

MINISTERIAL BRIEFING NOTE

Subject: State Archivist’s update on the progress of recommendations resulting from the independent investigation into alleged unauthorised disposal of public records by a Minister

Decision/Action by: N/A

Reasons for Urgency: N/A

Briefing type: Requested briefing note for noting

Responsible Area: Queensland State Archives

Electorate: Statewide

Contact Officer: Mike Summerell, Executive Director & State Archivist – (07) 3037 6601

PURPOSE

To provide the Minister with an update on the progress of recommendations resulting from the independent investigation into alleged unauthorised disposal of public records by a Minister

RECOMMENDATION

It is recommended that the Minister:

1. Note the State Archivist’s recommendations following an independent investigation into allegations of unauthorised disposal of public records by Minister Mark Bailey.
2. Note the progress to date in implementing these recommendations.

| Noted | Approved | Not approved |
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| Yes | No |
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Media Release Required

Routine (Straight to MC) Non-routine (DG to endorse)

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| <p>DIVISIONAL HEAD ENDORSEMENT</p> <hr/> <p>Andrew Spina Assistant Director-General Digital Capability, Information and Transaction Based Services</p> <p>Date: / /</p> | <p>COMMENTS</p> |
| <p>DIRECTOR-GENERAL ENDORSEMENT</p> <hr/> <p>Liza Carroll Director-General Department of Housing and Public Works</p> <p>Date: / /</p> | <p>COMMENTS</p> |
| <p>MINISTERIAL APPROVAL</p> <hr/> <p>Mick de Brenni MP Minister for Housing and Public Works Minister for Digital Technology Minister for Sport</p> <p>Date: / /</p> | <p>COMMENTS</p> |

CONTEXT

- In March 2017, allegations were made that The Honourable Mark Bailey, Minister for Main Roads, Road Safety and Ports and Minister for Energy, Bio Fuels and Water Supply had disposed of public records without appropriate authorisation. Under the *Public Records Act 2002*, the State Archivist had a statutory obligation to independently investigate this matter. Subsequent to the commencement of the State Archivist's investigation commencing, the matter was referred to the Crime and Corruption Commission (CCC).
- The CCC were informed of the statutory obligation of the State Archivist to investigate the matter.
- The CCC requested that the State Archivist delay his independent investigation until its investigation into the matter had been completed. The CCC then requested the State Archivist to investigate the matter on its behalf.
- The CCC investigation included matters relevant to the statutory obligations of the State Archivist plus specific matters that the CCC wished to be investigated.
- In September 2017, the State Archivist presented the report of his investigation of the matter to the CCC.
- The State Archivist was then given approval to complete his independent investigation.
- The State Archivist's independent report was completed in October 2017 and a report was provided to the Director General of the former Department of Science, Information Technology and Innovation.
- The State Archivist made a number of common recommendations in both reports which related to the creation, maintenance and disposal of public records by Ministers. This Briefing Note provides an update on progress being made in relation to the implementation of these recommendations.

KEY ISSUES

- The investigation into allegations of unauthorised disposal of public records highlighted the potential for the widespread creation and receipt of public records in the private email accounts by Ministers and their staff.
- While the use of private email accounts is not a breach of the Act, without implementation of appropriate processes to manage public records created or received in private accounts, there is a risk that future breaches of the Act will occur.
- Following the completion of the CCC investigation the CCC reported that the use of private email accounts, and particularly the deletion of records in those accounts, could give rise to a significant perception that the use of such accounts is done for a corrupt purpose.
- The use of private email accounts for official purposes is also symptomatic of a much wider issue related to the standard of recordkeeping practices across government and a lack of awareness of responsibilities and requirements relating to the management of public records.
- A number of recommendations specific to the actions of Minister Bailey were made to the CCC, along with several key recommendations relating to improving the standard of government recordkeeping and the management of ministerial records. Recommendations related to recordkeeping practices made by the State Archivist were accepted by the CCC. These recommendations were repeated in the independent report provided to the former Director-General of DSIT.
- The common recommendations made relating to improving the standard of government recordkeeping and the management of ministerial records are as follows:
 - That the State Archivist undertakes an urgent review of the processes in place for all current Ministers and Ministerial staff in managing public records created or received within their private email accounts.
 - That the State Archivist contact former Ministers of the last two Governments to request that they review their private email accounts for public records that may be in their possession.
 - That the State Archivist urgently reviews the guidance provided by Queensland State Archives on the management of public records within email, private email and social media accounts.
 - That the Department of the Premier and Cabinet (DPC) urgently reviews the training and support it provides to Ministers and their staff in managing public records. DPC should work closely with the State Archivist in developing and delivering this training and support.

