



# Report: State of Government Recordkeeping 2015/16



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## Foreword

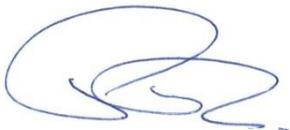
In my 2014/15 report I expressed concern about the maturity of recordkeeping in more than half of the public offices audited. I noted the absence or ineffectiveness of reporting on information and records management within agencies, and the low levels of disposal of records. During 2015/16 Archives New Zealand (Archives) took important steps to address these concerns.

A new mandatory *Information and records management standard* was developed during 2015/16, along with a *Regulatory statement* and the revision of our core guidance material. These are strong foundations for more detailed work to identify a clear and achievable path for future improvements that support government business and enable accountability through full, accurate and accessible records.

Archives had a strong focus on the management of born-digital records during 2015/16. Challenges identified in the work have reinforced my concerns about the state of the digital record of government. While Archives has improved our capability to accept the transfer of born-digital records as public archives, we are concerned that some public offices may not be able to prepare properly for these transfers. If digital records cannot be readily prepared for transfer as public archives, this casts doubt on the effectiveness of their management prior to that point, when these records were needed to support current government business.

Developing an approach for shifting information and records management across the system to a new level of effectiveness is driving Archives' regulatory work. This approach will consider how to move to a fully-digital record of government that meets clearly articulated levels of achievement in active management, interoperability and accessibility.

The production of this 2015/16 report was delayed by Archives staff being unable to work from our Mulgrave Street building for a period after the Kaikōura earthquake. An addendum has been included to summarise the impacts of this event on the record of government and to briefly outline some regulatory work undertaken in the 2016/17 year.



Marilyn Little  
Chief Archivist

14 July 2017

# Introduction

This report provides an assessment of the state of government recordkeeping and is issued by the Chief Archivist under section 32 of the Public Records Act 2005 (the Act). The Act also requires a report on the audits of recordkeeping practices undertaken by Archives. Following completion of the first five year audit programme during 2014/15, no new audits were undertaken during 2015/16. The Act requires public offices to be audited again no sooner than five years and no later than 10 years after the previous audit. This allows Archives to review and, if necessary, reframe the audit process between programmes. Reporting on audits will resume with the next audit programme.

## Regulatory role under the Public Records Act 2005

The primary role of the Chief Archivist can be summarised as leading public information and records management. This is a stewardship role across the system that requires Archives to work with our regulated sector to achieve the requirements and purposes of the Act.<sup>1</sup> Efficient and systematic information and records management is critical for public sector business and accountability. The Act provides for mandatory and discretionary standards to be set, and for tools to assist and support public offices and local authorities to achieve full and sustained compliance with the Act and the Standard. Archives' regulatory approach is to support and enforce effective information and records management practices across New Zealand government.

### *Key terms used in this report*

Under the Act, a "record" is broadly defined as information held by public offices and local authorities (except for special collections and some records created by tertiary education sector academics and students). This includes all information, regardless of form and format, from documents through to data. The core term "record" is further defined for various purposes under the Act. For example, central government's "public records" are distinct from "local authority records", and a "public archive" is a "public record" that is under the control of the Chief Archivist.

Archives uses the term "information and records management" because effective management is necessary to meet the purposes and requirements of the Act. Information

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<sup>1</sup> The mandate of the Act is broad. It covers public offices, which are defined in section 2 as "the legislative, executive, and judicial branches of the Government of New Zealand". This includes state and integrated schools, numbering approximately 2,500. The Act also covers all local authorities and most of their related council-controlled entities.

and records management is the discipline that provides for the effective management of “records” under the Act.

## The value of information and records

Information and records are at the core of the government’s business and are key strategic assets. Effective information and records management helps to build business capability. It recognises and increases the strategic value of information and records. It enables good business practices in the present, and helps to prepare for good business practices in the future.

Effective information and records management supports the availability of meaningful, reliable and usable information and records when required for business needs. It also provides mechanisms for ensuring accountability and managing risk. Efforts to share and release information, and create value from government data can be frustrated by the lack of a coherent framework for information and records.

