



# Advocacy for the independence of the State Records Office of Western Australia

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## ABSTRACT

Shortly after the election of the new Western Australia (WA) Government in March 2017, the new Premier, Mark McGowan, announced the first round of Machinery of Government changes to the WA public sector. The structural changes were promoted as creating collaborative departments focused on whole-of-government objectives and for delivering services in a more efficient and effective way. Part of these changes was to move the State Records Office of Western Australia under the State Library of Western Australia. The Australian Society of Archivists Western Australia Branch Committee discusses this act and the implications for the independence of the State Records Office.

## KEYWORDS

State Records Office; Western Australia; Machinery of Government; advocacy

## Introduction

Shortly after the election of the new Western Australia (WA) Government in March 2017, the new Premier, Mark McGowan, announced the first round of Machinery of Government (MOG) changes to the WA public sector. The structural changes were promoted as creating collaborative departments focused on whole-of-government objectives and for delivering services in a more efficient and effective way. The Department of Culture and the Arts (DCA), which included the State Library, WA Museum and Art Gallery of WA as portfolio agencies, and the State Records Office as a division within DCA became part of the Department of Local Government, Sport and Cultural Industries (DLGSC). Prior to the MOG, the two directors of SROWA (State Archivist) and the SLWA (State Librarian) reported directly to the Director General (DG) of the DLGSC as shown in Figure 1.

On 1 July 2017, the State Records Office of Western Australia (SROWA or SRO) was removed from its placement within the broader department and placed as a Directorate under the State Library of Western Australia (SLWA). This has effectively ended almost two decades of operation of SROWA as a semi-autonomous portfolio agency administering the *State Records Act 2000*. It remains unclear as to whether the change was part of the broader

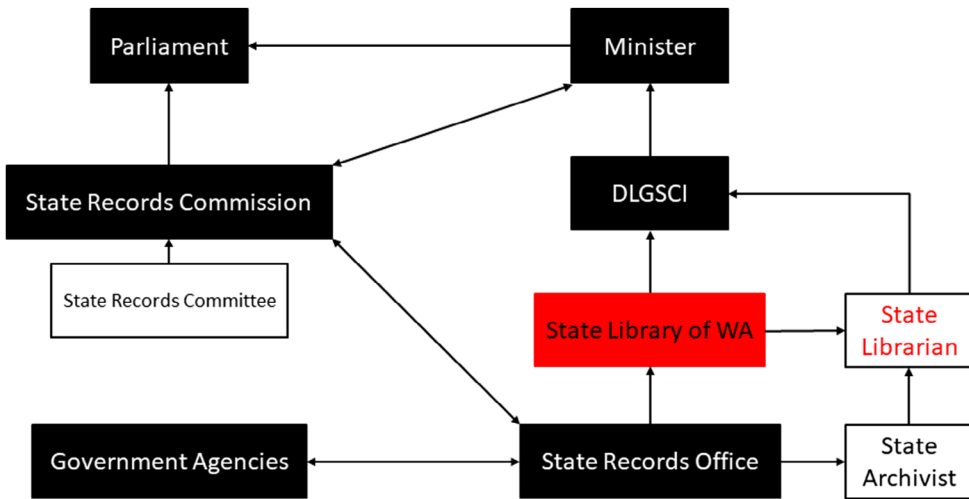


Figure 1. Post-MOG reporting model for the SROWA.

MOG changes or was implemented within the department. No consultation or discussion was made with archival or recordkeeping communities prior to the change, and there is no evidence that the State Archivist, State Records Commission (SRC) and the State Librarian were presented with other than a *fait accompli*.

With this change, the State Archivist has less immediate access to the Minister, with reporting mediated through the State Librarian, and the SROWA budget has been subsumed within SLWA. The State Librarian, although a public sector employee, is directly responsible to the State Library Board, over which the Minister and DG have limited control. The role of State Librarian already entails substantial responsibilities, before the addition of the function of state records and archives.

The WA Government has stated that the change is 'administrative' and that the State Archivist's statutory responsibilities, as set out in the Act, remain unchanged. Similarly, all SROWA requirements on behalf of the SRC are claimed to be unaffected. The merger is described as facilitating a single workforce of specialist positions, the sharing of digital collections systems and single access to the State's documentary heritage for researchers.