- That DPC urgently reviews the guidance it provides via the *Ministerial Handbook* and *Ministerial Information Security Policy* around the management of public records within the private email and social media accounts of Ministers and their staff. This needs to comply fully with Queensland State Archives guidance.
- That an urgent amendment be made to the *Public Records Act 2002* to include a requirement that all public authorities must comply with mandatory guidelines issued by the State Archivist.
- The urgent amendment of the *Public Records Act 2002* is to include a requirement that all public authorities must ensure public records created or received in private email and social media accounts are forwarded to official systems within 20 days of creation or transmission or the inclusion of this requirement as a mandatory guideline.
- That the State Archivist develop a priority set of mandatory guidelines for implementation.
- That the State Archivist develops a team to undertake monitoring of compliance with mandatory guidelines. (Additional resources and budget will be required for Queensland State Archives to undertake this recommendation).
- The State Archivist reviews all guidance and disposal schedules relevant to Ministers.
- That the State Archivist reviews recordkeeping systems and processes in key departments supporting Ministers.
- An alliance of integrity agencies is established including the State Archivist, Information Commissioner, Integrity Commissioner, Auditor-General, Ombudsman, Crime and Corruption Commissioner and Public Service Commissioner to raise awareness and promote the importance of recordkeeping for good governance and government accountability.
- Progress has been made in relation to a number of these recommendations including:
 - A review of guidance provided on the management of public records within email, private email and social media accounts
 - The publication of the *Ministerial Records Policy* for Ministers, Assistant Ministers and their staff
 - Ministers and Assistant Ministers were advised of their recordkeeping responsibilities in a letter from the State Archivist sent on 19 December 2017
 - The development of training on the management of ministerial records will be delivered at a time agreed with the Department of the Premier and Cabinet to Ministers, Assistant Ministers and their staff
 - Input into the *Ministerial Handbook* and the *Ministerial Information Security Policy* provided to the Department of the Premier and Cabinet
 - Initiation of priority amendments to the *Public Records Act 2002*
 - Review of the *Office of a Minister of the Crown and Parliamentary Secretaries Retention and Disposal Schedule*
 - Ongoing contact with integrity agencies such as the Information Commissioner and the Ombudsman.

ELECTION AND GOVERNMENT COMMITMENTS

- The issue is not the subject of an election or Government commitment.

FINANCIAL IMPLICATIONS

- The implementation of some recommendations will require extra resources and budget including the development of a monitoring framework for compliance with mandatory guidelines.
- Some resources were provided by the former Department of Science, Information Technology and Innovation while the investigation was underway and for the commencement of implementing the recommendations.

CONSULTATION

- Not applicable.

FUTURE STEPS

- Work will continue on implementing the recommendations from the State Archivist's investigation.

- Further ministerial briefing notes will be prepared relating to specific recommendations including priority amendments to the Act.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- Not applicable.

