Machinery of Government

Implementing Change

April 2019

Table of contents

Government of South Australia
Department of the Premier
and Cabinet

Machinery of Government

This document aims to help agencies implement Machinery of Government (MOG) and other changes to administrative arrangements.

MOG changes are the prerogative of the Premier and can include:

- appointing ministers
- establishing or abolishing departments
- transferring responsibility for functions, legislation or departments between ministers
- transferring functions within the public sector.

This handbook provides:

- an overview of the MOG process
- principles and approaches for planning and implementing MOG changes
- detail about people management issues
- an approach to financial management issues
- records management advice.

Overview

Machinery of Government (MOG) refers to the allocation of functions and responsibilities between departments and ministers. These allocations reflect a government's strategy and priorities and changes may often be made following an election or to support new policy directions.

The Governor in Executive Council, on the advice of the Premier, appoints ministers, establishes administrative units (departments) and formally allocates responsibilities to ministers.

The process for considering MOG changes immediately after an election differs from that relating to non-election changes.

Initially the Premier will establish the MOG Executive Committee, usually the Commissioner for Public Sector Employment, DPC's Chief Executive and the Under Treasurer to oversee implementation. Depending on the scope of the MOG changes the Executive Committee will be supported by:

- MOG Taskforce
- MOG Implementation Groups
- MOG Working Groups

MOG changes can be challenging to those directly affected by them. Agencies are required to consider many issues and deal with wide-ranging matters, some of which can be very complex and time-consuming. Affected employees expect regular communication about what is happening, legislative and government policy requirements must be complied with, and for the process to work as smoothly as possible actions should be undertaken with a cooperative 'whole of government' spirit.

This handbook includes key documents that have been used to plan and implement recent South Australian Government MOG changes. The information incorporates feedback from agencies relating to MOG changes in which they have been involved. It is hoped that the handbook will support streamlined MOG arrangements within relevant timeframes. We welcome further contributions to improve the information provided in this handbook. Please contact us at Cabinet Office@sa.gov.au if you have any comments.

Information contained in this handbook is necessarily general in nature. Agencies should seek guidance on particular issues relating to specific agencies and processes, first from the responsible implementation committee and then, as required, from Cabinet Office, the Department of Treasury and Finance (DTF), the Office of the Commissioner for Public Sector Employment, the Crown Solicitor's Office and Parliamentary Counsel.

Machinery of Government principles

A whole of government approach

Agencies should take a whole of government approach to MOG changes. A collaborative and responsive attitude encourages agencies and their employees to work together to achieve the government's objectives. It is expected that agencies will communicate openly with one another and with central agencies to achieve the best outcomes to implement government policies. Ultimately, the Machinery of Government Executive Committee and Taskforce will make decisions and recommendations with a whole of government perspective.

Negotiating in good faith

Negotiations between the transferring and receiving agencies should be undertaken in good faith, balancing equity and fairness for the receiving agency against the need to achieve the best outcome for the whole of government rather than the best outcome for individual agencies. When this does not work successfully, the Machinery of Government Executive Committee and Taskforce will have the mandate to take decisions and make recommendations on what they believe is the most reasonable approach.

Good policy outcomes require public sector employees to work effectively across the transferring agency boundaries. Chief executives and other agency heads will expect their agencies to work constructively and cooperatively with colleagues in other agencies to achieve optimal outcomes.

Public sector employees should behave at all times in a manner that reflects the public sector principles and practices and the sector's Code of Ethics and public sector values. In particular, working relationships should be productive and effective, with a genuine commitment to collaboration, ethical behaviour and professional integrity.

Open and honest identification of resources

MOG changes involve identifying a function or functions to be allocated to one or more different agencies. It is necessary to clearly identify the employees undertaking these functions so that they may be transferred to identical or similar roles elsewhere. This is known as the principle of 'employees follow function'. Any relevant records should also be transferred. This is known as the principle of 'records follow function'.

It can be difficult to map support functions (such as corporate service areas) or functions or programs that have been split. Agencies will recognise the need for cost sharing and should reach an agreement that meets the test of reasonableness.

Identification of resources may include:

- budgets

- employee numbers, pay and conditions, and details of employees on leave or temporarily reassigned
- assets and liabilities
- contract registers
- intellectual property such as data bases
- information and communications technology (ICT)
- legislative responsibilities
- contracts, licences, guarantees and indemnities, tax rulings, risks and compliance programs.

Where it is not practicable or reasonable to split a function between agencies but both agencies require that function, it may be appropriate to keep the function in one agency while ensuring that the other agency receives the necessary services through a service level agreement.

The transfer of budgets should include the immediate financial year and all years covered by forward estimates. Transfers will include operating expenses and revenues, investing activities, and assets and liabilities.