There is little evidence that this will in fact occur, given that the change is supposedly purely for administrative purposes relating to human resources and financial services. In submissions to the Government, through parliamentary questions and via its own online petition site, the Australian Society of Archivists (ASA), both nationally and at state level, has expressed its concern about the MOG change and its implications for the future of public sector records and archives management in WA and potentially for good governance and accountability.

The MOG change places the SROWA in a subordinate position to SLWA, consequently threatening its functional independence and weakening its ability to encourage high standards of recordkeeping in government. The current budgetary arrangements for SROWA, one of the worst in Australia before the MOG changes, will likely be exacerbated over time, further undermining its operational effectiveness.

## Starting an advocacy campaign

Following the announcement of the change, the ASA Council and ASA WA Branch began campaigning against the loss of independence of the SROWA. A position paper was written and presented to the Culture and the Arts Director General, Duncan Ord OA (now DG of DLGSC) by a deputation led by ASA President Julia Mant in July 2017.<sup>1</sup> An interview with ASA Treasurer Mark Brogan aired on ABC WA news on 11 July 2017 and WA Branch Convenor Pauline Joseph published an evaluation of the MOG change online via *The Mandarin* on 18 and 25 July 2017.<sup>2</sup>

Additionally, the ASA has initiated an online petition via [change.org](https://change.org).<sup>3</sup> At the time of writing almost 459 signatures have been recorded, including the signature of former Premier Dr Carmen Lawrence, and archivists and researchers both nationally and internationally. A petition was tabled in the WA Parliament, with assistance from the Liberals' Hon. Tjorn Sibma, in September 2017, with the [change.org](https://change.org) petition as a supporting document. Progress on this petition, titled *Petition 022 – Independent State Records Office*, can be monitored online.<sup>4</sup>

Further, lobbying via the WA Greens and the Liberal Party has resulted in parliamentary questions that are expanding the scope of investigation beyond the MOG changes to resourcing more generally, including, but not limited to, the failure to provide storage for the large backlog of state archives in traditional format and a digital archives solution for WA Government. The volume of records estimated to be affected is reckoned to be over 55 shelf kilometres.<sup>5</sup> Questions have been asked by the Liberal Party's Hon. Tony Kristicevic MLA, Shadow Minister for Local Government, Heritage, Culture and the Arts, and the Greens' Hon. Alison Xamon, MLC.

Through its position paper and via parliamentary questions,<sup>6</sup> key concerns that are being addressed include:

- Implications of the loss of independence for the State Archivist in performing his/her duties under the *State Records Act 2000*. In the position paper it is argued that independence is a necessary condition for trusted, reliable and accessible recorded memory that underpins democratic freedom and human rights.
- The implications of subsuming SROWA's budget within that of SLWA including its ability to adequately perform its functions; especially those relating to supporting and monitoring recordkeeping across the public service, which in turn supports information governance and government accountability. Potentially, a single budget would be granted to SLWA which will then be apportioned by the State Librarian. In the position paper, the likelihood of further reductions in funding and resources is framed against the case for renewal and improved resourcing, driven by the pressing need to move SROWA to scalable digital operations including a fully functioning digital archive solution.
- Failure to appreciate the different missions, and methods, of libraries and archives. In the position paper, this is argued in an evidence-based manner using the case study of Library and Archives Canada.
- That the SRC will be further weakened in fulfilling its obligations as it will potentially be inadequately supported by the SRO.

