

ICA Congress 2012

Outline of panel discussion topic: *Recordkeeping challenges in managing administrative change, 21 August 2012*

Part 1: Historical Survey – To be presented jointly by Anna Gulbransen, National Archives of New Zealand and Ingrid MacDonald, Queensland State Archives

The challenge of administrative change is one that many national archives have to cope with. At a very basic level, they must keep up to date with machinery of government changes—for example, updating finding aids and file loan-back procedures, and making sure that requests to access restricted material are directed to the right agency.

But for Archives New Zealand, as for other national archives, machinery of government change has further and more complex implications.

The implications for Archives New Zealand are linked to its establishing legislation: from 1957 until 2005 this was the Archives Act. From 2005 onwards, the organisation has worked within the expanded framework of the Public Records Act.

Both Acts have imposed responsibilities on Archives New Zealand to make sure that ‘public records’, which is a legal term meaning government information, are looked after properly, both during business as usual and during times of change. In New Zealand, public records must not be destroyed, or otherwise disposed of—for example, transferred to the control of another agency—without the approval of the Chief Archivist.

Aside from managing its own archive of government documents, then, Archives New Zealand has overseen, and continues to oversee, the disposal of government records. It has also, in more recent times, proactively provided government agencies with information management advice and guidance. Good information management supports good government. It also helps ensure that good quality records eventually make it to the archives.

Recent machinery of government changes in New Zealand, and by recent I mean in the last two or three decades, have brought these responsibilities into sharp relief and have challenged Archives New Zealand’s capabilities.

The difficulties of regulating disposal in a fast-changing bureaucratic environment were clearly demonstrated during the radical and wide-ranging transformations stemming from the introduction of the New Public Management paradigm in the mid-1980s.

This new way of thinking about the structure and operation of government resulted in four broad kinds of machinery of government change.

First of all, single agencies performing policy advice, regulatory, service provision, and purchasing functions were split apart, and their functions assigned to several smaller specialist agencies operating independently from one another.

Secondly, functions previously performed by central government departments, and so subject to close ministerial direction, were transferred to more autonomous, arms-length Crown entities created specifically for the purpose.

Thirdly, some of the commercial functions previously performed by central government departments (like generating electricity or running the postal service) were transferred to a completely new kind of government entity, called a State Owned Enterprise. An SOE is a limited liability company owned by the Crown but run on a purely commercial basis.

Lastly, some government functions (such as managing the telecommunications and rail networks) were pushed outside the public sphere entirely when the agencies performing them were privatised.

These and other reforms were designed to break apart (or at least shake up) underperforming government agencies, to increase the responsiveness and vertical accountability of agencies to ministers where appropriate or to put greater distance between ministers and operational decision-making where that was needed, and to avoid situations where a single agency embodied competing interests, such as environmental protection and economic development.

These reforms were not unique in world terms. Other countries, including Australia and the United Kingdom and many European nations, pushed through similar reforms at around the same time. However, most commentators agree that the reforms in New Zealand were both wider and deeper than elsewhere, that New Zealand was the most radical exponent of the reform agenda.

Archives New Zealand itself has undergone administrative change in the recent past. Established formally as a branch of the Department of Internal Affairs in 1957, it remained within that department until it was split off as a standalone agency in the year 2000. More recently, though, it has returned to the Internal Affairs fold, to join the New Zealand National Library and other government bodies with an information management focus, such as the Office of the Chief Information Officer.

In any case, as noted above, the reforms posed some serious challenges to Archives New Zealand. The first of these was dealing with new kinds of organisations created during the reform era. The establishment of State Owned Enterprises in particular stretched the definition of what was and what was not a government office for the purposes of the 1957 Archives Act. As entities with a commercial focus the SOEs sat on the porous border between public and private. The situation was complicated by the vesting of public records as assets to the SOEs, which seemed to remove them from Archives New Zealand's purview, even though the general rule was once a public record, always a public record. Similar problems arose in dealing with privatised agencies, which took public records with them into the private sector.

These problems were exacerbated by the speed with which the changes were pushed through and the general lack of thought given to the fate of public records. Archives New Zealand often learnt about the changes in an ad hoc way, from newspaper reports and personal contacts rather than through a formal communications process.

This is not to say that Archives New Zealand was totally ineffective at this time. It succeeded in securing the transfer of substantial numbers of public records from corporatised and privatised entities. Many of the new agencies were also quite willing to acknowledge Archives New Zealand's ongoing interest in their records, though arranging the physical transfer of those records into the Archives proved to be quite difficult, particularly if it involved significant expense on the part of the transferring agencies.