Any savings tasks associated with the transferred functions should be identified. These tasks will also be transferred between agencies.

An agency should consider what level of corporate services should be transferred to match any function transfer. This consideration should be informed by DTF principles, which state that for all but the largest functional shifts, or where otherwise agreed between agencies, following corporate resources should be transferred:

- ICT costs (per FTE)
- administration costs (including staff training) (per FTE) and
- a provision for other corporate overheads (per FTE).

The transferring and receiving agencies will agree on any changes to shared services charges resulting from the transfer of functions. If agreement cannot be achieved in a timely manner, the MOG Taskforce will make a recommendation on the matter for decision by the MOG Executive Committee.

Subsequent budget papers will be based on the new structure, noting that:

- at the program level it will be necessary to reflect data from the previous financial year
- agency statements will require reconciliation statements (financial statements to programs).

An administrative restructure checklist is included in DTF's Financial Management Toolkit at:

www.treasury.sa.gov.au/budget/compliance-and-resources/treasurers-instructions

Government of South Australia
Department of the Premier and Cabinet

Timely and accurate information exchange

Successful completion of MOG changes depends on the quality and timeliness of the information provided by the agency from which functions are transferred. Such information must be up-to-date and include:

- organisational structure diagrams and employee lists
- affected programs and policy responsibilities
- all associated activities, such as service delivery arrangements and their significance
- records and data documenting the functions being transferred, including agency websites
- registers, instruments and records relating to accounting, tax, financial management and governance matters of the transferred function(s)
- existing audit (internal and external) issues
- existing budget measures
- risk registers.

Constructive and open communication with employees

Employees can be transferred from one agency to another as a result of a MOG change. Under section 9(1) of the *Public Sector Act 2009,* the Premier may, in order to reorganise public sector operations, by notice in the Gazette, transfer employees within the public sector, and make transitional or ancillary provisions that may be necessary or expedient in the circumstances.

The provision of open and timely information to employees will support a smooth and efficient transition. Agencies should identify activity to which employees can contribute, such as matters affecting their accommodation and working environment.

Systems and structures that enable employees to contribute their views and maximise their input will support MOG change effectiveness and minimise cultural change impacts.

For more information about the Act and the legal framework, see page 14.

Legislation and policy accountability and compliance

Agencies will comply with legislation and policy, and be accountable and transparent, if they follow established procedural frameworks, and ensure records are managed appropriately and that appropriate delegations are in place.

Legislative and policy frameworks

Agencies should seek legal advice from the Crown Solicitor's Office to confirm the mechanisms or instruments required to achieve desired outcomes. A summary of the key legislative provisions is provided at Attachment A.

Agencies should seek the advice of the Crown Solicitor's Office and Parliamentary Counsel about which matters should be delegated to ministers and the Governor.

Agencies should seek the advice of Parliamentary Counsel, Cabinet Office and the Crown Solicitor's Office, where applicable, about:

- the drafting of proclamations
- gazettal notices that relate to the transfer of employees under section 9(1) of the *Public Sector Act 2009.*

Endorsement of proposed changes is required from the MOG Taskforce before implementation.

Delegation and authorisation

Instruments of delegation and authorisation may be needed to ensure continuity of decision-making. New and/or interim delegations and authorisations will need to be made quickly and reflect the new arrangements, at the same time recognising that people performing the functions may be in transferring agencies for some time.

If an agency is abolished, all delegations and statutory authorisations cease at the time of the agency 's abolition. New instruments of delegation and authorisations should be introduced without delay, outlining those responsible in future.

These instruments should also be finalised quickly for new agencies.

Both transferring and receiving agencies should review Premier and Cabinet Circulars and other policy instruments that make reference to their agency to ensure the MOG changes are reflected. Cabinet Office can assist with publication of the updated documents on the website.

Records management

Official records of South Australian Government agencies must continue to be managed and available during and after administrative change. The underlying principle is that records, including electronic records, follow function rather than individual employees. This can create challenges when an officer's mailbox follows them to a new agency when their role has changed and relevant records should properly remain with the transferring agency.

Planning

Post-election Machinery of Government changes

After an incoming Premier has announced the ministry and new administrative arrangements, the Machinery of Government Executive Committee will help agencies understand the nature and ramifications of any MOG changes.

New ministerial arrangements take effect on the day the new ministry is sworn in by the Governor. New administrative arrangements may also occur on the same day. While transfers of budgets and employees may not be completed for some time, it is expected that implementation of the changes will begin immediately and be completed as soon as possible.

