

# Policy for Transfer of Commonwealth Records into the National Archives of Australia's Custody

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## 1. Executive summary

This policy sets out the circumstances under which official Commonwealth records or other material may be transferred from the custody of Australian Government agencies into the care of the National Archives of Australia (the Archives).<sup>1</sup>

This policy applies to official records or other material created or kept by agencies that have been determined by the Archives' Director-General to be part of the archival resources of the Commonwealth.<sup>2</sup> Personal records (that is, the records of current and former prime ministers, ministers and others involved with the Australian Government) are governed by separate policies and procedures and are not subject to this policy.

The Archives' transfer policy is to only accept official records and other material into custody that have been sentenced 'retain as national archives' under a post-2000 records authority. (Records authorities are issued under Section 24 of the *Archives Act 1983* to individual agencies by the Archives and cover records documenting agency-specific core business.)

There are very limited circumstances under which exceptions to this policy will be approved. These circumstances relate to records subject to the Aboriginal and Torres Strait Islander disposal freeze (under a disposal freeze, the Archives prevents the destruction of groups of records), public access requests, records of archival significance at high risk, certain records covered by pre-2000 records authorities, certain records outside the Archives' disposal provisions (such as judicial and parliamentary records), and certain temporary records.

Adherence to this policy will ensure that transfers are undertaken in a controlled and consistent manner and that exceptional transfers are kept to a minimum. It is important for transfer activity to be strictly controlled because the Archives needs to focus its storage and preservation resources on records of archival significance, and minimise resources spent on managing records of lesser value.

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<sup>1</sup> 'Material' is defined as 'records and other objects' under Section 3(1) of the *Archives Act 1983*.

<sup>2</sup> 'Archival resources of the Commonwealth' is defined as 'a specified Commonwealth record or other material' under Section 3C of the *Archives Act*.

## 2. Policy statement

The Archives takes custody of official Australian Government records and the personal records of significant figures closely associated with the government in an official capacity, such as governors-general, prime ministers, ministers, parliamentary secretaries, Federal and High Court judges, and some senior Commonwealth public servants, whose records also include official Commonwealth records.

### 2.1 Commonwealth records

The Archives' policy is to only accept into custody Commonwealth records and other material that have been sentenced 'retain as national archives' under a records authority issued since 2000.<sup>3</sup> This includes records and other material sentenced under the Administrative Functions Disposal Authority (2000), other general disposal authorities and records authorities relevant to an agency's specific core business.

There are very limited circumstances under which exceptions to this policy will be approved. These are set out in section 6 'Transfer policy exceptions'.

Agencies are responsible for the transfer of eligible records into the care of the Archives under Section 27(2) of the Archives Act in accordance with arrangements approved by the Archives. These arrangements may change from time to time.

Under current arrangements, eligible records proposed for transfer must be:

- appropriately packaged using archival-quality materials to the Archives' specifications
- barcoded at container and item level
- registered as a series (if not already registered)
- organised into series and transfer jobs according to format (for example, paper, electronic, audiovisual) and security classification
- described at item level (normally in electronic form)
- transported at the agency's cost to the Archives.

In addition to these requirements, a manifest must be prepared for any electronic records. The manifest is a list of data objects proposed for transfer that incorporates unique secure identification information, created with a software tool provided to agencies by the Archives for that purpose.

Where eligible records exist in both analogue and digital formats, the Archives may negotiate with agencies to determine the most appropriate format for transfer, taking preservation and access needs into consideration. This may result in duplicate records being transferred into custody.<sup>4</sup>

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<sup>3</sup> Since July 2000 records authorities have been developed using the principles of functional appraisal. What were then known as records disposal authorities had been developed from appraisal of the value of groups of records themselves, rather than the functions or business they documented.

<sup>4</sup> For example, original analogue 'source' records, high-resolution digital copies for preservation purposes, and low-resolution digital copies for reference and access purposes.

## 2.2 Personal records

This policy does not apply to personal records. The Archives has separate policies and procedures in place to manage the transfer of personal records from people who have been closely associated with the Australian Government in an official capacity, such as governors-general, prime ministers, ministers, parliamentary secretaries, and Federal and High Court judges. In some instances such personal records collections may include Commonwealth records.

Personal records are not sentenced according to records authorities and are given the disposal status 'not applicable' (NA).

Any issues relating to the transfer of personal records from ministerial and other officials' offices, the possession of individuals or the custody of agencies should be referred to the Manager, Personal Records.