Some notable collections of records did slip through the net, however—such as those held by the Bank of New Zealand and the railways agencies. The institutional and indeed public memory of these missed opportunities helped to shape the later Public Records Act, particularly its very wide-ranging definition of what counted as a government office and its tightened provisions around the disposal of records.

Since the turn of the twenty-first century, the less desirable results of the bureaucratic revolution have become increasingly obvious. Successive government Advisory Groups have highlighted the fragmented, diffuse and cluttered nature of the New Zealand government bureaucracy, and have stressed the difficulty of coordinating the efforts of a number of formally independent agencies, all of which have a stake in a particular issue or initiative, to achieve a desired outcome.

For this and for other reasons—for example, to cut back-room costs and to attain critical performance mass—several agency amalgamations have recently been completed, including the one involving Archives New Zealand. There has also been a renewed emphasis on cooperative, whole of government initiatives, particularly focusing on the use of Information Technology to deliver better services to citizens.

And yet the New Zealand machinery of government is still amazingly diverse, a true zoo of bureaucratic structures. Currently there are over 4000 public entities subject to government audit requirements. Around 3000 of these entities are defined as public offices under the Public Records Act and so fall within Archives New Zealand's statutory remit.

As at 1 July this year, that remit embraced 29 public service departments, 6 non-public service departments, 45 Crown agents, 18 Autonomous Crown Entities, 17 Independent Crown Entities, 11 Crown Entity Companies, 200 Crown Entity subsidiaries, 2435 School Boards of Trustees, 8 Universities, 11 Polytechnics or Institutes of Technology, 3 Maori education providers, 13 Fish and Game Councils, 24 local boards governing heritage properties, 3 Offices of Parliament, 85 local government organisations managing around 200 subsidiaries, and sundry other agencies—including the various State Owned Enterprises, whose recordkeeping responsibilities had finally been clarified in the Public Records Act.

In recent years, the fear of the unauthorised, uncontrolled disposal of records has faded. The Public Records Act has proved to be an effective, visible tool providing a good baseline level of security for government information. For example, the legislation establishing the most recent bureaucratic innovation, the Mixed Ownership Model Company—a State Owned Enterprise in which the government has sold-down its shareholding to 51%—takes note of the Public Records Act, and maintains the public interest in records created by the MOMC when it was still an SOE.

As the fear of losing records has lessened, the challenges posed by the sheer variety and volatility of the machinery of government have become clearer. Archives New Zealand has a responsibility to provide recordkeeping support to each and every one of the 3000 public offices described above, many of which are small organisations without specialist information management staff. Finding out what 3000 agencies are up to is hard enough; providing recordkeeping advice and guidance that is relevant to all of their competing and sometimes contradictory needs is even more difficult.

One small part of that wider suite of advice and guidance is the planned Archives New Zealand toolkit on machinery of government change. Its purpose is to make the necessary information management transitions—such as the migration of data—as easy as possible. Part of the toolkit will advise agencies how to comply with the mandatory reporting requirements under the Public Records Act. The rest of it will provide generic tools like checklists, templates, frequently asked questions, a brief guide for senior managers, and so on.

In a fairly short space of time, then, Archives New Zealand has moved from being the storage facility at the bottom of the machinery of government cliff to one of the agencies tasked with enabling bureaucratic change. Drawing on and learning from the memory of past changes will help it to carry out that role.

One of the lessons of the New Zealand experience is that information is particularly vulnerable at times of change. Another lesson, if it needed to be learnt, is that these changes do not occur in a vacuum. The social, political and economic ramifications of the bureaucratic revolution were vast, and are not done with yet.

Indeed, it's hard not to conclude that Archives New Zealand's strengthened role under the Public Records Act owed something to New Zealanders' visceral experience of bureaucratic change in the 1980s and 1990s. Protecting the records documenting those epochal changes is one of Archives New Zealand's duties, now and in the future. Supporting government agencies created, re-created and transformed in the past through further change in the future is another. Archives New Zealand is well-placed to carry out both.

In Queensland, the *Public Records Act 2002* covers 20 state Government Departments, a network of 73 local councils, 313 statutory authorities (that is, bodies established under legislation), and 12 government owned corporations. It also covers a further 85 government bodies such as the Courts.

Between 2003 and 2012, the rate of changes impacting the structure and functions of these government bodies and their status under the *Public Records Act 2002*, has accelerated. And as far as Queensland State Archives' involvement in administrative changes goes, the changes have also become increasingly complex.

Over the last 11 years, the Queensland Government has restructured and privatised a number of its commercial enterprises and infrastructure assets. In some cases, these bodies have been sold outright, and in other instances, the business assets have been leased to private companies, while the Government has retained ownership of the supporting infrastructure.

