



Secretary of State for Digital, Culture, Media and Sport  
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Thursday, 01 October 2020

Dear Secretary of State,

### **Public records and self-deleting media**

I am writing to express my concern and seek reassurance about the use of messaging services in government, especially services which automatically erase messages, in some cases within seconds after receipt. Services like Signal and Snapchat are a particular concern, but not uniquely.

You will be familiar with media reports concerning the use of encrypted communications, such as Dominic Grieve's statement to the House of Commons on 9 September 2019. It is not clear from these reports whether ministers or officials who employ these services also use automatic deletion functions. You will also be aware of the government's statutory obligations regarding the preservation of records. However, there have been no clear steps outlined which detail how the government ensures compliance with these obligations. Consequently, records of immediate importance for the transparency of government and records of importance to future generations of historians appear to be at immediate risk of destruction.

Section 10 and schedule 1 of the Public Records Act 1958 defines the scope of public records, making it clear that many of the messages sent to or sent by government ministers and officials are likely to constitute "*public records*". The Keeper of Public Records has issued more detailed guidance as to which public records should be selected for permanent preservation. These include public records "*in any format*" which document (i) "*the principal policies and actions of the UK central government and English and Welsh Governments including...records illustrative of the process of developing government policy and legislation*"; and/or (ii) "*the structures and decision-making process in government*"<sup>1</sup>. Section 3 of the Act imposes a duty on "*every person responsible for public records of any description*" which are not in an approved place of deposit "*to make arrangements for the selection of those records which ought to be permanently preserved and for their safe-keeping*".

Thus, the guidance about public records is clear and the responsibility unambiguous. It is irrelevant that public records may have originated or be held on private accounts or private

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<sup>1</sup> Paragraph 3 of The National Archives' records collection policy, available at <https://www.nationalarchives.gov.uk/documents/records-collection-policy-2012.pdf>.

telephones. Further, they may include messages sent on “*social media channels*”. You will also know that the deletion of messages which are the subject of a Freedom of Information Act request may constitute an offence under section 77 of that Act.

It seems highly likely, therefore that messages sent by or to ministers and officials will fall within the class of records which ought to be permanently preserved. Such messages are the modern equivalent of the working notes on government papers made by ministers and senior officials, which are amongst the most important and valuable materials available to historians and social scientists. And yet there remains a significant risk – even a likelihood - that messages will have been deleted automatically almost at the moment of receipt.

In light of the above, I would be grateful if you would provide reassurance on the following matters:

- What arrangements, if any, each central government department has in place to ensure that instant messages which ought to be permanently preserved under section 3 of the Public Records Act 1958 are not deleted (whether automatically or otherwise)?;
- What arrangements are in place to ensure that instant messages which are or may be the subject of a request under the Freedom of Information Act 2000 are not deleted (whether automatically or otherwise) pending a response to the request?
- If appropriate arrangements are not already in place, please let me know what will be done to rectify this, and the timescale within which the relevant actions will be completed.
- That you have reminded ministers and officials across government of the significance of the relevant legislation and the risks that arise from the inappropriate use of ephemeral media.

If possible, I would very much appreciate a response within 21 days.

Yours sincerely,

Richard Ovenden OBE  
President, The Digital Preservation Coalition

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