

INQUIRY INTO THE MANAGEMENT AND INTEGRITY OF ELECTRONIC INFORMATION IN THE COMMONWEALTH

SUBMISSION BY THE NATIONAL ARCHIVES OF AUSTRALIA TO THE JOINT COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT

Role of the National Archives

In the interests of accountable government and for the benefit of the community the National Archives of Australia promotes reliable recordkeeping and maintains a visible, accessible and known collection. To this end the Archives enables and promotes best practice in the management of government records from the point of creation for as long as required to support the needs of government and the people.

The National Archives derives its mandate and powers from the *Archives Act*, 1983. Section 5 of this Act states *inter alia* that the functions of the Archives are:

- (a) to ensure the conservation and preservation of the existing and future archival resources of the Commonwealth;
- (b) to encourage and foster the preservation of all other archival resources relating to Australia;
- (c) to promote, by providing advice and other assistance to Commonwealth institutions, the keeping of current Commonwealth records in an efficient and economical manner that will facilitate their use as part of the archival resources of the Commonwealth;
- (d) to ascertain the material that constitutes the archival resources of the Commonwealth;

In this submission the National Archives seeks to do three things:

- provide the Joint Committee on Public Accounts and Audit with an overview of three recent assessments of recordkeeping in the Commonwealth as these might assist the Committee to determine the risks to the management and integrity of electronic information in the Commonwealth;
- outline the guidance on recordkeeping provided by the National Archives, and the legislative framework within which the National Archives works (the Committee's fourth term of reference); and
- encourage the development of a strategic framework for information management in the Commonwealth.

The Management and Integrity of the Commonwealth's electronic information – the findings of three recent assessments of recordkeeping in the Commonwealth

In May 2002 the ANAO released its first Assurance and Control Audit report on recordkeeping in four Commonwealth agencies (Audit Report no. 45, 2002). This report found that agencies are in a state of transition and that, consequently, none fully satisfied the audit criteria. The report makes six broad recommendations for agencies, covering areas such as: the design of recordkeeping systems; recordkeeping policies in agencies; records creation and control; records disposal and preservation; staff training; and monitoring and review arrangements.

In October 2002 the APSC released its *State of the Service Report* for 2001-2002. This report investigated recordkeeping as one of a number of issues affecting public accountability and good governance. The report is based on the results of a questionnaire that surveyed more than 90 Commonwealth organisations about their initiatives and experiences across a range of recordkeeping issues, with particular emphasis on those identified by the ANAO. This report concluded that, while there is a growing level of awareness of the benefits of complying with best practice standards for recordkeeping, most agencies – especially many smaller agencies – have a lot of work to do to achieve adequate compliance.

The findings of the State of the Service survey have been supplemented by the National Archives own recent survey of the state of recordkeeping in the Commonwealth Government, which was conducted by Orima Pty Ltd. The survey consisted of two questionnaires, one for records creators and one for agencies that was distributed via senior nominated contact officers. 69 agencies participated in the records creators' survey, with 50 staff being randomly selected from each. 170 agencies were sent the agency survey, with responses being received from 100. The surveys provide the National Archives with some invaluable data on agency attitudes and circumstances with regard to current recordkeeping. The agency survey revealed that the role of records management staff in the management of government agencies records was usually limited to paper formats and they had a very reduced role in the management of electronic information and records. This suggests that the bulk of electronic information generated and received by government agencies was being created, managed and possibly disposed of without the benefit of the knowledge and expertise of trained records management staff. This data has confirmed the Archives concerns that information and records to support business and accountability requirements need to be managed strategically with responsibility being assigned at the most senior levels of an organisation.