Released under RTI - DCHDE

Karen Newton

From: Office of the State Archivist
Sent: Monday, 29 January 2018 5:34 PM
To: Cathy Cross
Subject: FW: HPE CM: Re: DMView_1516864194810_00105-2018_64815_Ministerial briefing note on recommendations arising from investigation into alleged disposal of public records by Minister Bailey - mS edit

Hi Cathy

We attached Mike's approval email to you

Regards Heather

From: Mike Summerell
Sent: Friday, 26 January 2018 5:36 AM
To: Cathy Cross <Cathy.Cross@dsiti.qld.gov.au>
Cc: Office of the State Archivist <Officeofthe.StateArchivist@archives.qld.gov.au>
Subject: HPE CM: Re: DMView_1516864194810_00105-2018_64815_Ministerial briefing note on recommendations arising from investigation into alleged disposal of public records by Minister Bailey - mS edit

Hi Cathy

Yes it is fine

Guideline is correct...the inability to enforce is one of the issues
Mike

From: Cathy Cross
Sent: Thursday, 25 January 2018 5:16:34 PM
To: Mike Summerell
Cc: Office of the State Archivist
Subject: DMView_1516864194810_00105-2018_64815_Ministerial briefing note on recommendations arising from investigation into alleged disposal of public records by Minister Bailey - mS edit

Hi Mike

I've made some changes to the brief that was sent up today – mostly I've moved wording around and deleted some which was repeated but due to the changes I thought it prudent for you to review it again to make sure you are happy with it. I did google define guideline and the result made me wonder if guideline is the right word (although it may be your technical term) – the definition I found was: A **guideline** is a statement by which to determine a course of action. A **guideline** aims to streamline particular processes according to a set routine or sound practice. **By definition, following a guideline is never mandatory. Guidelines are not binding and are not enforced.**

Anyway some food for thought, and it's coming back to you in MECS for another review.(sorry)

Have a great weekend.

Cathy

Cathy Cross

Executive Officer
Office of the Assistant Director-General
Digital Capability, Information and Transaction Based Services
Department of Housing and Public Works

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Customers first | **Ideas into action** | **Unleash potential** | **Be courageous** | **Empower people** | **Healthy and safe workforce**

Released under RTI - DCHDE

Karen Newton

From: OADGDPS
Sent: Thursday, 1 February 2018 11:56 AM
To: 'Department of Housing and Public Works'
Subject: your item 298-18 MBN - State Archivist's update on progress of recommendations resulting from the independent investigation into alleged unauthorised disposal of public records by a Minister

Good morning

As discussed with Cynthia, could you please not progress 298-18 at this point in time, it has been decided that rather than sending in dot point form it will have a table inserted showing recommendations and status.

Many thanks

Cathy Cross

Executive Officer
Office of the Assistant Director-General
Digital Capability, Information and Transaction Based Services
Department of Housing and Public Works

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Customers first | Ideas into action | Unleash potential | Be courageous | Empower people | Healthy and safe workforce

MINISTERIAL BRIEFING NOTE

Subject: Recommendations resulting from the independent investigation by the State Archivist into alleged unauthorised disposal of public records by a Minister and progress to date.

Decision/Action by: N/A

Reasons for Urgency: N/A

Briefing type: Requested briefing note for noting

Responsible Area: Queensland State Archives

Electorate: Statewide

Contact Officer: Mike Summerell, Executive Director & State Archivist - (07) 3037 6601

PURPOSE

To provide the Minister with an update on the progress of recommendations resulting from an independent investigation by the State Archivist into the alleged unauthorised disposal of public records by a Minister.

RECOMMENDATION

It is recommended that the Minister:

1. Note the State Archivist's recommendations following an independent investigation into allegations of unauthorised disposal of public records by the Honourable Mark Bailey, Minister for Main Roads, Road Safety and Ports and Minister for Energy, Bio Fuels and Water Supply.
2. Note the progress to date in implementing these recommendations.

| Noted | Approved | Not approved |
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| Yes | No |
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Media Release Required

Routine (Straight to MO) **Non-routine** (DG to endorse)