Managing information and records effectively:

- enables the public to hold the government accountable
- provides the foundation for sustainable and effective products and services
- supports decision making
- outlines responsibilities
- documents rights and entitlements
- drives collaboration and communication
- facilitates and enables creativity and growth
- preserves public knowledge for discovery and reuse
- makes up the corporate memory of an organisation.

Information and records should therefore be:

- trustworthy and managed accountably
- readily accessible, understandable and usable
- valued as potentially irreplaceable strategic assets that are critical to business operations
- part of an organisation’s approach to risk management
- maintained to meet business, government and community purposes.

## Archives' leadership of government information and records management

The Act establishes a framework for supporting, monitoring and improving information and records management. Archives operates a programme of work that enables public offices and local authorities to ensure that the objectives and requirements of the Act can be met.

Core elements of this framework include:

- the requirement for public offices and local authorities to create and maintain full and accurate records in the course of normal prudent business practice
- the requirement for public offices and local authorities to gain authorisation for the disposal of records from the Chief Archivist (the technical term "disposal" includes the vital task of identifying the 3-4% of government records that have enduring value and transferring them to Archives to be held in perpetuity)
- the Chief Archivist's authority to set standards to support the Act
- the requirement for the Chief Archivist to conduct independent audits of recordkeeping practices and report the result of these audits
- the requirement for the Chief Archivist to independently report on the state of government recordkeeping.

# Optimising Archives' regulatory role

In the 2014/15 report we signalled our intention to critically examine our role as a regulator and to implement operational improvements. This work was informed by the results of the first audit cycle and by the Government's focus on regulatory stewardship, which is described below.

## A regulatory statement and a new standard

A draft *Regulatory statement* was released for comment in December 2015. Feedback was positive and the final document was released in conjunction with the new *Information and records management standard* (the *Standard*) in July 2016. The *Regulatory statement* describes Archives' approach to regulatory compliance. It acknowledges the stewardship role that we have and how we will work with our regulated sector to achieve the requirements of the Act.

The new mandatory *Standard* replaced the 2014 *Records Management Standard for the New Zealand Public Sector*. It reduces the number of principles and refines the minimum compliance requirements. The *Standard* provides a solid foundation for government information and records management in a digital environment and for designing the next recordkeeping audit round.

Feedback on the *Standard* has been positive. Its simplified nature, in conjunction with clearly articulated minimum compliance requirements, will assist public offices and local authorities to improve their management of information and records.

The release of the *Standard* was accompanied by a suite of supporting material including an *Implementation guide*, which brings together references to Archives' guidance and other best practice information. The on-line Records Toolkit ([www.records.archives.govt.nz](http://www.records.archives.govt.nz)) was also updated and is the main source for the *Standard* and supporting guidance.

## Executive Sponsors will champion information

A key innovation in the new *Standard* is the requirement for public offices and local authorities to appoint an Executive Sponsor from among their senior leadership. This is to reinforce the responsibility of senior management in public offices and local authorities to provide direction and support for information and records management within their organisation. The Executive Sponsor is expected to champion the importance of information and records among the organisation's leadership. The aim is for everyone in an organisation to see information and records management as an integral part of a business operating effectively.

In addition to specific guidance for Executive Sponsors released with the *Standard*, a programme of briefings by the Chief Archivist and the Director Government Recordkeeping is underway throughout the country with Executive Sponsors, either individually or in small groups with local or sectoral connections. The programme is designed to ensure Executive Sponsors understand the intentions for the role.

## **Audit programme process review**

In 2015/16 Archives reviewed the process used for the recordkeeping audit programme, following the completion of the first five year programme in 2014/15. Archives surveyed the public offices that had been audited on the usefulness, design and delivery of audits. There were follow up discussions with some public offices, and views were sought from relevant Archives staff and the independent auditors that undertook the onsite components of the audits.

