



# Disposal

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## Transfer

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## 1 Introduction

The two main ways for public offices to dispose of information and records they no longer require are to transfer them to Archives New Zealand or, if they have no long term value, destroy them. Before doing so however, the correct statutory process for disposal must be followed.

This guide provides an overview of the transfer of physical and digital information and records under the *Public Records Act 2005* (the Act).

### Local authorities

Local authority information and records become local authority archives<sup>1</sup> when they are no longer in current use or have been in existence for 25 years or more (whether or not they are still in use)<sup>2</sup>. The Act does not prescribe a process for formal transfer of local authority information and records to local authority archives; however, good business practice is to formally document the transfer of status. This is particularly important for local authorities that have a shared service arrangement for preserving and managing multiple local authority archives.

Under section 40 of the Act, if a local authority wishes to dispose of protected information and records they may be directed to transfer them to the control of the Chief Archivist. The process for doing this, including setting conditions (if any), will be determined at the time.

## 2 Transfer to Archives New Zealand

In order for the transfer process to proceed, a public office must use a current disposal authority and/or general disposal authority and only information and records that have a disposal action of: “transfer to Archives New Zealand” (or equivalent) can be transferred.

The transfer process is a collaborative effort between Archives New Zealand and the public office.

### 2.1 After 25 years

The Act requires the mandatory transfer of public information and records of long-term value that have been in existence for 25 years. They must be transferred either to the “possession” of Archives New Zealand or, in some cases, to an approved repository<sup>3</sup>. In both cases they are transferred to the “control” of the Chief Archivist.

### 2.2 Before expiration of 25 years period

Public information and records may also be transferred before the expiry of the 25-year period after agreement in writing between the public office and the Chief Archivist.

### 2.3 Deferral of transfer

Public offices and the Chief Archivist may also agree to defer a transfer under section 22 (b) of the Act. Approval to defer the transfer of information and records requires them to be appraised, to be still active and still required for ongoing business.

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<sup>1</sup> Includes protected information and records, and local authority information and records that the local authority resolves is worth permanent preservation (Public Records Act s4).

<sup>2</sup> This change in status also triggers the requirement to classify access status of local authority information and records if not already done (Public Records Act s45).

<sup>3</sup> See section 26 of the Act for more details about approved repositories.

The period of time for deferral will be up to five years. The public office must then determine whether the information and records are still active and required for ongoing business. The public office may revoke the agreement if it wishes to transfer prior to the end of the deferral period.

The Chief Archivist may choose to impose additional conditions as part of the agreement to defer transfer and these will be documented.

A register of deferred transfers is kept by the Chief Archivist.

## **2.4 Access considerations**

Under the Act, there is a requirement that all information and records about to be transferred to Archives New Zealand or an approved repository, and all information and records that have been in existence for 25 years, have their access status determined (section 43(1)).

## **2.5 Process**

Archives New Zealand has developed detailed internal processes for managing transfers. It is important that public offices contact Archives New Zealand early in their disposal process to ensure a transfer runs smoothly.

# **3 Transfer between organisations**

Transfer of information and records can also occur as a result of administrative change driven by:

- new legislation
- a change in ministerial portfolios
- ministerial directive
- a change in government
- a merger or splitting of public offices or local authorities.

Administrative change carries risks to the business functions of organisations and their associated information and records. These risks can be managed effectively by early collaborative planning between affected organisations.

The key principle is that information and records relating to a function are transferred with the function. This allows the receiving organisation to manage the function effectively and with as little disruption as possible. The information and records of transferred functions cover all forms of business activities, and in any format.

Organisations receiving transferred information and records must advise the Chief Archivist in writing within three months of that transfer (section 23).