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|---|------------------------|
| <p>DIVISIONAL HEAD ENDORSEMENT</p> <hr/> <p>Andrew Spina Assistant Director-General Digital Capability, Information and Transaction Based Services</p> <p>Date: / /</p> | <p>COMMENTS</p> |
| <p>DIRECTOR-GENERAL ENDORSEMENT</p> <hr/> <p>Liza Carroll Director-General Department of Housing and Public Works</p> <p>Date: / /</p> | <p>COMMENTS</p> |
| <p>MINISTERIAL APPROVAL</p> <hr/> <p>Mick de Brenni MP Minister for Housing and Public Works Minister for Digital Technology Minister for Sport</p> <p>Date: / /</p> | <p>COMMENTS</p> |

CONTEXT

- In March 2017, allegations were made that the Honourable Mark Bailey, Minister for Main Roads, Road Safety and Ports and Minister for Energy, Bio Fuels and Water Supply had disposed of public records without appropriate authorisation under the *Public Records Act 2002* (the Act). The matter was referred to the Crime and Corruption Commission (CCC). As the matter related to potential breaches of the Act, the CCC requested the State Archivist to investigate the allegations and in September 2017, the State Archivist presented his final report of the investigation to the CCC who accepted all of the recommendations made. The State Archivist also has a statutory obligation to independently investigate breaches of the Act and so completed an independent investigation into the matter and provided his report of the investigation to the Director-General of the former Department of Science, Information Technology and Innovation (DSITI) in October 2017.

KEY ISSUES

- A number of recommendations specific to the actions of Minister Bailey were made to the CCC, along with several recommendations relating to improving the standard of government recordkeeping and the management of ministerial records. Recommendations relating to recordkeeping were also included in the report to the Director-General of the former ~~Department of Science, Information Technology and Innovation~~ DSITI.
- The investigation highlighted the potential for the widespread creation and receipt of ministerial records in the private email accounts of Ministers, Assistant Ministers and their staff. ~~It also highlighted, and~~ wider issues relating ~~to~~ the standard of recordkeeping practices across government and a lack of awareness of responsibilities and requirements relating to the management of public records.
- Following the completion of the CCC investigation, the CCC reported that the use of private email accounts, and particularly the deletion of records in those accounts, could give rise to a significant public perception that the use of such accounts is done for a corrupt purpose.
- The recommendations from the independent investigation relating to improving the standard of government recordkeeping and the management of ministerial records along with progress to date are included in **Attachment 1**.
- Queensland State Archives (QSA) is working to improve the standard of government recordkeeping through the Recordkeeping Transformation Program which includes a number of key deliverables including a review of the Act, the development of new minimum recordkeeping standards, an improved records disposal authorisation framework, a digital maturity framework and a digital transition strategy.
- Briefing notes relating to the Recordkeeping Transformation Program, the review of the Act and priority amendments to the Act are being prepared by QSA.

ELECTION AND GOVERNMENT COMMITMENTS

- The issue is not the subject of an election or Government commitment.

FINANCIAL IMPLICATIONS

- ~~The implementation of some recommendations will require extra resources and budget including for the development of a monitoring framework for compliance with mandatory guidelines is not able to be undertaken within existing resourcing.~~
- ~~Resourcing implications for these recommendations and other improvements in record keeping standards are considered in a separate Ministerial Briefing Note relating to a proposed Record Keeping Transformation Program.~~
- ~~Funding for additional resources was provided to QSA by DSITI to enable QSA to undertake the investigation. Some resources were provided by the former Department of Science, Information Technology and Innovation DSITI while the investigation was underway and to assist with the implementation of some of the recommendations.~~

CONSULTATION

- Not applicable.

FUTURE STEPS

- Work will continue on implementing the recommendations from the State Archivist's independent investigation [within the capacity of available resourcing](#).
- Further ministerial briefing notes will be prepared relating to specific recommendations including [proposed priority](#) amendments to the Act.

COMMUNICATIONS/MEDIA OPPORTUNITIES

- Not applicable.