Guidance on recordkeeping provided by the National Archives

The National Archives is committed to promoting full and accurate recordkeeping by Commonwealth agencies. By promoting best practice record keeping standards and guidelines, the Archives is helping agencies design recordkeeping systems which protect the privacy, confidentiality and integrity of Commonwealth records. Records such as those cited in the Terms of Reference (tax, social security, family and health records) may well contain personally sensitive information. The Australian community needs to be confident that these records, while in the custody of the agency that collected or created them or with the Archives if they are assessed as being of enduring value, will be secure and retain their integrity. The Archives is well placed to provide appropriate advice to agencies and the *Archives Act* ensures that Commonwealth records in the Archives care are managed securely and effectively.

The Archives has endorsed the Australian Standard for Records Management, AS ISO 15489-2002, and before that its predecessor AS 4390-1996, and promotes the adoption of this Standard in the Commonwealth through the *e-permanence* suite of best practice recordkeeping standards, manuals and guidelines (<http://www.naa.gov.au/recordkeeping/>). The *e-permanence* website was released in March 2000.

Of particular relevance to this Inquiry of the Joint Committee of Public Accounts and Audit are the characteristics of a record that are promoted in AS ISO 15489 Part 1 Clause 7.2. According to the Standard, organisations should implement policies, procedures and practices that ensure that they make and keep records that have the characteristics of:

- Authenticity;
- Reliability;
- Integrity; and
- Useability

Much of the effort of the National Archives in promoting its *e-permanence* standards and strategies to agencies is directed towards helping agencies to design and implement recordkeeping systems that ensure the making and keeping of records with these characteristics. While this regime of best practice standards and guidelines is meant to apply to all records, regardless of whether those records are made and kept in paper or in electronic form, the growth of electronic recordkeeping has been a particular concern of the Archives and is the subject of a number of specific standards and guidelines issued by the Archives in recent years.

It is the view of the National Archives, therefore, that the successful implementation of the ***e-permanence*** regime of standards and guidelines within the Commonwealth is an essential prerequisite for the proper management and maintenance of the integrity of electronic information in the Commonwealth.

Key components of the *e-permanence* suite of recordkeeping standards and guidelines

The Archives' ***e-permanence*** website provides a detailed and comprehensive suite of advice and guidance on modern best practice recordkeeping consistent with the requirements of the:

- *Archives Act*;
- *Privacy Act*;¹
- *Electronic Transactions Act*;²
- *Evidence Act*;
- *Freedom of Information Act*;
- *Public Service Act*;
- *Financial Management and Accountability Act*;
- *Protective Security Manual*;
- AS ISO 15489 – The Australian Standard for Records Management; and
- E-Government Strategy.

A summary of the *e-permanence* suite of products can be found in the booklet *e-permanence Made Easy: A Manager's Guide to the Strategic Management of Records and Information* (available at <http://www.naa.gov.au/recordkeeping/overview/summary.html#eperm>).

The foundation of the ***e-permanence*** suite of products is the DIRKS Manual, *DIRKS: A Strategic approach to Managing Business Information* (available at

¹ In relation to Commonwealth records, the *Privacy Act* covers those records that are less than 30 years of age. Privacy matters relating to Commonwealth records that are older than 30 years are administered under Section 33 of the *Archives Act*.

² The *Electronic Transactions Act* 1999 has altered the way in which retention requirements relating to the form of certain records can be met. This does not, however, remove the obligation on agencies to obtain the permission of the National Archives for the disposal of records under the *Archives Act*. Sub-section 12 (2) of the *Electronic Transactions Act* provides that an electronic version of a document can satisfy a requirement under a Commonwealth law to retain, for a particular period, a document that is in the form of paper, an article or other material. This is subject to a number of integrity, accessibility and useability requirements being met. According to the Australian Government Solicitor, the *Electronic Transactions Act* does not operate as an authorisation for an agency to destroy a document in the form of paper, an article or other material if it holds an electronic form of that document. The general prohibition on the disposal of all Commonwealth records under sub-section 24(1) of the *Archives Act* still applies, and destruction or other disposal may only take place in accordance with sub-section 24(2) - Advice provided to the Archives by the Australian Government Solicitor on the subject *Relationship between Archives Act 1983 and the Electronic Transactions Act 1999*, 5 August 2002.

