

What to do with your records if your public body is undergoing a status change

OGL

© Crown copyright 2017

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit

nationalarchives.gov.uk/doc/open-government-licence or email psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information, you will need to obtain permission from the copyright holders concerned.

This publication is available for download at nationalarchives.gov.uk.

1. Introduction	3
1.1 What is the purpose of this guidance?	3
1.2 Who is this guidance for?	4
2. What to do if your public body is undergoing a change in status.....	4
2.1 The joint information transition team.....	4
2.2 Action plan.....	5
2.3 The information survey	8
2.4 Reviewing your records to asses value	9
2.4.1 Records for permanent preservation	9
2.4.2 Records with ongoing business value	10
2.4.3 Ephemeral records.....	11
2.5 Assigning ownership of records.....	11
2.6 Preserving publicly available material.....	11
2.6.1 Websites	12
2.6.2 Datasets.....	12
2.7 Making sure records are still usable after transfer	12

1. Introduction

The National Archives is the central advisory body for the care of records and archives, in all media, from creation to long-term preservation. We provide advice to government departments and the wider public sector on the management of digital and paper records, and their selection and transfer to The National Archives.

1.1 What is the purpose of this guidance?

This guidance provides a plan for the actions you must take if your organisation is going through a change to its organisational status.

A change of status may occur due to:

- an organisation selling its shares (privatisation)
- ownership of an organisation being taken on by employees, customers or other stakeholders (mutualisation)
- an organisation being converted into a government owned company
- the dissolution of an organisation

Public records must be safeguarded according to obligations laid down by the Public Records Act, the [Freedom of Information Act](#) (FOIA), and any other relevant legislation or codes of practice. Make sure that your successor body is aware of these requirements. Get specialist advice on the management of records held by approved places of deposit from The National Archives as soon as you are aware of proposals for any type of status change.

You must discuss ownership and access rights with your parent department and consult your parent department's legal and legislative teams as soon as possible to finalise ownership, copyright and intellectual property requirements.

This guidance complements the [Machinery of government change](#) guidance suite produced by The National Archives, together with guidance on the [Transfer of records](#), and the [Information](#) and [Knowledge](#) principles. This guidance gives detailed advice on how to transfer information and whether you will need to transfer to The National Archives, your parent government department, another department or agency, or to a private body.

1.2 Who is this guidance for?

This guidance is primarily aimed at [Departmental Records Officers](#) (DROs) or the equivalent role in your organisation. It may also be useful for Heads of Knowledge and Information Management (KIM), Chief Executive Officers (CEOs), change or project managers (anyone within your organisation responsible for managing information risk, or managing change).

2. What to do if your public body is undergoing a change in status

If a decision has been made to change the status of your public body, your information needs to be properly disposed of or transferred to your parent department or successor body. You need to build this into your planning at an early stage. If you are DRO for the public body undergoing a change in status get in touch with your parent department's DRO and The National Archives as soon as you can to discuss the future management of, and access to, your records. Bear in mind the impact a loss of expertise has on a public body when it is dissolved; take early decisions on the disposal of records and the sensitivity of selected records while such expertise is still available.

If your public body is being privatised you must make sure that your successor body is aware of any obligations laid down by the Public Records Act, the FOIA, and any other relevant legislation or code of practice. You must discuss ownership and access rights with your parent department and consult your parent department's legal and legislative teams as soon as possible to finalise ownership, copyright and intellectual property requirements.

Note: Department or agency records created prior to privatisation will remain public records after privatisation. Conversely, records created after the date of privatisation are not public records.

2.1 The joint information transition team

The first action you need to take is to establish a joint information transition team including officials from the public body, the parent department and the successor organisation (whichever is applicable). Include expertise from information management, information technology,

information assurance and change management. This will help you ensure that information is protected and usable after transition. Your joint information transition team is responsible for information management before, during and after the transition programme.

2.2 Action plan

Action	Responsibility	Evidence of completion
<p>Get in touch as soon as you hear your organisation may undergo a change of status:</p> <ul style="list-style-type: none"> • Contact DRO in your parent department • Contact The National Archives 	<ul style="list-style-type: none"> • Head of KIM or DRO in the public body 	<ul style="list-style-type: none"> • Contact made
<p>Set up information transition team:</p> <ul style="list-style-type: none"> • Include information from a range of disciplines • Include staff from the public body • Include staff from the parent department 	<ul style="list-style-type: none"> • Heads of KIM in parent department and public body 	<ul style="list-style-type: none"> • Team established and remit agreed • Parent department commits to team remaining in place after status change, until all actions are completed and responsibility transferred to the parent department's DRO
<p>Carry out a comprehensive information survey:</p> <ul style="list-style-type: none"> • Document your records, their business and operational use and the technology that supports them • Document legal requirements and 	<ul style="list-style-type: none"> • DRO for public body, with guidance from DRO of parent department 	<ul style="list-style-type: none"> • Information survey documented • Major record series identified prior to status change