## Implications of the MOG change for recordkeeping and archives

The decision of the WA Government not to continue to support an independent archives function reverses work done in the 1990s aimed at promoting integrity in government recordkeeping. The creation of the State Records Office as an independent agency working in partnership with the State Records Commission was, in great part, the product of the Commission on Government working from foundations laid by the WA Inc Royal Commission of the 1990s.<sup>7</sup>

The Royal Commission into Commercial Activities of Government and Other Matters (WA Inc Royal Commission, Recommendation 20) identified that:

- (A) A separate and independent archives authority be established, acting under its own legislation.
- (B) The Commission on Government inquire into the terms of the legislation.<sup>8</sup>

Although it used the term *archives*, its focus was on records management, as it was the records creation, maintenance and retention practices of government that were highlighted in its report.<sup>9</sup>

The *Commission on Government Report No. 2 – Part 1*, section 7.5.4 explicitly rejected the idea that a separate and independent archives authority can, or should, exist within the context of its parent agency at the time, the Library Board of Western Australia.<sup>10</sup> The report put forward the argument that a separate Public Records Authority, under a statutory Commissioner for Public Records, reporting to Parliament, should be established. It came as a surprise that a State Records Bill was introduced into Parliament in 2000 that did not cut the umbilical cord to Library and Information Services of Western Australia (LISWA) as requested by the earlier, high-powered enquiries. Declaring her reservations about the new Bill, Opposition Spokesperson Sheila McHale declared:

We are setting up a new system and trying to create a process which will be relatively fool-proof; therefore, it is preferable that the State Records Office not be managed by and housed in LISWA but be independent from that agency and have a more integrated relationship with the State Records Commission. The Bill does not state explicitly that the State Records Office will be located within LISWA, but that statement was made very clearly in the second reading speech on the first Bill and it was also stated clearly in 1994 in the then Minister's review. It seems there is a strong push for the State Records Office to be located within LISWA. We do not believe that is in the best interests of the State.<sup>11</sup>

The Court Government, however, was not moved and the Act was passed in the last sessions of Parliament, with the SROWA as an independent agency that might be placed in the department of the relevant Minister. In great part owing to strong lobbying by the ASA and the Records Management Association of Australia to the MLA Sheila McHale, who became Labor Minister for Culture and the Arts in 2001 following the election of the Labor Gallop government on 10 February 2001, the situation changed. With the introduction of the State Records Act on 1 July 2001, SROWA was made a division of Culture and the Arts, independent of the State Library of WA, a situation which persisted until the MOG change in July 2017.

But the reform agenda had still not been completely addressed. While progress had been made on the issue of autonomy, the issue of adequate funding for SROWA and the new SRC was left unaddressed. Establishment funding for the SRC has, other than in the first year,

been provided from within SROWA's budget, the expectation being that SROWA could provide all the services required by SRC, without the need for specific funding.

The SRC comprises four Commissioners, namely the State Auditor General, Information Commissioner, the Ombudsman and an appointee with recordkeeping experience and who is not a public service officer under the terms of the *Public Sector Management Act 1994*.<sup>12</sup> The functions of the Commission are set out in Part 8 of the *State Records Act 2000*.<sup>13</sup> They include:

- approving government organisations' Record Keeping Plans;
- approving the legal disposal of government records;
- monitoring the operation and compliance with the Act;
- monitoring compliance by government organisations with their respective Record Keeping Plans;
- inquiring into breaches, or possible breaches, of the Act;
- establishing principles and standards for the governance of recordkeeping by state organisations;
- determining the access status of certain state archives.

The Commission reports directly to Parliament and is required to provide Parliament with an annual report on the operation of the legislation.

The period of the early 2000s was a productive period in terms of public records and archives management in WA. SROWA produced standards and guidelines in recordkeeping, general disposal schedules for administrative records and training programs for agency personnel and records management consultancies. Graduates and trained staff started to be employed in government agencies. As a consequence of the *State Records Act 2000*, government agencies were also obliged to develop Record Keeping Plans.

### **Implications of under-resourcing**

Chronic under-funding has affected both traditional and digital archives and records management. It is estimated that, at the present time, SROWA requires 55 kilometres of additional high-quality storage for long-term archival storage. Currently, with many records of archival value being retained under the control of government agencies in non-permanent outsourced facilities, the State's documentary heritage and government memory is potentially deteriorating. Work on a digital archives solution for the State has not progressed beyond a proof-of-concept system.

With regard to the review of Record Keeping Plans (that is, five years after approval and every five years thereafter), such reviews are self-reviews by the organisations themselves. The reviews cannot be conducted by the SROWA, which has neither the resources nor sufficient appropriately trained personnel to audit reviews within organisations.

