

Appraisal Report

Amendment to an Existing Disposal Authority

Department of Internal Affairs

Document ID	APP2023/0032
Agency	Department of Internal Affairs (AAAC)
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Date	20 September 2023
Disposal Authority to be changed	DA531: All Public Inquiries (including Royal Commissions) and Government Inquiries

Purpose

Inquiries that deal with very sensitive personal information, such as stories of abuse or trauma, currently manage their records under DA531 (in addition to the General Disposal Authorities GDA6 and GDA7). A current example is the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions.

Inquiries of this nature may make various undertakings to the participants who have submitted this very sensitive information about future access to it, such as:

- That all sensitive personal information will be stored as part of the historical record of the inquiry, with restricted public access after transfer to Archives New Zealand for 100 years after the inquiry ends; or
- That all sensitive personal information will be destroyed at the end of the inquiry; or
- That inquiry participants may change their mind about providing their submitted information and in this case they could request the destruction of their sensitive personal information.

However, no existing class in DA531 allows for the destruction of records where any potential archival value is less important than honouring a request from a participant to destroy their submitted very sensitive personal information or where an inquiry determines that their very sensitive personal information must never be accessed in future.

Description of Amendment

Disposal Authority (DA) 531 was approved on 24 April 2012 to cover all records created or received by Royal Commissions and Commissions of Inquiry. It was developed with particular reference to the two Royal Commissions that were then in progress (Royal Commission on the Pike River Coal Mine Tragedy and Royal Commission of Inquiry into Building Failure Caused by the Canterbury Earthquakes).

The Disposal Authority was subsequently amended in 2013, after the passing of the Inquiries Act 2013 into law, to include all the types of inquiries described in the new Act.

DA531 includes sixteen classes of records, all but one of which have a disposal action of transfer to Archives New Zealand on completion of the inquiry. The one class that has a disposal action of destruction covers records dealing with routine administrative or operational activities.

This amendment to DA531 is the proposed inclusion of a new class to manage information submitted by participants who have changed their mind and have formally requested that their submitted, very sensitive personal information be destroyed, or where the inquiry has determined that this information is to be permanently suppressed or must never be accessed, with no possibility of exception or access under any circumstances.

It is anticipated that there will be only a small volume of records that will fall under this new disposal class.

In conjunction with the above amendment minor formatting and grammatical updates have been made to the disposal schedule to improve readability and understanding.

1.b. Proposed Inclusion of a New Class or Class Grouping

	New Class Details
Title	Very sensitive personal information submitted by participants who have formally requested that their records be destroyed, or where this information must never be accessed.
Number	17
Description	<p>This class covers very sensitive, identifiable personal information provided by an inquiry participant about themselves, such as personal stories and descriptions of abuse or trauma, where the participant has formally requested that records of their submitted information be destroyed, or where the inquiry has determined that this information must never be accessed after the inquiry.</p> <p>Specifically, this class covers submissions of very sensitive personal information provided by participants where:</p> <ul style="list-style-type: none"> • An individual or their legal representative or a verified agent has requested the destruction of their records and they have been validated as the named and identifiable person, or their legal representative; OR • The inquiry has determined that the records are to be permanently suppressed or must never be accessed, with no possibility of exception or access under any circumstances. <p>If either of the two conditions above has been met, the additional criteria must also be met:</p> <ul style="list-style-type: none"> • The information has not already been publicly disclosed; AND • The information is not integral to the inquiry's work or findings, or is not required as supporting evidence. <p>Example records: personal stories and descriptions of abuse or trauma, including documents, transcripts, recordings or communications that include this information.</p> <p>The class does not include other records, such as registers, that identify the person as having offered to participate in the inquiry or having participated in the inquiry.</p>
Retention Period	For the life of the Inquiry
Disposal Action	Destroy
Justification and Value Statement	Confidentiality undertakings made to participants while gathering evidence may result in an obligation to uphold requests made by people who have shared very sensitive or traumatic experiences, wherever possible, to maintain trust in an inquiry and its relationships with participants. An inquiry may also make permanent access restrictions or suppression orders to

protect very sensitive personal information provided by a participant about themselves, after the closure of the inquiry. However, access restrictions can be changed by the relevant department that controls the records after the inquiry has closed. Although the inquiry's suppression orders must be taken into account, it is possible that new access restrictions might not meet the original undertakings made by an inquiry to participants.

Currently, records in the new class may be covered by various classes in DA531 that have a disposal action of transfer as a public archive, including those for formal submissions, witness statements, and correspondence with participants. For information submitted by a participant who no longer wants that information shared, or where the inquiry has determined that it should never be accessed after completion of the inquiry, there would be no ongoing archival value in transferring the records to Archives New Zealand and transfer would only introduce the risk that these records could be accessed in error.

Access Recommendations

Not applicable