies, principles, standards and procedures to be followed by all Australian Government agencies for the protection of official resources.

The revised PSM issued in 2005 provides minimum common standards in protective security for all Australian Government agencies and contractors and their employees performing services for and on behalf of the Australian Government. These minimum standards ensure that there is a consistent approach to protective security within and between agencies and covers areas such as the classification of records and the handling and storage of records.

For all inquiries regarding the revised *Protective Security Manual 2005* please email <psm@ag.gov.au>.

Australian National Audit Office

Recordkeeping including the Management of Electronic Records, Audit Report No. 6, 2006–07

The objective of the audit was to assess the extent to which entities were meeting their recordkeeping responsibilities. In particular, the audit examined how effectively the entities were managing records that were created and stored electronically in corporate recordkeeping systems and in other electronic systems in accordance with recordkeeping requirements.

<http://www.anao.gov.au/uploads/documents/2006-07_Audit_Report_6.pdf>

Recordkeeping in large Commonwealth Organisations, Audit Report No. 7, 2003–04

The audit reviewed the recordkeeping frameworks of four large Commonwealth organisations. The objective was to assess whether recordkeeping policies, systems and procedures were in accordance with relevant government policies, legislation, accepted standards and recordkeeping principles, and applicable organisational controls.

<<http://www.anao.gov.au/uploads/documents/Audit%20Report%207-2.pdf>>

Recordkeeping, Audit Report No. 45, 2001–02

An assurance and control assessment audit of recordkeeping was undertaken across four Commonwealth organisations to assess whether their recordkeeping policies, systems and processes accord with requirements under the Archives Act 1983, with relevant government policies, and with accepted standards and recordkeeping principles; and to identify better practices and recommend improvements. The audit addressed both electronic and traditional records.

<<http://www.anao.gov.au/uploads/documents/Audit%20Report%2045.sep.pdf>>

Australian Public Service Commission

Supporting Ministers, Upholding the Values. A good practice guide, 2006

This good practice guide examines broad principles associated with establishing the roles and responsibilities that define interactions between Australian public servants and Ministers and their advisers. It also identifies particular issues that present challenges to APS staff from time to time that might call for more specific guidance at the agency level.

Part 2.2.7 of the guide discusses recordkeeping in the context of liaising with Ministers and their staff.

<<http://www.apsc.gov.au/publications06/supportingministers.pdf>>

Australian Standards

AS ISO 15489 Australian Standard on Records Management

The standard provides a descriptive benchmark that organisations can use to assess their recordkeeping systems and practices. Both parts of the Standard (Part 1—General and Part 2—Guidelines) are designed to help organisations create, capture and manage full and accurate records to meet their business needs and legal requirements as well as to satisfy other stakeholder expectations. Both parts apply to records in any format or media, created or received by any public or private organisation during the course of its activities.

AS 5090:2003 Work process analysis for recordkeeping

This standard was developed for use by any organisation that wishes to analyse its work processes as the starting point for a variety of recordkeeping purposes. It arose from the need for guidance on what has been identified as a foundation activity in recordkeeping. The intention was to eliminate confusion about the recordkeeping analysis of work processes as distinct from the profusion of practices and products referred to as ‘workflow’.

AS ISO 23081:2006 Information and documentation—Records management processes—Metadata for records

This standard is a guide to understanding, implementing and using metadata within the framework of AS ISO 15489. It addresses the relevance of records management metadata in business processes and the different roles and types of metadata that support business and records management processes. It also sets a framework for managing those metadata.

Elections and Machinery of Government changes

National Archives of Australia 2006, Handling administrative change: Archives Advice 27

This advice sets out the required information on management of records in a changed government scenario.

<<http://www.naa.gov.au/recordkeeping/rkpubs/advices/advice27.html>>

Australian Public Service Commission 2007, *Implementing Machinery of Government Changes: A Good Practice Guide*

This publication has been designed to provide practical guidance to help agencies implement machinery of government changes. It has been developed jointly by the Australian Public Service Commission, the Department of Finance and Administration, and the Department of Employment and Workplace Relations, in consultation with the Department of the Prime Minister and Cabinet and the National Archives.

