

4.6 Management of Cabinet-in-Confidence Records During a Transition of Government

Policy Statement

The Government of Nova Scotia is committed to preserving the security and integrity of Cabinet records and Cabinet-related records (Cabinet-in-Confidence records) during periods of transition of government.

This policy is founded on the principle that Cabinet-in-Confidence records are owned by the Crown, not by individual ministers or departments.

The policy recognizes that records owned by the Crown are subject to the laws of the Province, including the **Government Records Act** and the **Freedom of Information and Protection of Privacy (FOIPOP) Act**.

Definitions

CABINET

Executive Council and its committees.

CABINET-IN-CONFIDENCE RECORDS

Cabinet-in-Confidence records include any document that if disclosed, would reveal the substance of deliberations of Cabinet, or otherwise prejudice the confidentiality of Cabinet considerations or operations. Cabinet-in-Confidence records can be held by Executive Council Office or by public bodies and include Cabinet records and Cabinet-related records.

CABINET RECORDS

Records that have been prepared for submission to and circulated for consideration by Cabinet, including those circulated by ministers in the Cabinet room.

Cabinet records can include agendas, minutes, original versions of a Report and Recommendation to the Executive Council (R&R) or a Memorandum to Executive Council (Memo) – i.e. the original signed version that has been submitted by the sponsoring minister to Executive Council Office for circulation at Cabinet – Cabinet minute letters, staff analysis, draft legislation, presentation decks and papers.

CABINET-RELATED RECORDS

Records held by public bodies that are created by the public body or received by the public body, which may reveal the substance of deliberations of Cabinet, including: correspondence, briefing notes, and drafts of unsigned R&Rs and Memos or copies of signed R&Rs and Memos.

CABINET RECORDS OFFICER (CRO)

A person in each public body who is responsible for managing Cabinet records and Cabinet-related records of the public body.

CHIEF EXECUTIVE OFFICER (CEO)

The senior administrative officer in a public body, if the public body does not have a deputy head.

CLERK OF THE EXECUTIVE COUNCIL (CLERK)

The person appointed under Section 11 of the *Executive Council Act*. The Clerk of the Executive Council may be the same person appointed Secretary to the Executive Council.

DEPUTY HEAD

The deputy of the member of the Executive Council presiding over a public body and all others whom the Governor in Council from time to time designates as having the status of deputy head.

MINUTE LETTER

The record of decision resulting from a Memorandum to Executive Council.

PUBLIC BODY

All entities as identified under Categories I, II and III in Appendix I-A of the Management Manuals Policy (Chapter 1.2).

RECORDS SCHEDULE

A comprehensive description and classification of all records of a public body, with a plan governing the life cycle of the records from creation or receipt to disposition or permanent preservation.

SECRETARY TO THE EXECUTIVE COUNCIL (SECRETARY)

The person appointed to be responsible for establishing the agenda and the business of the Executive Council and its committees.

TRANSITION OF GOVERNMENT

The period between the outcome of the election and the swearing in of the new government (Cabinet).

Policy Objectives

1. To preserve the security and integrity of Cabinet records and Cabinet-related records during a transition of government.
2. To ensure that management of Cabinet records and Cabinet-related records during a transition of government is consistent with the requirements of the laws of the Province.

Application

This policy applies to all Members of the Executive Council as well as to all public bodies and their employees, in regard to hard-copy and electronic-format Cabinet records and Cabinet-related records held by them during a transition of government.

Policy Directives

1. The Clerk / Secretary has custody and control of Cabinet records.
2. Members of an outgoing government (Cabinet), regardless of whether they are of the same or a different political party than the new Government, shall not remove or dispose of Cabinet records or Cabinet-related records.
3. Members of an outgoing government (Cabinet), regardless of whether they are of the same or a different political party than the new Government, may remove or dispose only of the personal, political, party or constituency records they held while members of the Executive Council or the House of Assembly.
4. At the start of a transition period of government, public bodies must return all Cabinet records to the Clerk / Secretary (e.g. any materials that have been circulated to ministers in advance of or during a Cabinet meeting), except for Cabinet records that have been placed in the files of public bodies for ongoing operational and records-management purposes (e.g. Cabinet minute letters). The Clerk / Secretary will manage the returned Cabinet records in accordance with approved records schedules.
5. Cabinet records that have been placed in the files of a public body for ongoing operational and records-management purposes may remain there, in the custody of the deputy head / CEO under conditions of secure storage. Public bodies will

manage these Cabinet records in accordance with approved records schedules, in consultation with the Clerk / Secretary or designate.

6. Cabinet-related records may also remain in the files of a public body in the custody of the deputy head / CEO under conditions of secure storage. Public bodies will manage Cabinet-related records in accordance with approved records schedules, in consultation with the Clerk / Secretary or designate.
7. A deputy head / CEO shall appoint a Cabinet Records Officer (CRO), who shall carry out the responsibility respecting custody and storage of Cabinet records and Cabinet-related records for the public body, in which case the CRO is accountable to the deputy head / CEO.

Accountability

CLERK AND SECRETARY

The Clerk and Secretary are accountable for:

- a) Administering this policy on management of Cabinet records during a transition of government, and
- b) monitoring its effectiveness.

DEPUTY HEAD / CEO

A Deputy Head / CEO is accountable for:

- a) Ensuring secure custody and storage of Cabinet records and Cabinet-related records placed in public-body files for ongoing operational and records purposes.
- b) Appointing a Cabinet Records Officer (CRO) to carry out responsibility respecting custody and storage of Cabinet records and Cabinet-related records.

CABINET RECORDS OFFICER (CRO)

A Cabinet Records Officer is accountable for:

- a) Managing the secure custody and storage of Cabinet records placed in public-body files for ongoing operational and records purposes, in accordance with approved records schedules, in consultation with the Clerk / Secretary or designate.
- b) Managing the secure custody and storage of Cabinet-related records held in a public body in accordance with approved records schedules, in consultation with the Clerk / Secretary or designate.

Monitoring

The Executive Council Office will monitor the implementation, performance and effectiveness of this policy.

References

Government Records Act

Public Archives Act

Freedom of Information and Protection of Privacy Act

Enquiries

Executive Director, Executive Council Office
(902) 424-8940

Approval date: **January 5, 2012**
Approved by: **Executive Council**

Effective date: **January 5, 2012**
Administrative update: **August 23, 2016**