Governance arrangements

It is convention that the Premier allocate responsibility for overseeing MOG change implementation to one or more senior public sector employees. Responsibility will usually be given jointly to the Commissioner for Public Sector Employment, DPC's Chief Executive and the Under Treasurer, who form a MOG Executive Committee.

A MOG Taskforce is then usually established to oversee implementation, and make decisions or recommendations to the Executive Committee to ensure a timely transition is achieved.

It is also recommended that an agency affected by MOG changes establish a suitably senior MOG Implementation Group to oversee implementation and liaise with the Taskforce.

MOG Executive Committee

The MOG Executive Committee oversees and provides direction for the implementation of MOG reforms. It may also make decisions on MOG implementation when recommendations are referred to it by the Taskforce. The Executive Committee:

- finalises or resolves any issues related to the transfer of resources (people, financial, assets and liabilities) that cannot be resolved by the MOG Taskforce
- advises the Premier on matters and potential risks arising from the changes.

MOG Taskforce

The MOG Taskforce ensures that MOG changes are implemented in a timely and effective manner. When matters cannot be resolved between agencies, this group will determine the implementation of Cabinet's MOG decisions.

The Taskforce will be expected to meet regularly, and membership may include:

- the Commissioner for Public Sector Employment as chair
- senior representatives from Cabinet Office and DTF
- representatives of the Crown Solicitor's Office and Parliamentary Counsel.

Meetings may also include representatives from Shared Services, other senior officers and officers providing secretariat support

Its terms of reference will reflect responsibility for:

- implementing MOG changes
- ensuring employees are legally transferred between administrative units
- ensuring the principles of the *Public Sector Act 2009* are honoured in appointing and redeploying staff
- maximising certainty and minimising stress related to staff employment conditions
- supporting efficient ministerial office operations
- minimising disputes about changes to accommodation, financial arrangements, communication and ICT arrangements
- identifying policy issues and gaps to be resolved
- endorsing proposed changes before implementation.

Agency MOG Implementation Group

The impact on agencies of MOG changes may vary from relatively minor to substantial. Major MOG changes often involve the transfer of functions from one agency to another as a result of portfolios being restructured, created or abolished.

Planning the implementation of any changes should begin as early as possible. In the first instance, chief executives or agency heads should resolve, as much as possible, how a MOG change is to be achieved.

In the case of a state election, the incoming government briefs may address the impact on an agency of pre-election policy statements. Consideration should be given to employment and workplace relations issues that may arise, as well as the transfer of appropriations and other financial matters.

To support smooth implementation, an agency affected by MOG changes should establish a suitably senior MOG Implementation Group with clear lines of accountability. This group and its regular communication with the MOG Taskforce will manage the smooth and timely transition of functions, employees and resources, while ensuring business continuity.

Government of South Australia
Department of the Premier and Cabinet

Depending on the scope of the MOG changes, the Agency MOG Implementation Group may include representation from enabling areas such as ICT, legal, finance and human resources, as well as managers responsible for receiving functions. It may be valuable to include representatives from the transferring agency.

It is anticipated that the Agency MOG Implementation Group will meet regularly during the transition period to plan for and coordinate a smooth transition process and to provide advice to affected chief executives.

If needed, working groups may be established to report to the Agency MOG Implementation Group. These working groups may facilitate specific aspects of the change, such as:

- secondary MOG changes
- clarifying the purpose and respective responsibilities of the MOG Implementation Group and/or working groups
- clarifying roles of the receiving and transferring agencies
- determining whether specific functions will transfer in their current or a modified form
- articulating change objectives
- determining a function's new direction, core business, structure and employee arrangements
- ensuring stakeholders are informed and involved
- conducting necessary due diligence activities
- developing a communication strategy to keep employees informed
- developing a people management strategy, including realistic timeframes
- developing a project plan for implementation, including the transfer of resources (financial assets and liabilities, employees, information technology), physical relocation, and transfer of digital and physical records
- conducting a risk management assessment
- maintaining the general principles and approach for best outcomes.

Any issues that cannot be resolved at agency level are to be communicated in writing to the MOG Taskforce.

A change management toolkit to help plan and implement successful change within the public sector is also available at change.sa.gov.au/toolkitlintroduction/

Due diligence requirements

Due diligence refers to the need for a detailed examination of all aspects of the functions being transferred, including assets, liabilities, and statutory, contractual and other arrangements. Reference should be made to the Financial Management Toolkit, which provides an administrative restructure checklist for transferring and receiving agencies.

The MOG Taskforce will develop a framework to ensure all necessary information relating to the transferred functions is gathered. Issues include:

- policy and operational responsibilities
- assets and liabilities
- contractual arrangements and funding agreements, including property or equipment leases and provision of goods and services
- partnerships or joint ventures
- boards/advisory committee membership
- intellectual property matters
- disputes and litigation
- taxation matters
- specific delegated functions and authorisations necessary to enable a smooth transfer of functions
- identification of programs' statutory or administrative basis
- outstanding legal action, freedom of information requests and audit reviews (internal and/or external)
- identification and management of agency information, records and data, and records systems.

