

**立法會**  
***Legislative Council***

LC Paper No. CB(2)661/17-18(06)

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**Panel on Constitutional Affairs**

**Background brief prepared by Legislative Council Secretariat  
for the meeting on 15 January 2018**

**Management of government records**

**Purpose**

This paper gives a brief account of the past discussion of the Panel on Constitutional Affairs ("the Panel") on the management of government records.

**Background**

Government Records Service

2. According to the Administration, the Government Records Service ("GRS") is specifically tasked to oversee the overall management of government records and ensure that government records are properly managed and those with archival value are preserved for public access. The records management of the Government is implemented through a comprehensive administrative framework underpinned by a set of mandatory records management requirements. It imposes binding obligations on government servants to comply with those requirements which cover the whole life cycle of records management from creation, storage, disposal to preservation. In particular, bureaux and departments ("B/Ds") are required to establish retention and disposal schedules for all government records, transfer records having archival value to GRS for permanent retention, and dispose of records with no archival value with the prior agreement of the GRS Director. Disciplinary action will be taken against government servants in the event of non-compliance with the mandatory records management requirements and/or dereliction of records management duties.

3. Furthermore, members of the public are allowed access to public records kept by GRS which have been in existence for not less than 30 years according to the Public Records (Access) Rules 1996. Application for access to closed records (e.g. records in existence for less than 30 years) will also be considered by the GRS Director under these Rules.

### Study of the Law Reforms Commission on archives law

4. The Law Reforms Commission ("LRC") set up the Archives Law Subcommittee ("the LRC Subcommittee") in 2013 to study the relevant laws of other jurisdictions with a view to considering whether improvement measures should be implemented in Hong Kong. The study is still underway.

### Report released by The Ombudsman in March 2014

5. The Ombudsman released its Direct Investigation Report on Public Records Management in Hong Kong ("the Report") in March 2014. The Report identified inadequacies in Hong Kong's public records management regime and made recommendations for improvements.<sup>1</sup> The recommendations in the Report and the Administration's follow-up actions to implement those recommendations are set out in **Appendix I(a)** and **I(b)** respectively.

### **Discussions held by the Panel**

6. The Panel discussed, among others, the management of public records with deputations and the Administration at its meeting on 17 May 2010. The Panel further received a briefing on the relevant policy initiatives of the Chief Secretary for Administration's Office at the policy briefing cum meeting on 16 October 2017. The major views and concerns expressed by members are summarized below.

### Compliance by bureaux and departments in records management

7. Some members expressed concern on whether GRS had the power to ensure proper management of public records by B/Ds. They also sought the Administration's view on the setting up of an independent monitoring mechanism over the administration of public records and the compliance with the Code on Access to Information ("the AI Code") as suggested by some deputations.<sup>2</sup>

8. The Administration advised that GRS had adequate authority and autonomy to perform its functions effectively. With the introduction of mandatory record management requirements in April 2009, each B/D was

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<sup>1</sup> The Report is available at [http://ofomb.ombudsman.hk/abc/files/OmbudsNews\\_E-20\\_3\\_2014.pdf](http://ofomb.ombudsman.hk/abc/files/OmbudsNews_E-20_3_2014.pdf).

<sup>2</sup> The subject of AI Code was also discussed at the Panel meeting on 17 May 2010. Please refer to the background brief on "Access to information: follow-up actions to the recommendations of The Ombudsman's direct investigation report" [LC Paper CB(2)435/14-15(06)] for relevant discussion of the Panel on the subject.

required to regularly transfer archival records to GRS. Further, each B/D was required to designate a directorate officer to review its records management programme regularly and report to GRS. These provided GRS with the authority and opportunity to review records management of B/Ds both on a regular and an ad hoc basis. Any government employee failing to comply with the mandatory records management requirements would be liable to disciplinary action.

9. The Administration further advised that as the current records management system was functioning effectively, it did not consider it necessary to establish another body to monitor the administration of public records.

#### Staffing and professional expertise of the Government Records Service

10. At the meeting on 17 May 2010, some members expressed concern on whether GRS was manned by professional staff who had the expertise to ensure proper creation, preservation and management of public records. They enquired about the staff establishment of GRS, the qualifications required of the staff members of the management team, as well as their respective ranks and duties.