Major reforms were also affected across the Queensland Government's 600-plus boards, committees and tribunals during this period. Following a review in 2009 aimed at rationalising the total number of these bodies, 103 boards, committees and tribunals were either abolished or their functions amalgamated into other bodies. Each year a number of boards and committees are being wound up in accordance with the change implementation schedule.

At the same time, Queensland's State Government Departments have seen significant changes in *their* number and functions. Following the State Government elections in 2009, the number of departments was reduced from 24 to 13. Following the State elections earlier this year, the number of departments was increased from 13 to 20.

Another key driver of change currently impacting public authorities in Queensland is the Council of Australian Governments (COAG) reform agenda. In February 2011, the Australian heads of Government agreed to implement a national approach to key areas such as competition and regulation, health and education. As a result, several State Government functions are either being transferred to the Commonwealth Government outright, or being transformed into State franchises of Commonwealth bodies. An example is the National Heavy Vehicle Regulator.

Another key administrative change trend which has had impacts on public records and the role of Queensland State Archives in recent years, has been the introduction of special purpose legislation to facilitate the disposal of public records as part of an asset sale, without the need to comply with the *Public Records Act 2002*.

There have been three examples of such legislation in Queensland:

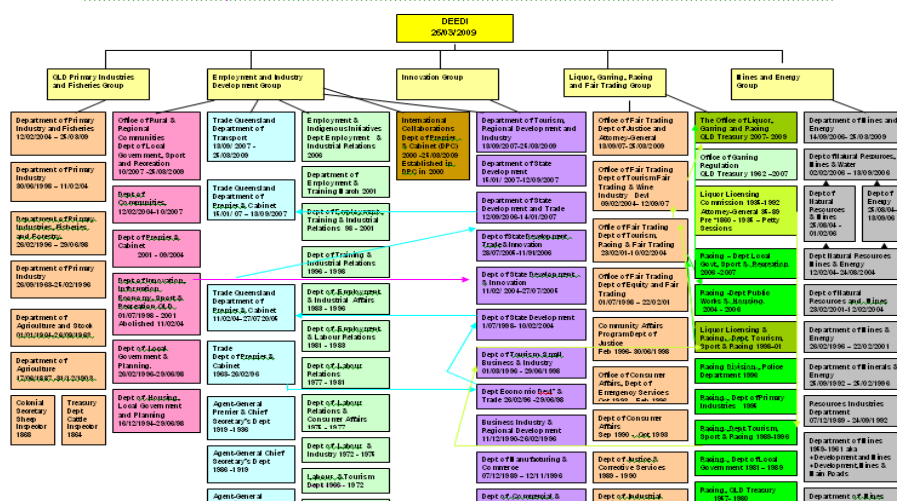
- *Energy Assets (Restructuring and Disposal) Act 2006*
- *Airport Assets (Restructuring and Disposal) Act 2008 (AARD)*
- *Infrastructure Investment (Asset Restructure and Disposal) Act 2009*.

Under the terms of the sale agreements which were put in place under these Acts, the new asset owners were required to give Queensland State Archives access to the public records for up to two years to assess, classify and make copies of any permanent records. This narrow window of opportunity has created challenges for Queensland State Archives, particularly where the records are held in regional areas of Queensland and are not covered by an existing retention and disposal schedule.

Part 2: Administrative change impacts on records management: To be presented by Fiona Sims-Farn, Manager, Records Management, Queensland Department of Agriculture, Fisheries and Forestry



Administrative Mapping of Organisational Structures of former Agencies that comprise Dept of Employment, Economic Development and Innovation.



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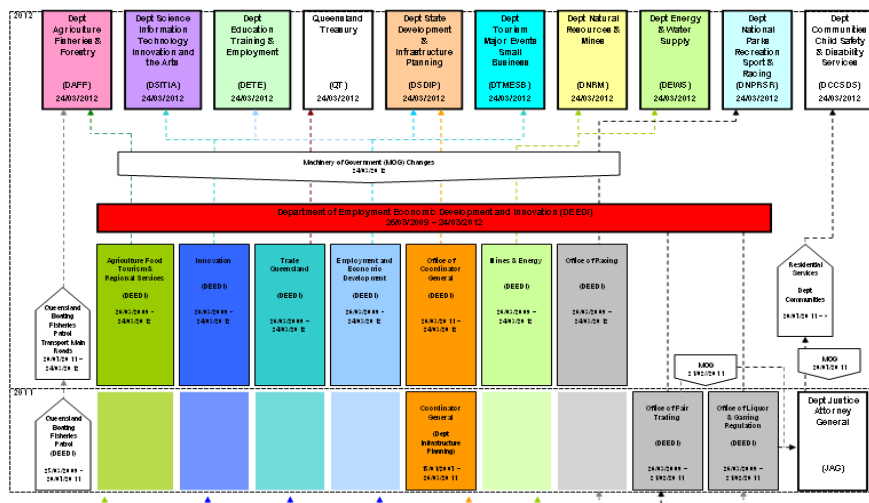
Key components of maintaining continuity during times of administrative change