## 3. Who does this policy apply to?

This policy applies to:

- operational staff responsible for transfer activities
- managers responsible for authorising transfers
- Australian Government agencies proposing records or other material for transfer.

## 4. What does this policy apply to?

This policy applies to records or other material created or kept by Australian Government agencies that have been determined by the Archives' Director-General to be part of the archival resources of the Commonwealth.

Under Section 3(2) of the Archives Act, the archival resources of the Commonwealth consist of Commonwealth records and other material that are of national significance or public interest and relate to:

- the history or government of Australia
- the legal basis, origin, development, organisation or activities of the Commonwealth or a Commonwealth institution
- a person who is, or has at any time been, associated with a Commonwealth institution<sup>5</sup>
- the history or government of a territory
- an international or other organisation, the membership of which includes, or has included, the Commonwealth or a Commonwealth institution.

Within this framework, the Archives has developed five appraisal objectives to help determine whether records are part of the archival resources of the Commonwealth. Records may be considered part of the archival resources if they satisfy one or more of the following objectives:

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<sup>5</sup> Personal records of significant figures closely associated with the Australian Government in an official capacity, such as governors-general, prime ministers, ministers, parliamentary secretaries, Federal and High Court judges, and some senior Commonwealth public servants, are out of scope of this policy, see section 2.2 'Personal records'.

- preserve concise evidence of the deliberations, decisions and actions of the Commonwealth and Commonwealth institutions relating to key functions and programs, and significant issues faced in governing Australia
- preserve evidence of the source of authority, foundation and machinery of the Commonwealth and Commonwealth institutions
- contain information that is considered essential for the protection and future wellbeing of Australians and their environment
- have a special capacity to illustrate the condition and status of Australia and its people, the impact of Australian Government activities on them, and the interaction of people with the government
- have substantial capacity to enrich knowledge and understanding of aspects of Australia's history, society, culture and people.

These appraisal objectives are described in more detail in *Why Records Are Kept: directions in appraisal* (revised 2003).<sup>6</sup>

Records or other material are normally determined as part of the archival resources of the Commonwealth through records authorities issued under Section 24 of the Archives Act. They may include official files or correspondence, registers, manuals, maps, plans, photographs, film, video and sound recordings, objects and electronic records.

Occasionally, official records and other material that should be in the custody of the Australian Government are located in private hands. It is not usually appropriate for such records to remain outside the Commonwealth's control (see section 6 'Transfer policy exceptions' for further information).

## 5. Legislative context for transfer

Section 5(2)(e) of the Archives Act gives the Archives responsibility for the care and management of records that are part of the archival resources of the Commonwealth.

Under Section 27 of the Act, Australian Government agencies are responsible for making arrangements for the transfer of eligible records into the care of the Archives as soon as practicable after they are no longer required for current business purposes and, in any event, within 15 years of their creation.<sup>7</sup>

Section 27(2) states that transfers are to be undertaken 'in accordance with arrangements approved by the Archives'. Such arrangements allow the Archives to establish policies and procedures for accepting records into custody. These arrangements are described in section 2 'Policy statement'.

Sections 29 and 64 of the Act allow various Australian Government agencies and persons to retain custody of certain Commonwealth records that might ordinarily require transfer to the Archives' custody under Section 27. These sections are described in more detail below.

<sup>6</sup> National Archives of Australia, *Why Records Are Kept: directions in appraisal* (revised 2003), available at [naa.gov.au/records-management/keep-destroy-transfer/why-records-are-kept/index.aspx](http://naa.gov.au/records-management/keep-destroy-transfer/why-records-are-kept/index.aspx).

<sup>7</sup> This timeframe was reduced from 25 to 15 years following the passage of the *Freedom of Information Amendment (Reform) Act 2010*.

## 5.1 Section 29 of the *Archives Act 1983*

Under Section 29 of the Archives Act, agencies can determine, with the concurrence of the Archives' Director-General, that certain records are not bound by the requirements for transfer set out in Section 27. The records may remain in agency custody for as long as stated in the determination.

In practice, records exempted from transfer under Section 29 generally fall into the following categories:

- records required for ongoing business purposes that could not be met if they were transferred to the Archives (for example, certain personnel records for current employees)
- records possessing exceptional sensitivity relating to security, defence or international relations
- where it is more convenient for an Australian Government agency to make arrangements for its own records, such as the National Philatelic Collection managed by Australia Post.