The review found that the programme had been useful in raising public offices' levels of awareness of their responsibilities under the Act. It had provided a baseline of information about capability and practices at the time of each audit. The programme had, however, been less useful in raising public offices' levels of awareness of the business risks arising when information and records management was not effective. The programme was not considered generally effective as a tool for improving capability and practice in public offices. This review will inform the design of the next audit programme, in the context of a broader monitoring framework.

## **Taking a stewardship approach to our regulatory regime**

Regulatory stewardship is a requirement of all departments under the State Sector Act 1988. For each regulatory regime, a department must analyse the environment it works in, understand where the future could take the regime, and assess whether its regulatory systems are equipped to cope with that future. Archives assessed the regulatory regime established by the Act during 2015/16 as part of the development of the Department of Internal Affairs *Regulatory Strategy 2016/17*.

The assessment concluded that the Act is reasonably fit for purpose. It is technology neutral and gives considerable flexibility and empowerment to Archives as a regulator. It also gives scope for strengthening alignment and coordination with regimes with related and supporting mandates.

The assessment process that informed the *Regulatory Strategy 2016/17* influences and reflects the approach that Archives is taking in its regulatory role. A key risk identified was that unnecessarily bespoke and poorly used recordkeeping and content management systems pose risks to joined-up and accountable government. The challenges of managing existing born-digital records, discussed later in this report, were also noted.

Archives approaches the design and implementation of its regulatory role within a framework that treats regulation as an asset that must be designed with long-term sustainability in mind and regularly assessed and maintained in order to ensure that it remains fit for purpose. Regulatory stewardship prompts consideration of *how* regulation should happen, which supports but is distinct from the detail of *what* is regulated. The work to optimise our regulatory role seeks to use this approach.

## Managing born-digital records

Born-digital records are created in a digital form, in contrast with physical records that have been converted into a digital form (that is, “digitised”). Archives developed an operational model during 2015/16 for receiving transfers of born-digital archives. While this does not provide a comprehensive solution to the management of all born-digital records, it does allow public offices with suitable records to commence the transfer process.

### Trials with a willing partner

In 2015/16 Archives partnered with a public office to investigate the technical and operational requirements for the transfer of born-digital records to Archives. This was designed to develop and test end-to-end processes and support the development of guidance for public offices. There was strong engagement from the public office involved because the trial was part of a wider internal information and records management initiative.

### Approach taken

A notable characteristic of this partnership was that it involved digital records from an enterprise content management system used to manage older digital records migrated from systems that were inherited from predecessor public offices. This type of record is often referred to as legacy information.

Archives developed a solution involving the enhancement of an existing model (used for e-accessions). The approach involved providing procedural guidance and templates to assist with planning, and tools to map the metadata provided by the public office into a format that could be processed by our current systems. Detailed dialogue over the metadata and content proposed for transfer was required, as were clear plans for the various stages of the transfer.

Through the trial Archives sought to gain an improved understanding of the complex digital information management challenges faced in public offices by using a live test environment. This will inform the guidance prepared for other public offices preparing for digital transfers. The public office preparation for a transfer required a detailed analysis of the content and technical quality of the digital records to be transferred to Archives.

### Trial results

During the 2015/16 reporting period, one trial transfer was progressed up to the point of final transfer into Archives. This transfer stopped at that point because the results indicated that more work is needed to be done to fully and effectively “sentence” born-digital records before the point of transfer. Sentencing is the process of applying a disposal authority and

its disposal actions to records. These actions will generally be to destroy, retain for a specified period, or transfer to Archives.

The very large volume of records generated in digital systems multiplies the complexity of sentencing. The multiple sources of the legacy information in this trial made systematic sentencing challenging for the public office. Despite the care taken in previous content migrations, large sections of these legacy records lacked the metadata required as a foundation for successful sentencing and transfer. The content, nature and value of the records could not be determined with sufficient confidence to sentence accurately.