Released under RTI - DCHDE

MINISTERIAL BRIEFING NOTE

Subject: Proposed amendments to the *Public Records Act 2002* for mandatory compliance and penalties for breaching the Act
Decision/Action by: Click here to enter a date
Reasons for Urgency: N/A
Briefing type: Unrequested briefing note for approval
Responsible Area: Queensland State Archives
Electorate: Statewide
Contact Officer: Mike Summerell – (07) 3037 6601

PURPOSE

To seek approval from the Minister for proposed amendments to the *Public Records Act 2002* to introduce mandatory compliance with key recordkeeping standards and policies with penalties for non-compliance and penalties for not ensuring the protection and safe custody of records in line with recommendations resulting from an investigation into the alleged unauthorised disposal of public records by the Honourable Mark Bailey MP, former Minister for Main Roads, Road Safety and Ports and Minister for Energy, Bio Fuels and Water Supply.

RECOMMENDATION

It is recommended that the Minister:

1. Approve an amendment to the *Public Records Act 2002* to make compliance with key recordkeeping standards and policies mandatory and introduce penalties for non-compliance.
2. Approve an amendment to the *Public Records Act 2002* to introduce penalties for not ensuring the safe custody and preservation of public records.

| Noted | Approved | Not approved |
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| Yes | No |
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Media Release Required

Routine (Straight to MO) **Non-routine** (DG to endorse)

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| <p>DIVISIONAL HEAD ENDORSEMENT</p> <hr/> <p>Andrew Spina Assistant Director-General Digital Capability, Information and Transaction Based Services</p> <p>Date: / /</p> | <p>COMMENTS</p> |
| <p>DIRECTOR-GENERAL ENDORSEMENT</p> <hr/> <p>Liza Carroll Director-General Department of Housing and Public Works</p> <p>Date: / /</p> | <p>COMMENTS</p> |
| <p>MINISTERIAL APPROVAL</p> <hr/> <p>Mick de Brenni MP Minister for Housing and Public Works Minister for Digital Technology Minister for Sport</p> <p>Date: / /</p> | <p>COMMENTS</p> |

CONTEXT

- In March 2017, the Crime and Corruption Commission (CCC) tasked the State Archivist with investigating an allegation of unauthorised disposal of public records by the Honourable Mark Bailey MP, former Minister for Main Roads, Road Safety and Ports and Minister for Energy, Bio Fuels and Water Supply, when he deleted his private email account mangocube6@yahoo.co.uk.
- The State Archivist's investigation found that Minister Bailey was likely in breach of several sections of the *Public Records Act 2002* (the Act) including section 7 which requires public authorities, including Ministers, to make and keep, full and accurate records of its activities and have regard to policies, standards and guidelines issued by the State Archivist and section 8 which requires public authorities to ensure the safe custody and preservation of public records in their possession.
- The Act currently provides no penalties for a breach of either section which are, in the State Archivist's view, the most important statutory requirements placed upon public authorities by the Act. The absence of penalties is a significant weakness of the Act and a major factor in the poor standards of recordkeeping across government.

KEY ISSUES

- Following the completion of the investigation into Minister Bailey in September 2017, the State Archivist made several recommendations to the CCC including amendments to the Act for mandatory compliance with key recordkeeping standards and policies issued by the State Archivist and penalties for non-compliance.
- All the recommendations arising from the investigation were supported by the CCC including the introduction of mandatory compliance.
- The CCC investigation and the State Archivist's findings during the investigation highlighted a failure to meet recordkeeping responsibilities legislated by the Act by a Minister and his staff.
- The State Archivist noted that recordkeeping failures are likely to be commonplace across the whole of Government based on current standards of reported recordkeeping practices by public authorities.
- The CCC noted in media statements that even though technically breaches of the Act had been made by the Minister including the failure to manage public records appropriately, no provisions for actions arising or penalties for breaches are contained in the Act.
- To support these amendments a mechanism will be put in place for the Public Records Review Committee to approve mandatory standards and guidance to ensure appropriate limitations to the statutory powers of the State Archivist.
- By introducing limited mandatory compliance and penalties for breaches of key sections of the Act, public authorities will be encouraged to take their recordkeeping responsibilities more seriously and help ensure adequate resourcing is available to implement effective recordkeeping. It will also help to prevent corruption and promote accountability of public sector employees as evidenced by the recent corruption cases against a number of local governments where poor recordkeeping is often cited as an enabler of corruption.
- The proposed amendment will help reinforce the purpose of the Act which is to ensure that public records of Queensland are made, managed, kept and if appropriate, preserved in a usable form for the benefit of present and future generations.