<http://www.naa.gov.au/recordkeeping/overview/summary.html#eperm>). This manual outlines a detailed eight-step methodology for the design and implementation of recordkeeping systems consistent with Clause 8.4 of AS ISO 15489.

The DIRKS Manual also incorporates procedures for identifying the need for and appropriate retention periods for Commonwealth records. Section 24 of the *Archives Act* provides that, in most cases, Commonwealth records cannot be disposed of or destroyed without authorisation by the National Archives. Such authorisation is given by way of records disposal authorities issued by the National Archives under the terms of its legislation.

Another critical standard available on the *e-permanence* website is the *Recordkeeping Metadata Standard for Commonwealth Agencies* (available at <http://www.naa.gov.au/recordkeeping/control/rkms/summary.htm>). This standard outlines the metadata that recordkeeping systems should capture and retain in order to ensure the authenticity, reliability, integrity and useability of records. It includes, for example, metadata elements for controlling, documenting and managing access to and use of records.

In April 2000 the Government Online Strategy led by the National Office for the Information Economy mandated some e-permanence standards, policies and guidelines as essential enablers of the Strategy. These included:

- The AGLS Metadata Standard for online resource description and discovery – AS 5044-2002 (http://www.naa.gov.au/recordkeeping/gov_online/agls/summary.html);
- *Archiving Web Resources: Policy and Guidelines for Keeping Records of Web-Based Activity in the Commonwealth* (http://www.naa.gov.au/recordkeeping/gov_online/agls/summary.html)

In November 2002, the *e-permanence* group of standards were endorsed in the Government's E-Government Strategy 'Better Services, Better Government', which updates and replaces the Government Online Strategy.

In relation to the recordkeeping implications of the use of authentication and encryption processes and technologies the Archives has drafted and will publish in early 2003 a new addition to its *e-permanence* website. This new publication, which has been developed in cooperation with the National Office for the Information Economy and other interested agencies, will be titled *Recordkeeping Implications of Online Authentication and Encryption Processes: Guidelines for managing records created or received within a secured electronic environment*.

In relation to the secure storage of Commonwealth records, the Archives has issued a *Standard for the Physical Storage of Commonwealth Records* (<http://www.naa.gov.au/recordkeeping/storage/standard.html>) and will soon issue an accompanying set of implementation guidelines for this standard. The storage standard *inter alia* promotes the storage of Commonwealth records consistent with the requirements of the *Protective Security Manual*.

Finally, in relation to the long-term preservation and secure storage of digital Commonwealth records that are of archival value, the Archives has announced its AtoR (Archives to Researcher) digital preservation project. More information on this project can be found at <http://www.naa.gov.au/recordkeeping/er/summary.html#ator>

Legislative framework within which the National Archives works

A raft of Commonwealth legislation operates to provide access to Commonwealth records while protecting sensitive information. The *Archives Act 1983* provides for public access to Commonwealth records over 30 years old regardless of their format while protecting sensitive personal information, and indeed other categories of sensitive information. The Act balances the public interest in the workings of government with the need to protect sensitive information.

The *Freedom of Information Act 1982* permits access to Commonwealth records less than 30 years old in certain circumstances while protecting sensitive information. It also gives the public the right to request the correction of personal information about themselves in government records if it is incorrect, incomplete, out of date or misleading.

The *Privacy Act 1988* imposes strict controls on the way government and non-government agencies may handle personal information and provides avenues of redress where personal information is collected, stored, disclosed or used in an inappropriate manner.

Together, this legislation promotes accountability, protects privacy and confidentiality and allows the Australian community access to our documentary heritage.

With the exception of disposal authorisation powers given to the National Archives under Section 24 of the *Archives Act*, the National Archives has no power to require Commonwealth agencies to comply with the best practice recordkeeping standards, policies and guidelines that have been issued as a part of the **e-permanence** campaign. While the mandating of some of our

standards and guidelines under the Government Online Strategy has helped, compliance with these requirements has been uneven, with monitoring based only on agency self-assessment and reporting.

