



Managing information and records during administrative change: section 23 of the Public Records Act 2005

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1 Introduction

Public sector organisations undergoing change to their administrative functions have responsibilities for the management of the associated information and records. This guide will assist organisations to understand their responsibilities and the tasks involved. Archives New Zealand recommends that public offices make contact with us early on in the change process as there can be considerable information and records management work involved including cost.

Organisations have statutory obligations to manage their information and records. Section 23 of the Public Records Act 2005 (the Act) relates to the transfer of information and records which is associated with administrative change. The transfer process is also referred to as a “Section 23”. Section 23(2) requires that an organisation that takes over responsibilities for public records must notify the Chief Archivist within 3 months of the transfer taking place. This notification should be given using the *Section 23 Transfer Notification Form*. The form is available from Archives New Zealand (note: this reporting obligation does not apply to local authorities).

Administrative change may also affect local authorities. Where section 23(3) of the Act applies, local authorities should contact Archives New Zealand for advice.

Administrative change includes:

- disestablishment of a function or an organisation
- transfer of function to another government organisation
- merger of an organisation into another organisation
- transfer of function to a private entity.

Administrative change can be the result of:

- new legislation
- change of Ministerial portfolios
- change of Government after an election
- merger or de-merger of organisations
- Government decisions to change the machinery of government.

1.1 Definitions

Transferring organisation: the public office which transfers the function to another public office, including a public office that is being merged into one or more existing public offices.

Receiving organisation: the public office which receives the function or into which a public office is being merged.

2 Types of Administrative change

2.1 Disestablishment of a function or an organisation

When a function is disestablished the organisation responsible for the information and records must still retain and continue to manage the information and records until they are due for disposal.

If the organisation itself is to be disestablished it must fulfil obligations under the Act for disposal of the information and records and should contact Archives New Zealand early to discuss the options, which include:

- direction by Archives New Zealand for another agency to take the records
- transfer of records of archival status to Archives New Zealand.

A checklist for the disestablishment of a function is provided in the Appendix.

2.2 Transfer of function to another government organisation and mergers

Information and records relating to a function should be transferred with the function. This may encompass all functions where an organisation is being merged into another. Refer to Appendix for checklist.

The transferring organisation has key responsibilities for identifying relevant information and records and associated management systems and for facilitating the transfer. Where several organisations are being merged together, the transition or establishment entity should ensure that section 23 requirements are met.

The transferring organisation should identify vital information and records early and prioritise their management. The integrity of any information and records considered vital, i.e. essential to the ongoing business of an organisation, must be maintained to ensure the business can continue in the event of disruption.

The receiving organisation is responsible for ensuring that they receive the relevant information and records for the transferred function. If the receiving organisation is a public office they are responsible for notifying Archives New Zealand of the change.

2.3 Transfer of function to a private organisation

The transfer of a function and its associated information and records from a government organisation to a private entity is outside the scope of this guidance and is considered on a case-by-case basis. Contact Archives New Zealand to discuss the information and records to be transferred to a private organisation (this includes potential sale). Public records retain their status as public records and the attendant management obligations unless they are formally discharged by the Chief Archivist. Records created by a private organisation are not public records.

3 Appendix – Checklists

Disestablishment of a function
Appraisal
Sentence the information and records of the disestablished function against the organisation’s current authorised disposal schedule and the General Disposal Authorities, and/or
Undertake an appraisal to determine the appropriate periods of retention for the information and records prior to destruction, and develop disposal authority with Archives New Zealand, and/or
Transfer the information and records requiring permanent preservation to Archives New Zealand
Information and records management systems
Update systems to make it clear that no new records are to be created for the disestablished function
Complete Archives New Zealand’s <i>Section 23 Transfer Notification Form</i> . Request form from rkadvice@dia.govt.nz , complete and return.

Transfer of a function to another government organisation and mergers

Agree and document the transfer plan including responsibilities of transferring and receiving organisations. Agreement should include but not be limited to:

- Transferring organisation to describe the information to be transferred including control records such as registers and indexes
- Agreed identification of which records to be transferred
- Current locations of transferring records
- Agreed identification of records to be retained
- Assignment of roles and responsibilities
- Records access and security arrangements
- Arrangements for records in secondary storage and management issues such as contractual arrangements, costs, outstanding charges
- The specific management requirements for various formats
- Confirmation of on-going information and records ownership
- Processes if additional information is uncovered during implementation of the plan
- Agreed allocation of costs
- Agreed timeframe for completing transfer processes
- Identify system changes needed to ensure effective management of transferred records

Disposal tasks

- Does the transferring organisation have a current Disposal Authority? If not, contact Archives New Zealand immediately
- Are routine disposal activities up-to-date?
- Does the receiving organisation have a current Disposal Authority? If not, contact Archives New Zealand immediately
- Work with Archives New Zealand to amend current Disposal Authority of receiving organisation to cover information and records received. Use transferring organisation's Disposal Authority as a precedent or create a new disposal schedule
- Amend Disposal Authority of transferring organisation to remove transferred information and records
- Confirm which records are to be:
 - transferred to secondary storage
 - destroyed
 - transferred to Archives New Zealand

Transfer of a function to another government organisation and mergers (contd)

- Agree and document arrangements for organisational access - both the transferring and receiving organisations may need to access records of the function
- Confirm that all records being transferred are covered by an access authority if required, to ensure receiving organisation can allow public access
- Transferring organisation to advise receiving organisation of any existing access authorities to review
- Check security levels, caveats, or classifications currently in place
 - Are additional security measures needed?
- Permissions must be managed to ensure unauthorised access to sensitive information does not occur during transfer
- Transfer access and security protocols must be in place
- Ensure a transfer plan is established and that transfer processes are monitored against the plan

Amend information and record management tools to allow effective management of records received

Sign off confirming all agreed information and records have been transferred

Notify Archives New Zealand using Section 23 Transfer Notification Form. Notification is a statutory requirement Section 23(2) of the Act