

Information Management Guidance

Dissolution and Privatisation of Public Bodies

Executive Summary

Public bodies that undergo dissolution or privatisation encounter many similar issues and challenges, as when responsibilities and activities are transferred to another public body. Because of the nature of dissolving or privatising a public body, these challenges need to be identified and addressed at the earliest opportunity.

The guidance below concentrates on the implementation of information transfer. Guidance on other key implementation challenges is available from the Cabinet Office.

For function/s being transferred to another public body, see the guidance on machinery of government changes as published by the Cabinet Office and The National Archives.¹ Advice is also available for Change Managers on how to manage information through change.²

Dissolution of Public Bodies

1. The future management and access to the records of the dissolving body should be discussed between the organisation's Departmental Records Officer [DRO], the DRO of the parent department and The National Archives at the earliest opportunity.

The DROs should establish a **Joint Information Transition team** [consisting of officials from both organisations] with responsibility for managing information management challenges before, during and after the dissolution programme.

2. An **information survey** needs to take place as soon as possible. The survey should include an inventory of all IT hardware and software [including servers, hard drives, laptops, data sticks, databases, internet/intranet, and information held by other organisations] used for managing and disseminating information, and the physical identification of all paper storage locations. When conducting the survey, it is important to identify the information creator, the current responsible owner, and the format. For electronic media, the main software formats should be identified and recorded.

Copies of the following should also be identified:

- Database and/or file lists
- Organisational Charts
- Contracts with external storage [paper/electronic] organisations
- Previous information surveys/inventories

Personal filing systems and "working copies" must not be removed or destroyed by individual members of staff, and should be included in the inventory of surveyed information. This is particularly important if no method has been established in the survey to check whether they are the only record of some business activities.

3. A **review of the records**³ should be undertaken prior to the dissolution. Records of historical value which clearly merit permanent preservation should be earmarked for transfer to The National Archives, and will need to be reviewed for sensitivity prior to the dissolution of the public body. Records of historical value are expected to be

¹ <http://www.civilservice.gov.uk/about/resources/public-bodies.aspx> ;
<http://www.nationalarchives.gov.uk/documents/mog.pdf>

² <http://www.nationalarchives.gov.uk/documents/change-management-for-sro.pdf> ;
<http://www.nationalarchives.gov.uk/documents/digital-continuity-for-change-managers.pdf>

³ General guidance on the selection of records - <http://www.nationalarchives.gov.uk/documents/general-guidelines.pdf> ;
Preparation for undertaking review of paper records -
http://www.nationalarchives.gov.uk/documents/preparation_paper_review.pdf

forwarded to the parent department, and then to The National Archives as part of a planned transfer of records, at the appropriate time. Ephemeral material e.g. material kept for reference purposes should be destroyed.

All parties involved in the review of records should bear in mind the implications of the loss of expertise when a function or body is discontinued or dissolved. DROs should take early decisions on the disposal of records and the sensitivity of selected records while such expertise is still available. The National Archives should be consulted on the method of selection and review.

4. When preparing records for transfer to The National Archives or other appropriate places of deposit, the public body should review the sensitivity of those records. The public body should have staff able to identify information that may be exempt under the Freedom of Information Act and the Environmental Information Regulations. Ideally, staff should have a good knowledge of the records being reviewed for release, and should note categories of records with particular storage and handling requirements, e.g. sensitive personal data or protectively marked material.

The parent department will need to identify those officials who will have **authorisation to retrieve and provide access** to any selected records when they are eventually transferred to The National Archives, and any records that are still required by the Government. This will include officials responsible for assisting in FOI enquiries. Further guidance on reviewing records for sensitivity is available from the Ministry of Justice website and the Information Commissioner's Office.⁴

5. Records which are clearly not of permanent value but which have continuing administrative use should be transferred to the custody of the parent department. Particular care should be taken with electronic records, to ensure that they are useable and accessible for their full operational life. Arrangement for these needs to be discussed and agreed upon with IT service providers at the earliest opportunity.