With agencies undertaking self-review there is the likelihood that identified weaknesses and improvements will not be addressed. More importantly, there is greater credibility to a review process when it is conducted by an independent organisation such as the SROWA, legislated to ensure the State's recordkeeping practices are compliant with the *State Records Act 2000*.<sup>14</sup>

In its annual report of 2016–17 the SRC reported its concerns with the manner in which compliance with the *State Records Act 2000* is currently undertaken owing to resource limitations:

Under section 60(1) of the Act, the Commission is required to monitor the operation of the Act and compliance by government organizations with their Record Keeping Plans. The Commission continues to rely on the Record Keeping Plan review cycle and the investigation of suspected breaches as the chief mechanisms for ensuring agency compliance with the Act. The Commission is of the view that a complementary compliance monitoring regime should be implemented as soon as resourcing permits.<sup>15</sup>

It also noted that requests for training from the SROWA by agencies have also been unable to be met in large part owing to limited resources.

In the Australian Archives and Records Google Group, archival theorist and long-term practitioner and commentator Chris Hurley commented of State Records Commission of Western Australia:

... they investigate breaches. So far, I have not been able to find or evaluate details of investigations reported in the SRC Annual Reports so that leaves open questions about what things are being investigated, how they are investigated, and how matters are resolved. Are the breaches being investigated violations of the Act, are they just administrative and procedural lapses in the process of developing and carrying out Plans, are they more serious interventions to deal with behaviours that were not contemplated when the Plans were drafted, or something else?<sup>16</sup>

Hurley states that details of breaches are reportedly in a Register that is restricted to the SROWA and the SRC. The SRC's annual report states that in 2016–17 out of the four active breaches, two were resolved, while the remaining two were carried forward.<sup>17</sup> Likewise, in 2014–15, there were 13 active breaches, nine resolved and four carried forward.<sup>18</sup> However, details about these breaches are not outlined nor officially reported by the SRC to Parliament and made available via the Hansard records. Given the SRC's designated role to report about the State's recordkeeping practices to Parliament, its failure to do so is concerning, especially considering the rise of local government operations being investigated by the Crime Corruption Commission and requests to investigate local government operations, for example via *Petition 020 – Conduct of Officers in City of Melville* by citizens to Parliament.<sup>19</sup>

Such investigations attest to recordkeeping issues that were not identified, investigated and reported to Parliament by the SRC. Clearly there are issues of transparency and effectiveness surrounding the operation of recordkeeping accountability mechanisms in WA, which do not reflect positively upon the SRC and consequently on the SROWA.

The ASA in its Statement of Position called on the:

WA Government to commit to a program and timetable to ensure recurrent and capital funding for the State Records Office of WA in order to properly fulfil its statutory responsibilities in relation to records and archives including in the digital business environment and support the State Records Commission in fulfilling its obligations.<sup>20</sup>

Case studies in the implications of consistent under-funding and neglect are not limited to WA. In Queensland's 1990 Heiner Affair the destruction of important records was done at the behest of the Government.<sup>21</sup> That event was a clear example of why an independent, strong recordkeeping authority is required to push back on such demands. Without strong recordkeeping regulations, and an independent State Records Office to answer to, it can be too easy for records and archives to be shredded and evidence hidden. Unlike WA, acknowledged failures in Queensland have been admitted and programs renewed. For example, the Queensland Government is spending \$12.7 million in 2017 on a new digital archive at the independent State Archives of Queensland.<sup>22</sup>

## The state of government records and archives management in Western Australia today

Narrative and action in WA, however, is running in a very different direction to that in other states. For example, a recent issues paper published by the WA government's Director Generals' Working Group on Public Sector Efficiency, as part of public sector renewal and to solicit ideas for a cost-cutting drive, frames records management and the *State Records Act 2000* as burdensome internal red tape imposed on agencies.<sup>23</sup> In its rebuttal to the paper, ASA responded:

ASA understands the warrant for efficient government and shares this interest with the CEO Working Group. However, it also believes that the characterisation of processes and laws intended to promote the accountability of government as 'red tape' is both anachronistic, dangerous and lacking historical perspective on how these laws and processes came about. Together, our position paper and open letter provide an alternative framing of WA records law and related infrastructure, as well as an account of some of the achievements of the WA system.