Communication

A communication strategy should be developed for each group overseeing the MOG changes (that is, the Executive Committee, the MOG Taskforce and the Agency MOG Implementation Group).

Communication should outline to employees the reasons for and objectives and extent of the changes. It should be provided as quickly and often as possible to alleviate concern and contribute to a streamlined process.

Consideration should be given to:

- conducting meetings or information sessions for affected employees
- providing regular email updates to employees, especially those affected by the changes
- establishing a website outlining the changes
- establishing a telephone or email hotline to respond to specific inquiries.

In some cases, it may help to nominate a specific communication team (or person) to take responsibility for coordinating communication. This can avoid employees receiving conflicting and potentially inaccurate information during the MOG process.

Cabinet submissions and notes and ministerial notices

When the MOG Taskforce has approved arrangements, a Cabinet submission will be prepared so that Cabinet and Executive Council can consider the arrangements.

When proclamations are required, Parliamentary Counsel, in consultation with Cabinet Office, will examine each submission and draft relevant proclamations to be issued by the Governor in Executive Council. Cabinet Office will arrange for the proclamations to be published in the Government Gazette on the day they are issued by the Governor in Executive Council.

When employees are transferred under section 9(1) of the *Public Sector Act 2009,* agencies need to prepare the draft ministerial notices and discuss these with Cabinet Office and the Crown Solicitor's Office. Once finalised by the agency, the notices need to be forwarded to the Premier for signature. The drafting agency will need to arrange for the notices to be published in the Government Gazette.

For key legislative provisions, instruments and approvals, refer to Attachment A.

People management

Agencies involved in receiving or transferring employees should develop a people management strategy to ensure a smooth transition for all affected employees. MOG changes can cause a large degree of disruption to employees. Human resource issues need to be managed appropriately to maintain employee morale and focus and uphold the public sector values and Code of Ethics.

It is important for both the receiving and transferring agencies to establish a MOG Implementation Group to manage and oversee the changes.

Effective change management includes chief executives and agency heads regularly advising employees on the rationale for, and the nature and extent of, the changes. An agency's MOG Implementation Group should consider relevant human resources legislation, principles and policies, particularly in relation to employment relations.

Receiving and transferring agencies will need to establish early contact and work cooperatively to ensure continuity of government business and minimal disruption.

Documentation of the process is essential. Agreements between affected chief executives or agency heads should detail all decisions, particularly relating to payment of transition costs and recovery of costs at a later stage. This is particularly important where a transferring agency agrees to continue providing some services for a period, such as allowing employees to remain in its accommodation and maintaining communication and ICT support.

As a matter of priority, the agencies should address:

- identification of affected employees, including whether physical relocation is needed
- connection to agency ICT systems, including email
- calculation of employee entitlements
- transfer of physical and digital personnel records of affected employees.

Agencies should also identify any other outstanding employee-related actions, such as investigation and other processes related to suspected misconduct or other unsatisfactory performance, substantive complaints, industrial disputes and grievances, and workers compensation claims.

Affected employees should be consulted and kept informed throughout these processes and given the opportunity to express any concerns to their managers. Receiving agencies should provide induction sessions and information packages to help employees to transition into the new agency.

Transferring and receiving agencies must agree what agency items the transferring employees are permitted to take with them. Items for consideration may include vehicles, laptops, iPads, mobile phones, credit cards and security passes. This should be documented as part of the transfer agreement.

Employees should also ensure that all agency records for which they are responsible (including physical or digital format records) are either captured into agency records management systems or, in the case of physical format records, returned to agency records management areas according to agency procedures.

The transferring agency should also consider and advise the receiving agency about the implications of the transfer on delegations or authorisations required to perform duties, governance documents, contractual arrangements and any outstanding procurement or legal action.

Legal framework

Transfer of employees

The *Public Sector Act 2009* and various sector-specific legislation such as the *Education Act 1972* and the *Health Care Act 2008* make provision for employment, management and governance matters relating to the South Australian public sector.

