

RECORDS MANAGEMENT STANDARD

Discontinued and Transferred Functions

RMS 4.1

Preface

- 1 This standard has been prepared by the Public Record Office (PRO) and is one of a series of Records Management Standards for use by all organisations creating or holding public records.
- 2 As part of the continuing evolution of Government there have been frequent reorganisations of government departments and other public record bodies. Old departments have been dissolved, new departments created, existing departments merged, and others divided. Functions have been transferred from one department to another, contracted out to other organisations, privatised or discontinued. These changes have significant implications for the management of current and non-current records.

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1 Scope

- 1.1 This standard is a best practice benchmark for all organisations creating or holding public records.
- 1.2 It provides advice and guidance on handling records at all stages of their life-cycle when they are part of a change in the machinery of government. Such a change may result from functions being discontinued, transferred from one part of government to another, contracted out to an organisation in the private sector, or privatised.
- 1.3 It defines the respective responsibilities of the transferring and receiving departments or bodies for the records involved.
- 1.4 It applies to all types of records, including electronic. For further details on the management of electronic records see the PRO guidance *Management, Appraisal and Preservation of Electronic Records* (2 vols, 1999).

2 Definitions

- 2.1 **Access** The availability of, or permission to consult, records.
- 2.2 **Client Manager** An officer of the Public Record Office responsible for the supervision and co-ordination of the records work of a group of government departments and agencies to provide for the timely and effective appraisal, documentation and accessioning of departmental records.
- 2.3 **Contract Out** Enter into an agreement by which a private organisation carries out or manages the functions of a government department or agency.
- 2.4 **Current Records** Records necessary for conducting the current business of an organisation.
- 2.5 **Departmental Record Officer** The person appointed by a government department or agency as being responsible for the management of the records of that organisation.

- 2.6 **Discontinued Function** A function of government that has ceased to be discharged, for whatever reason.
- 2.7 **Disposal** The implementation of appraisal and review decisions. These comprise the destruction of records and the transfer of custody of records (including the transfer of selected records to an archive institution). They may also include the movement of records from one system to another (for example, paper to electronic).
- 2.8 **Electronic Records** Records where the information is recorded in a form that is suitable for retrieval, processing and communication by a digital computer.
- 2.9 **Film** Transparent plastic coated strip with a light sensitive emulsion, bearing a sequence of images which create the illusion of motion when projected, and carried on an open reel.
- 2.10 **First Review** The review of public records no later than five years after they have ceased to be of active use.
- 2.11 **Microform** Records in the form of microfilm or microfiche, including aperture cards.
- 2.12 **Non-Current Records** Records no longer required in the conduct of current business that can therefore be accessioned in an archive or destroyed.
- 2.13 **Operational Area** A unit, division or department within a government department or agency with responsibility for a particular function.
- 2.14 **Parent Department** The government department to which a temporary body reports or from which its staff are provided.
- 2.15 **Place of Deposit** A record office which has been approved for the deposit of public records in accordance with section 4(1) of the Public Records Act 1958.
- 2.16 **Privatisation** The assignment or sale of a government function to the private sector.
- 2.17 **Privatisation Unit** The unit or team in a government department charged with seeing through the privatisation process.
- 2.18 **Public Records** Records of, or held in, any department of Her Majesty's Government in the United Kingdom or records of any office, commission or other body or establishment whatsoever under Her Majesty's Government in the United Kingdom, as defined in paragraph 2 of the First Schedule to the Public Records

Act 1958. Also records of organisations subsequently included in the table in the above schedule or of those whose records have since been determined as public records by the Public Record Office.

- 2.19 **Public Records Act 1958** Legislation 6 & 7 Eliz 2, Ch 51.
- 2.20 **Residuary Body** A body that is designated to manage any operations or records which remain after a privatisation process.
- 2.21 **Second Review** The review of public records twenty five years after their creation.
- 2.22 **Sound Recording** A recording of sound on magnetic tape carried on an open reel or cassette.
- 2.23 **Status of Records** Whether records are public records (within the meaning of the Public Records Act 1958) or not.
- 2.24 **Successor Body** The organisation which takes over functions transferred from a government department or agency as a result of privatisation or contracting out.
- 2.25 **Temporary Body** An organisation that is set up to deal with a particular issue or enquiry and which will report to government at the end of the task assigned to it (for example, a Royal Commission).
- 2.26 **Transferred Function** A function of government that is handed over from one government department to another.
- 2.27 **Vesting Day** The day of formal establishment of a new body.
- 2.28 **Videotape** Magnetic or other tape carrying a series of TV images recorded magnetically, electronically or holographically.