- Rapid assessment of change impacts – build internal capability to react quickly to facilitate analysis, implementation & training
- Clear protocols for legacy records – processes, transfers & responsibilities
- Standard deployment & service offerings (eliminating the historical idiosyncrasies) – clearly defined recordkeeping model
- Good control records – maintaining accurate, up-to-date metadata with appropriate levels of granularity to be able to “slice and dice” to accommodate change
- Flexible approach – documented repeatable processes & techniques enabling business areas to be “plugged in and out” as required

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Administrative Mapping DEED - post March 2012 Machinery of Government Changes



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Part 3: Approaches and Responses – To be presented by Ingrid MacDonald, Queensland State Archives and Anna Gulbransen, National Archives of New Zealand

Queensland State Archives recognises that any sort of change can be daunting and has an element of risk.

However, from QSA's experience working with public authorities and change agents over the last decade, we see the key risks for public records are around:

- The lawful disposal of public records
- Transitioning electronic records – particularly from mature recordkeeping environments to less mature environments
- And the longer-term treatment of legacy records (that is, those records which are no longer required for current business purposes).

Queensland's *Public Records Act 2002* does provide for the disposal of public records during administrative change and the assigning of responsibility for records which do not transfer with their function. However, these provisions are open to some interpretation and we have found that problems may arise where:

- It is unclear as to whether the agency receiving the public records is a public authority for the purposes of the *Public Records Act 2002*.
- It is unclear as to whether public records dealt with under another legal instrument satisfy the disposal provisions of the *Public Records Act 2002*.

Public authorities may risk unlawful disposal when it is incorrectly assumed that they have authorisation to dispose of public records in these situations.

The interaction between State Records legislation and special purpose legislation such as the previously mentioned *Infrastructure Investment (Asset Restructure and Disposal) Act 2009*, and enabling legislation of the kind we are seeing being passed by the Australian Government to effect its national reforms, adds greater complexity to the issue of disposal and access rights for Archival authorities.

Although administrative changes can cause disruption and problems for records and information managers, Queensland State Archives is looking at the issues as an opportunity to promote good recordkeeping messages – particularly at the executive level of government where most of the transition planning activity and resource allocation occurs.

Queensland State Archives' is currently working at improving recordkeeping advice and tools to minimise the risks and better support impacted agencies.

The Machinery of Government Toolkit of advice and tools is designed to be practical, not theoretical. It is aimed at giving agencies the confidence to manage change by answering their practical questions.

These new tools have credibility with public authorities and change agents because their development has been informed by our experiences working directly with impacted agencies. We also consult with a broad cross section of public authorities and central government agencies on draft tools to ensure that they meet the purpose for which they were designed. Some of our newest tools have been adapted from tools and in-house solutions developed by public authorities, so we know that they are proven to work. We just refine them to suit as many different scenarios as possible.

Particular focus areas for Queensland State Archives, where we are targeting our advice, awareness raising and in our discussions with central government are:

- Agency preparedness for change
- Resilient recordkeeping systems, processes and tools
- Central agency partnerships
- Protection of critical, at-risk public records.

Of course, what we have seen is that no two administrative changes are the same – which presents challenges in terms of how to provide suitable tools and advice to meet the broadest range of needs. And while the Toolkit is in a way a self-help strategy for agencies, we continue to meet with and talk to agencies throughout the transition process so that they not just know what they need to do, but understand what they need to do.

Our partnerships with central government agencies such as Queensland Treasury and Trade, Department of the Premier and Cabinet, and the Office of the Information Commissioner has also been a key focus for Queensland State Archives as we try to raise awareness across government on the recordkeeping issues associated with administrative change. And in actual fact, to date Queensland State Archives' recordkeeping messages have been well-received by these bodies which we have found share many of our concerns around ensuring government transparency, accountability and risk minimisation.

And of course, our key partners in addressing the recordkeeping issues associated with the transition of state government functions and associated public records to the Commonwealth Government are our archival colleagues at both the State and National levels - with whom we already have close working relations.

If you would like to take a closer look at our Machinery of Government Toolkit you can go to our website at:

<http://www.archives.qld.gov.au/Recordkeeping/RetentionDisposal/Pages/MOG.aspx>

And watch this space as we continue to add new tools and advice.