This contrasts with a number of other jurisdictions in Australia that have recently passed archives and records legislation which require agencies to comply with recordkeeping standards and guidelines issued by the archival authority. Examples here include South Australia, New South Wales, Queensland, Western Australia and the Australian Capital Territory. In part, these legislative developments in other jurisdictions reflect the need for legislative change to ensure that governments manage efficiently, accountably and reliably the new realities and imperatives of digital information creation, transmission and storage.

In 1998 the need for change to the *Archives Act* was recognised by the Australian Law Reform Commission, which described the State of recordkeeping in the Commonwealth as ‘parlous’ and which recommended that the legislation should confer on the Archives the power to promulgate standards and issue guidelines *inter alia* in relation to the creation, management and accessibility of records.³ The National Archives is endeavouring to secure Government approval for some amendments to the *Archives Act* which would state that Chief Executives of agencies are responsible for the compliance of their organisation with recordkeeping standards and guidelines promulgated by the National Archives.⁴

Notwithstanding the legal position, the Archives has vigorously promoted the adoption of the *e-permanence* standards and guidelines as being in the best interests of government and the wider community from the point of view of cost-efficiency, accountability, public confidence and good governance. These efforts have been supported recently by both the Australian National Audit Office (ANAO) and the Australian Public Service Commission (APSC).

The need for a strategic framework

The understanding and adoption of best practice policies and standards for recordkeeping in the Commonwealth is hampered by the absence of a broader strategic framework for information management. In 1997 the Information Management Steering Committee on Information Management in the Commonwealth Government submitted its report *Management of*

³ Australian Law Reform Commission, *Australia’s Federal Record: A Review of the Archives Act, 1983*, Report no. 85, 1998, see in particular recommendations 3 and 4.

⁴ At present a similar requirement exists in the Australian Public Service Commissioner’s Directions pursuant to Section 11 of the *Public Service Act 1999*. The Indicator for Direction 2.6 states ‘The agency is able to demonstrate that due process has been followed in its actions and decisions, including through the existence and maintenance of good record keeping systems’.

Government Information as a National Strategic Resource. This report outlined a vision for information management in the Commonwealth supported by a model information management framework, a set of information management principles a set of recommendations relating to policy, planning, collaboration, standards, legislation, guidance and information management reform.

In the view of the National Archives it is a pity that the recommendations of this Committee have not, for the most part, been pursued. The Commonwealth Government has suffered for too many years from the absence of a broad strategic policy framework for the management of its very substantial body of information. Other jurisdictions, such as Queensland, New South Wales, Canada and the United Kingdom, have promulgated whole of government information management policy and strategy frameworks, yet no such initiative has been forthcoming within the Commonwealth. The National Archives notes with interest the recent report of the Management Advisory Committee, *Australian Government Use of Information and Communications Technology: A New Governance and Investment Framework*, and hopes that one of the products of the newly established Secretary-level Information Management Strategy Committee will be a Whole of Government strategy and policy framework for the management of the both the electronic and paper-based information resources of the Commonwealth.

Conclusion

The National Archives encourages the Joint Committee to emphasise the need for Commonwealth agencies to implement best practice recordkeeping as an essential prerequisite for the proper management and maintenance of the electronic information in the Commonwealth and to endorse the **e-permanence** suite of standards, policies and guidelines as best practice.

Modernising the recordkeeping provisions of the *Archives Act 1983* to provide for the challenges of the electronic environment will remain a priority of the National Archives. The Archives believes the best way of achieving this is to strengthen the powers of the Archives to mandate agency compliance with its standards, policies and guidelines for recordkeeping and to require Chief Executives of agencies to be responsible for the implementation of these standards and guidelines in their organisation.

The National Archives would welcome consideration by the Joint Committee of the need for the development and implementation of a whole of government strategy and policy framework for the management of the both the electronic and paper-based information resources of the Commonwealth.