ELECTION AND GOVERNMENT COMMITMENTS

- With the government's significant investment and commitment to the Digital Archive Program, effective recordkeeping is key to ensuring permanent value records are created and preserved for future generations and managed in the digital archive.

FINANCIAL IMPLICATIONS

- Not applicable.

CONSULTATION

- The CCC were provided with the recommendations as part of their investigation and provided full support for all of the recommendations.
- Consultation on the proposed amendment will take place as part of the Cabinet process.

FUTURE STEPS

- Queensland State Archives to work with the Department of Housing and Public Works Cabinet and Legislative Liaison Officer (the CLLO) to place the amendment to Section 7 of the *Public Records Act 2002* on the Cabinet forward timetable.
- Develop an Authority to Prepare as part of the Cabinet process for the amendments to the Act

COMMUNICATIONS/MEDIA OPPORTUNITIES

- Not applicable.

BACKGROUND

- There are approximately 500 public authorities covering agencies such as Ministers, Assistant Ministers, departments, universities, local governments, courts, Government Owned Corporations, statutory bodies and statutory authorities.
- The Minister was previously advised about this issue in MBN HPW 000682-2018 which provided information on the recommendations arising from the investigation and progress to date.
- The last biennial whole of government recordkeeping survey conducted by Queensland State Archives in 2014/15 found that 85% of public authorities are not compliant with minimum recordkeeping standards. The investigation confirmed these findings.
- Section 7 (1) of the Act requires public authorities to
 - Make and keep full and accurate records of its activities;
 - Have regard to any relevant policy, standards and guidelines made by the State Archivist about the making and keeping of public records
- The executive officer of a public authority must ensure compliance with section 7 (1) of the Act.
- Section 8 of the Act states that a public authority is responsible for ensuring the safe custody and preservation of records in its possession.
- The sections of the Act that have penalty points applied to them are:
 - Section 12 – A person must not damage a public record more than 30 years old, unless the person has a reasonable excuse – 100 penalty points
 - Section 13 – A person must not dispose of a public record unless the record is disposed of under an authority given by the archivist or other legal authority, justification or excuse – 165 penalty points
 - Section 44 – A person who ceases to be an authorised officer must return the person's identity card to the archivist as soon as practicable (but within 21 days) after the person ceases to be an authorised officer, unless the person has a reasonable excuse – 10 penalty points
 - Section 48 – a person must not obstruct an authorised officer in the exercise of a power unless the person has a reasonable excuse – 100 penalty points
 - Section 49 – a person must comply with a notice unless the person has a reasonable excuse – 40 penalty points.

Subject State Archivist's independent investigation of Minister Mark Bailey's private email account

Approval required by N/A

RECOMMENDATION

- It is recommended that the Minister:
 - Note** the independent actions to be carried out by the State Archivist regarding the deleted and restored email account of the Honourable Mark Bailey MP, Minister for Main Roads, Road Safety and Ports, and Minister for Biofuels and Water Supply.

