

Barriers to re-using emails over time

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PARADIGM project

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Summary

- Some background - what is the **PARADIGM** project?
- Why would we want to preserve emails for re-use?
- What issues should we be aware of when thinking about re-using personal emails
- How does this affect how and when personal emails might be re-used by researchers?

PARADIGM

- JISC funded project – 04/04 programme
- Oxford University Library Services & John Rylands University Library, Manchester
- Exploring from 'personal' and 'collecting' perspectives
- Exemplar strategies for preserving digital private papers – using politicians as our example
- Technical issues (Fedora & Dspace repositories; standards - OAIS & METS)
- Cultural issues (creator attitudes, legal issues, etc.)
- Results – an online workbook for curators

Why would we want to preserve personal emails for re-use?

- Evidence of social networks and interactions
- Personal perspective on public events or works
- Evidence of activities
- Importance of correspondence
- The collection of incoming and outgoing email in one place
- ...

Barrier no. 1 - acquisition

- Individuals use a variety of email systems
- Import/export features are often transfer mechanisms – don't always give you the raw email
- Users know as much as they need to; archivists need to know more
- Selection – determined by filing conventions
- Collection development – timing and frequency of accessions?
- Users are nervous about handing over their email

We've got the email, so now what?



It's my email!

Keep it secret. Keep it safe.



Mermaid Wiggle, 2005

Acquisition headaches aside, what is the legal picture?

- Privacy
- Defamation
- Intellectual Property Rights
- Evidence of illegal activity?

- n.b. Not new issues, but a different perspective
- Unchartered territory, limited precedent, international disparity

Privacy

- Email as a personal space
- ECHR / Human Rights Act (1998), Article 8
 - “Everyone has the right to respect for his private and family life, his home and his correspondence.”
- Right to privacy for sender as well as receiver

Privacy – Data Protection Act (1998)

- **Fair** processing of personal data about **living** individuals
- s. 33 Exemption for Research, History & Statistics - allows indefinite **storage** of personal data and **access** by researchers, provided that...
 - it is not used to support decisions about the individual, and access to it does not cause **substantial damage or distress**;
 - relevant DPA principles are met;
 - and research results are **anonymised**,
- SI 2000 no. 417 Data Protection (Processing of Sensitive Personal Data) Order 2000.

s. 33 of the Data Protection Act helps, **but....**

- Personal email can't be transferred to countries with inadequate protection for personal data (principle 8)
- How useful is the research if the results are anonymised? Personal archives are used for personal perspectives not statistics
- Must comply with wishes of donor irrespective of s. 33 exemptions and SI 2000 no. 417
- More of email archive's potential available when sensitivity of material decreases
- Full potential may not be available until DPA controls cease – probably 84 years after email creation

Defamation

- Defamation Act (1996)
- Defamation takes place when material containing **untrue imputation against reputation is published to a third party**
 - Publication = communication to 1+ persons
- Applies only to the **living with reputation**
- Statement must be **untrue**

Defamation – 'Innocent dissemination'

- Libraries & archives are potentially publishers
- '96 Act provides defence of 'innocent dissemination'
 - 'took reasonable care in relation to its publication'
 - 'did not know & had no reason to believe that what they did caused or contributed to publication of a defamatory statement'
- Take-down procedure – *Laurence Godfrey v Demon Internet Ltd.*
- Another argument for restricting access to uncatalogued material about living individuals?

Intellectual Property Rights

- Bundle of rights – moral & economic
- Can be sold, given, leased or passed to heirs severally or individually
- Many kinds, but copyright likely to have most impact
- Governed by Copyright, Designs & Patents Act 1988, and many other Statutory Instruments
- Statutory Instrument 1989 No. 1212 The Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989

Duration of copyright in an email archive



Email correspondence is a literary work – protected for the life of the author plus 70 years from the end of the year in which he/she died.



Unpublished photo by unknown photographer - protected for 70 years from the end of the calendar year in which the photograph was made.

An email archive includes many creators (some third-party, some unknown) & many kinds of work can be attached to individual emails.

What metadata do we need?

- Creation date
- Creator name & d.o.b./d.o.d. (if known)
- Name & contact details of rightsholder
- Details of permissions acquired
- Schemas like METSRights available
- Worth the expense of creating it?

When and how will researchers be able to access email archives?

- When the donor is happy
- Prior to expiry of DPA/defamation/IPRs
 - Reading room access to low-risk, non-sensitive, non-defamatory, material
 - readers agree to DPA/defamation responsibilities
- After DPA/defamation concerns expire
 - With permission of IPR holders - (secure) on-line access.
- After IPRs expire
 - release of materials to open access on-line repository

Conclusions

- Early curation is a pre-requisite to re-use
- Balancing legal requirements with the desire to provide access is challenging
- Not begun to fully address
 - appraisal, arrangement and description issues
 - format issues
 - navigation issues (within email archive & outside)
 - practicalities of access provision
- Lot's still to do!

Questions now?

Questions later... susan.thomas@ouls.ox.ac.uk