



Records Disposal Freeze Policy for NT Public Sector Organisations

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Introduction

Government archival authorities and records offices, both nationally and internationally, on occasions apply 'freezes' to the destruction of specific public records that would usually be eligible for disposal under an approved Retention and Disposal Schedule. These freezes often relate to a particular topic or event that has created significant or substantial public interest and may include cases where there is extensive parliamentary debate, coverage by the media, or a pending court case.

Under Section 145 of the *Information Act* it is an offence to destroy a record unless authorised to do so. This authorisation is given through an approved Retention and Disposal Schedule which has been authorised by the NT Archives Service, the NT Records Service and the Chief Executive of the department responsible for the function (see Section 136B of the *Information Act*). This policy establishes the circumstances when the destruction of public records may be temporarily suspended despite previous authorisation for disposal, as set out in a Retention and Disposal Schedule.

A disposal freeze may be issued jointly by the NT Archives Service and NT Records Service for a particular group of public records and overrides an existing Retention and Disposal Schedule for a specified period of time.

Records to which a disposal freeze applies must not be destroyed while the freeze is in place. Destruction of these records could constitute unlawful disposal under Section 145 of the Act.

Purpose

This policy sets out the conditions under which the NT Archives Service and NT Records Service may jointly issue a disposal freeze to postpone the destruction of public records that are at risk of being lost or may be required for longer retention periods.

This policy provides for the NT Archives Service and NT Records Service to jointly issue a notice to public authorities to temporarily cease the destruction of records that would usually be eligible for destruction in accordance with an authorised Retention and Disposal Schedule.

Advice is also provided on how public authorities should implement a disposal freeze.

Further advice to support the principles in this policy is available on the NT Archives Service website at www.nt.gov.au/nreta/ntas and the NT Records Service website at www.nt.gov.au/dbe/it/records.

Authority

This policy has been issued in accordance with Part 9 of the Act which gives the NT Archives Service and NT Records Services the authority to issue standards and provide advice about the making, keeping, preserving, managing and disposing of public records.

Scope

This policy applies to all Northern Territory public sector organisations (as defined in Section 5 of the Act) that create, own and receive public records.

This policy also covers public records temporarily transferred to a third party, such as a privatised or commercial entity, Commonwealth or other Australian State Government agency, under a contractual custody agreement.

Policy Statement

The NT Archives Service and NT Records Service may invoke a disposal freeze to minimise the risk of losing crucial evidence of government activities. Specifically, the intent of a disposal freeze is to ensure:

- public records that may be required as evidence are retained
- evidence is readily available in instances of litigation ¹
- business activities of government are open and accountable
- the rights and entitlements of both individuals and the Government are protected
- public records are accessible and available to meet changing business circumstances.

For the purposes of this policy, a records disposal freeze for public sector organisations:

- is issued jointly by the NT Archives Service and NT Records Service
- requires certain public records **not** to be destroyed while the disposal freeze is in place
- may cover more than one public sector organisation
- applies to specific records relating to a particular topic or event
- overrides a Retention and Disposal Schedule (approved by the NT Archives Service, the NT Records Service and the relevant Chief Executive Officer) applicable to a public sector organisation or several public sector organisations
- is issued for a finite period, with a start date and a proposed end date.

Policy Principles

The NT Archives Service and NT Records Service may jointly authorise a disposal freeze for specific public records under the following principles:

Principle 1: Authorisation from both the NT Archives Service and the NT Records Service is required for each disposal freeze that is invoked

Principle 2: Public sector organisations are responsible for ensuring public records covered by a disposal freeze are retained for the duration of the freeze.

Principle 1: Authorisation from both the NT Archives Service and the NT Records Service is required for each records disposal freeze that is invoked

A disposal freeze:

- may affect any Northern Territory public sector organisation. Which public sector organisations are affected will depend on why a disposal freeze has been invoked and the public records that the disposal freeze covers. The freeze could be applicable to one or several public sector organisations or across whole-of-Government.
- applies to public records relating to a specific topic or event that could otherwise be destroyed under a Retention and Disposal Schedule authorised by the NT Archives Service, the NT Records Service, and the Chief Executive of the department responsible for the function.