Section 9 of the PS Act provides for flexible arrangements for transfer of public sector employees within the public sector:

9 – Flexible arrangements for transfer within public sector

- *(1) The Premier may, in order to reorganise public sector operations, by notice in the Gazette –*
    - *(a) transfer employees within the public sector; and*
    - *(b) make transitional or ancillary provisions that may be necessary or expedient in the circumstances.*
- *(2) A notice under subsection (1) has effect according to its terms and despite any other Act.*
- *(3) A public sector agency may transfer an employee of the agency to other employment within the public sector, on conditions that maintain the substantive remuneration level of the employee or are agreed to by the employee.*
- *(4) A public sector agency is not to transfer employees under this section except with the agreement of any other public sector agency directly affected by the transfer.*
- *(5) The regulations may prescribe rules relating to the movement of employees within the public sector, including movement initiated by employees.*
- *(6) A transfer of an employee under this section does not constitute a breach of the person's contract of employment or termination of the person's employment or affect the continuity of the person's employment for any purpose.*

Section 9(1) is usually used by the Premier to move groups of employees from one agency to another. The group may be listed as individuals or may be described by reference to current location.

The advantage of naming individuals is that, for those individuals, there is certainty that the transfer applies to them. However, it carries a risk that an individual (for example, an individual on extended leave) may be missed and has to be transferred separately at a later date. Describing a group of employees by their functional unit, where units are being transferred, is sometimes preferable.

Very small numbers of employees (fewer than 10) are sometimes transferred by agreement by chief executives using section 9(3) and 9(4).

Section 9 notices should be referred to the Crown Solicitor for advice. They are not drafted by Parliamentary Counsel.

Creation of a new agency

Section 26(a) of the *Public Sector Act 2009* provides for the establishment of an administrative unit (department) and the assigning of a title to it. At the time of creation, the Governor will assign a responsible minister in Executive Council.

The Premier will appoint a Chief Executive who then acts as the employing authority for that department.

The establishment of a statutory authority may be achieved by legislation or by regulation under the *Public Corporations Act 1993.*

Abolition of an agency

Section 26(c) of the *Public Sector Act 2009* provides for the abolition of a department, where all the functions of a transferring agency are moved to one or more receiving agencies.

Where an agency is abolished, the chief executive or head of the receiving agency acquiring the majority value of net assets from the abolished agency will prepare the financial statements/report of the abolished agency for its final reporting period as early as practicable after the date that the agency ceases to exist. The receiving agency shall comply with section 23 of the *Public Finance and Audit Act 1987* in respect of the certification and audit of the financial statements of the abolished agency.

Where an agency is abolished, the final reporting date for financial reporting shall be:

- the gazettal date, for an agency or public corporation
- the date of deregistration for a Corporations Law Company
- the date of repeal of the enabling legislation (or such other date that may be prescribed) for a statutory authority.

Industrial framework

An important part of achieving the transfer of employees to another existing agency or a new department or statutory authority is the continuity of industrial rights or the management of altered rights within the existing industrial framework under which the employees operate. This requires advice from the Industrial Relations team and may require legal advice.

Consideration should also be given to the transferability of superannuation entitlements of employees transferring between schemes.

Employees follow function

Transfer of employees due to MOG changes is made on the general principle of 'employees follow function'. Under this principle, an affected employee is assigned with their function to an identical or similar role in another agency, with employment status

and classification remaining the same. This is dealt with in the relevant Gazette notice transferring the employees.

The transferring agency will need to identify the ongoing, term and casual employees who are to be transferred.

In most cases, the identification of employees to be transferred is a straightforward process. Complexities can arise, however, where a functional or program area is to be split. This may, for example, affect support functions. This may require detailed negotiations between the transferring and receiving agencies to identify the employees to be transferred.

As a general rule, unless exceptional circumstances apply, the number of corporate services employees who are transferred will be in proportion to the number of program employees transferring out of an agency.

Transferring agencies will need to provide details about:

- employees not employed on an ongoing basis
- employees absent from the workplace on any form of leave, working on a casual or term basis in another agency, or absent on account of a compensable illness or disability.

In situations where there may be impediments to transferring employees with functions, the receiving and transferring agencies should make all efforts to accommodate the particular employee(s). Where agencies are unable to resolve the situation, the MOG Taskforce should be contacted for advice.

When negotiating the arrangements for the transfer of employees, an agency should identify employees who are currently working in the transferring agency but who have a right of return to their original or 'home' agency where they are substantively employed. In this situation, if the employee's duties are, because of MOG changes, part of functions that move to a receiving agency, it is the transferring agency's responsibility to enact the transfer.

It is preferable that this occur when the Premier transfers employees by notice under section 9(1) of the *Public Sector Act 2009.* If it is overlooked at this stage, it should be completed by mutual agreement between the agencies under section 9(3) of the Act.

Agencies requiring clarification about specific cases should seek further advice from the Crown Solicitor's Office.

Transfer of employees with a workers compensation claim

The receiving agency assumes responsibility for the obligations of the transferring agency in respect of an employee with a workers compensation claim, including where the claim is made in the receiving agency about an incident that occurred during employment in the transferring agency. The transferring agency should provide a thorough briefing and transfer of relevant records.