11. The Administration advised that GRS had a total of 85 staff on its establishment, including staff from the executive, curator and archivist grades at officer level. The executive grade staff members were responsible mainly for the administration of GRS and implementing policies for the management of public records; the curator in GRS was responsible for preserving government records and providing a secure and controlled environment for the protection of archival materials for permanent preservation, while the archivists were responsible mainly for overseeing the daily operation of the Public Records Office (which was the designated government archive of the Hong Kong Special Administrative Region), identifying and acquiring government records having archival value.

12. The Administration further advised that it attached great importance to enhancing the professionalism of GRS. GRS would continue to arrange local and international training courses, conferences/seminars and attachment to overseas institutions for its staff so as to ensure they possessed the expertise in records management.

#### Need for enactment of an archives law

13. Some members considered that the Administration should enact an archives law and a freedom of information law to ensure proper management of

records and their availability for public access. They expressed concern that Hong Kong was lagging behind other Asian places in legislation in these areas. They considered that the introduction of such legislation was necessary so that information and decisions of public offices would be properly documented and preserved for public access.

14. The Administration advised that the AI Code and the records management system together ensured accountability, transparency and public access to Government information. The Administration pledged that it would also continue to keep the present records management system under review and refine it as appropriate. Moreover, the Administration noted that LRC had set up the relevant subcommittee to embark on a comprehensive study of the relevant laws in overseas jurisdictions with a view to making recommendations.

15. At the policy briefing cum meeting on 16 October 2017, the Administration informed the Panel that pending the report to be received from LRC regarding its study on archives law and as an on-going effort, the Government would continue to enhance the records management work as and when appropriate. In this connection, the Administration had implemented the following major initiatives:

- (a) review B/Ds' records retention and disposal schedules;
- (b) promote electronic records management in B/Ds;
- (c) set up a digital archive for the long-term preservation of electronic records;
- (d) review the three-year records management training plan and develop a new online training platform; and
- (e) develop a new Integrated Information Access System for archival records.

Members may refer to paragraph 8(a)-(e) of the paper provided by the Administration for the aforementioned policy briefing cum meeting [LC Paper No. CB(2)28/17-18(02)] for details of the above major initiatives.

16. At the same policy briefing cum meeting, some members enquired about the timetable of the LRC Subcommittee for its study on the subject of archives law. The Administration advised that the LRC Subcommittee planned to conduct a public consultation exercise in 2018. According to the LRC Secretariat, the LRC Subcommittee aimed to publish a consultation document in

early 2018 for a three-month public consultation exercise. The views received would be consolidated and submitted to LRC for consideration, and a report would be published afterwards. The Administration further advised that, if LRC recommended in its report the enactment of an archives law in Hong Kong, the Administration would duly follow up.

### **Relevant Legislative Council question raised in the current legislative term**

17. At the Council meeting of 23 November 2016, Hon Charles Peter MOK raised an oral question on the management of public records. The question and the Administration's reply are in **Appendix II**.

### **Recent development**

18. The Administration will brief the Panel on its work on the management of government records at the next meeting on 15 January 2018.

### **Relevant papers**

19. A list of the relevant papers available on the Legislative Council website is in **Appendix III**.

**EXECUTIVE SUMMARY**

**Direct Investigation  
Public Records Management in Hong Kong**

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**Our Recommendations**

26. While legislation may not be the panacea to all problems, it at least provides a framework for setting legally binding rules for regulating public records management to ensure strict compliance by government and other agencies and protection of public records for public access and heritage preservation. It also gives the people assurance of the government's commitment to accountability, transparency and openness. A purely administrative regime for public records management, which basically relies on self-discipline of the parties concerned, can at best be a second-rate substitute.

27. The Ombudsman, therefore, urges the Administration to seriously consider introducing a law on public records and archives covering not only B/Ds but also public organisations, particularly those providing essential services to the public.

28. Pending legislation, Government should also, *inter alia*:

- (1) make more efforts to urge public organisations to follow its requirements and standards on records management;
- (2) set up an independent body to advise GRS on records management policies, practices and actions;

- (3) review the staffing of GRS, so as to enable it to handle its heavy workload with efficiency and professionalism and to clear its backlogs expeditiously;
- (4) review its arrangement for B/Ds' deferral of transfer of records to GRS, to ensure that approvals for deferral are well justified;
- (5) conduct regular auditing of the records management practices of each B/D to gauge the magnitude of the problem of loss and unauthorised destruction of records;
- (6) regularly disseminate information about the disposal of records of B/Ds so as to facilitate public understanding and enable public scrutiny of the B/Ds' disposal (in particular, destruction) of records;
- (7) review its system of closure of records including the closure period and the need for considering the security grading of records;
- (8) map out as soon as possible a clear and comprehensive implementation plan of ERKS with timelines for all parties concerned; and
- (9) conduct studies to gauge the electronic records management situations in B/Ds, with a view to identifying problems in the different practices among B/Ds and plugging existing loopholes.