In a born-digital environment, most system users create and manage information and records. The experience of the partner public office indicates that information and records management processes will differ over time. It is likely that this experience is repeated across other public offices, meaning there are major challenges in preparing a generation of born-digital records for transfer as archives or for other disposal action. Furthermore, the problems identified at the sentencing and transfer stages are likely to inhibit the everyday accessibility and current business use of records.

The deeper understanding gained of the requirements for transferring digital records can also be a basis for improved guidance for transfers of information as functions move between public offices. Insights into the implementation of the retention and disposal function within an enterprise content management system would also be applicable in other public offices.

The trial achieved a degree of assurance that the necessary technical quality of the files to be transferred could be attained, for example, file formats and system-generated or empty files were successfully identified. The processes for ensuring integrity through to the point of transfer also appear robust.

## **Next steps on born-digital transfers**

The first trial transfer gave sufficient benefit for Archives and our partner to agree to a second trial during 2016/17. This will allow the public office to focus on pre-transfer work, notably sentencing, and provide a fuller test of Archives' ability to make large transfers publicly available as public archives.

Archives has been seeking other willing partners who are ready to start the work required for digital transfers. Information about the current model for digital transfer was prepared to encourage new partners to contact Archives (published in late 2016).

## Regulatory interventions

The Act gives the Chief Archivist responsibility for monitoring and auditing public office recordkeeping. There is no specific legislative provision requiring the Chief Archivist to consider complaints about recordkeeping. However, the Act allows a direction to be given to a public office to report on specified aspects of its recordkeeping and allows inspection of public office and local authority records. These powers allow the Chief Archivist to take action where possible failings in the recordkeeping practices of an organisation come to attention through, for example, a complaint or media report.

The cases arising in 2015/16 had varying origins. Not all complaints received warranted a full examination. Some can be seen as isolated failures in areas of otherwise effective information and records management. Others point to systemic problems that should be addressed at the organisational or system level.

The pursuit of estray records is a further regulatory intervention provided for by the Act. Estray records are public records, public archives, or protected records that have not been disposed of in accordance with the Act, and have left the control of the proper authority. While Archives does not actively search for such records, they may come to our attention, often during attempts to sell them. There was one significant estray case in 2015/16, which had a successful outcome.

### Examination of call centre recordings follows complaint

Two requests for intervention were received from a lawyer acting for clients dealing with a public office. The lawyer argued that the clients had been disadvantaged by failings in the management of recordings of conversations between the clients and the public office's call centre. These complaints had two aspects.

First, the technology used by the public office was not operating as designed and was deleting recordings sooner than intended, potentially to the detriment of the clients. Archives sought information from the public office about the nature of the technology problem and the remedial action taken. The information supplied was sufficient to assure Archives that adequate precautions had been taken against unauthorised loss of recordings.

The second aspect was the lawyer's view that the approach taken to managing call centre recordings under the applicable disposal authority did not support effective case management and decision making. The then current disposal authority permitted recordings to be destroyed 18 months after the date the call was made. The recordings would be retained if an issue arose during the 18 months that gave them ongoing relevance. The public office's disposal authority was under review at the time of the complaints and this allowed an examination of whether the 18 month retention period was appropriate to the circumstances of the public office and the way it used call centre recordings.

In addition, Archives began an examination of the approach taken to the management, retention and disposal of call centre recordings in recent disposal authorities. The use to which a call centre is put should influence whether, how and for how long recordings are retained. The examination of current disposal provisions continued into 2016/17 and could lead to enhanced appraisal guidance to ensure consistent treatment of recordings made by call centres across government. This is an example of potential system-level improvements arising from complaints.

## **Control of records sent to other parties**

A complaint was received about the records concerning the Southern District Health Board's (SDHB) long-running financial dispute with a contracted provider of services. A journalist reporting on the case requested that the Chief Archivist intervene after being unable to obtain complete records under the Official Information Act 1982. The Ombudsman suggested referral to the Chief Archivist. Under recent legislative amendments, the Ombudsman has the power to notify the Chief Archivist where an Official Information Act request is refused for reasons that relate to information management.