### Libraries, records centres and archives

By failing to appreciate the different methods and missions of libraries, records centres and archives, the WA Government has also paved the way for confusion and service delivery ambiguity. The ASA has issued its position paper on this matter, titled *Archives and Libraries in the Digital Age*, which outlines the differences between these institutions.<sup>24</sup>

The public records function is not a library function. The mission of libraries is to maximise public access to information sources, mostly online and published sources. The mission of government recordkeeping practices is to manage and facilitate access to the records and archives of government in accordance with public records law (for example, the *State Records Act 2000*). Further, records and archives in digital and traditional form arise mainly from natural accumulation, not deliberate collection. This is an important distinction between libraries and archives. The accountability of government cannot rest on selective collection that is typical of libraries. In the absence of recognition of the differences in scope and methodology, mistakes are likely with consequences for human rights as well as accountability. Archivists, records managers and librarians have different areas of expertise and competence, resulting in the requirement for tripartite accreditation of degrees. Professional practice further develops these areas, including differences in appraising material for inclusion in the archive, descriptive practices and working with source records across the records continuum.

Currently, SLWA has no records management personnel and archivists working for it and has minimal recordkeeping experience or expertise. Staff cannot assist with archival description or management or with records management training for government agencies. The areas in which the SROWA requires support cannot be met from the Library's specialist areas, other than conservation. Nor do archives and libraries share common delivery and management systems for content. The SRO has implemented a new archives management system that meets national and international archival standards, and is the first Australian state or national archive to implement a new system in nearly 20 years. Library descriptive systems are designed for a different purpose and meet different standards. SRO collection content can be harvested for use in a range of library discovery layers, including the National Library's TROVE portal, but the full context does not carry across. The new system also

allows for integration of SRO content with other collecting institutions, within the State, nationally and internationally.

Possibly, it could have been argued in the past that SROWA's archival collection, and service in respect to that collection, could have stood separately from the recordkeeping functions it performs. However, today, where the continuum model of recordkeeping is critical for the effective capture and retention of reliable information and data, such a view would be challenged. Had a thorough review been undertaken before the MOG change implementations, many of the matters now coming to the fore could have been raised and carefully considered prior to any action to reposition the SROWA. What is clear now, though, is that the effective functioning and resourcing of the SROWA and its ability to provide services to government is seriously threatened and that the ramifications for this could be widespread in terms of information governance and accountability for the State.

## Conclusion

The SROWA has been under-resourced and its ability to maintain its current services let alone fulfil its intended purpose is threatened by its placement in the Galleries, Libraries, Archives and Museums sector. The Director of the SROWA and its employees need to be empowered and resourced to fully implement the provisions in the *State Records Act 2000* to ensure WA has an accountable and transparent government. Investments for sound record-keeping practices demonstrate an accountable government. The current Strategic Priority Review being undertaken in WA and other reviews in government processes provide the ideal time to fulfil one more requirement of the original Commission on Government – a full review of the funding, functions and reporting structures of the SROWA.<sup>25</sup>

SROWA is not resourced to undertake compliance audits as per the *State Records Act 2000* nor funded to develop a digital archives program. Given the current 'born digital stays digital' recordkeeping practices in government agencies and town councils, it is necessary for our State to not only develop or endorse recordkeeping standards but to actively guide and support them for the creation and capture of trustworthy records and to be equipped with a digital archives repository. A digital archive would ensure our history is preserved and save WA from digital amnesia later. Failing which, the WA government may be confronted with accusations or litigation in the future, which it is unable to provide evidence to refute.

Currently, the State's documentary heritage and government memory are deteriorating in offsite storage facilities where the temperature controls are not conducive for storing our State's archives. The SROWA has submitted requests for an archives storage facility to be built to accept its agencies' archives for the past 10 years without success.

In an era of reducing resources, and increasing expectations of access to data and information, the plight of the SROWA highlights some of the challenges and opportunities for archives more generally. It is important that messages of the role of archives and records in contributing to and ensuring good governance within and outside government continue to be made and supported.

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## Disclosure statement

No potential conflict of interest was reported by the authors.

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