3 Responsibilities

- 3.1 Departmental Record Officers (DRO) are responsible for ensuring that public records are properly safeguarded during any changes in the machinery of government. In particular they must ensure:
- the safe-keeping of the records of temporary bodies, for which their department is responsible, until they are due for review
 - when functions are transferred that new files are raised in the receiving operational area
 - that privatisation legislation takes account of the status of records
 - that lists of authorised signatories to requisition records from the PRO are updated when functions are transferred
- 3.2 The PRO Client Managers are responsible for giving advice to government departments and agencies on the implications for records of the transfer, discontinuation, contracting out or privatisation of departmental functions. In exceptional circumstances they will also make arrangements to deal with the records of temporary bodies for which there is no other body having a continuing interest when they are wound up.
- 3.3 The secretary of a temporary commission or committee is responsible for dealing directly with the PRO over the disposal of its records and will be responsible for resolving questions of future maintenance and access to them at the time of winding up, in consultation with the appropriate DRO (if the body is linked to a government department or agency).
- 3.4 Privatisation Units in government departments and agencies are responsible for ensuring that records are taken account of in legislation and contracts of sale, and for co-ordinating the resources required for carrying out the necessary records management procedures.

4 Determining the Status of Records

4.1 When decisions to contract out or privatise functions are made, DROs must ensure that any legislation takes account of the status of the records. Where the successor body is to be privatised and it is not considered appropriate that records created after vesting date should be public records or where the transfer is to a body already in the private sector, DROs must ensure that the public record status of the records created before vesting date is not affected by the legislation.

4.2 Public records are records belonging to HM Government (see definition at 2.18) and some of the criteria by which public record status is assessed are:

- the person to whom the body is responsible
- who audits the body's accounts
- how its members are appointed
- whether it is a body corporate
- whether it owns its own property

For example:

- if the body reports to a Minister of the Crown, the records are likely to be public records
- if the body's accounts are audit by HM Comptroller and Auditor General, they are likely to be public records
- if the body owns its own property, then it is generally deemed to own its own records and the records are non-public

4.3 If the records are not public records under this definition, they can still be determined as public records; the organisation could be included in the second part of the table in paragraph 3 of the First Schedule of the Public Records Act 1958. This table specifies bodies which generate public records.

5 Discontinued Functions

5.1 Records relating to a discontinued function will normally remain the responsibility of the body which formerly carried out that function.

5.2 In cases where both the function and the body carrying it out are discontinued, such as the dissolution of a temporary commission or committee, special arrangements will have to be made. These are described below.

- 5.2.1 At the time of dissolution, a first review of the records should be undertaken, destroying ephemeral material and earmarking for transfer to the PRO those records which clearly merit permanent preservation. These may include some which are already in the public domain and which may be made available immediately for public inspection (for example, evidence given in public and published reports).
- 5.2.2 The review of the records and the question of access to selected material should be undertaken and decided upon only after discussions between the secretary of the commission or committee, the DRO of the parent department and the PRO Client Manager.
- 5.2.3 Records which are clearly not of permanent value but which have a continuing administrative use which precludes them from immediate destruction, and records on which no decision can be taken until second review, should be transferred to the custody of the parent department's DRO. However, all parties involved in the review of records should bear in mind the implications of the loss of expertise when a function is discontinued. They may wish to take early decisions on the disposal of records while such expertise is still available.
- 5.3 In exceptional circumstances, where both a function and a body carrying it out are discontinued, and there is no other body having a continuing interest, the PRO Client Manager will make arrangements for the records to be subjected to an immediate second review and for selected records to be accessioned into the PRO. This must not be used as a substitute for the timely and efficient disposal of records in accordance with best practice.
- 5.4 Further guidance on the management of records of temporary bodies or commissions is scheduled for publication in 2002.

6 Transferred Functions

- 6.1 It is normal for both current and non-current records to be transferred from one part of government to another with the function to which they relate.
- 6.2 When current records are transferred to new staff in a new unit or at a new location, they should be closed and the receiving body should raise new records in the record keeping system which they are currently operating. The transferred records should not be re-jacketed and re-registered by the receiving body. The closed records should be treated in the normal way – kept in the registry or

records management unit until the need to refer to them has diminished to the extent that they can be removed to remote storage to await review.