The ownership of the records under crown copyright and intellectual property requirements will need to be discussed with the legal and legislative area of the parent department at the earliest opportunity, and finalised as required prior to dissolution.⁵ Consideration should be given to assigning the copyright and/or database right either to any successor organisation or to the Controller of HM Stationery Office within The National Archives. Assigning the Copyright / Rights in Databases to the Controller enables the material to be made available for re-use.⁶

6. Consideration should be given to the capture/archiving of websites, datasets, information made available for public inspection, and published/unpublished reports. All central government websites [including those pertaining to arms length bodies] are routinely captured and archived by The National Archives. A review of the records together with the information survey should determine whether any supplementary web archiving is required. For more information on website archiving and managing

⁴ <http://www.justice.gov.uk/guidance/foi-exemptions-guidance.htm>,
http://www.ico.gov.uk/tools_and_resources/document_library/freedom_of_information.aspx

⁵ Copyright and related rights; <http://www.nationalarchives.gov.uk/documents/copyright-related-rights.pdf>; Copyright in Public Records <http://www.nationalarchives.gov.uk/documents/copyright-in-public-records.pdf>; Copyright in Works Commissioned by the Crown; <http://www.nationalarchives.gov.uk/documents/copyright-in-works-commissioned-by-crown.pdf>

⁶ Information and databases produced by Crown bodies are subject to Crown copyright protection under s163 [Copyright, Designs and Patents Act 1988](#) or [for databases] under s14 (3) of the [Copyright and Rights in Databases Regulations 1997](#). Crown copyright and database right are managed centrally by the Controller of HM Stationery Office [an official within The National Archives], who is also responsible for the [Re-use of Public Sector Information Regulations 2005](#).

website content see the web guidelines TG105 and TG125, produced by the Central Office of Information (COI).⁷

Actions	Responsible	Timing	Evidence of completion
1. Set up Transition Team	Heads of Knowledge and Information Management [PB and PD]	As soon as possible	Stewardship team established – team members from PD will be required to continue after dissolution until all actions completed / transferred to responsibility of DRO.
2. Carry out Information Survey	DRO for PB	Earliest point of opportunity before dissolution	Survey completed, major record series identified
3. Review Records	DROs PD and PB / The National Archives' IMC		
<ul style="list-style-type: none"> • Permanent value • Continuing operational value • Ephemeral 	<ul style="list-style-type: none"> • IMC to liaise with DROs on transfer • DROs PD to identify records • DRO for PB to arrange disposal 	To commence at earliest opportunity, and be finalised prior to dissolution	<ul style="list-style-type: none"> • Records identified and transferred to PD / The National Archives. • Records listed and transferred to PD. • Information disposed as required.
4. Agree on access to selected records	DROs and The National Archives to agree on access and sensitivity review	Earliest point of opportunity before dissolution	Agreement between PD and TNA on access to closed records. Sensitivity review of selected records completed.
5. Ensure continued preservation of records [operational value]	DRO PD	To commence at earliest opportunity, and be finalised prior to dissolution	Information transferred to the custody and ownership of PD – programme of migration and preservation established.

⁷ <http://coi.gov.uk/guidance.php?page=239>, <http://coi.gov.uk/guidance.php?page=265>

Actions	Responsible	Timing	Evidence of completion
6. Preserve publically available material	DROs PD and PB / The National Archives' IMC		
<ul style="list-style-type: none"> • Website • Datasets • Documents made available for public inspection • Published/unpublished reports 	<ul style="list-style-type: none"> • IMC to advise Web Archive team of need to capture website • DRO to investigate if there are any datasets that have not yet been published or any planned updates to existing datasets • DROs PD and PB to determine documentation that is still required after dissolution • DRO and IMC to discuss selection/disposal of unpublished reports 	<ul style="list-style-type: none"> • Earliest point of opportunity before dissolution – any final capture agreed to take place no later than 6 weeks prior to dissolution (NB: any web content added after this date will not be archived). • As above • Prior to dissolution • Prior to dissolution 	<ul style="list-style-type: none"> • Website captured in UK Government Web Archive. • Datasets captured in UK Government Web Archive or transferred to PD. • Documentation made available through appropriate sources as required. • Reports disposed or transferred to The National Archives/ British Library according to policy. Disposal may include transfer to PD.

DRO = Departmental Records Officer
IMC = Information Management Consultant
PD = Parent Department
PB = Public Body

Privatisation of Body/Function

1. As soon as the public body is aware of any proposals for privatisation, the DRO should bring the requirements of the Public Records Act and other relevant legislation to the attention of those in the department responsible for its implementation.⁸ The National Archives should be provided with as much detail as possible of the proposed arrangements, including the timetable, at the earliest possible moment.

The DROs should establish a **Joint Information Transition team** [consisting of officials from both organisations] with responsibility for managing information management challenges before, during and [if applicable] after the privatisation programme. Organisations should develop an agreement or memorandum of understanding, which establishes relationships, responsibilities, and operational requirements to facilitate the transfer of assets and functions, and future access arrangements to the public record.