Transfer of executives

Executives may have strategy responsibilities in addition to particular functions. The receiving agency may wish to review an executive's role statement to ensure it reflects the role in the receiving agency.

Incomplete recruitment action

A recruitment process is completed, as a matter of contract, when there has been an offer of acceptance. Once these have occurred, the new employee will have rights – possibly to compensation – if there is a purported abandonment of the employment relationship. Prior to offer and acceptance, a recruitment process may be aborted without the state incurring liability.

If negotiations with a preferred candidate are at a crucial stage when a MOG transfer of function occurs, the agencies should discuss the process to determine whether it should continue and seek legal advice if proposing to terminate any contractual relations.

Induction of transferred employees

The receiving agency should ensure transferred employees are given an appropriate induction to the receiving agency as soon as possible, to provide them with information such as:

- employment arrangements (if changed)
- agency structure, governance and accountability
- management systems, including health and safety matters and performance management
- agency processes and arrangements for how work is prepared, including ICT issues and required formats for written documents, records management policies and practices
- workplace arrangements
- employee obligations under the *Public Sector Act 2009* and the *Independent Commissioner Against Corruption Act 2012*.

Financial management

In the first instance, chief executives are responsible for resolving, as far as possible, how MOG change is to be achieved. To inform this process, the following advice is provided. This includes an extraction from the Financial Management Toolkit (financial reporting checklist section). The full document is available on the DTF website at: www.treasury.sa.gov.au/budget/compliance-and-resources/treasurers-instructions

Agencies should refer to the toolkit for guidance about administrative restructures. Every effort is made to ensure the information in this handbook is updated in line with changes to the toolkit. However, the toolkit should be considered the primary guide.

Budgets

The budgets to be transferred from the transferring agency to the receiving agency should be agreed before the date of transfer. In the majority of cases, this will be through sign-offs by chief executives.

Where budgets and appropriation have not been formally transferred prior to the date of transfer (as specified in the Gazette), the receiving agency will spend money previously appropriated to the transferring agency (or otherwise held) to fund the employees and functions transferred. Thus, the receiving agency is spending their currently approved appropriation and expenditure authority in performing what are now (from the date of transfer) its own functions.

No delegations from the chief executive of the transferring agency will be required. The receiving agency can proceed on the basis that in due course budgets will be transferred from the transferring agency to cover expenditures from the date of transfer. Budget transfers can occur through the intervention of the MOG Executive Committee if agreement has not been reached within a reasonable period.

This will satisfy the requirements of Treasurer's Instruction 8, clause 8.7.2, whereby a chief executive or agency head may have a reasonable expectation that sufficient financial resources will be available to meet commitments as they fall due.

Major transfers

For larger function transfers that are not able to be managed within the existing appropriation and expenditure authority limits of the receiving agency while budget transfers are being finalised, an interim transfer of appropriation and expenditure authority (based on a reasonable estimate of funds to be transferred) can be organised if necessary. This will require the approval of the Treasurer under section 5 of the *Appropriation Act 2013.*

The receiving agency is the financial reporting agency from the date of transfer. Where the formal transfer of budgets has not occurred as at the date of transfer, the transferring agency should provide financial reports on the activities of the transferred functions to the receiving agency from the date of transfer to the time that budgets are

actually transferred. This will enable the receiving agency to undertake continued financial management of the activities associated with the functions being transferred.

There may be some lag in ensuring that payments are recorded against the receiving agency's special deposit account. If so, the transferring agency should capture any costs associated with the transferred functions and, in due course, charge those amounts to the receiving agency, such that all costs are reflected in the account of the receiving agency from that date.

Allocation of corporate costs

DTF has prepared the following principles regarding the allocation of corporate costs between agencies to inform the MOG process. The application of these principles promotes consistency in approach, particularly where there are areas of disagreement.

Shared Services charges

The appropriate change in shared services charges for the receiving agency as a result of the machinery of government changes will be developed by Shared Services SA. Once the functions to be transferred have been specified, agencies should, in the first instance, contact Shared Services SA to facilitate preparation of the calculation.

Corporate costs

The level of corporate resources to be transferred when functions shift between agencies has been set to include, along with employee and program costs, the following:

- ICT costs (per FTE)
- administration costs (including staff training), including employee training (per FTE)
- provision for other corporate overheads (per FTE).

For all but the largest functional shifts, or where otherwise agreed between agencies, it is intended to adopt an approach consistent with this. On that basis, the amount of corporate costs to be transferred between agencies for the above items (for each FTE transferred) will be:

2018-19 - $9,624 pp
2019-20 - $9,865 pp
2020-21 - $10,111 pp
2021-22 - $10,364 pp
2022-23 - $10,623 pp

For large functional transfers, more detailed analysis will be required in consultation with DTF.