- 6.3 Responsibility for custody, review and transfer to the PRO of non-current records relating to transferred functions should rest with the receiving body. However, any review or listing already in hand in the transferring body must be completed there.
- 6.4 Where non-current records relating to a transferred function have not yet been subject to first review, the transferring and receiving bodies should undertake jointly an accelerated first review, thus avoiding the transfer to the receiving body of large quantities of files of no administrative or historical value. Special provision may have to be made for dealing with records which are classified or sensitive in any way.
- 6.5 It is also necessary to make arrangements in respect of records relating to a transferred function which have already been transferred to the PRO for permanent preservation. These arrangements are described below.
 - 6.5.1 Where the receiving body may need to requisition records which were transferred to the PRO by the transferring body, the PRO must be supplied with a letter of authorisation to that effect from the DRO of the transferring body. The receiving body must send to the PRO a list of authorised signatories to requisition records on its behalf.
 - 6.5.2 The receiving body should normally be designated as responsible for matters relating to public access to transferred records, in particular any applications to the Lord Chancellor to vary the access periods and arrangements for special access to closed records.

7 Contracted-Out Functions

- 7.1 Where the management of government establishments and undertakings is passed to commercial organisations, usually for a contract period of 7 to 10 years, Ministers retain responsibility for the function in question.
- 7.2 The contract for the transfer of the management of such functions must require that all documents, materials and records created, acquired or possessed by the contractor during the term of the contract which are generated in fulfilment of the contract's requirements and conditions are public records. The contract must require the contractor to comply with obligations under the Public Records Act 1958 (as amended). The records remain the responsibility of the DRO for the government department which has made the contract.

- 7.3 The domestic records of the contractor – those produced by or used for the company's internal management – are not public records.

8 Privatisation

- 8.1 Privatisations vary considerably in scope and detail. As soon as the DRO is aware of any proposals for privatisation, he or she should bring the requirements of the Public Records Acts to the attention of those in the department responsible for its implementation. The PRO Client Manager must be provided with as much detail as possible of the proposed arrangements, including the timetable, at the earliest possible moment.
- 8.2 Records of the department or agency up to the date of privatisation will in most cases¹ remain public records and must continue to be safeguarded in accordance with the obligations laid down by the Public Records Acts. Records created by the successor body are not public records.
- 8.3 Records of the function or department which is being privatised must first be categorised. The DRO must ensure that all the records of the privatised function(s) are included in this exercise. If necessary, an information survey should be carried out (see PRO guidance Information Surveys, 1999). Records should be assigned to one of the following categories
- Worthy of permanent preservation in the PRO or place of deposit
 - Not worthy of permanent preservation but need to be retained in government
 - Not worthy of permanent preservation and not required by government but required by the successor body
 - Worthy of permanent preservation but required by the successor body
 - Not worthy of permanent preservation but required by government and by the successor body
 - Not worthy of permanent preservation and required neither by government nor the successor body

The chart at Figure 1 illustrates this process.

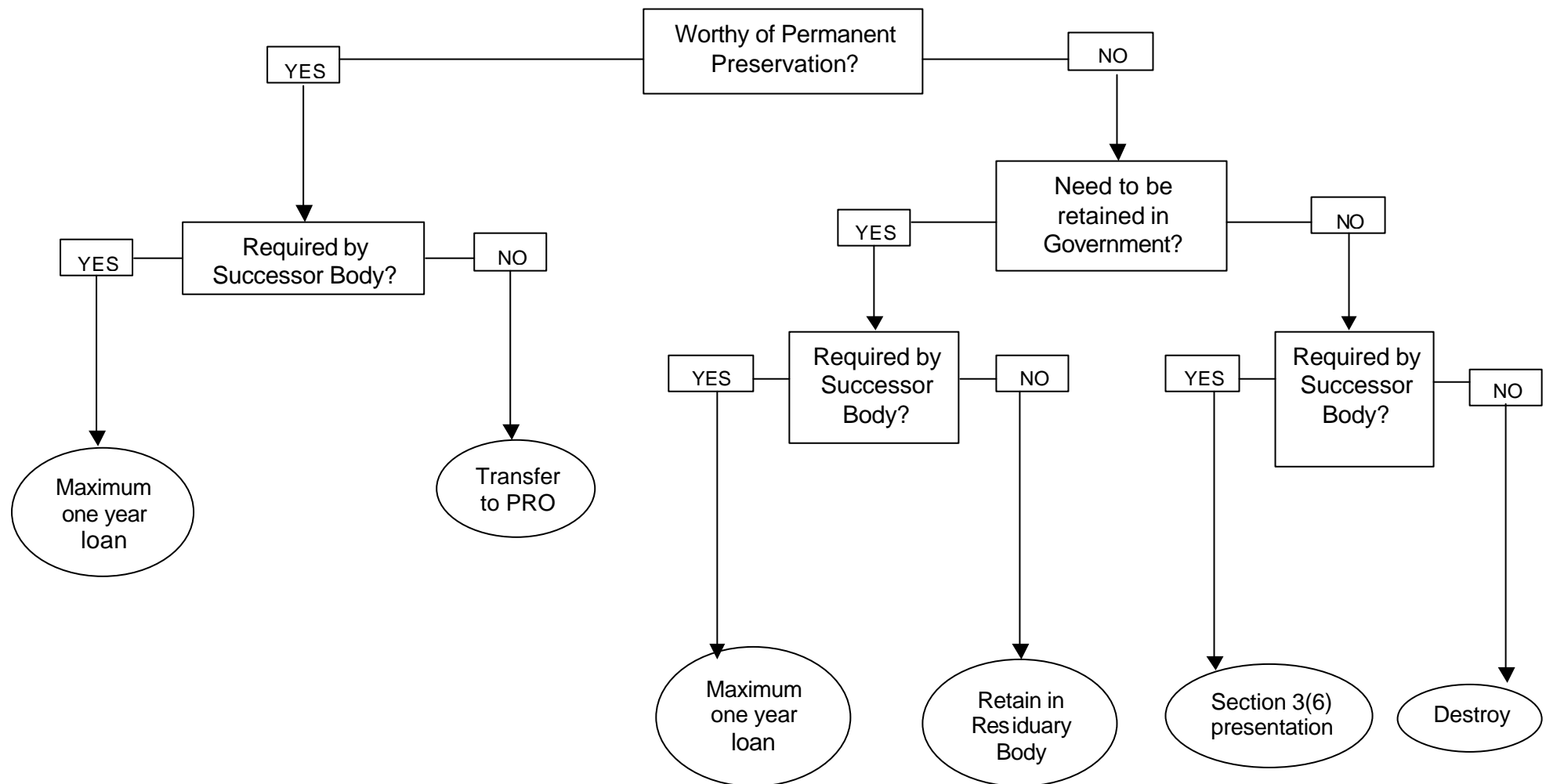
¹ in some exceptional circumstances, such as confidential information supplied by other governments, the status of the records may be re-examined at the point of privatisation