The following parties do not require the concurrence of the Director-General to retain custody of their records:

- Australian Security Intelligence Organisation (ASIO)
- Australian Secret Intelligence Service (ASIS)
- Defence Imagery and Geospatial Organisation (DIGO)
- Defence Signals Directorate (DSD)
- Defence Intelligence Organisation (DIO)
- Office of National Assessments (ONA)
- Inspector-General of Intelligence and Security
- Commissioner of the Australian Federal Police in relation to certain records concerning the National Witness Protection Program.

## 5.2 Section 64 of the *Archives Act 1983*

Section 64 allows the Archives' Director-General to make arrangements for records to be kept in the custody of other persons, Commonwealth or non-Commonwealth institutions, or private organisations. Under such arrangements, the custodian must provide for the care of the material and also allow the Archives to regularly inspect it. Custody arrangements under Section 64 may be appropriate under limited circumstances, for example, where the records require special preservation or access conditions that can more appropriately be met by the proposed custodian. Section 64 is most frequently used to enable other institutions to display archival material on long-term loan.

## 6. Transfer policy exceptions

There are very limited circumstances under which exceptions to the Archives' normal transfer policy will be approved. These circumstances relate to:

- records subject to the Aboriginal and Torres Strait Islander disposal freeze
- public access requests

- records of archival significance at high risk
- certain records covered by pre-2000 records authorities
- records outside the disposal provisions of Section 24 of the Archives Act
- certain temporary records (that is, records not having archival value).

These exceptions are not intended to undermine the Archives' transfer and appraisal policies. Rather, they recognise that the Archives may need to take a risk-based approach to bring records of archival significance into custody in exceptional circumstances. Such circumstances are not expected to arise on a frequent or regular basis.

Moreover, records that meet these exceptions do not automatically qualify for immediate transfer into the Archives' custody. Physical transfer is subject to the Archives' prevailing transfer arrangements and dependent on the Archives' staff resources and availability of suitable storage space.

Further information about the management of these exceptions is provided below.

## 6.1 Records subject to the Aboriginal and Torres Strait Islander disposal freeze

The Archives has advised agencies that records subject to the Aboriginal and Torres Strait Islander disposal freeze should be transferred into the Archives' custody.<sup>8</sup> Where records not covered by current records authorities are identified as being subject to this disposal freeze, agencies may cite the freeze to justify transfer of the records to the Archives. The records do not have to be of archival significance to qualify for transfer under this exception.

Such transfers are managed in accordance with prevailing transfer arrangements.

## 6.2 Public access requests

Records in the open access period requested by the public under Section 31 of the Archives Act may be transferred to the Archives as an exception to this policy. These are commonly known as 'reference transfers'. Records in the custody of Australian Government agencies may be temporarily or permanently transferred to the Archives under this provision. Temporary transfers are returned to the agency after access. Permanent transfers remain in the Archives' custody and mainly comprise ASIO case files.<sup>9</sup>

In Canberra, such transfers are currently managed by the Officer-in-Charge, Reading Room, Reference and Information Services section. In state offices, reference transfers are managed variously by operational or reference staff depending on location.<sup>10</sup>

## 6.3 Records of archival significance at high risk

Records of archival significance that are **not** covered by a post-2000 records authority may be eligible for transfer into custody if they are at high risk. Records considered for transfer under this circumstance must satisfy both of the following thresholds:

- archival significance
- high risk.

These thresholds are described below.

<sup>8</sup> See [naa.gov.au/records-management/keep-destroy-transfer/freezes/index.aspx](http://naa.gov.au/records-management/keep-destroy-transfer/freezes/index.aspx).

<sup>9</sup> For example, ASIO series A6119, A6122, A6126 and A9626.

<sup>10</sup> For example, reference transfers are currently managed by operational staff in Brisbane and Sydney, and by reference staff in Perth and Melbourne.

### 6.3.1 Assessing archival significance

Archival significance must be established by assessing and documenting the records against the five objectives outlined in the Archives' appraisal policy *Why Records Are Kept: directions in appraisal* (revised 2003).

These objectives are outlined in section 4 'What does this policy apply to?'.