Government of South Australia
Department of the Premier and Cabinet

Accommodation

Unless specific circumstances arise, the transfer of accommodation costs will be based on the square metre rental cost per FTE of the accommodation of the transferring agency.

Banking and appropriations

To ensure the maintenance of the Treasurer's ledger and banking records:

- the receiving agency should continue to reconcile and advise DTF of the balance of deposit accounts until both the receiving and transferring agencies agree on the transfer of responsibilities. DTF should be advised when an agreement has been reached, so it can monitor and ensure correct reporting in the Treasurer's ledger
- where funding for Special Act payments is provided in arrears, advice to DTF should indicate that the receiving and transferring agencies agree on the scope and timing of the transfer, and DTF should be advised so payments can be monitored
- where changes are required to bank account names, the agency should deal directly with the government's approved bank. The bank will require a copy of the Gazette advising of the changes and information relating to signatory changes.

Records management

State Records' guidelines on managing records during MOG changes are available at: https://government.archives.sa.gov.au/content/digital-records-management

Receiving and transferring agencies must collaborate to develop a records management strategy. This strategy should ensure that any debts owing to one agency continue to be pursued by the receiving agency. Such debts may relate to salary overpayment, reimbursements of private use of government assets, contractual debts, grant clawbacks or other matters.

Where records are held in physical format, receiving and transferring agencies must arrange for the movement of records and update of systems that control those records, which may be databases, spreadsheets or records management systems.

Where records are held in digital formats, receiving and transferring agencies need to establish appropriate mechanisms for export and import. Both agencies must ensure that all required metadata associated with the records is exported from the transferring agency's system, linked to the correct record and appropriately imported into the receiving agency's system.

Personnel forms such as timesheets, medical certificates and leave forms must also be transferred to the receiving agency.

State Records of South Australia provides a variety of services to State Government agencies. These services help agencies comply with the *State Records Act 1997,* legislative requirements, and completion of appropriate records management practices.

State Records' guidelines assist agencies to mitigate disruption to the corporate memory and the business of government by ensuring that agencies' official records continue to be managed and available during and after MOG changes. Agencies can achieve this by:

- clearly documenting the transfer of official records between agencies
- clearly identifying the responsibilities of relevant employees for the transfer of official records between agencies
- disposing of official records according to the *State Records Act 1997*
- establishing a clear audit trail of movements of official records between agencies
- transferring official records between agencies to support MOG changes
- notifying State Records of functional changes before they occur and reporting the outcomes of MOG changes.

Information and communication technology changes

Agencies affected by MOG changes should develop strategies that outline policies, procedures and other factors that affect or are affected by information and communication technology (ICT) systems. Development of an ICT strategy should occur early in the planning process as significant resources and time may be required.

Consideration should be given to resources required for:

- downloading and re-loading databases, email and personal drives
- diverting email and phone calls where necessary (for example, where a function has many external stakeholders or where policy guidelines have recently been widely distributed)
- developing programs to transfer personnel data between human resources areas
- arranging for transfer of software and hardware, including licensing of software, devices, printers and file servers
- contractual obligations relating to outsourced computer services
- arranging for employees to transfer to the receiving agency's systems and products, including provision of training
- updating internal and external websites
- creating new logons and email addresses
- arranging for information transfer
- installation
- providing information on disaster recovery and business continuity plans.

ATTACHMENT A – Machinery of Government Changes: Key Legislative Provisions, Instruments and Approvals

Action	Instrument and legislation	Cabinet approval required	Executive Council approval required	Gazettal required
Establishment, alteration or abolition of a department	Proclamation under section 26 of the *Public Sector Act 2009*	✓	✓	Gazettal occurs with Exec Council process
Changes to the Minister responsible for an administrative unit	Proclamation under section 28 of the *Public Sector Act 2009*	✓	✓	Gazettal occurs with Exec Council process
Conferral of ministerial functions and powers between ministers	Proclamation under section 6 of the *Administrative Arrangements Act 1994*	✓	✓	Gazettal occurs with Exec Council process
Delegation of functions and powers by a minister to another minister	Gazette notice signed by the minister delegating the functions or powers under section 9 of the *Administrative Arrangements Act 1994*	✗ (Notice to Cabinet required but not a pre-condition)	✗	✓
Transfer of employees between public sector administrative units	Notice signed by the Premier under section 9 of the *Public Sector Act 2009*	✗ (Notice to Cabinet required but not a pre-condition)	✗	✓

Government of South Australia
Department of the Premier and Cabinet

ATTACHMENT B - Machinery of Government implementation checklist

This list provides suggest ions for implementation and issues for consideration. Some issues may not be relevant in specific situations, and some may require legal advice or advice from agencies with relevant policy responsibility or expertise.