In this case (received in 2015/16, concluded in 2016/17), the SDHB had sent records or copies of records to the Ministry of Health and external contracted advisors. SDHB and Ministry comments indicated a possible loss of control of these records or insufficient tracking, and that records may have been lost in the Ministry's earthquake-damaged Christchurch buildings. As a result of Archives' work, the Ministry was able to clarify that records relating to the dispute were not lost. Archives has also renewed the disposal authority created to document records lost in or affected by the 2011 Christchurch earthquakes so that the Ministry can complete this task for any other relevant records.

The conclusion of the case with the SDHB was that there was no loss or unauthorised destruction of records. There is, however, a need for improved practice in maintaining visibility of records in the custody of third parties. It has also been recommended that the SDHB develop and implement an organisation-wide policy for corporate records. Archives will be monitoring progress on these recommendations.

## **Complaints requiring no further action**

Some requests for intervention in 2015/16 did not result in the use of the Chief Archivist's powers under the Act. There were various reasons:

- A complainant was directed to make a further, more specific Official Information Act request of a public office so that the information sought could be identified correctly.
- An official's communication was worded in a way that suggested the existence of records that could not be located when later requested under the Official Information Act. The

requestor's concern about possible unauthorised destruction of public records was allayed by clarification that the records had never existed.

- Archives did not intervene where a complainant claimed that a Court ruling was incorrectly recorded and sought its correction. Superior Courts and later cases had fully examined the matter and the Chief Archivist does not have the power to direct the correction or amendment of public records.
- Archives did not intervene in a complaint that the wrong data set was used to inform an assessment of entitlements. The decision on what data was relevant to the assessment was properly one for professionals in the specialist area. This was not a question of the quality or effectiveness of information and records management.

## Successful recovery of estray records

During 2015/16 Archives gained a successful outcome in an estray case, summarised here without individual identifying detail. Archives was advised that a vendor had listed what appeared to be local authority records for sale on Trade Me. An initial review indicated that this could be the case and that it was possible that the records had left local authority control without the proper authorisation. Archives contacted Trade Me, which agreed to put a stop on the sale.

Archives worked with the relevant local authority to clarify the status of the records. In parallel, we contacted the vendor who agreed to Archives staff viewing the records. This viewing reinforced our view that the records had not been properly disposed of. We also became aware that the vendor was attempting to sell central government records that also appeared not to have been properly disposed of. Archives offered to arrange collection of the records, but was not prepared to agree to the vendor's request for compensation, on the basis that the records were already public property. The Chief Archivist issued three directions under section 37 of the Act for the return of the records. The vendor remained unwilling to comply.

Archives approached the Police to lay a complaint about the failure to comply with the directions and to discuss possible action under section 61 of the Act. The Police determined that they would pursue a prosecution. Archives staff made a formal inspection of the records under section 36 to obtain evidence for an evidentiary hearing. One week prior to a District Court hearing date for the case, the vendor advised of a willingness to release the records without compensation. Archives staff uplifted the records, which are now held by Archives and the relevant local authority. The Police subsequently withdrew the charges.

This case is the most detailed and extensive recent use of the provisions of the current Act for managing estray records. Trade Me cooperated fully with our requests to put a stop on the sales, and agreed to post guidance about the sale of public records for potential vendors and buyers. Archives also worked with the Ministry of Business, Innovation and Employment to provide the same guidance to auctioneers.

While the resources and staff time applied to the case were substantial, it indicates that the use of formal regulatory powers can produce results. During this case, we also contacted a person who had bought records from the vendor. This purchaser willingly complied with our request to return the records once advised of their status, and was supplied by Archives with a digitised copy of them. The contrast between the responses of this purchaser and the vendor indicates that, as a regulator, Archives will need to continue to use available tools flexibly to suit individual cases.

## **Managing text messages under the Public Records Act**

The Chief Archivist's report of the review into the then Prime Minister's recordkeeping practices in regard to text messages – *Managing text messages under the Public Records Act* – was released on 15 September 2015. The decision to carry out the review arose from a request from James Shaw MP to investigate whether the Prime Minister's deletion of text messages constituted a breach of the Act.