<p>intellectual property rights for each record</p> <ul style="list-style-type: none"> • Perform a sensitivity review • Share the results with the DRO of your parent department 		
<p>Review your records:</p> <ul style="list-style-type: none"> • Identify records for permanent preservation and transfer them to your parent department • Identify records with continuing business use and transfer them to your successor body • Agree ownership of transferred records • Assign copyright and intellectual property • Identify and dispose of ephemeral records 	<ul style="list-style-type: none"> • DRO in public body identifies and reviews records • DRO in public body transfers documents to parent department • Transition team is responsible for ensuring transferred records are still usable as required • DRO in parent department transfers records for permanent preservation to The National Archives or other approved Place of Deposit in due course • DRO in public body disposes of ephemeral records 	<ul style="list-style-type: none"> • Sensitivity review completed prior to status change • Records with permanent value or business use transferred to the parent department prior to status change • Records transferred in a way that ensures they are still usable as required • Ephemeral records disposed of appropriately prior to status change • Ownership of records agreed prior to status change • Crown copyright and Crown database rights assigned to the Controller of HM Stationery Office at The National Archives • Non Crown copyright and intellectual property rights assigned
<p>Agree access rights to records:</p>	<ul style="list-style-type: none"> • DRO in public body reviews sensitivity • DRO in parent body 	<ul style="list-style-type: none"> • Sensitivity review completed prior to status change

<ul style="list-style-type: none"> • Review sensitivity of records • Agree who has the authority to retrieve and provide access to records once they are transferred to The National Archives, including who will assist in FOI enquiries 	<p>agrees access with The National Archives</p>	<ul style="list-style-type: none"> • Parent department and The National Archives agree access to closed records prior to status change
<p>Preserve publicly available material:</p> <ul style="list-style-type: none"> • Ensure websites are captured in the UK Government Web Archive (UKGWA) – see The National Archives’ guidance for digital and records management teams • Archive datasets as part of your website capture, or transfer them to your parent department. Investigate any planned updates to datasets. If they are yet to be published, ensure they are posted to your website before the date of the final website capture • Document the technical dependencies, make arrangements for transfer of technology, licences and documentation if 	<ul style="list-style-type: none"> • DRO in public body informs The National Archives’ Web archiving team of the need to capture website no later than six weeks prior to status change • DRO in public body informs The National Archives’ Web archiving team of need to capture dataset(s) no later than six weeks prior to status change • DRO in public body transfers unpublished datasets and supporting technology, licences and documentation 	<ul style="list-style-type: none"> • Website captured into the UKGWA • Datasets captured as part of the website capture. Unpublished Datasets transferred to the parent department prior to status change

<p>needed. Collect and transfer information on how the data was captured processed and arranged</p>		
<ul style="list-style-type: none"> Identify documents made available for public inspection, agree whether they are still required, and make them available through appropriate sources 	<ul style="list-style-type: none"> DROs in public body and parent department agree documents required after status change 	<ul style="list-style-type: none"> Documents previously available for public inspection made available through appropriate sources after status change
<ul style="list-style-type: none"> Agree selection and disposal of unpublished reports 	<ul style="list-style-type: none"> DRO in public body and The National Archives agree selection and disposal of unpublished reports 	<ul style="list-style-type: none"> Reports disposed of, or transferred to the parent department, as agreed, prior to status change

2.3 The information survey

Your comprehensive information survey should include the information creator, the current owner, the format, and how the information needs to be used. By ‘used’ we mean how to find, open, work with, understand and trust your information (see The National Archives’ guidance on [Digital continuity](#)). For digital information this must include the main software formats and an inventory of all IT hardware and software used for managing and disseminating information (including servers, hard drives, laptops, data sticks, databases, internet/intranet and information held by other organisations).

The information survey should include:

- documentation and records
- email and communication logs
- database and/or file lists
- organisation charts
- contracts with external storage organisations (paper and digital)

- previous information surveys/inventories

The survey should cover all the areas information could be stored in, in all media, both physical filing locations and digital ones. Take particular care with personal filing systems, which may contain both original records and 'working copies'. These must be evaluated by the individual members of staff alongside information management teams, and re-integrated into the main information repositories or disposed where appropriate.

You may have existing surveys or inventories that you can build upon, such as an [Information Asset Register](#) (IAR) or a [configuration management database](#) (CMDB). The National Archives has produced a range of guidance that can help you to document your information and IT assets (see guidance on [Digital continuity, stage 2](#)).

You must review the sensitivity of records of historical value before your public body undergoes a change in status. This means you must identify information that may be exempt from disclosure under the FOIA and the Environmental Information Regulations (EIR).

You must note categories of records with particular storage and handling requirements (for example, sensitive personal data or protectively marked material). Further guidance on [reviewing records for sensitivity](#) is available from The National Archives' website.

2.4 Reviewing your records to assess value

Every record must be assessed for potential historical value and ongoing business value.

2.4.1 Records for permanent preservation

- Identify records of historical value that clearly merit permanent preservation. Consult The National Archives on the method of selection and review
- Transfer records for permanent preservation to your parent department. They will transfer them to The National Archives or an approved Place of Deposit as part of a planned transfer of records, at the appropriate time. Records may be transferred directly to The National Archives or an approved Place of Deposit, but only with the written approval of an Information Management Consultant (IMC) at The National Archives
- Review the sensitivity of records of historical value before your public body undergoes a change in status. Identify information that may be exempt under the FOIA and the EIR.

