

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**

Purpose

This paper briefs Members on the policy initiative of the Chief Secretary for Administration's Office in relation to archives law.

New Initiative

Hold a positive attitude towards the enactment of an archives law. The Government will follow up on this after receiving from the Law Reform Commission the report that it will compile following extensive consultation. At the present stage, the Government will continue to enhance the records management work.

2. Accountability and transparency are of vital importance to good governance. The Government fully recognises the importance of the integrity of government records and is committed to identifying and preserving government records having archival value. 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.

3. Currently, 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/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. Besides, 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 (“the Rules”). 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 the Rules.

4. The existing administrative records management regime has captured the essential elements of archives law in other jurisdictions and it largely follows international standards and best practices. These include a comprehensive range of administrative measures governing the creation and collection, classification, scheduling and disposal of records, records transfer and public access to archival records. Subject to the consultation outcome of the Law Reform Commission (“LRC”), the Government holds a positive attitude towards the enactment of an archives law in Hong Kong.

The study of the Law Reform Commission on archives law

5. LRC set up a Sub-committee in 2013 under the chairmanship of Mr Andrew Liao, SC to study the subject of archives law. As we understand it, the Sub-committee is studying the existing systems and relevant laws of other jurisdictions and will conduct public consultation at a later stage, with a view to making appropriate recommendations on the possible options for reform if need be. Since its establishment, the Sub-committee has been meeting basically on a monthly basis and so far, over 40 meetings have been held. We understand that the Sub-committee, apart from reviewing the situation in Hong Kong, has also made comparisons among, and conducted studies on, a number of other jurisdictions, and the studies have covered a wide range of legal and administrative issues. Given the complexity of the issues involved as well as the local and comparative research and analysis required, it is difficult for the Sub-committee to commit to an expected completion date for the

project. According to the current progress, it is expected that the public consultation will be conducted as soon as possible in 2018.

6. Related B/Ds, viz. the Constitutional and Mainland Affairs Bureau, Administration Wing and GRS have been actively participating in the LRC study, especially on the comparative analysis of relevant laws in various jurisdictions. The Government will follow up on this after receiving the report from LRC.

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 schedules¹;
- (ii) a new guideline was issued in July 2015 to advise B/Ds on the proper and safety procedures in the course of bulk

¹ 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.

8. Pending the report to be received from LRC regarding its study on archives law and as an on-going effort, the Government will continue to enhance the records management work as and when appropriate. The major initiatives are highlighted below -

(a) Review B/Ds' records retention and disposal schedules

All along, GRS has been adopting a prudent approach whereby B/Ds' records having potential archival value will be appraised by the archivists for a second time before disposal.

It ensures that only those records confirmed as having no archival value will be destroyed. However, this approach, which was primarily developed for paper-based records system, has been widely agreed by overseas archival institutions as insufficient for electronic records with the characteristics of rapid obsolescence. As a best practice, it is considered that appraisal for electronic records be conducted through a macro and functional approach as early as the records are created so as to better plan for their future preservation. To keep pace with international best practice and to cope with the substantial growth in electronic records, GRS is embarking on a full-scale review of B/Ds' disposal schedules. The results will facilitate the early and timely transfer of records with archival values, particularly those in electronic form, from B/Ds to GRS for proper preservation.

(b) Promote electronic records management in B/Ds

GRS has been promoting electronic records management ("ERM") and encouraging B/Ds to implement electronic recordkeeping systems ("ERKS") to enhance their management of electronic records. To date, 11 B/Ds² have implemented or are implementing ERKS. In the coming year, GRS will, in collaboration with the Office of the Government Chief Information Officer and Efficiency Unit, embark on a review of six B/Ds' newly implemented ERKS. The results will enable informed decisions to be made on the long-term strategy for the full extension of ERKS across the Government. Separately, with the advancement in information technology and changes in international best practice, GRS will continue to review the ERM standards and guidelines in order to ensure that they are up to date for B/Ds' compliance.

² They are Efficiency Unit, GRS, Communications and Creative Industries Branch of the Commerce and Economic Development Bureau, Rating and Valuation Department, Drainage Services Department, Intellectual Property Department, Office of the Government Chief Information Officer, Administration Wing, Civil Engineering and Development Department, Architectural Services Department and Marine Department.

(c) Set up a digital archive for the long-term preservation of electronic records

With the extensive and increasing use of electronic means to conduct business, most records created and collected in the course of business nowadays are in electronic form. To prepare for the transfer of time-expired electronic records from B/Ds to GRS for appraisal and retention in the near future, it is imperative to set up a digital archive in GRS for the long-term preservation of electronic records to ensure their authenticity, integrity, reliability and usability over time. In view of the magnitude and complexity of the technical issues involved, GRS will keep abreast of the advancement in information technology and development of international best practice on the preservation of electronic records with a view to working out the implementation plan.

(d) Review the three-year records management training plan and develop a new online training platform

Arising from the increasing complexity of records management work, in particular the extensive use of various electronic means to conduct business, GRS is reviewing the three-year training plan for the period from 2018 to 2020. The review aims to formulate the strategy for providing effective and adequate training opportunities for government officers so as to equip them to meet new challenges and requirements in the digital era. Separately, GRS will continue to develop a new online training platform for government officers to get ready access to a broad range of records management information and tips anywhere and anytime. Tentatively, the online platform will be launched in early 2018.

(e) Develop a new Integrated Information Access System for archival records

GRS keeps more than 1.4 million of archival records transferred from over 100 B/Ds, offices, public organisations, private institutions and individuals. GRS manages these records through the Integrated Information Access System (“IIAS”) developed in 2004. IIAS also provides an interface for members of the public to search for the archival holdings online. Owing to obsolescence of its hardware and software, IIAS cannot support many archives management processes and its search functions have also lagged behind public expectation. With a view to streamlining the archives management workflow for greater efficiency and providing enhanced online functions to the public, GRS is developing a new system to replace the existing IIAS. Tentatively, the new system will be launched in the fourth quarter of 2018.

Advice Sought

9. Members are invited to note the content of this paper.

Administration Wing
Chief Secretary for Administration’s Office
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