¹ Refer to [Records Management Advice No. 7 Legal Hold Order for Records](#)

- suspends the destruction of records which would otherwise be destroyed under an authorised disposal schedule, for the period the freeze is in place. The freeze should only affect those records within the scope of the freeze that would be due to be destroyed within the period of the freeze, not the total quantity of records that fit the description of records.
- has a specific start date and a proposed end date. The length of time a freeze may be enforced will be affected by various activities. For example, litigation cases may involve lengthy investigations and completion of a reappraisal process by the public sector organisation, the NT Archives Service and the NT Records Service. At the commencement of the disposal freeze an end date may not be known until the circumstances that initiated the freeze have been further clarified or resolved.
- may be requested by a Chief Executive Officer of a public sector organisation to apply to public records of another public sector organisation. The NT Archives Service and NT Records Service, in consultation with all relevant parties, may jointly issue a disposal freeze.

The NT Archives Service and NT Records Service will specify the types of public records affected by a disposal freeze. NT Records Service will formally notify Chief Executive Officers of impacted public sector organisations. The freeze will identify:

- which public records are affected, or likely to be affected
- which authorised Retention and Disposal Schedule/s are affected
- the effect of the disposal freeze on authorised Retention and Disposal Schedule/s, and
- the anticipated duration of the disposal freeze

Principle 2: Public sector organisations are responsible for ensuring public records covered by a records disposal freeze are retained for the duration of the freeze

Under Section 131 of the Act, Chief Executive Officers of public sector organisations are responsible and accountable for ensuring that public sector organisations have regard to the requirements of a records disposal freeze. To comply with the freeze, the affected public sector organisation must:

- formally advise staff and other relevant parties to immediately cease the destruction of public records covered by the records disposal freeze
- identify public records that are subject to the disposal freeze, including public records stored in offsite storage and with third party providers
- notify the NT Records Service of any additional public records that could be covered in the records disposal freeze
- notify the NT Records Service of functional disposal schedules affected by the records disposal freeze
- manage the records disposal freeze process in accordance with the internal recordkeeping policies and procedures of the public sector organisation for the disposal of public records
- follow any specific instructions relating to the records disposal freeze.

For further guidance on meeting these requirements see the *Records Disposal Freeze Implementation Advice for NT Public Sector Organisations*.

Responsibilities of the NT Archives Service and NT Records Service

The requirement for a Records Disposal Freeze may be prompted by a range of circumstances, including a ministerial or government decision, pending legal action, commission of inquiry, social issues or high profile debate which may affect one or more public sector organisations.

The NT Archives Service and NT Records Service in consultation with relevant public sector organisations will research and determine whether or not to issue a records disposal freeze and, if so, will formally notify the public sector organisations to be covered by the disposal freeze and specify the types of public records that are subject to the disposal freeze.

At the end of the duration of the records disposal freeze, the NT Archives Service and NT Records will review the requirement for the cessation or extension of the freeze and if appropriate will authorize an extension for a further period.

Responsibilities of Chief Executive Officers

A Chief Executive Officer of a public sector organisation, as defined in Section 4 of the Act, is responsible and accountable for ensuring that the public sector organisation complies with the Act (Section 131).

Chief Executive Officers have responsibility to authorise records retention and disposal schedules for the records of their organisation jointly with the NT Archives Service and the NT Records Service (Section 136B).

An approved Retention and Disposal Schedule identifies the earliest date a class of temporary value records may be destroyed. It is at the discretion of the public sector organisation concerned to retain temporary value records for a longer period if there is a business need.

A Chief Executive Officer may invoke an internal records disposal freeze to temporarily postpone the destruction of public records of that public sector organisation. If an internal records disposal freeze is enacted, the Chief Executive Officer must ensure internal processes and procedures are established and implemented for the duration of the freeze. A review of the agency's Retention and Disposal Schedule may be warranted depending on the situation.

If a Chief Executive Officer believes that circumstances warrant the cessation of the disposal of public records created by other public sector organisations, the Chief Executive Officer must request a disposal freeze to be issued by the NT Archives Service and NT Records Service. The Chief Executive Officer must provide all relevant information to the NT Archives Service and NT Records Service as to why the disposal freeze should be issued. Public sector organisations may choose to implement a broader freeze on all records likely to contain relevant material.

