



NATIONAL ARCHIVES OF AUSTRALIA

Our reference: 2017/3876

Notice of Disposal freeze:

Commonwealth records, including data and information, related to the banking, superannuation and financial services industry

To: All Commonwealth departments and agencies, all Commonwealth authorities, Commonwealth companies, other Commonwealth institutions and any other entity that holds Commonwealth records, particularly, but not limited to:

Attorney-General's Department
Australian Communications and Media Authority
Australian Competition and Consumer Commission
Australian Competition Tribunal
Australian Criminal Intelligence Commission
Australian Defence Force Financial Services Consumer Centre
Australian Federal Police
Australian Financial Security Authority
Australian Government Financial Literacy Board
Australian National Audit Office
Australian Prudential Regulation Authority
Australian Securities and Investments Commission
Australian Small Business and Family Enterprise Ombudsman
Australian Taxation Office
Australian Transaction Reports and Analysis Centre
Commonwealth Superannuation Corporation
Council of Financial Regulators
Department of Defence
Department of Finance
Department of Human Services
Department of Industry, Innovation and Science
Department of the Treasury
Export Finance and Insurance Corporation
Financial Adviser Standards and Ethics Authority Ltd
Office of the Auditing and Assurance Standards Board
Office of the Australian Accounting Standards Board
Office of the Commonwealth Director of Prosecutions
Office of the Commonwealth Ombudsman
Reserve Bank of Australia
Superannuation Complaints Tribunal
Tax Practitioners Board



This document notifies Australian Government agencies and other agents or people in possession of Commonwealth records including data and information (**records**) that I have imposed a disposal freeze on Commonwealth records that relate to alleged misconduct in the banking, superannuation and financial services industry. The National Archives of Australia has determined that a disposal freeze is necessary to ensure that relevant records are protected and available for the purposes of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry and any subsequent actions by the Australian Government, for future reference and accountability purposes and to protect the rights and entitlements of individuals.

Background

The Prime Minister and the Treasurer announced a Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry on 30 November 2017, with draft terms of reference.

The Governor-General, His Excellency General the Honourable Sir Peter Cosgrove AK MC (Ret'd), issued [Letters Patent and Terms of Reference establishing the Royal Commission](#) on 14 December 2017. The Honourable Kenneth Madison Hayne AC QC has been appointed as the Royal Commissioner to inquire into and report on misconduct in the banking, superannuation and financial services industry, in accordance with the terms of the inquiry set out in the Governor-General's Letters Patent. The Royal Commissioner is asked to provide a report of their findings and recommendations not later than 1 February 2019.

Purpose

This document notifies relevant Australian Government agencies and other agents or people in possession of Commonwealth records that any relevant Commonwealth records must be retained for the purposes of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, and for any subsequent actions by the Australian Government. Your agency may be responsible for some potentially relevant records.

It is likely that some records have been authorised for destruction under general and agency-specific records authorities issued by the National Archives or using a normal administrative practice (NAP). The purpose of this notice is to prevent any such destruction and to ensure that all relevant existing and future records are available for current and future actions.

[Document management protocols](#) issued by the Royal Commission require that records provided to the Royal Commission are supplied digitally. Paper records required by the Royal Commission are to be scanned in accordance with the minimum standard set by the Royal Commission, which is consistent with the Archives' [Scanning Specifications](#). Accordingly, General Records Authority 31 (GRA 31) - Destruction of source or original records after digitisation, conversion or migration, is specifically excluded from this disposal freeze.

This disposal freeze suspends the National Archives of Australia's permission to destroy any relevant records. Relevant records and any associated drafts and working papers cannot be destroyed using any agency-specific or general records authorities (with the exception of destructions authorised by GRA 31) or through a normal administrative practice (NAP).

It is a legal requirement that you apply this notice by protecting any relevant records, and conveying this to the appropriate people in your organisation as a matter of urgency. Penalties for the unauthorised destruction Commonwealth records are specified in various Commonwealth laws, including the *Archives Act 1983* and the *Royal Commissions Act 1902*.

Records

This disposal freeze covers records relevant to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry's terms of reference, including:

- The effectiveness of mechanisms for redress for consumers of financial services who suffer detriment as a result of misconduct by financial services entities, including the management of complaints made to regulators of financial services entities.
- The adequacy of:
 - existing laws and policies of the Commonwealth (taking into account law reforms announced by the Commonwealth Government) relating to the provision of banking, superannuation and financial services; and
 - forms of industry self-regulation, including industry codes of conduct to identify, regulate and address misconduct in the relevant industry, to meet community standards and expectations and to provide appropriate redress to consumers;
- the effectiveness and ability of regulators of financial services entities to identify and address misconduct by those entities, including complaints received or forwarded to any other entity.

This disposal freeze covers relevant records in all formats, including paper files and documents, microfilm and magnetic tapes, audio and visual recordings, photographs and records created digitally, including but not limited to:

emails, documents created by word processing and other office applications, residing in designated document and records management systems, on shared work group spaces, on shared, local or personal drives or in any other locations/media, such as thumb drives, laptops and other portable devices.

The freeze also covers information in all relevant current and non-current databases and digital business systems such as those used for management of finance and human resources, client relationship or business-specific workflow and case management systems. It also applies to information which has not been captured into formal business systems including emails, SMSs and other communications from personal devices, social media posts, personal notebooks and unregistered files or folders.

All relevant information in digital formats, including information in databases and other digital business systems, must be maintained with all the necessary metadata so as to support retrieval and access to authentic and reliable information.

Authority

This action is taken pursuant to paragraphs 24(2)(b) and 24(2)(c) of the *Archives Act 1983*.

Duration

This notice will take effect immediately **and will be in force until further notice by the National Archives**.

Action required

Agencies and other agents or people in possession of relevant Commonwealth records should:

1. Ensure that all workers are informed of the disposal freeze.
2. Conduct a risk assessment to:
 - a. determine if employees, contractors or information service providers have any records due for destruction that come within the scope of the disposal freeze; and
 - b. identify and retain relevant existing and future records subject to this notice.
3. Any records already proposed for destruction that may come within the scope of the disposal freeze must be checked to ensure they are not covered by the disposal freeze
4. Retain existing and future records subject to the disposal freeze until further notice.

Impact

The processing, reviewing and storage costs arising from the implementation of this notice will be borne by the agencies or other agents or people concerned.

Inquiries

For inquiries about this notice, please contact the National Archives [Agency Service Centre](#) or Linda Macfarlane on 02 6212 3616.

Issued by

David Fricker
Director-General
National Archives of Australia

February 2018