

**Chief Secretary's  
Code of Practice on Records Management  
Pursuant to Section 52  
of the Freedom of Information Law, 2007.**

**30<sup>th</sup> January, 2008**

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## Foreword

- i. This Code of Practice (hereafter referred to as “the Code”) provides guidance to all public authorities as to the creation, management and disposal of records, as required under the *Freedom of Information Law, 2007* (FOI Law).
- ii. The Code fulfils the duty of the Chief Secretary under section 52 of the FOI Law.
- iii. Any freedom of information legislation is only as good as the quality of the records to which it provides access. The right of access to information is of little use if reliable records are not created in the first place, if they cannot be found when needed, or if the arrangements for their eventual disposal (whether by transfer to the archival holdings of the Cayman Islands National Archive, or destruction) are inadequate.

The objects of the FOI Law (section 4) to “reinforce and give further effect to ...

- (a) governmental accountability;
- (b) transparency;
- (c) public participation in national decision-making”,

depend for their practical application on high quality records management. All public authorities are, therefore, strongly encouraged to pay heed to the guidance in this Code.

- iv. While a supplement to the provisions in the FOI Law, the Code mirrors those records management requirements of the *National Archive and Public Records Law, 2007* (NAPRL, 2007) that are particularly relevant to the implementation and functioning of the FOI Law.
- v. Public authorities should note that if they are failing to comply with the Code, they may be failing to comply with other legislation, including but not limited to:
  - *The National Archive and Public Records Law, 2007*,
  - *The Public Service Management Law, 2007 Revision*
  - *The Public Management and Finance Law, 2005 Revision*that define record keeping duties. Such agencies may consequently be in breach of their statutory obligations.
- vi. It is strongly recommended that staff with responsibility for records management or Freedom of Information familiarise themselves with the requirements and terminology contained in these Laws. For further information, including standards, guidance and a glossary of records management terms – visit the Intranet site: <http://cina.gov.ky/recordsmanagement.htm> or contact the National Archive: telephone: 949 9809 or email: [CINA@gov.ky](mailto:CINA@gov.ky)

# CODE OF PRACTICE

## On the practices relating to the creation, management and disposal of records of public authorities.

The Chief Secretary, after consultation with interested parties and upon the recommendation of the Director of the Cayman Islands National Archive, issues the following Code of Practice pursuant to section 52 of the *Freedom of Information Law, 2007*.

### Introduction

1. The aims of the Code are to set out practices in relation to the creation, management and disposal of public records. These practices must be followed by public authorities subject to the FOI Law, including:
  - (a) ministries, portfolios, departments
  - (b) statutory bodies or authorities (whether incorporated or not)
  - (c) government companies (either wholly owned by Government, or in which Government holds more than 50% of the shares, or specified by Order)
  - (d) any other body or organisation specified by Order under section 3(2).
2. The Code refers to public records in any technical or physical format, held by a public authority in connection with its functions as such, whether or not created by that public authority prior to or subsequent to commencement of the Freedom of Information Law.
3. For the purposes of the Code, the public authority that is responsible for a public record is –
  - (a) the public authority by whom it was created or received; or
  - (b) if that public authority has ceased to exist, the public authority (if any) that has succeeded to the functions of that former public authority; or
  - (c) if that public authority has ceased to exist and no other public authority has succeeded to the functions of that former public authority -
    - (i) the public authority (if any) nominated by the Chief Secretary; or
    - (ii) the Portfolio or Ministry originally responsible for the defunct public authority, or
    - (iii) in default of such nomination, the National Archive.
4. This Code refers to disposal of public records, as either disposal by transfer to the National Archive, transfer to another organisation – public or private, or by destruction, in accordance with an authorised disposal schedule, pursuant to the National Archive and Public Records Law.

## **Records Management**

### **5. Functional responsibility**

- 5.1 It is the responsibility of the most senior officer in every public authority to ensure that public records of that authority are –
- (a) maintained in good order and condition; and
  - (b) created, managed and disposed of in accordance with the provisions in the Code.
- 5.2 The records management function should be recognised as a specific corporate function within a public authority and should receive the necessary levels of organisational support to ensure effectiveness. It should unite responsibilities for records in all formats, including electronic records, from planning and creation to ultimate disposal. It should have clearly defined responsibilities and objectives, and the resources to achieve them.
- 5.3 The person, or persons, responsible for records management in a public authority should have direct responsibility for Freedom of Information activities – or a clearly defined working relationship with the Information Manager or person(s) appointed under section 49 of the FOI Law. It is recommended that these working relationships are properly documented, especially where the Information Manager and records management staff are assigned to different units or sections within a public authority.