Note: categories of records with particular storage and handling requirements (for example, sensitive personal data or protectively marked material)

- Your parent department will need to identify officials who are authorised to retrieve on loan and provide access to any selected records when they are eventually transferred to The National Archives

In the case of privatisation, if the successor body want access to records of permanent value that are being transferred to the parent department, they have to requisition them. Ideally the access and loan rights should be agreed with the parent department prior to privatisation.

In most cases the successor body should be given a copy of the record. If this is not possible due to size or cost limitations a formal loan agreement for the original records should be agreed. The agreement should outline access restrictions and should stipulate that requisitioned originals are not damaged in any way, that nothing is added or removed, and that the records are returned as soon as they are finished with – no later than one year after requisition.

If the record has been subsequently transferred from the parent department to The National Archives or another Place of Deposit, the request must still go via the parent department. Access to records of permanent value is something that you may need to discuss on a case-by-case basis with your parent department, the successor body and The National Archives.

2.4.2 Records with ongoing business value

Records with ongoing business value should be transferred to your parent department. This includes records which need to be kept for legal purposes.

In the case of privatisation, **if both the parent department and the successor body want the records**: transfer them to your parent department. Make arrangements for transfer of technology, licences and documentation if needed. The successor body will need to agree access and loan rights with your parent department, and in some cases they may be given a copy of the record. This is something you should discuss on a case-by-case basis with your parent department, the successor body and The National Archives.

If you do not yet know who your successor body is, you should flag to your parent department that they will need to agree access or loan rights with the successor body once they come into existence.

If the successor body wants access to open public records that have already been transferred for permanent preservation: copies can be requisitioned from The National Archives or other Place of Deposit. If copies are not available due to size or cost limitations, the relevant bodies must sign a formal loan agreement. If the successor body wants access to closed public records, they must discuss this with the parent department.

If just the successor body wants the records: you should agree this with your parent department and The National Archives, and transfer records via statutory instrument (or similar, for example a Memorandum of Understanding).

2.4.3 Ephemeral records

Records deemed not worthy of permanent preservation, and not required by your parent department, should be securely disposed of according to approved retention policies.

2.5 Assigning ownership of records

Discuss ownership of records with your parent department's legal teams as soon as you can, and finalise ownership before your public body undergoes a change of status.

Documents, information and databases produced by Crown bodies are subject to Crown copyright and Crown database right protection, which are centrally managed by the Controller of HM Stationery Office. Copyright and database right for records and databases created by non-Crown bodies can be assigned to the Controller of HM Stationery Office, who will then allow the material to be made available for re-use. You should agree this with your parent body and The National Archives prior to a change in status. It is important that copyright is assigned before a change in status occurs.

If you're not sure whether you are a Crown body or a non-Crown body, please ask for advice from The National Archives' [Information Policy team](#) – Crown bodies include central government departments, non-departmental public bodies and Executive Agencies.

2.6 Preserving publicly available material

Before your public body undergoes a change in status, consider archiving/capturing websites, datasets, information made available for public inspection, and published/unpublished reports.

2.6.1 Websites

All central government websites (including those of arm's length bodies) are routinely captured and archived by The National Archives. Your information survey should include websites and you should determine whether you need any supplementary web archiving.

2.6.2 Datasets

According to the government's transparency agenda, all datasets not containing sensitive data should be published on the organisation's website, in a format that will enable them to be captured into the UKGWA. Before status change, as part of the information survey, datasets should be reviewed and published wherever possible. Datasets that are too sensitive to publish, but which have been selected for permanent preservation, should be transferred to your parent department in a usable format – along with any supporting information. Your parent department should maintain the dataset until the sensitivity falls away. You must transfer data according to the recommendations in [Data Handling Procedures in Government Final Report](#).

2.7 Making sure records are still usable after transfer

It is vital that the usability of the records is not lost during transfer to your parent body or to the successor organisation. You must maintain the continuity of your information so that you do not lose the ability to find, access, work with, understand and trust the information in the way that you need. For paper records this may mean maintaining filing structures, listing files, or updating catalogues.

For digital records maintaining the continuity of the information may mean transferring or replicating entire technology support systems – it is not enough to transfer the digital files themselves if the recipient does not have the software or hardware to open the files. This is something you need to discuss and agree with your parent department at the earliest opportunity.

These issues must be covered by the information survey and you should consult Information Asset Owners (IAOs), Knowledge and Information Managers, Information Assurance Managers, change managers and IT service providers (both in-house and external) to agree how records need to be used after transfer, and take the actions required to maintain that use. The National

What to do with your records if your public body is undergoing a status change

Archives' Digital continuity suite includes guidance on how to [maintain digital continuity through change](#).

If you need any further advice or assistance, please contact the Information Management team at The National Archives: information.management@nationalarchives.gov.uk