- 2 **Records of the department or agency up to the date of privatisation will** [apart from rare cases] **remain public records** and must continue to be safeguarded in accordance with the obligations laid down by the Public Records Act, the Freedom of Information Act, and any other relevant legislation. This must include any appointed Place of Deposit under the control of the department or agency or that it transfers records to.⁹ Specialist advice on the management of records held by approved Places of Deposit should be obtained from The National Archives as soon as the public body is aware of proposals for privatisation.
- 3 Records of the function or department which is being privatised must first be categorised. The DRO must ensure that all records of the privatised function/s are included in this exercise. If necessary, an information survey should be carried out. Records should be assigned to one of the following categories
 - Selected for permanent preservation at the National Archives
 - Selected for permanent preservation at an approved Place of Deposit
 - Selected for permanent preservation but still required by the successor body
 - Retained in government
 - Required by the successor body
 - Required by both government and the successor body
 - Not selected for permanent preservation and required neither by government nor the successor body.

When identifying records required by the successor body, DROs should consider issues such as policy/legal requirements, intellectual property rights, and operational requirements.

- 4 All records [paper and electronic] must be subjected to an accelerated second review and those considered worthy of permanent preservation earmarked for eventual transfer to The National Archives or an approved Place of Deposit.¹⁰ This must be the first action in the categorisation process. If records are not able to be transferred to The National Archives prior to the privatisation date, they should be transferred to the parent department and safeguarded until suitable resources for preparation are

⁸ <http://www.nationalarchives.gov.uk/information-management/legislation/public-records-system.htm>

⁹ Places of Deposit are approved by The National Archives under section 4 of the Public Records Act 1958.

¹⁰ There is a general statutory duty "to make arrangements for the selection of those records which ought to be permanently preserved and for their safe-keeping". This is to be done under National Archives' supervision. Section 3(1) and (2) of the Public Records Act 1958

available. The National Archives should be consulted on the method of selection and review.

Datasets are not transferred directly to the National Archives, but are captured from the public body's website to the UK Government Web Archive. Datasets too sensitive to have been published but which have been selected for permanent preservation should be transferred to the parent department [in a format that is useable and accessible], along with any metadata, and supporting information. The dataset should be maintained by the parent department until the sensitivity falls away. The data should be transferred to the receiving department in accordance with the recommendations in the Data Handling Procedures in Government Final Report.¹¹

The parent department and the public body should consider arrangements for allowing any successor body access to the records if required for operational purposes. Ownership of the records under crown copyright and intellectual property requirements should be discussed with the legal and legislative area of the parent department at the earliest opportunity, and finalised as required prior to the privatisation of the public body.

- 4.1 Some records not selected for permanent preservation may still need to be retained within government, for legal, administrative or security reasons. These records should be held by the residuary body or the government department handling the residuary functions of the privatised organisation.
- 4.2 Records not worthy of permanent preservation and which are not required by government may be required by the successor body to complete, for example, a continuing project or process. The transfer of these records should be effected through statutory instrument – if possible through the same instruments that assets, liabilities and responsibilities are transferred.

Records which have been selected for permanent preservation and already transferred to archival custody may be required periodically by the successor body. Such a record must be requisitioned in the prescribed manner from The National Archives by the residuary body or government department handling such arrangements. The preferred arrangement is for the record/s to be copied and provided to the successor body, and the original transferred back to The National Archives / Place of Deposit.

Where copies cannot be provided [due to size or cost limitations], the relevant bodies must sign a formal loan agreement, outlining that requisitioned originals are not damaged in any way, that nothing is added to or removed, and that the records are returned as soon as they are finished with and not later than one year after requisition. Any restrictions regarding access must also be included in the agreement.

- 4.3 There may be some records which have not been selected for permanent preservation, but which are required by both government and the successor body. If the residuary body or succeeding government department approves, such records may be passed to the successor body using the same loan arrangements mentioned above.
- 4.4 Records deemed not worthy of permanent preservation, and which neither government nor the successor body requires, may be disposed of according to approved retention policies.

¹¹ http://www.cesg.gov.uk/products_services/iatp/documents/data_handling_review.pdf

5. Records created by any private body are not public records and are not covered by this guidance.

Actions	Responsible	Timing	Evidence of completion
1. Set up Transition Team	DROs	Earliest point of opportunity	Stewardship team established – team members from PD will be required to continue until all actions completed / transferred to responsibility of DRO.
2. Identify legislative requirements [Public Records Act, FOI, EIR]	DRO for PB	Earliest point of opportunity	Communication between officials and The National Archives.
3. Carry out Information Survey	DRO for PB	Earliest point of opportunity before privatisation	Survey completed. Major record series identified.
4. Records Review	DROs PD and PB / The National Archives' IMC		
<ul style="list-style-type: none"> • Selected for permanent preservation • Retained in government • Required by the successor body • Required by government and by the successor body • Permanent preservation, but required by the successor body • Not selected for permanent preservation and not required by government or successor body 	<ul style="list-style-type: none"> • IMC and DROs to liaise on review and selection of records. • DROs to ensure liaison between relevant areas within PB to ensure legal requirements and intellectual property rights are agreed upon • TNA IMC to liaise with appropriate officials to determine future arrangements 	To be finalised prior to privatisation.	<ul style="list-style-type: none"> • Selected records transferred to TNA or PD for eventual transfer. • Ownership of records under crown copyright agreed and enacted as required. Agreement between PD and successor body on management, transfer ownership, and access to records not selected for permanent preservation. • Agreement and processes between The National Archives and successor body on loan and access to selected records. • Information disposed of as required.