**Office of The Ombudsman**  
**March 2014**

**Legislative Council Panel on Constitutional Affairs**

**The Chief Executive's 2017 Policy Address  
Policy Initiative of Chief Secretary for Administration's Office  
in relation to Archives Law**

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Continuous enhancement of records management work in the Government

7. GRS has all along been taking proactive actions to enhance records management in the Government. In response to The Ombudsman's Direct Investigation Report on Public Records Management in Hong Kong issued in March 2014, the Government has taken a series of actions to further improve the various aspects of the existing records management regime pursuant to the recommendations set out in that Report. Apart from those relating to the enactment of archives law, all other recommendations have been or are being implemented on an on-going basis. The actions taken by GRS to implement the recommendations are highlighted as follows -

(a) Providing specific guidelines on various records management aspects

Specific guidelines were issued to assist B/Ds in carrying out the various records management work. Examples include:

- (i) a new guideline was issued in March 2015 to facilitate B/Ds to carry out regular reviews of their records retention and disposal schedules<sup>1</sup>;
- (ii) a new guideline was issued in July 2015 to advise B/Ds on the proper and safety procedures in the course of bulk

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<sup>1</sup> A records retention and disposal schedule is a systematic listing or description of an organisation's records which indicates the arrangements to be made for their custody, retention and final disposition. Records disposal schedules of B/Ds should be drawn up with the concurrence of the GRS Director.



- relocation of records; and
- (iii) a new guideline was issued in March 2016 to prescribe the principles and best practices for managing both non-electronic records and electronic records in a hybrid environment.

(b) Reviewing B/Ds' records management practices

In the interests of continuous improvement and compliance monitoring, a two-pronged approach has been adopted since October 2012 to review B/Ds' records management practices. It comprises the service-wide self-assessment reviews coordinated by GRS on a regular basis and the in-depth reviews for individual B/Ds conducted by GRS. One may wish to note that the self-assessment approach is also adopted by overseas jurisdictions such as Australia and the UK. The findings and recommendations on improvement measures of these records management reviews will be conveyed to B/Ds. GRS will provide advice and assistance to help them implement the recommendations and closely monitor their implementation progress. Two service-wide self-assessment reviews and ten in-depth departmental reviews have been conducted.

(c) Enhancing transparency of records management work

GRS published its first annual report in 2015 to provide vital statistics on the major functions and activities as well as highlights of newly released records. GRS has made it a standing practice since then. In 2016, GRS launched a central platform on its website for B/Ds to publish their records destruction information on an annual basis. Recently, GRS has uploaded more government records management manuals, guidelines and circulars onto its website for public access. These efforts enhance transparency and public understanding of the various aspects of the Government's

records management work.

(d) Tightening the arrangement for B/Ds' deferral of transfer of records to GRS

Since March 2014, any deferral of transfer of time-expired records has to be approved by a directorate officer in the B/D concerned at the level of deputy secretary / deputy head of department and GRS would be consulted in advance. B/Ds have to provide well-justified and specific reasons with details to support their deferral requests. As at the end of August 2017, 95 deferral requests were received, among which only 11 had been approved as they were found well justified.

(e) Reviewing the system for public access to archival records

GRS has institutionalised the appeal channel on access to archival records by enabling the public to appeal to the Director of Administration against GRS' decision, and to lodge a complaint with The Ombudsman if they are concerned about any maladministration in the handling of their application. Since the launch of the appeal channel in August 2015, no appeals or complaints have been received. Besides, having reviewed the criteria for approving/refusing access to archival records, we have, as per the recommendation of The Ombudsman, also removed the security grading of records as a factor to be considered when vetting applications for inspecting closed records.

(f) Enhancing GRS' manpower and professional development programme

To cope with the increasing workload and complexity of issues arising from new initiatives on archives and records management, GRS' manpower has been increased by 26 posts (31%) since 2012. We also appreciate the importance of

enhancing the professional knowledge of GRS' staff on a continual basis. As such, we have developed a structured training and development programme to equip GRS' staff to face the challenges of paradigm shift, particularly in the wake of the extensive use of electronic means to conduct business resulting in substantial growth in electronic records. The training programme is a combination of online courses / webinars on archives and records management as well as digital preservation provided by recognised professional bodies. Moreover, GRS has arranged its staff to attend duty visits and professional conferences overseas so as to widen their exposure to international best practices.

