

Ministerial Offices | Government of Jersey | Union Street
Jersey | St Helier | JE2 3DN

By email

8th August 2025

Dear Chair,

Amendments to the Public Records Law

Thank you for your letter of 30th July, in which you ask a number of questions regarding the forthcoming amendments to the Public Records Law. I have set out answers to each of your questions below in turn:

- 1. What resource implications will the amendments have for stakeholders such as those providing the records, the Archivist and for the Minister?*

There should be no new resource implications for stakeholders as a result of these amendments.

The amendments seek to assist public institutions in complying with their existing obligations under the Public Records Law by introducing a Code of Practice for good recordkeeping. The amended legislation will also clarify the position of Arm's Length Bodies by introducing a list of bodies under regulations. The amendments also clarify how breaches of the Law are dealt with.

- 2. Are the proposed amendments due to practical requirement, for example keeping track of organisations, or for historical importance of records?*

At present, Article 38 (1) of the Public Records Law states that public institutions have 'a *duty of records management*' but does not define what this means. The introduction of a Code of Practice via these amendments provides public institutions with helpful, practical guidance on fulfilling this duty under the existing legislation.

Additionally, clarity to all stakeholders will be provided by the introduction of a list of public institutions covered by the Public Records Law. The list of bodies covered by the Law will be introduced by regulation.

At present, there is no clear mechanism for breaches of the Public Records Law to be reported. The proposed amendments provide a clear process for breach reporting.

- 3. Is there any implication as to the destruction or disposal of records?*

There are no implications as to the destruction or disposal of records. The existing Public Records Law already covers the destruction and disposal of records through the use of retention schedules, and the proposed amendments do not alter this.

Archive staff have been working with public institutions on creating and implementing records retention schedules since the introduction of the Public Records Law in 2002 and this will not change.

4. *Will there be any transition period, and will there be any retrospective responsibility to produce records?*

The proposed amendments will clarify which bodies are public institutions, and therefore already covered by the existing Public Records Law. In practice, Archive staff are already working with these bodies to ensure that public records are identified, managed and disposed of appropriately.

In Schedule 3, Savings and Transitional Provisions of the existing Public Records Law, it states that the law *'applies to records already in existence on the day when the Law comes into force in the same way as it does to records created on or after that day'*. The proposed amendments do not change this.

5. *What are the implications of introducing the ability for the Minister to prescribe a person to be a public institution for the purposes of the Public Records Law on the recommendation of the Records Advisory Panel, for example how will they be informed of the inclusion of any additional ones?*

This would allow the Records Advisory Panel to recommend to the Minister that a newly formed body e.g. an ALB be covered by the Public Records Law should it fall within the criteria of a 'Public Institution' as set out in Article 5 of the Law. It will be up to the Minister, should they agree with the recommendations of the Records Advisory Panel, to inform the newly formed public institution that they are included within the provisions of the Public Records Law.

6. *Do you have a full list of "public institutions" and "administration of the States" that will be included within the Law and can this please be forwarded?*

This list is currently being finalised in consultation with the relevant organisations and will be shared with the Panel shortly.

7. *The Panel understands that the Data Protection (Jersey) Law, 2018 requires public institutions to destroy personal data when it is no longer needed for the purpose for which they collected it. Please can you outline how the archiving of public records is impacted by this?*

Part 2, Article 17 of the Data Protection (Jersey) Law 2018 provides an exemption for the processing of data if it *'is necessary for the purposes of archiving or for statistical, scientific or historical research'*. The proposed amendments to the Public Records Law do not change this.

8. *Please can you outline how confidential, sensitive, or information exempt under the Freedom of Information (Jersey) Law 2011, will be handled and passed onto the archivist?*

When transferring records to Jersey Archive, public institutions must indicate, using a transfer form, any record that is closed to public access under Freedom of Information (Jersey) Law 2011 exemptions. Jersey Archive and the Archivist currently manage records containing extremely confidential, sensitive information and the care with which we deal with them would not change. The proposed amendments to the Public Records Law would not impact this process in any way.

I hope the above information provides clarity to the areas you have raised.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Morel', with a stylized flourish at the end.

Deputy Kirsten Morel

Minister for Sustainable Economic Development