It is crucial to recognise that the Archives has limited resources with which to manage the large quantities of records already in its custody. It is therefore important that this exception is only used for records at high risk which significantly contribute to one or more of the five appraisal objectives. When assessing the significance of records against the Archives' appraisal objectives, the terms 'key', 'significant', 'essential' and 'substantial' should be carefully considered. It is also worth considering whether the records at risk are at least comparable to records of archival significance already in custody and complement or enhance the existing collection.<sup>11</sup>

### 6.3.2 Assessing risk

'Records at high risk' are records of archival significance that are likely to be irreversibly damaged or lost to the Commonwealth unless they are brought into the Archives' custody.

The four categories below cover the circumstances under which records may be deemed at risk:

- **Deterioration** – records of archival significance that will deteriorate to the point of significant or total loss of information if they are not transferred into the Archives' custody.  
Records in this category would normally be records on unstable media such as photographic, audiovisual or electronic records, although in some instances paper and other formats may also be at high risk if the agency is unable to provide suitable storage. It is the controlling agency's responsibility to ensure that records are appropriately maintained, and preservation advice should be sought to assess the risk of deterioration before any approval for transfer is given.
- **Discontinued functions or agencies** – records of archival significance that belong to a function or agency that has been discontinued (for example, the Constitutional Convention 1998), where the controlling agency is unable to ensure the safety of the records.<sup>12</sup>  
Controlling agencies are expected to take responsibility for these records in the first instance and it is only in exceptional circumstances where the records are of archival significance and at high risk of deterioration or loss to the Commonwealth that they should be considered for transfer under this exception.
- **Leaving Commonwealth custody** – records of archival significance that belong to an agency or function that is being privatised and which are at risk of being lost to the Commonwealth.

<sup>11</sup> Currently the term 'retain as national archives' is applied to records that have been assessed within their organisational context and deemed to be the most significant and valuable records, with a special capacity to demonstrate a particular activity in a way that no other records are able to. This term has been used to describe records of archival significance within the Archives' custody since the introduction of the functional approach to appraisal in 2000.

<sup>12</sup> Note: Royal Commissions are covered by a current records authority. See Records Authority for Department of the Prime Minister and Cabinet, *Royal Commission Administration*, 15 July 2010 (Job No 2010/00039583). Other public or official inquiries are covered by *General Records Authority No. 29*, 23 November 2010 (Job No 2010/00643962).

It is normal practice to develop a custody and ownership records authority to cover all the records of an Australian Government agency or function being privatised.<sup>13</sup> Transfer of records of archival significance would only be considered outside this process where no records authority could be developed in time or where the existing records authority does not cover a specific class of significant records to be retained by the Commonwealth.

- **Commonwealth records currently outside Commonwealth custody** – records of archival significance in the custody of a non-Commonwealth organisation, business or person that should be transferred into Commonwealth custody for proper disposal or retention.

Examples may include members of the public discovering Commonwealth records in a relative's garage or in auction houses, or records created on behalf of the Commonwealth by an outsourced company. In many cases, it may be preferable to identify and negotiate with the relevant controlling agency to take the records into their custody and to manage or dispose of them appropriately. On rare occasions the Archives may be offered records whose provenance or legal status cannot be clearly ascertained. In such cases, the Archives may need to investigate alternative transfer mechanisms, such as an instrument of deposit or deed of gift, to bring the records into custody.

The potential for records to be at high risk does not diminish an agency's responsibility to provide appropriate storage for its records and to develop disposal coverage for the records under Section 24 of the Archives Act.

Agencies must be able to demonstrate to the Archives' satisfaction that they have taken all reasonable steps to address the storage requirements of their high-risk records prior to proposing them for transfer.

Note: There must be a sound business case to transfer records to the Archives' custody under section 6.3, including clear evidence about the records' level of risk, and careful consideration and justification of the archival significance of the records against the Archives' appraisal objectives.

Such transfers are managed in accordance with prevailing transfer arrangements.

## 6.4 Certain records covered by pre-2000 records authorities

Records sentenced under certain disposal classes in records authorities issued prior to 2000 may be transferred into the Archives' custody. This exception applies to:

- Cabinet records required for the Archives' annual Cabinet release project, which are transferred into the Archives' custody under Records Disposal Authority 492 (class 1.1)
- Committee (Class B) records of the Department of the House of Representatives and the Department of the Senate, where these agencies have been granted permission to continue to transfer records sentenced 'retain permanently' under their pre-2000 records disposal authorities
- nominal rolls sentenced under the Department of Immigration and Multicultural Affairs' Records Disposal Authority 902 (class 11)<sup>14</sup>

<sup>13</sup> Currently the responsibility of the Archives' Government Information Management branch.