(g) Reaching out to public organisations

GRS published a booklet entitled "Good Records Management Practices" in 2011 with a view to sharing the Government's records management practices with public organisations and encouraging their donation of records with archival value to GRS. Since 2013, GRS has also been holding annual records management seminars for public organisations. Four seminars have been held thus far and have attracted around 1,000 participants from 57 public organisations. Besides, GRS has been providing records management briefings and advice to individual public organisations upon request.

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Administration Wing  
Chief Secretary for Administration's Office  
October 2017

## Appendix II

### Press Releases

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LCQ4: Management of public records  
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Following is a question by the Hon Charles Peter Mok and a reply by the Chief Secretary for Administration, Mrs Carrie Lam, in the Legislative Council today (November 23):

Question:

It is learnt that at present, quite a number of advanced countries have enacted archives laws to set out the requirements in respect of matters such as the preservation and management of and access to important public records on social policies and policies relating to people's livelihood, so as to ensure the integrity of public records and safeguard people's right to know. On the other hand, the Hong Kong Government has all along been using merely administrative directives and guidelines with no legal effect to regulate the management of public records. Regarding the management of public records, will the Government inform this Council:

1. given that the Law Reform Commission formed subcommittees in May 2013 to conduct studies on archives law and access to information respectively, of the latest progress and outcome of the studies conducted by these two subcommittees;
2. given that the Government Records Service collaborated with the Office of the Government Chief Information Officer last year to conduct a study to gauge the implementation of electronic records management by various policy bureaux and government departments ("B/Ds"), of the latest progress and timetable of such study; and
3. of the B/Ds that are using the Electronic Recordkeeping System ("ERKS") on a trial basis at present or have formally adopted ERKS; whether the authorities have assessed and reviewed the use of ERKS; if they have assessed, of the relevant criteria; when the authorities will expand ERKS to cover all B/Ds, and of the estimated expenditure concerned?

Reply:

President,

The Government fully recognises the importance of records management and is committed to identifying and preserving government records having archival value. The Government has put in place administrative arrangements to comprehensively regulate the management of government records. The Government Records Service (GRS) is tasked to oversee the overall management of government records and ensure that government records are properly managed and those with archival value are preserved for public access. Although Hong Kong has not implemented an archives law at present, the essential principles of records management adopted internationally have been implemented in Hong Kong through administrative arrangements.

These principles include promulgation of recordkeeping standards; designation of obligations and responsibilities of government agencies relating to creating, keeping, maintaining and protecting government records; destruction of records to be subject to prior authorisation of archival authority; setting out responsibility for safe custody and conservation of archival materials; and provision for public access to public records. In the past few years, GRS has also implemented a number of new measures and strengthened its manpower support, with a view to further improving the present records management system within the Government. These measures include enhancing the arrangements in respect of records creation, disposal, transfer and public access, provision of more training courses, enhancement of the monitoring mechanism to oversee the records management practices of bureaux and departments and provision of relevant advice, and release of more information relating to the records management in the Government so as to enhance transparency. We believe that formulating and implementing an effective framework of administrative arrangements is essential to the refinement of the records management in the Government. When developing our present records management system, we have made reference to those of different countries and regions such as the United Kingdom, the United States and Australia, etc., as well as adopted internationally recognised standards and practices. We have also sent our staff for overseas visits and exchange so as to keep abreast of the latest information and trend on records and archives management abroad. As an on-going effort, the Government keeps the current administrative arrangements under review and will improve on them as and when appropriate.

My reply to the question raised by Hon Charles Peter Mok is as follows:

(1) The Law Reform Commission (LRC) set up two Sub-Committees in 2013 under the chairmanship of The Hon Andrew Liao, SC, and Mr Russell Coleman, SC, respectively, to study the subjects of archives law and access to information. The two Sub-Committees are studying the existing systems and the laws of other jurisdictions, and will conduct public consultation at a later stage, with a view to making appropriate recommendations on possible options for reform if need be. The Government will examine carefully the recommendations to be made by the LRC, before mapping out the way forward.