<<http://www.apsc.gov.au/publications07/machineryofgovernment.htm>>

National Archives of Australia

All of the following resources are available on the National Archives' website <<http://www.naa.gov.au>>.

Disposal

Obtaining a records disposal authority (RDA)

These guidelines cover the requirements for obtaining a disposal authority covering an agency's specific business records. It outlines the legal basis for records disposal authorisation in the Commonwealth, the process of undertaking a records appraisal and steps for submitting disposal recommendations to the National Archives for obtaining a records disposal authority. When issued, the Records Disposal Authority (RDA) can be used together with General Disposal Authorities issued by the National Archives, and with agency specific policies and procedures for using the Normal Administrative Practice provisions of the Archives Act, for managing the retention and destruction of an agency's records.

Why Records Are Kept—Directions in Appraisal

This publication outlines the National Archives' five objectives and criteria for assessing and selecting records of archival value.

Normal Administrative Practice (NAP)

This updated advice provides guidance for agencies about defining and implementing policies and procedures to make use of the NAP provisions of the *Archives Act 1983*.

Administrative Functions Disposal Authority (AFDA)

AFDA is a general disposal authority that authorises the disposal of records relating to 17 functions carried out by every Commonwealth agency:

Community Relations	Compensation	Equipment & Stores
Establishment	Financial Management	Fleet Management
Government Relations	Industrial Relations	Information Management
Legal Services	Occupational Health & Safety	Personnel
Property Management	Publication	Staff Development
Strategic Management	Technology & Telecommunications	

Other General Disposal Authorities

In addition to the Administrative Functions Disposal Authority (AFDA), the National Archives has issued a number of other general disposal authorities that can be used by every Commonwealth agency. Records covered include encrypted records, source records that have been copied, converted or migrated, and records relating to the intelligence function in any agency.

Recordkeeping Advice

Check-up: A tool for assessing an agency's information and records management

Check-up is an interactive tool for agencies to use in assessing:

- if they meet the minimum requirements for basic records management
- if they meet the higher standards required for records of importance and high risk business functions
- how they can improve their business information and records management.

Check-up can be used to prepare a 'traffic-light' report which will highlight an agency's relevant risk areas. It will help to identify and develop tailored records management solutions to mitigate business risks.

Archives Advices

Archives advices provide summary advice on a range of recordkeeping issues including preservation, standards, National Archives' policies and products, and government online strategies.

Australian Government Implementation Manual: AGLS Metadata

This manual sets out Australian Government requirements for the implementation of the Australian Government Locator Service (AGLS) metadata and provides practical advice and direction for staff responsible for coordinating agency policy and practice on web-based information and services. The major change between this version of the manual and the earlier version 1.1 (2002) is the removal of the requirement for agencies to create and maintain Harvest Control Lists.

Developing a Functions Thesaurus: Guidelines for Commonwealth Agencies

These guidelines provide practical advice on designing, constructing and maintaining a functions thesaurus, to assist organisations with classification and other records management processes.

Digital Recordkeeping: Guidelines for Creating, Managing and Preserving Digital Records

Digital Recordkeeping Self-Assessment Checklist

These guidelines provide comprehensive guidance to Australian Government agencies on creating, managing and preserving digital records. The guidelines will assist those responsible for digital records and information to make appropriate arrangements for managing digital records for as long as they are required.

The checklist provides Australian Government agencies with a self-assessment tool to evaluate the management of their digital records. The checklist complements the Digital Recordkeeping guideline and should be used in conjunction with it.

Archiving Web Resources: Guidelines for Keeping Records of Web-based Activity in the Commonwealth Government

This document sets out guidelines to help Commonwealth agencies develop good recordkeeping strategies for records of web-based activities. The guidelines complement policy guidelines in the document below by offering specific strategic and technical advice on how agencies can comply with the policy.