BACKGROUND

- In February 2017 it became publicly known that Minister Mark Bailey, Minister for Main Roads, Road Safety and Ports, and Minister for Biofuels and Water Supply, held and utilised a private 'yahoo' email account under the account name mangocube6@yahoo.co.uk.
- It also became known that this private email account had been closed, and due to this deactivation, records sought under a Right to Information request could not be retrieved.
- The Premier directed her department to conduct a review of this matter on 28 February 2017 and simultaneously the matter was also referred to the Crime and Conduct Commission (CCC) for investigation.
- There may be emails and documents within this private email account that may be considered 'public records' under the *Public Records Act 2002*, if the emails pertain to Minister Bailey's role as a government Minister and the business of government.
- It is an offence under the Public Records Act to unlawfully dispose of public records.
- The State Archivist has an obligation under the Public Records Act to investigate any unlawful disposal of public records and report the investigation to the Minister for Science, Technology and Innovation as the Minister responsible for the Public Records Act.
- The CCC have acknowledged the State Archivist's statutory obligations to investigate this matter.
- The CCC have requested that the State Archivist support the Department of Premier and Cabinet (DPC) in their review of this matter and expressed a preference that the State Archivist's investigation commence once the CCC have had time to consider the DPC review findings.

KEY ISSUES

- It is the role of the State Archivist under the *Public Records Act 2002* to independently investigate any unlawful disposal of public records.
- The State Archivist is currently assisting DPC in their investigation.
- The State Archivist will formally commence his review following completion of the DPC review and CCC consideration of its findings.

ELECTION/CABINET/PUBLIC COMMITMENTS/LEGISLATION

- Unlawful disposal of public records is an offence under the *Public Records Act 2002*.

CONSULTATION

- The State Archivist has consulted with the CCC, Crown Law and DPC as part of a separate investigation into this matter for which an interim report is due to the CCC by 15 June 2017.
- The State Archivist has sourced independent legal advice from Clayton Utz partner, Jamie Doran, to obtain clarity on elements of law and the obligations of the State Archivist to investigate this matter.

Subject **State Archivist's independent investigation of Minister Mark Bailey's private email account**

COMMUNICATIONS/MEDIA OPPORTUNITIES

- QSA have been in consultation with the Media team and anticipate further media interest and consultation in this matter.

FUTURE STEPS

- The State Archivist will prepare a brief and report for the Minister with the independent findings and recommendations from this investigation.

Endorsed

Noted / Approved / Not Approved

Jamie Merrick (or Director on behalf of)
Director-General
/ /

Leeanne Enoch (or Chief of Staff on behalf of)
**Minister for Innovation, Science
and the Digital Economy and
Minister for Small Business**
/ /

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| <i>Minister or Director-General comments</i> |
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Media release required: Yes No

Electorates: Statewide

Released under RTI - Schedule 1

HOT ISSUES BRIEF

News article – “Still waiting for ministerial email guidelines seven months later”

