



the national archives

Custodial policy for digital records

Version 1 – May 2005



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Executive summary

The Public Records Act 1958 states (S.3[1]):

It shall be the duty of every person responsible for public records of any description which are not in the Public Record Office or a place of deposit appointed by the Lord Chancellor under this Act to make arrangements for the selection of those records which ought to be permanently preserved and for their safe keeping.

Maintaining digital records for extended periods will require active management, whether the purpose is permanent archival preservation, or extended retention and then destruction. This will require early appraisal of records and in the case of archival records earlier transfer than the 25-30 years typical in the paper environment.

Custody of digital records

The existing pattern of final custody for archival records under the provisions of the Public Records Act 1958 will mostly be unchanged, although transfer timings to The National Archives will in general be shortened and subject to explicit prior agreement.

The National Archives itself will be the final resting place for most archives of national importance with Places of Deposit approved by the Secretary of State continuing to fulfil the equivalent role for records of more local interest (typically large local authority archives) or more specialised interest (including specialist repositories and Public Record Bodies appointed to hold their own archival records on the Secretary of State's behalf).

These are extremely valuable functions that permit the survival of archives that could not be supported by The National Archives alone, thereby enriching our common documentary heritage¹.

Transitional arrangements

We acknowledge that some transitional period to these arrangements may be required, particularly where facilities are not yet able to handle digital archives and / or first priority needs to be given to protecting *private* archives or an organisation's [typically a Local Authority's] own digital records. The National Archives will work in partnership with Departments and other repositories to resolve this issue, possibly involving interim or indefinite custody by us. We shall also continue to work with partners such as the National Council on Archives to promote digital preservation facilities and expertise.

In addition, a number of changes to the dividing line between central and local government are apparent at the time of writing and this is likely to continue (e.g. Rural Development Agencies, Government Offices for the Regions, changes in the justice system). We shall take a pragmatic approach to this issue to ensure the survival of digital archives.

Access

Full implementation of the Freedom of Information Act on 1 January 2005 completely superseded the access provisions of the Public Records Act 1958 and 1967. Accordingly this policy is only concerned with access insofar as the custodial issues affect the agent responsible for responding to a request under FOIA and the procedures to be followed.

¹ exact concordance with the detail of the Standards framework for local repositories maintained by the National Advisory Service will be worked on following the issue of this Policy in collaboration with partners in Places of Deposit (e.g. presentation procedures under 3[6] of the 1958 Public Records Act)

Clarifying roles and responsibilities; supporting guidance and standards

This Policy gives additional clarification and explanation to amplify how its broad objective should be implemented, particularly in terms of clarifying roles and responsibilities between Departments and The National Archives.

Broadly, the National Archives will continue to guide and supervise public record bodies in their custodianship of historical records prior to their transfer to us and advise and set good practice and formal standards for Departments to follow for the maintenance of records not of historical value, as well as take targeted facilitative action centrally. The main responsibility for implementing the latter rests, as before, with Departments.

Accordingly, this Policy will be followed by a series of supporting documents on related subjects such as:

- the timing of transfer of records to The National Archives (or other Place of Deposit);
- technical standards for records storage media, software formats, description [metadata], security to satisfy a variety of different requirements;
- the development of requirements to operationalise the existing Generic requirements for the sustainability of electronic records published by The National Archives in 2003 and accessible from <http://www.nationalarchives.gov.uk/electronicrecords/generic.htm>;

and all these resources should be read in conjunction with the Acquisition, Disposition and Appraisal Policies as well as this Policy.

It is envisaged that there will need to be a range of distinct options to cover the needs of the diverse Public Records sector rather than a single solution. The exact option for a Department's records will be settled by agreement and in partnership between that Department and The National Archives. In particular, it is envisaged that agreements will be drawn up between TNA and each Department transferring records to it, settling the timing of archival transfer taking into account how all these issues affect the Department's records.

The National Archives will issue a series of technical standards, *mandatory* for the maintenance of historical records destined for preservation in The National Archives or as National Archives held in appointed Places of Deposit and *advisory* for records required by Departments for extended periods for other purposes. It will also facilitate the infrastructure required to support these standards.

1 Issue

In the digital environment, the rapid decline of immediate business needs for many records presents a challenge to their survival. The identification of secondary purposes of records, including archival purposes, will have to take place far earlier than has been the case for records in traditional formats. In addition, subsequent business use will also be dependent on similar identification of the relevant records. This is a vital part of the implementation of any organisational records management policy, principally implemented through disposal scheduling.