Archiving Web Resources: A Policy for Keeping Web-based Records in the Commonwealth Government (2000)

This document sets out the National Archives' position on the status and management of websites and other online resources as Commonwealth records.

e-permanence Made Easy: A Manager's Guide to the Strategic Management of Records and Information

This is a pocket guide to the National Archives' suite of products and services. It provides information that will help APS managers to understand and access the tools and resources needed to manage their organisation's records and information assets in accordance with best practice standards and legal requirements.

Recordkeeping Standards

Australian Government Email Metadata Standard (AGEMS)

This standard describes the metadata that the Chief Information Officer Committee and the National Archives recommends should be used by Australian Government agencies when transmitting electronic mail (email) communications. Its aim is to help ensure that email messages are used, transmitted and managed in ways that recognise their central significance to the workings of government.

Functional Specifications for Electronic Records Management Systems Software & Guidelines for Implementing the Functional Specifications for Electronic Records Management Systems Software

This document provides a generic set of requirements to ensure adequate recordkeeping functionality in electronic records management systems software used to make and keep digital records. These requirements will help Australian Government agencies develop design specifications to build or purchase new systems, or upgrade existing systems.

The implementation guidelines complement the Functional Specifications for Electronic Records Management Systems Software. The guidelines will help Australian Government agencies use the specifications to design, purchase, build and evaluate systems software. The guidelines also describe how the specifications relates to similar documents produced in other jurisdictions.

Recordkeeping Metadata Standard for Commonwealth Agencies

This publication describes the type of information agencies should incorporate in their recordkeeping systems to establish physical and intellectual control over their records. Compliance with the standard will help agencies maintain reliable, meaningful and accessible records over time in a systematic and consistent way to meet business, accountability and archival requirements.

Training

Keep the Knowledge—Make a Record

This is a package to help trainers to teach Australian Government employees about their recordkeeping responsibilities.

Office of the Privacy Commissioner

For information on the use of personal information, agencies should consult the website of the Office of the Privacy Commissioner <<http://www.privacy.gov.au>>.

APPENDIX 2: CONTRIBUTIONS TO MAC REPORT 8

This report was developed by a project team located in the Australian Public Service Commission under the supervision of a Deputy Secretary Group reporting to the Management Advisory Group.

DEPUTY SECRETARY GROUP

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Ms Barbara Belcher	Department of the Prime Minister and Cabinet
Mr Jim Davidson	Department of Education, Science and Training
Mr Ross Gibbs	National Archives of Australia
Ms Fay Holthuyzen	Department of Communications, Information Technology and the Arts
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PROJECT TEAM

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The Management Advisory Committee recognises the support of the Department of Employment and Workplace Relations, the Australian Bureau of Statistics, and the National Archives in providing the project team to undertake the project.

Management Advisory Committee

The Management Advisory Committee (MAC) is a forum of Secretaries and agency heads established under the *Public Service Act 1999* to advise the Australian Government on matters relating to the management of the Australian Public Service (APS). In addressing its broad advisory function, MAC considers a number of management issues where analysis, discussion, and the identification of better practice approaches would inform and promote improvements in public administration.

MAC was established under s. 64 of the *Public Service Act 1999* and is chaired by the Secretary of the Department of the Prime Minister and Cabinet, with the Public Service Commissioner as executive officer. MAC is charged with advising the Government on matters relating to the management of the APS. While it has no statutory powers or executive functions, it provides a forum for Secretaries and heads of major agencies to discuss significant issues of topical and long-term interest to the APS.

MAC met for the first time in December 2000 and agreed on a work programme that focused on areas of strategic importance to the APS. Sub-committees of interested MAC members were established to set the terms of reference for each of these projects. The Australian Public Service Commission currently provides Secretariat support to the Committee and its subcommittee/s. The Secretariat can be contacted through the Evaluation Group of the Commission at <macsecretariat@apsc.gov.au>.



Australian Government