The affected public sector organisations also have a key role in identifying and providing advice on the scope of public records to be covered by the disposal freeze.

The processing and storage costs arising from the implementation of a disposal freeze will need to be borne by the public sector organisation.

Documentation

Under Section 134(a) of the *Information Act*, public sector organisations must keep full and accurate records of their activities and operations. This includes maintaining records relating to a disposal freeze issued to their public sector organisation. Specifically these records will include what action was taken to enact the disposal freeze in the public sector organisation.

Any disposal freeze notification and all documentation required for compliance must be maintained in accordance with the *Disposal Schedule for Administrative Records of the Northern Territory Government (Disposal Schedule No. 2000/8)*.

Definitions

NT Archives Service – defined as the “archives service” in Section 4 of the *Information Act*, with branches in Darwin and Alice Springs.

NT Records Service – defined as the “records service” in Section 4 of the *Information Act*, located in the ICT Policy and Strategy Division, Department of Business and Employment.

Records Disposal Freeze – an authority issued jointly by the NT Archives Service and NT Records Service that requires the temporary cessation of the destruction of public records, relating to a specific topic or event that are covered by an approved Retention and Disposal Schedule.

Retention and Disposal Schedule - a document approved by the NT Archives Service, the NT Records Service, and the relevant Chief Executive Officer under the Act which defines the temporary or permanent status, retention periods, disposal triggers, and consequent permitted disposal actions in relation to a public sector organisation’s public records (Section 136B of the *Information Act*).

Acknowledgements

The NT Archives Service and the NT Records Service acknowledge that material produced by the Council of Australasian Archives and Records Authorities (CAARA), National Archives of Australia and Queensland State Archives was used in the development of this policy.

Further Information

For further information please refer to:

Records Disposal Freeze Implementation Advice for NT Public Sector Organisations

Further Advice

For further information about this policy please contact:

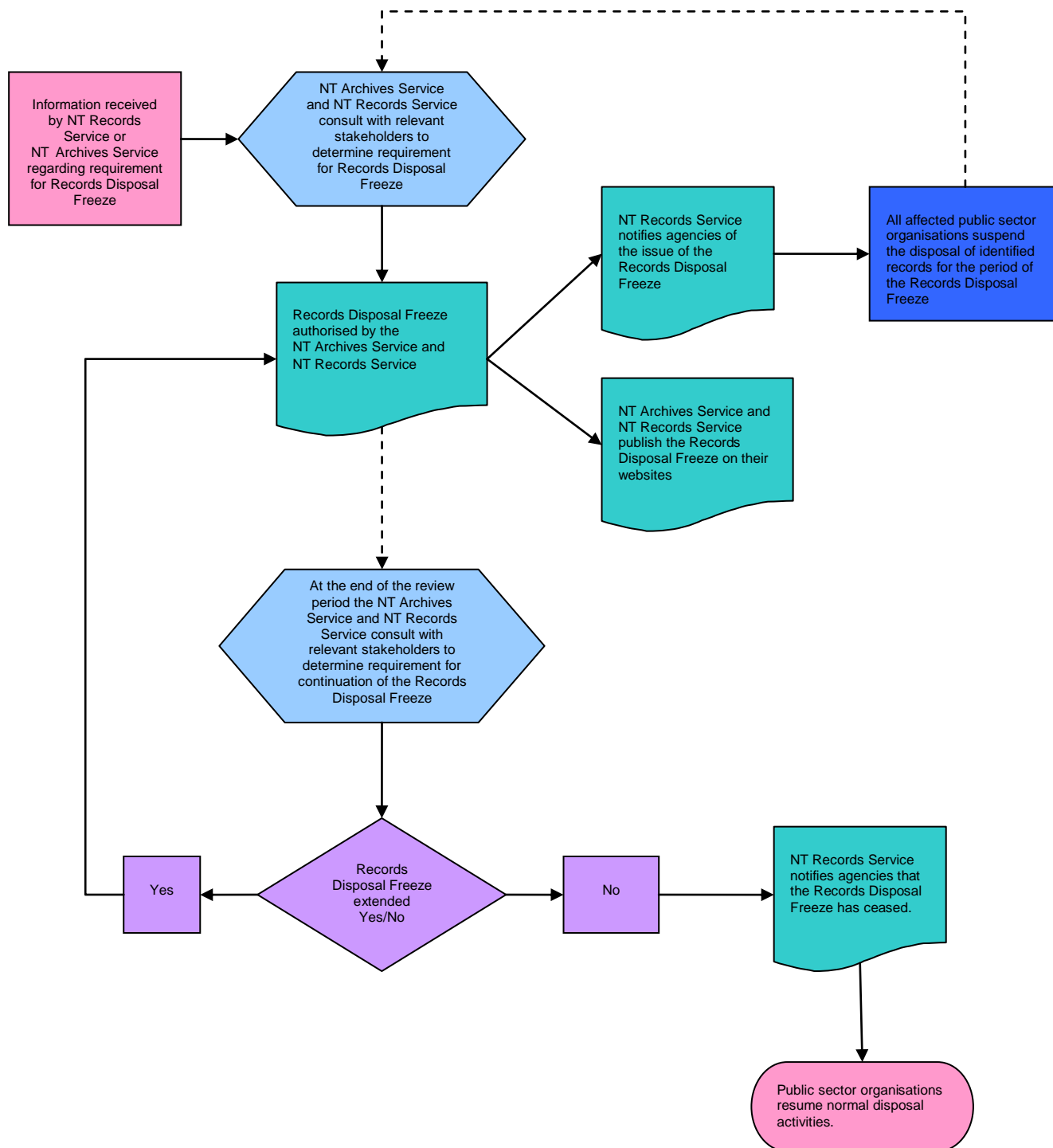
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Appendix 1 - Records Disposal Freeze Implementation Workflow