Unlike paper records, which will survive extended periods provided certain basic environmental conditions are met, *active* intervention is required to ensure digital records remain accessible. Media will require refreshment before it suffers fatal degradation, the logical [software] format of the objects may require migration to more current or open formats. Action may also be required to bring valuable records held on personal or shared workspaces under the control of corporate policies. For further information on the sort of technical requirements involved, see: <http://www.nationalarchives.gov.uk/electronicrecords/generic.htm>

Although the storage of digital records is relatively and increasingly inexpensive, their management across time is likely to be costly owing to these active operations that have to be performed. A degree of serendipity that could exist in the paper environment is no longer an option. Thus whilst in the paper environment the final disposal of large quantities of records can be left until they are reviewed at 25 years, this is not an option for digital records². This Policy addresses this issue by clarifying the responsibilities of public record bodies to sustain digital records to ensure satisfaction of both longer-term business purposes and their obligations under the Public Records Acts and other legislation.

Both the 1958 Public Records Act and the Code of Practice under S.46 of the Freedom of Information Act require proper control of the disposal of records (this is also a major aim of good professional practice). The first states (S.3[6]):

Public records which, following the arrangements made in pursuance of this section, have been rejected as not required for permanent preservation shall be destroyed or, subject, in the case of records for which some person other than the Lord Chancellor is responsible, to the approval of the Lord Chancellor, disposed of in any other way.

The second extends the argument:

9.1 It is particularly important under FOI that the disposal of records – which is here defined as the point in their lifecycle when they are either transferred to an archives or destroyed – is undertaken in accordance with clearly established policies which have been formally adopted by authorities and which are enforced by properly authorised staff.

9.3 The storage of closed records awaiting disposal should follow accepted standards relating to environment, security and physical organisation.

9.6 Each authority should maintain a selection policy which states in broad terms the functions from which records are likely to be selected for permanent preservation and the periods for which other records should be retained. The policy should be supported by or linked to disposal schedules which should cover all records created, including electronic records. Schedules should be arranged on the basis of series or collection and should indicate the appropriate disposal action for all records (e.g. review after x years; destroy after y years).

² The National Archives' *Appraisal Policy* states [para 3.4]: 'the need to identify digital records for permanent preservation at or near creation creates the possibility of early migration of such records to the archive'.

9.7 Records selected for permanent preservation and no longer in regular use by the authority should be transferred as soon as possible to an archival institution that has adequate storage and public access facilities (see Part Two of this Code for arrangements for bodies subject to the Public Records Acts).

9.8 Records not selected for permanent preservation and which have reached the end of their administrative life should be destroyed in as secure a manner as is necessary for the level of confidentiality or security markings they bear. A record of the destruction of records, showing their reference, description and date of destruction should be maintained and preserved by the records manager. Disposal schedules would constitute the basis of such a record.

The mechanics of implementing these legislative provisions are already the subject of guidance by The National Archives³. This Policy supplements this with further explanation.

2 Relationship with other National Archives' policies

This Policy should be read in conjunction with the Acquisition and Disposition Policy, the Appraisal Policy and any relevant Operational Selection Policies [there are also references to a number of other National Archives' publications].

3 Coverage

This Policy applies to records in all digital formats, whether derived from records management [application] systems, databases or other sources.

4 Role of earlier appraisal

The judgement of the value of records through appraisal has traditionally been taken to involve file-by-file review at 5-10 years and then 25 years from creation. The Appraisal Policy [Version 1, August 2004] asserts that this is not suitable for digital records and that in the digital environment a broader approach to record value informed by broad government function will be necessary, including for archival selection⁴. [The guidance publications Disposal scheduling and Business classification scheme design also take this broader view of appraisal].

This means that the appraisal must happen sooner and should for preference be built into Departmental disposal schedules. As many records as possible should be covered by proper disposal schedules at the time of their creation and guidelines provided for good naming and filing procedures⁵.

³ in particular, the *Acquisition and Disposition Policies*, *Operational Selection Policies*, the *Appraisal Policy*, requirements on digital records management and disposal scheduling, all available from <http://www.nationalarchives.gov.uk>.