(2) With the support of the Office of the Government Chief Information Officer (OGCIO), GRS issued questionnaires to all Government bureaux and departments (B/Ds) in February 2015 to gauge their electronic records management situations. GRS also subsequently conducted random checks and carried out on-site inspections to the B/Ds concerned to verify the information gathered from the questionnaires. The study was completed in September 2015. The results showed that B/Ds had no major problems in electronic records management. B/Ds had strictly followed the Government's mandatory "print-and-file" requirement for handling electronic mails. "Print-and-file" means that if a B/D has not yet implemented an electronic recordkeeping system (ERKS), after it has sent or received an electronic mail record, it should print the electronic mail record and file it in a paper-based recordkeeping system. As regards the deployment of shared drive facilities, B/Ds used them to store non-records or copies of electronic records only in order to facilitate internal sharing of knowledge and information rather than to replace the official recordkeeping system.

The study results also revealed that three B/Ds had to take some improvement measures of which one department needed to ensure those electronic records stored in the shared drive facilities would be filed in the department's recordkeeping system as soon as possible, while another two departments needed to regularly circulate the guidelines on "print-and file" in order to remind their staff to understand the mandatory requirement. The B/Ds concerned have taken immediate improvement measures after receiving GRS' advice.

(3) The Efficiency Unit (EU), GRS, Communications and Creative Industries Branch of the Commerce and Economic Development Bureau, Rating and Valuation Department and Drainage Services Department are the early adopters of ERKS. The Electronic Information Management Steering Group (EIMSG) of the Government conducted an initial assessment and review on the ERKS implementation in the above-mentioned five departments in 2014. The review criteria included the implementation experience, as well as costs incurred and benefits, such as savings in manpower, paper, rental for file storage space, etc. The results showed that all the five departments had successfully implemented their ERKS, effectively minimising the problem of duplicate filing in different units of the department and gradually reducing paper consumption and file storage space. EIMSG later decided to recruit B/Ds with more complex recordkeeping requirements for the second phase of implementation so that a comprehensive review could be conducted before a full-scale implementation of ERKS across the Government.

The second phase of implementation started from late 2015 with the participation of six B/Ds and a budget of over \$100 million. Among them, the Intellectual Property Department and OGCIO have successfully launched their ERKS. For the remaining four departments, namely the Administration Wing, Civil Engineering and Development Department, Architectural Services Department and Marine Department, the ERKS will be implemented by phases starting from the end of 2016. Upon initial completion of the second phase implementation of the system in 2017-18, EU together with OGCIO and GRS will conduct an assessment and review of the use of the system in the six departments, with a view to formulating a long-term strategy and estimated expenditure for further extension of ERKS to other bureaux and departments.

Thank you, President.

Ends/Wednesday, November 23, 2016  
Issued at HKT 14:15

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## Appendix III

### Relevant papers on management of government records

Committee	Date of meeting	Paper
Legislative Council	3 December 2008	<a href="#">Official Record of Proceedings Pages 72 - 75 (Written question raised by Hon Cyd HO)</a>
House Committee	2 January 2009	<a href="#">Administration's supplementary reply to a Member's written question concerning Government records with historical value raised at the Council meeting on 3 December 2008</a>
Panel on Constitutional Affairs	17 May 2010 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">LC Paper No. CB(2)159/10-11(01)</a>
Legislative Council	26 January 2011	<a href="#">Official Record of Proceedings Pages 111 – 113 (Written question raised by Hon Emily LAU)</a>
	13 July 2011	<a href="#">Official Record of Proceedings Pages 177 – 181 (Written question raised by Hon Miriam LAU)</a>
	19 October 2011	<a href="#">Official Record of Proceedings Pages 121 – 125 (Written question raised by Hon Emily LAU)</a>
	16 November 2011	<a href="#">Official Record of Proceedings Pages 204 – 276 (Motion moved by Dr Hon Margaret NG)</a>
	15 February 2012	<a href="#">Public Accounts Committee Report No. 57 (Chapter 2 of Part 7 on "Records management work of the Government Records Service")</a>

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
	23 January 2013	<a href="#">Official Record of Proceedings Pages 85 – 90 (Written question raised by Hon Cyd HO)</a>
	16 April 2014	<a href="#">Official Record of Proceedings Pages 11 – 16 (Written question raised by Hon Emily LAU)</a>
	23 November 2016	<a href="#">Official Record of Proceedings Pages 40 – 50 (Oral question raised by Hon Charles Peter MOK)</a>
Panel on Constitutional Affairs	16.10.2017 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>

Council Business Division 2  
Legislative Council Secretariat  
11 January 2018