

Email archiving solutions alone do not achieve recordkeeping compliance

This Public Records Brief has been developed in consultation with Crown Law¹ to provide advice to public authorities about the risks associated with relying on email archiving systems to achieve recordkeeping compliance.

There is an increasing trend for public authorities to consider implementing commercial email archiving solutions as a method of addressing a range of email management challenges. However, email archiving solutions alone do not achieve compliance with the recordkeeping requirements under the *Public Records Act 2002* (the Act) or *Information Standard 40: Recordkeeping* (IS40).

Emails that are public records need to be captured into an identifiable recordkeeping system, such as an Electronic Document and Records Management System (eDRMS), or the agency's approved paper-based recordkeeping system. Managing emails as public records benefits public authorities by providing evidence of the actions, decisions and communications that support a transparent and accountable government. Good recordkeeping systems, practices and programs support and facilitate effective and efficient management of government business and service delivery.

What are email archiving solutions?

An email archiving solution is the software product which is installed to enable the capture and transfer of copies of all emails from a public authority's email server to a separate storage location.

There are a number of factors driving the consideration of email archiving solutions including the need to reduce the:

- burden on email servers due to the growing volume of emails;
- cost of storing and maintaining emails;
- cost of retrieving deleted emails;
- risk of not being able to retrieve an email quickly for a legal proceeding; and
- risk of loss of emails due to system failure.

Email archiving solutions offer a variety of functions including the ability for public authorities to establish business rules for how the system might operate. Some of the most common features being offered include the:

- automated capture of all emails being sent and received in a way that doesn't impede the delivery of emails to end-users and ensures an audit trail;
- filtering of incoming emails (i.e. for spam);
- automated indexing of emails according to key fields such as sender, subject and date;
- capability for key word searches in the text of all emails and attachments;
- ability to restrict access to the email storage system to certain users (e.g. administrators); and
- protection of the integrity and authenticity of emails retained in storage.

Some vendors may promote email archiving solutions as a way to achieve compliance with regulatory requirements in other jurisdictions, for example, the USA's *Sarbanes Oxley Act 2002*. American legislation does not apply to Queensland public authorities, except in some instances where they are transacting business in the USA.

Achieving compliance with Queensland legislative and regulatory requirements

IS40 provides the principles for managing public records in Queensland and is designed to assist public authorities to meet their recordkeeping obligations under the Act. It includes seven principles that are mandatory for the purposes of achieving best practice recordkeeping across Queensland's public sector, in order to comply with requirements of section 7 of the Act for public authorities to keep "full and accurate records".

Email archiving solutions alone do not provide an integrated system for appropriately capturing, managing, classifying and providing access to public records over time. Such systems do not provide the appropriate functionality to comply with the principles of IS40 for compliant and accountable recordkeeping.

Recordkeeping function	Compliance issues
Capture	<ul style="list-style-type: none">▪ Email archiving systems capture all email indiscriminately, regardless of whether they are public records or not. Only public records need to be captured and managed in recordkeeping systems.
Management and organisation	<ul style="list-style-type: none">▪ Email archiving systems do not comprehensively document the complete range of business activities undertaken by a public authority. Automatic classification does not reliably link emails to their business context because related non-email records are stored elsewhere, for example, in the public authority's records management system.▪ Emails stored in an email archiving system may not be able to be categorised according to a business classification scheme.▪ Emails stored in an email archiving system may be missing the essential recordkeeping metadata required to preserve their context and make them useable as public records.
Accessibility	<ul style="list-style-type: none">▪ The accessibility of emails is reduced as generally only the sender, receiver and administrator are aware an email has been created and can access and retrieve it from the "email archive". In comparison, emails that are public records and captured into an identifiable recordkeeping system can be accessible by other staff in accordance with security settings and permissions.▪ As email archiving solutions capture all emails, including personal emails, issues relating to privacy may arise if widespread access is permitted.
Retention and disposal	<ul style="list-style-type: none">▪ Some email archiving solutions have the functionality to automatically assign retention periods according to business rules. However, while this functionality is evolving, there is still a significant risk that automatic deletion of emails by the system could result in the unauthorised disposal of public records.▪ The system must be able to manage emails appropriately as public records by assigning retention periods in accordance with an approved retention and disposal schedule. Without this functionality, it is likely that the emails in the email archiving system may need to be retained on a permanent basis. Alternatively, the emails could be migrated later to a recordkeeping system where the retention requirements could be assigned, greatly increasing the costs associated with email management.

Conclusion

Although email archiving solutions may offer some benefits to public authorities, they are not recordkeeping systems and will not assist public authorities to achieve recordkeeping compliance.

Queensland State Archives has developed a policy and guideline *Managing Emails that are Public Records* and a number of Public Records Briefs to further assist Queensland public authorities to manage emails that are public records. This information is available on the Queensland State Archives website at www.archives.qld.gov.au.

For more detailed guidance on the management of public records visit the Queensland State Archives' website at www.archives.qld.gov.au, or contact staff from the Policy and Research Unit on telephone: (07) 3131 7777 or email: info@archives.qld.gov.au.

ⁱ Disclaimer: While Crown Law has provided input into this Public Records Brief, the contents do not constitute legal advice. Public authorities may wish to seek additional legal advice on the application of the legislation to their operations.