Appendix 2 – Sample Records Disposal Freeze

Notice of Records Disposal Freeze for [type of records]

The purpose of this document is to notify public sector organisations of the Northern Territory, who may be in possession of [type of records], that a disposal freeze has been issued for records relating to [function].

Background

The decision to impose the disposal freeze follows [background to issue of freeze].

The aim of the disposal freeze is to avoid the risk of losing crucial evidence for [reason for disposal freeze]. This is to protect the rights and entitlements both of the individuals who may be involved and the NT Government.

Authority

NT Archives Service and the NT Records Service issue this disposal freeze in accordance with Section 136B of the *Information Act*.

Destruction of records covered by a disposal freeze is considered illegal disposal under Section 145 of the *Information Act*.

Agencies Affected

The disposal freeze applies to all public sector organisation's which may be in possession of [type of records].

Records Affected

The disposal freeze covers the [detail and scope of records affected].

The disposal freeze applies to records that could otherwise be destroyed under NT Government Retention and Disposal Schedules. In practice, the freeze should only affect those records due to be destroyed within the period of the freeze, not the total quantity of records that fit the description of the records.

The disposal schedules likely to be affected include [list of relevant schedules].

Duration

This disposal freeze is in force from [start date]. A review of the requirement for the continuation of the disposal freeze will be undertaken prior to [end date]. Public sector organisation will be notified by the NT Records Service if an extension of the disposal freeze has been authorised or will cease.

Action Required

Public sector organisations should:

1. Notify all staff and other relevant parties (including third party service providers) responsible for the disposal of public records that a disposal freeze has been issued
2. Withhold from destruction any records within the scope of the records disposal freeze.
3. Retain the records identified in the disposal freeze for the duration of the freeze or until further notice.

The preparation for sentencing of records affected by the disposal freeze can continue. However, the records must be set aside and retained for the period of the disposal freeze. The records should be retained by the organisation; they will not be accepted for transfer to the NT Archives Service. Organisations have the option either to identify and set aside the particular records covered by the freeze, or to implement a broader freeze on all records likely to contain relevant material.

Impact

The costs relating to the management and storage of an agency's temporary records covered by a records disposal freeze are the responsibility of the public sector organisation.

Further Information

For further information please refer to:

Records Disposal Freeze Policy for NT Public Sector Organisations

Records Disposal Freeze Implementation Advice for NT Public Sector Organisations

Enquiries

For enquiries, please contact :

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