The report of the review concluded that the Prime Minister's current practice and the nature of most text messages made it likely that public records were generally disposed of correctly. It included a number of actions and recommendations for improvements to the recordkeeping advice and support for all Ministers. During 2015/16, Archives has completed the following actions, with further work continuing in 2016/17:

- specific advice was provided on core public recordkeeping responsibilities to all Ministers
- specific advice was provided on managing text messages to all Ministers
- guidance on recordkeeping responsibilities for staff supporting Ministers was published
- general guidance on text messages for public offices and local authorities was published.

## Addendum

Archives' regulatory activities and the production of this report for 2015/16 were disrupted by staff being unable to work at the Archives Mulgrave Street building in Wellington for a period after the 14 November 2016 Kaikōura earthquake. The delay allows us to report on activity that has occurred in the 2016/17 reporting year.

Some Archives staff were able to work in other buildings after the earthquake as the Department of Internal Affairs made provision for displaced staff, and some were able to work from home. This allowed some regulatory work, including advice functions, to continue. There were, however, delays in the December 2016 and March 2017 releases of guidance and information. The Chief Archivist's programme of engagement with Executive Sponsors in public offices and local authorities was also disrupted. This resumed in February 2017.

### **Kaikōura earthquake impacts on information and records**

After the earthquake, Archives' maintained contact with the information management staff of public offices unable to enter premises in Wellington. These include the New Zealand Customs Service, Statistics New Zealand, the Ministry of Transport, the New Zealand Defence Force and the Ministry of Defence. To date, no irretrievable loss of physical or digital records or information has been reported. Some physical records remain in buildings that have not been re-entered. As re-entry, repair and demolition plans are confirmed, public offices are expected to update Archives on any loss of records.

The Christchurch Regional Archivist checked on the status of public offices and local authorities in North Canterbury, Kaikōura and Marlborough after the earthquake. To date, no loss of records has been reported by those organisations.

Such losses would constitute disposal under the Act. Archives is therefore developing a disposal authority in response to the Kaikōura earthquake, similar to the approach taken after the 2011 Christchurch earthquake. This authority makes any losses a lawful disposal. The process of applying the disposal authority means that affected public offices identify losses of records, including any that need to be made good to support current business needs. Documenting any losses also allows any gaps in the public archive to be understood in the future.

## Survey of public offices and local authorities

Archives surveyed public offices (except schools) and local authorities in three tranches in late 2016 and early 2017.<sup>2</sup> The short survey sought a whole-of-system view of information and records management. It is intended to inform the next steps we will take to drive effective information and records management. The survey sought information about:

- the volumes and types of records being created and managed in government
- the capabilities and capacities that exist to manage records, both current and legacy
- the ability of public offices to prepare for the transfer of digital records to Archives.

Analysis of the survey results is still under way, but indications of matters that should be pursued come from the raw results for the first tranche of surveyed public offices:

- 57% had no current information asset register, or similar, 18% had one and 20 per cent were developing one. Information asset registers can provide a fundamental layer of knowledge about information assets to assist with continuity, removal of duplication, sharing and releasing, and managed disposal.
- 31% could not provide an estimate of the total quantity of their digital information holdings. 40% could not provide a full picture of which systems their digital information is held in.
- While many survey responses included physical information storage cost estimates, fewer could identify or usefully estimate digital storage costs. The ability to state or estimate the size of these holdings was also variable.
- 70% reported that they are still holding information in shared drives, which is of concern because the ability to capture key metadata is limited.
- Only 39% were capturing the minimum mandatory metadata specified in the *Standard*.

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<sup>2</sup> The first tranche was 58 organisations: all Public and non-Public service departments, the Accident Compensation Corporation, the Earthquake Commission, Housing New Zealand Corporation, the New Zealand Transport Agency, New Zealand Trade and Enterprise, New Zealand Qualifications Authority, the Tertiary Education Commission and District Health Boards.