### **6. Policy**

- 6.1 Every public authority should have in place an overall information management policy statement, endorsed by the most senior officer in the authority and made readily available to staff at all levels of the organisation, expressing its commitment to efficient and effective records management, including electronic records management.
- 6.2 The information management policy should provide a mandate for the performance of all records and information management functions. In particular, it should set out an authority's commitment to create, manage and dispose of full and accurate records which document all its business and affairs in accordance with this Code. The policy should also outline the roles of records management and its relationship to the authority's overall strategy; define roles and responsibilities including the responsibility of individuals to document their actions and decisions in the authority's records; provide a framework for supporting standards, procedures and guidelines; and indicate the way in which compliance with

the policy and its supporting standards, procedures and guidelines will be monitored.

- 6.3 The information management policy should be reviewed at regular intervals (at least once every three years) and, if appropriate, amended to maintain its relevance.
- 6.4 A model information management policy is available from the National Archive.

## 7. **Human Resources**

- 7.1 A designated member of staff of appropriate seniority should have lead responsibility for records management within the authority. This lead role should be formally acknowledged and made known throughout the authority.
- 7.2 The person, or persons, responsible for records management in a public authority should have direct responsibility for Freedom of Information activities – or a clearly defined working relationship with the Information Manager or person(s) appointed under section 49 of the FOI Law.
- 7.3 Staff responsible for records management should have the appropriate skills and knowledge needed to achieve the aims of the records management programme. Responsibility for all aspects of records management should be specifically defined and incorporated in the relevant job descriptions.
- 7.4 Human resource policies and practices in public authorities should address the need to recruit and retain good quality staff and should accordingly support the records management function in the following ways:
- the provision of appropriate resources to enable the records management function to be maintained across all its activities;
  - the establishment of a competency framework to identify the knowledge, skills and corporate competencies required in records and information management;
  - support for records management training attendance organised by the National Archive and the Civil Service College;
  - the establishment of a continuing professional development (CPD) programme for staff with records management duties;
  - the inclusion in induction training for all new staff of an awareness of records issues and practices.

## 8. **Processes**

### Creation of Records

- 8.1 Under section 6 of the National Archive and Public Records Law, a public authority must create full and accurate records of its business and affairs, in order to allow employees and their successors to undertake appropriate actions in the context of their responsibilities, to:
- facilitate an audit or examination of the business by anyone so authorised;
  - protect the legal and other rights of the authority, its clients and any other person affected by its actions; and
  - provide authenticity of the records so that the evidence derived from them is shown to be credible and authoritative.
- 8.2 Records created or received by a public authority should be arranged in a record keeping system that will enable the authority to obtain the maximum benefit from the quick and easy retrieval of information. The record keeping system should meet the records management standards established by the National Archivist under section 7 of the National Archive and Public Records Law, 2007.

### Management of Records

- 8.3 Installing and maintaining an effective records management programme depends on knowledge of what records are held, in what form they are made accessible, and their relationship to the organisation's business functions and activities.
- 8.4 The public authority should meet this requirement by establishing and maintaining a file plan for all its operational records (records which reflect the authority's core business), including electronic records, in accordance with standards established by the National Archivist. The file plan will help promote control over records, and will provide valuable data for records appraisal and disposal.
- 8.5 The file plan should be entered into a records control tool which meets the standards established by the National Archivist, such as the Records Management System or Enterprise Content Management System.
- 8.6 The public authority should apply the administrative file plans developed by the National Archive for administrative records.
- 8.7 Records, including electronic records, should contain metadata (descriptive and technical documentation) to enable the record keeping system and the records to be understood and to be operated efficiently, and

to provide an administrative context for effective management of the records.

- 8.8 The record keeping system, whether paper, electronic or any other medium, should include a set of rules for referencing, titling, classifying and, if appropriate, security marking of records. These should be easily understood and should enable efficient retrieval of information while maintaining appropriate access controls.
- 8.9 In the short term, in order to meet the urgent demands of implementation of FOI, the public authority should, as a minimum requirement, conduct a records survey and produce a rationalised listing of all its operational and administrative records, in accordance with standards established by the National Archivist.
- 8.10 Training, assistance and advice on file plans and records surveys is available from the National Archive.
- 8.11 The movement and location of a record should be controlled to ensure that it can be easily retrieved when needed, that any outstanding issues can be dealt with in an efficient manner, and that there is an auditable trail of record transactions.
- 8.12 Storage accommodation for records, whether in the office, off-site, online or on electronic media should protect the records from damage, deterioration and hazards, and prevent unauthorised access, while at the same time ensuring maximum accessibility commensurate with the records frequency of use.
- 8.13 All necessary steps must be taken to ensure that control of records is retained, whether stored in the office, in off-site storage accommodation, in the Government Records Centre, online or on electronic media. Records should be arranged in such a manner as to facilitate efficient and timely access to them for any purpose necessary to the public authority, including fulfilling any requirements under the Freedom of Information Law.
- 8.14 Procedures for handling records should take full account of the need to preserve important information. Where a person's unintentional or wilful neglect of official duty results in damage to or destruction of a public record, that neglect shall be grounds for discipline or dismissal of that person, in accordance with section 11 of the National Archive and Public Records Law.
- 8.15 When records are no longer required for the conduct of current business, they should be placed in the Government Records Centre, or in other off-site storage accommodation, which meets the standards established by the