Planning	
Tasks/actions	**Status**
1. Receiving agency to establish a MOG implementation group or change management team to coordinate implementation of the MOG changes, and consider whether the transferring agency should be represented	
2. Receiving agency to consult transferring agency to consider whether a working group should be established in the transferring agency to undertake scoping and answer due diligence questions	
3. Receiving agency to establish a due diligence framework and develop questions relating to transferring functions and programs, such as including assets and liabilities, contracts register, intellectual property, disputes and litigation, lapsing programs, employee numbers, and pay and conditions	

General considerations
1. Transferring and receiving agency to clarify objectives and timeline expectations
2. Transferring agency to identify outstanding legal action, FOI requests and reviews, and advise receiving agency
3. Transferring agency to identify governance documents requiring review due to MOG changes, such as MoUs, circulars
4. Conduct a post-MOG change review to ensure all matters have been resolved
5. Transferring and receiving agencies to be familiar with and apply the change management toolkit www.change.sa.gov.au/toolkitlintroduction

People management

Tasks/actions		Status
1.	Agencies to identify employees to be moved	
2.	Transferring agency to provide details of ongoing and other employees to be moved and of any employees on leave without pay or on temporary assignment within	
3.	Agencies to negotiate temporary arrangements for the transfer of individual employees	
4.	Transferring agency to identify any outstanding recruitment action relating to jobs connected to a transferred function and advise the receiving agency of status	
5.	Transferring agency to advise receiving agency of unresolved processes relating to performance, compensation, industrial disputes or other claims	
6.	Receiving agency to conduct induction sessions and provide information packages to transferred employees	
7.	Receiving agency to manage worker compensation related matters for transferred employees	
8.	Transferring agency to finalise performance reviews	
9.	Transferring agency to ensure employees capture and/or return outstanding agency records (physical or electronic)	
10.	Receiving agency to consider workplace relations implications of changes and seek legal advice if necessary	
11.	Receiving agency to consider and obtain approval for delegations to take effect on the day of transfer	

Communication

Tasks/actions		Status
1.	Agencies to develop communication strategies informing employees of proposed changes and their impact, and deliver through website, email and/or phone line	
2.	Agencies to consult affected employees throughout the process and provide opportunities to raise concerns	

Government of South Australia
Department of the Premier and Cabinet

Financial management	
Tasks/actions	**Status**
1. A financial reporting checklist can be found within the Financial Management Toolkit. This can be found at: www.treasury.sa.gov.au/budget/compliance-and-resources/treasurers-instructions	

ICT	
Tasks/actions	**Status**
1. Agencies to arrange for websites to be updated, including links with other websites	
2. Agencies to arrange for telephone calls and emails to be diverted	
3. Transferring agency to arrange for databases, emails and personal files to be downloaded and receiving agency to manage re-load	
4. Receiving agency to arrange link to its ICT network for employees remaining in transferring agency's accommodation	
5. Agencies to arrange for archiving/updating websites, internal distribution lists, contact lists and intranet sites	

Information and records management	
Tasks/actions	**Status**
1. Agencies to discuss arrangements and develop a strategy for transferring records in all formats including records in databases	
2. Transferring agency to identify and list records (physical and digital) required for ongoing management	
3. Transferring agency to arrange with the receiving agency for transport of physical records	
4. Transferring agency to arrange hand-over of computer systems and/or storage media for digital records	
5. Receiving agency to check records received against documentation provided by transferring agency	
6. Agencies to decide access arrangements for records needed by both	

Government of South Australia
Department of the Premier and Cabinet

Accommodation, furniture and equipment

	Tasks/actions	Status
1.	Agencies to determine when and where employees will move	
2.	Agencies to identify and agree to necessary transfers of furniture, equipment, etc.	
3.	Receiving agency to arrange removal of furniture and equipment, provide packing boxes, etc.	
4.	Transferring agency to identify and arrange temporary access requirements	
5.	Transferring agency to arrange return of agency items (laptops, mobile phones, keys, security passes, credit cards, vehicles, books, etc), according to transfer agreement s.	

ATTACHMENT C - References and Resources

www.treasury.sa.gov.au/public-sector-operations/compliance-and-resources/treasurers-instructions

www.change.sa.gov.au/toolkitlintroduction

For more information: **W** dpc.sa.gov.au

Cabinet Office   **E** DPCCabinetOffice@sa.gov.au

Government of South Australia
Department of the Premier
and Cabinet