At 23 February 2018, 10:00am

| SITUATION | | | | | |
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| Details | <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;">Tenancy manager (if appropriate)</th> <th style="width: 50%;">Involvement</th> </tr> </thead> <tbody> <tr> <td> <input type="checkbox"/> Department <input type="checkbox"/> Provider </td> <td> <input type="checkbox"/> Queensland Police Service <input type="checkbox"/> Queensland Fire and Rescue Service <input type="checkbox"/> Queensland Ambulance Service <input type="checkbox"/> Child Safety <input type="checkbox"/> Media → email to media@hpw.qld.gov.au <input type="checkbox"/> Other _____ </td> </tr> </tbody> </table> | Tenancy manager (if appropriate) | Involvement | <input type="checkbox"/> Department <input type="checkbox"/> Provider | <input type="checkbox"/> Queensland Police Service <input type="checkbox"/> Queensland Fire and Rescue Service <input type="checkbox"/> Queensland Ambulance Service <input type="checkbox"/> Child Safety <input type="checkbox"/> Media → email to media@hpw.qld.gov.au <input type="checkbox"/> Other _____ |
| Tenancy manager (if appropriate) | Involvement | | | | |
| <input type="checkbox"/> Department <input type="checkbox"/> Provider | <input type="checkbox"/> Queensland Police Service <input type="checkbox"/> Queensland Fire and Rescue Service <input type="checkbox"/> Queensland Ambulance Service <input type="checkbox"/> Child Safety <input type="checkbox"/> Media → email to media@hpw.qld.gov.au <input type="checkbox"/> Other _____ | | | | |
| <ul style="list-style-type: none"> An article was released in the Courier Mail on 23 February 2018 regarding the status of the Department of the Premier and Cabinet (DPC) guidelines on the use of personal email accounts. Following the investigation by the State Archivist into the alleged unlawful disposal of public records by the Honourable Mark Bailey, Minister for Main Roads, Road Safety and Ports and Minister for Energy, Bio Fuels and Water the State Archivist approved and published a new Ministerial Records Policy on 13 December 2017. The policy establishes requirements for the management of Ministerial records by Ministers, Assist Ministers and ministerial staff in accordance with the <i>Public Records Act 2002</i>. It includes guidance on emails | | | | | |
| ACTIONS | | | | | |
| Action taken | <ul style="list-style-type: none"> The State Archivist wrote to Ministers and Assistant Ministers on 21 December 2017 advising them about the release of the Ministerial Records Policy. The State Archivist wrote to Directors-General advising them about the Ministerial Records Policy on 24 January 2018. Following consultation with Ministerial Services (DPC) QSA provided training on the management of ministerial records which was delivered to ministerial staff on 30 January and 7 February 2018 by QSA. QSA has been working collaboratively with DPC from July 2017 about various topics related to the review of the Ministerial Handbook and the Ministerial Information Security Policy. On 4 December QSA provided final feedback to DPC on the Ministerial Handbook, ministerial recordkeeping procedures and information security policy. | | | | |
| Further action to be taken | <ul style="list-style-type: none"> Further training for Ministerial staff is scheduled for 27 and 28 February 2018. The State Archivist is currently reviewing and updating guidance for all public authorities on the management of public records within email, private email and social media accounts as part of a broader review. Review of the Office of a Minister of the Crown and Parliamentary Secretaries Retention and Disposal Schedule has commenced. This revision is focused on making the process far more practical for Ministers and their offices. | | | | |

| BACKGROUND INFORMATION |
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| <ul style="list-style-type: none"> It had been alleged that Minister Bailey may have disposed of public records when he deactivated his private email account. On 19 July 2017, the CCC found “there is sufficient evidence to raise a reasonable suspicion of corrupt conduct relating to the potential destruction of public records by the Minister as this may be an offence under the <i>Public Records Act 2002</i>”. The CCC referred the matter to the State Archivist for investigation with the CCC to monitor the way the matter was investigated. The State Archivist provided reports to CCC on 30 August 2017 and 5 September 2017. On 12 September 2017, the CCC formally assumed responsibility for the investigation in order to determine any criminality by Minister Bailey. |



- Following the investigation, the State Archivist also conducted his own independent investigation with recommendations provided to the Director General of DSITI.
- The *Public Records Act 2002* does not prevent the use of personal email accounts.
- If personal email accounts are being used for official business, Queensland State Archives (QSA) guidelines require that agencies have procedures in place to capture any public records into an official recordkeeping system.

| APPROVING OFFICER | |
|----------------------|---|
| Name: | Mike Summerell |
| Title/Unit/Division: | Executive Director and State Archivist, Queensland State Archives |
| Date: | 23 February 2018 |
| ENDORISING OFFICER: | |
| Name: | Andrew Spina |
| Title/Unit/Division: | Assistant Director-General, DCITBS |
| Date: | 23 February 2018 |

Instructions:

Once form is completed and approved by the appropriate Assistant Director-General or the Deputy Director-General, email it directly to:

- DLO@hpw.qld.gov.au
- dgadministration@hpw.qld.gov.au
- hpwmedia@hpw.qld.gov.au

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