National Archive. Before transfer of the records to the Government Records Centre, all records should:

- be part of an up-to-date, functions-based file plan;
- have a defined and approved time of disposal;
- be entered into RMS in order to allow the National Archive to manage Records Centre locations, retrieval and disposal in an efficient manner.

- 8.16 The public authority retains responsibility for providing access to records that are stored in off-site accommodation or in the Government Records Centre. The National Archive is responsible for providing access to public records that have been transferred to the national archival collection under an authorised disposal schedule (refer to the following section). Where a public authority receives a request for a public record that has been transferred to another authority or to the national archival collection, the request may be transferred in accordance with section 8 of the FOI Law.
- 8.17 An up-to-date Departmental Disaster Control Plan (DDCP) should be in place to provide protection for records which are vital to the continued functioning of the authority in case of a disaster. The DDCP should identify the authority's vital records and measures to protect them.

#### Disposal of Records

- 8.18 It is particularly important under FOI that the disposal of records, whether by transfer to the National Archive, other organisations, or approved and secure destruction, is undertaken in a transparent, accountable and formally authorised manner by properly authorised staff.
- 8.19 The public authority should meet this requirement by establishing and maintaining a disposal schedule for all its operational records (records which reflect the core business of the authority), including electronic records, in accordance with standards established by the National Archivist.
- 8.20 The public authority must advise the National Archivist of any legal restriction or exemption on disclosure which applies to the contents of public records that are transferred to the national archival collection.
- 8.21 The disposal schedule should be developed in cooperation with the National Archive, and should be submitted to the Records Advisory Committee for review. The National Archivist shall authorise disposal of public records, including appraisal for archival preservation or destruction.
- 8.22 The public authority should apply the administrative disposal schedules developed by the National Archive to dispose of administrative records.

The administrative disposal schedules have been authorised by the proper authorities and do not need further approval before destruction may take place. The authority should carefully document any records destruction, in accordance with standards established by the National Archivist.

- 8.23 The seriousness with which unauthorised alteration of information or destruction of records is viewed is reflected in the FOI and National Archive and Public Records Law. Under section 55 of the former Law it is an offence to alter, deface, block, erase, destroy or conceal a record to which a right of access is conferred under the Law. Under section 11 of the latter Law, it is an offence intentionally to damage, alter, dispose of, or remove from official custody a public record.
- 8.24 If a record due for destruction is known to be the subject of an audit or investigation, or required in court, destruction should be delayed until it is no longer subject to the audit, investigation or court case. If a record due for destruction is known to be the subject of a request for information, destruction should be delayed until the appeal provisions of the Freedom of Information Law have been exhausted.
- 8.25 Training, assistance and advice on records disposal is available from the National Archive.

#### Management of Electronic Records

- 8.26 The principal requirements for the management of electronic records are the same as those for the management of any record. They include:
- the creation of a full and accurate record, in order to allow employees and their successors to undertake appropriate actions in the context of their responsibilities;
  - their arrangement in a record keeping system and a file plan;
  - the need for metadata to enable the record keeping system and the records to be understood and to be operated efficiently, and to provide an administrative context for effective management of the records;
  - the need for a long-term preservation plan, to ensure accessibility for as long as required;
  - the secure maintenance of the authenticity, reliability and integrity of the record, and the need for audit trails to ensure the security of the information;
  - the application of authorised disposal rules in accordance with a disposal schedule;
  - the ability to cross-reference electronic records to their paper counterparts in a mixed-media environment.

## Compliance

9. It is the responsibility of the Office of the Information Commissioner, under section 39 of the FOI Law, to publicise the requirements of the Law and to monitor the compliance by public authorities with their obligations under the Law, which includes the requirements and obligations established in this Code.
10. Every public authority shall maintain its records in accordance with this Code, as required under section 52 of the FOI Law.
11. The Information Commissioner has powers to investigate compliance, under section 45 of the FOI Law.
12. If a public authority is found to have failed to comply with an obligation under the FOI Law, the Information Commissioner may:
  - (a) order the publishing of certain information
  - (b) recommend changes to the public authority's practices for creating, managing or disposing of records in accordance with the National Archive and Public Records Law
  - (c) recommend the provision of training for staff of the public authority
  - (d) refer the matter to the appropriate disciplinary authority.