<sup>14</sup> In addition to nominal rolls, approved applications for permanent residency were also previously eligible for transfer under the Department of Immigration and Multicultural Affairs' Records Disposal Authority 902 (class 2.1). This class has now been replaced by class 20905 under the Department of Immigration and Citizenship's records authority issued on 3 May 2010 (see Job No 2009/00667625). Class 2.1 under Records Disposal Authority 902 is therefore no longer available to use.

- any other instances where the Archives has formally amended pre-2000 disposal authority classes to change specific classes to 'retain as national archives'.

Such transfers are managed in accordance with prevailing transfer arrangements.

## 6.5 Certain records outside the Archives' disposal provisions

Records of archival significance outside the Archives' disposal provisions under Section 24 of the Archives Act, such as court and parliamentary records, may be accepted for transfer providing regulations and arrangements under Sections 20 and 21 of the Act are in place.<sup>15</sup> These include 'Class A' parliamentary records that require the permission of the Presiding Officer to transfer.

## 6.6 Certain temporary records

With the exception of access requests initiated by the public under Section 31 of the Archives Act (see section 6.2 'Public access requests'), records sentenced for temporary retention under records authorities are not eligible for transfer into the Archives' custody, unless they are required for reference or copying purposes by the Archives and are derivatives of records of archival significance. This exception may be applied in very limited circumstances where the records of archival significance are not readily accessible due to their condition or format (for example, acetate negative masters and derivative contact prints). It is assumed that such temporary records will be destroyed in accordance with their disposal class or returned to agency custody when they are no longer required by the Archives for reference or copying purposes.

Such transfers are managed in accordance with prevailing transfer arrangements.

## 6.7 Other transfer proposals outside policy parameters

Where an agency requesting a transfer does not meet the Archives' transfer policy or policy exceptions outlined above, they should be referred to the Archives' work area responsible for providing advice and assistance to agencies on developing disposal coverage under Section 24 of the Archives Act.<sup>16</sup>

# 7. Implementation

## 7.1 Approval of transfer proposals

Apart from reference and personal records transfers, all transfer proposals must be submitted for approval to the Canberra-based Director responsible for transfer services via the National Agency Transfer Service Manager.<sup>17</sup> A 'Request for Approval – Transfer Records into NAA

<sup>15</sup> See Table B – Modifications – Archives (Records of the Parliament) Regulations (1995 No.91) of the Archives Act and endorsed arrangements for disposal under current records authorities for the Family Court of Australia (see Records Authority Job Nos 2008/00614707 and 2009/0085939). Other judicial agencies such as the High Court, Federal Court and courts of arbitration also use the Archives to provide custody for significant records (see Records Disposal Authority 1205 High Court of Australia – Commonwealth Records of the High Court of Australia; Records Disposal Authority 1124 and 1125 Federal Court of Australia, Principal and District Registries; and Records Disposal Authority 1234 Industrial Relations Court of Australia, Principal and State Registries).

<sup>16</sup> Currently the responsibility of the Archives' Government Information Management branch.

<sup>17</sup> Currently the Director, Records Services and Preservation.

Custody' is available for this purpose. Documentation justifying transfers under exception categories must be provided with transfer requests.

Note: Records that meet the Archives' transfer policy or policy exceptions do not automatically qualify for immediate transfer into the Archives' custody. Physical transfer is subject to the Archives' prevailing transfer arrangements and dependent on the Archives' staff resources and availability of suitable storage space.

The Archives will liaise with agencies regarding transfer arrangements (including the preparation of records for transfer) as part of its normal operations.

Further information regarding transfer arrangements is available on the Archives' website.<sup>18</sup>

## 7.2 Use of disposal statuses and classes to process policy exceptions

Particular disposal statuses and classes are prescribed for processing transfers that satisfy the exceptional circumstances outlined in section 6 'Transfer policy exceptions'.

## 8. Date of effect and review

This policy will take effect from the date of issue, and applies to all new transfer proposals submitted after this date. Where there are prior approvals in place that are inconsistent with this policy, they may be re-assessed on a case-by-case basis.

This policy should be reviewed three years after implementation.

Version	Date	Comments
1.1	January 2011	Policy created
1.2	July 2011	Policy endorsed for web publication

<sup>18</sup> [naa.gov.au/records-management/keep-destroy-transfer/to-archives/index.aspx](http://naa.gov.au/records-management/keep-destroy-transfer/to-archives/index.aspx)