⁴ the Appraisal Policy puts it [para 2.4.3.2]: *Macro-appraisal encourages government-wide or organization-wide analysis of functions as a guide to identifying records of value for business or archival purposes. It may be appropriate for digital records because, by identifying records produced by the most significant functions, it provides the means to make appraisal decisions without the need for file-by-file scrutiny or the 'historical perspective' provided by the passage of time*

5 Archival custody by The National Archives

The National Archives remains the principal archive for the historical records of government and the courts, *irrespective of format*, subject to the criteria identified in the Acquisition, Disposition and Appraisal Policies.

6 Roles and responsibilities

Public Record bodies shall remain responsible for those of their records that have been appraised as of permanent value until formal transfer to The National Archives has taken place. [Some of the implications of the Data Protection Act 1998 and the Freedom of Information Act 2000 for the implementation of a sustainability solution are outlined separately below.]

Departments and agencies are responsible for the effectiveness of their records management programme under both the Public Records Act and the Lord Chancellor's Code of Practice under s.46 of the Freedom of Information Act 2000. A major part of any such programme is the retention of records in an accessible form for as long as they are required. This applies to both records of archival value (prior to their transfer to The National Archives or an appointed Place of Deposit) and records of business value. In the case of the former, they must comply with National Archives guidance. For the latter, this remains highly advisable.

The National Archives is responsible for the guidance and supervision of the public records system, the provision of preservation facilities and public access for records of historical value transferred to it. It is also responsible for the provision of standards and guidance: particularly important in this context are those technical standards relating to the creation, management, migration and preservation of digital records and records more widely (see next section). It will also act as an advocate for archival and records management issues and solutions in government, promoting a cross government viewpoint where appropriate.

7 Arrangements for specific categories of records

7.1 Records of historical value

Standards set by The National Archives, following consultation with Departments and Agencies, *must* be followed for the preservation of digital records of archival value. These will include such things as storage media, file formats, media and software format migration.

This applies whether they are to be transferred to The National Archives in any of the following scenarios:

- Early, for example at the 5-10 year point;
- At [or near] the 30-year point [when transfer is a legal requirement of the Public Records Act 1958]; or

- 5 *ibid* [para 2.4.2.2]: *TNA will assist in this process and will:*
- *influence the current implementation of Electronic Records Management Systems so that file plans are created which enable the appraisal of records for business and archival value*
 - *provide procedures for the appraisal, migration and transfer of digital records*
 - *reassert the importance of robust systems for the creation of records, including clear guidelines for making, filing and storing documents, in all formats*
 - *encourage and assist in the development of disposal schedules across all records in all formats*

- By the intermediary of any facilities provided by third parties. and whether or not they bear protective markings for some phases of their lives (see next paragraph);
- “Early” transfer of historical material could involve a number of different permutations. These range from as soon as appraisal has taken place, once active use has ceased or a timescale at any other time approaching 10 years.
- It also could be *either* where no FOI exemption is identified at transfer⁶, or where the information contained in the records is exempt under FOI and the relevant exemption is not subject to a harm test.

7.2 Handling of protectively-marked material

Records bearing Government security markings require handling in accordance with the Cabinet Office *Manual of Protective Security*, CESG and other official guidelines.

This will have an effect on the custody of digital records and will imply a slightly different working relationship between The National Archives and the creating organisation in respect of them, *though not affecting any duties imposed on Departments by the Public Records Acts*. Procedures defined in pursuance of this Policy will take this into account.

7.3 Records required for extended periods for business purposes, not being of historical value

Such records *should* be created, managed, maintained and preserved in accordance with guidance provided by The National Archives. This applies whether the records are managed:

- Directly by Departments and Agencies;
- By public sector consortia; or
- Under third party contractual arrangements where a trusted custodian service has been specified and established.

7.4 Special provisions for other records, e.g. NHS

The National Archives will discuss specific needs of other non-Departmental Public Records, e.g. NHS records, with the appropriate authorities in due course.

8 Timing of transfer to The National Archives

The Public Records Act 1958 states [S.3(4)]:

“Public records selected for permanent preservation [under this section] shall be transferred not later than 30 years after their creation either to the Public Record Office or to such other place of deposit appointed by the Lord Chancellor under this Act as the Lord Chancellor may direct.”

A number of factors other than appraisal⁷ and the fragility of electronic records can affect the timing of transfer to The National Archives, including the sensitivity of the material, ongoing business use and the timing of appraisal.