DRO = Departmental Records Officer
IMC = Information Management Consultant
PD = Parent Department
PB = Public Body

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Public Bodies Reform – Implementation Checklist [Public Records]

1. Dissolution of Public Bodies

Have you considered...

Discussing the public record requirements with the parent department and The National Archives?

Establishing a Joint Information Transition team with the parent department that will have responsibility for tracking and resolving the information management issues before, during and after the dissolution programme?

Conducting an information survey of the public body that covers all electronic and paper-based information systems utilised to manage and disseminate information within the public body?

Conducting a review of the records within the public body, to determine what records the government will still require after the dissolution, and what records will need to be transferred to The National Archives?

Ensuring that experienced staff are available to manage the information management issues during the dissolution programme, including for the survey and review of information within the public body?

Ensuring that the parent department has agreed to manage any ongoing or emerging issues after the dissolution of the public body? These include, but are not limited, to

- freedom of information requests;
- future access permissions/approvals;
- ensuring digital records continue to be useable and accessible for future use as required.

Identifying the crown copyright and intellectual property issues in relation to the public record, and ensuring that arrangements [legal, legislative or otherwise] are made to ensure that ownership of the record remains with the Crown?

Contacting the unit writing the transfer of functions instrument[s] (Act, Regulations, etc) to highlight that records are valuable assets essential to accountability and transparency and need to be provided for properly?

Discussing with your IT service providers and the parent department the requirements for ongoing usability and accessibility [as appropriate] to the record?

Ensuring that any publically available information will continue to be maintained and accessible as is required?

Discussing with The National Archives at the earliest opportunity the requirements for capturing and archiving the public body's website?

Discussing [if applicable] these issues with your agencies, including executive agencies, "arms length bodies", NDPB and other quasi-autonomous bodies?

2. Privatisation/Change of Status of Public Bodies

Have you considered...

Discussing with the parent department and The National Archives the public record requirements?

Establishing a Joint Information Transition team with the parent department that will have responsibility for tracking and resolving the information management issues before, during and after the dissolution programme?

Setting down in writing the roles and responsibilities of the public body, the parent department, and the successor body in terms of operational requirements for the transfer of assets and liabilities, and the future access and storage arrangements for the public record?

Consulting with the areas responsible for Legal and Legislative Issues the requirements under the Public Records Act and the Freedom of Information Act?

Identifying the crown copyright and intellectual property issues in relation to the public record, and ensuring that arrangements [legal, legislative or otherwise] are made to ensure that ownership of the record remains with the Crown?

Ensuring that appropriate arrangements are in place to allow any successor body to be able to access any information that it needs to operate? These include, but are not limited, to:

- establishing loan agreements between the parent department and the successor body;
- copying the public record and providing this to the succeeding body;
- presenting any record not selected by The National Archives, or required by the Government, to the successor body.

Conducting an information survey of the public body, covering all electronic and paper-based information systems utilised to manage and disseminate information within the public body?

Conducting a review of the records within the public body, to determine what records the Government will still require after the dissolution, what records will need to be transferred to The National Archives, and what records will be needed by the successor body?

Ensuring that experienced staff are available to review and prepare the records for transfer to The National Archives and/or the parent department?

Ensuring that the parent department has agreed to manage any ongoing or emerging issues after the privatisation of the public body? These include, but are not limited, to

- freedom of information requests;
- future access permissions/approvals;
- ensuring digital records continue to be useable and accessible for future use as required.

Contacting the unit writing the transfer of functions instrument/s [Act, Regulations, etc] to highlight that records are valuable assets essential to accountability and transparency and need to be provided for properly?

Discussing with your IT service providers the requirements for ongoing usability and accessibility [as appropriate] to the record?

Ensuring that any publically available information will continue to be maintained and accessible as is required?

Discussing with The National Archives at the earliest opportunity the requirements for capturing and archiving the public body's website?

Discussing [if applicable] these issues with your agencies, including executive agencies, "arms length", NDPB and other quasi-autonomous bodies?

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