When identifying records required by the successor body, managers need to consider issues such as policy/legal requirements and intellectual property rights as well as operational requirements.

- 8.3.1 All the records must be subjected to an accelerated second review and those considered worthy of permanent preservation earmarked for transfer to the PRO in the normal way. This must be the first action in the categorisation process.
- 8.3.2 Some records not selected for permanent preservation may still need to be retained within government, either for legal, administrative or security reasons. These records should be deposited with the residuary body or with the government department handling the residuary functions of the privatised organisation.
- 8.3.3 A few records which are 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. If and when these records are thirty years old they must be presented to the successor body under section 3(6) of the Public Records Act 1958. The appropriate form (see Appendix A) must be completed and approval given before any records are handed over. Records of a government department or agency presented to a private organisation in this way will lose their public records status. See the notes included on the form at Appendix A.
- 8.3.4 A few records which have been selected for permanent preservation may be required by the successor body for similar reasons to those mentioned in 8.3.3. Such a record must be requisitioned in the prescribed manner from the PRO by the residuary body or government department handling such arrangements. The record can then be passed to the successor body but a formal loan agreement must be signed by both parties, ensuring that the record is not damaged in any way, that nothing is added to or removed from it and that it is returned as soon as it is finished with and, in any case, not later than one year after requisition. Any restrictions regarding access must also be included in the agreement.

Figure 1

Process of the Categorisation of Records



- 8.3.5 An alternative to the arrangement in 8.3.4 is for the record to be copied. This will be undertaken by the PRO and its normal charge for such service will be made to the successor body. Arrangements for this may be made through the PRO Client Manager.
- 8.3.6 There may be some records which have not been selected for permanent preservation and which are required by both government and the successor body. If the residuary body or successor government department approves, such a record may be passed to the successor body using the same loan arrangements mentioned in 8.3.4.
- 8.3.7 Records which are not worthy of permanent preservation and which are required neither by government nor the successor body may be destroyed immediately.
- 8.4 Records created by the successor body are not public records.

APPENDIX A

Presentation of records under Section 3(6) of The Public Records Act 1958



PUBLIC RECORDS ACT 1958 S.3 (6): PRESENTATION AS AN ALTERNATIVE TO
DESTRUCTION OF RECORDS NOT SELECTED FOR PERMANENT
PRESERVATION IN THE PUBLIC RECORD OFFICE.

Creating Department

Contact

Presentee

Classes of Records

Detailed Descriptions of Records

PRO Client Manager

**THIS PRESENTATION IS APPROVED BY ME UNDER POWERS
DELEGATED BY THE LORD CHANCELLOR TO THE KEEPER OF PUBLIC
RECORDS.**

Signed _____ **Grade** _____

Date _____

Unless otherwise stated, the following conditions apply:

- The PRO must agree to any proposals to dispose of all or part of the records in any way
- A 30 year rule on access