⁶ there may be different custodial arrangements according to whether the FOI exemption is a harm tested exemption which will decay over time or an exemption that is not harm tested

⁷ see section 4 of the *policy statement*

All other things being equal, there is no compelling overriding reason why records should not be transferred to TNA custody as early as immediate business need has ceased. The difficulty is that 'all other things' are rarely equal. Previous guidance on this subject from The National Archives now requires further clarification and articulation, particularly in the light of the compelling need to appraise both archival and business retention requirements as early as possible.

9 Transfer of custody agreements with Departments on point of transfer for historical records

Transfer agreements will be set up between The National Archives and Departments on when their historical records will be transferred to us, taking the security, FOI and digital archiving issues into account.

Policy implementation and compliance issues

This section on the implementation of the preceding policy should be read in conjunction with Volume 2 *Management requirements of the Generic requirements for sustaining electronic information*, accessible from: <http://www.nationalarchives.gov.uk/electronicrecords/generic.htm>. It is more time bound than the preceding Policy statement itself and will have a shorter lifespan.

10 Administration of Environmental Information Regulations [EIRs], Data Protection Act 1998 [DPA] and Freedom of Information Act 2000 [FOIA] requests

One of the most significant parts of a solution will be to respond promptly and efficiently to Departments' continuing business calls on the records, plus requests from the public under the EIRs, DPA or the FOIA. This is a very significant need and is discussed in more detail in the next section, but it is prone to clouding the possible solutions in this area.

11 Delivery models

There are likely to be a number of different operational models for the sustaining of digital records for extended periods, to suit different business scenarios, including differing transfer timings for historical records to The National Archives (see preceding *Policy* on transfer timing):

- Where early transfer of historical records following early appraisal means that they can move directly from their creating environment to The National Archives, this may not even be an issue⁸.
- An alternative scenario might be the sustaining of a Department's records for a longer period by that Department directly.
- Another might be the identification of a 'trusted custodian' service for records required for business purposes.

For such an agent to be appointed by a Department or group of Departments to hold important records, stringent safeguards and full specifications will be required as regards the processes and procedures they will follow and the technical handling of the records (see *Technical environment* in the next section). *The likely costs of such a service / solution will mean that it is essential that it is not seen as a 'do nothing' alternative to early appraisal which is in any case required by the Appraisal Policy.*

Storing digital records for extended periods could conceivably involve solutions that would not keep all material on-line at all times. Genuinely off-line storage could make response to requests within the 20 day FOIA timescale challenging and this may limit the available options. It also has media and technology watch drawbacks to offset against some potential security advantages.

⁸ provided that there is no FOI exemption issue

In most cases, it is relatively straightforward to identify the entity responsible under the DPA for processing of personal data. Identifying the entity that is the responsible authority for responding to requests under S.1 of FOIA is more complex if there is shared infrastructure.

Section 1 of the FOIA demands that a public authority respond to a valid request stating whether or not it holds the information and, if so, providing that information unless a valid exemption applies. This has no obvious cognisance of whose information it may be, which is extremely relevant to the management and sustaining of the records. In services contracted out to the private sector, clearly the responsibility to fulfil the request rests with the Department[s] although this will in many cases be satisfied through clauses in the contract requiring the assistance of the contractor. Where a consortium of public authorities is the agent, possibly including The National Archives which has other distinct statutory roles under FOIA, this will be less clear-cut and clarification is required.

12 Technical standards

This section should be read in conjunction with Volume 3, *Technical requirements of the Generic requirements for sustaining electronic information*, accessible from: <http://www.nationalarchives.gov.uk/electronicrecords/generic.htm>

For archival records, The National Archives will comply with developing international archival standards and best practice and these will be mandatory for archival records destined for TNA.

For records not [yet] identified as of archival value, or required for long term business needs, The National Archives will publish separate technical standards for the following purposes:

- Handling of protectively marked material and other aspects of protective security;
- Descriptive metadata and metadata schema[s] to support sustainability of digital records;
- Preferred and/or recommended digital object formats;
- Attestations of authenticity for sustained records no longer in the custody of their creating organisation.

These will build on rather than supersede the existing and widely known standards for the management of standard office documents produced since 1998. It is expected that these further standards will be similar in many respects to those used by Digital Preservation Department at The National Archives.

The development and use of PRONOM [<http://www.nationalarchives.gov.uk/pronom/>] as part of a technology watch programme is critical.

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