



## ADVISORY COUNCIL ON NATIONAL RECORDS AND ARCHIVES

**To the Right Honourable Jack Straw, Lord Chancellor, Secretary of State for Justice**

### **SIXTH ANNUAL REPORT, 2008-2009**

Your Advisory Council on National Records and Archives (hereafter the Council) also embraces the Advisory Council on Public Records and the Advisory Council on Historical Manuscripts. All three councils work together to advise you on all aspects of the public records system to help safeguard our unique archival heritage for future generations. Over the last year we have been pleased to advise you on the following matters.

#### **30-Year Rule Review**

Last year the Council agreed that a reduction in the current transfer rule would result in a more effective Freedom of Information Act, resulting in more transparency and openness across government thereby serving the public interest. You recently wrote to the Council seeking its views in its independent capacity on the recommendations of the 30 Year Rule Review report to help develop the government's response after it had welcomed the report. You stated that the government had agreed that there should be a substantial reduction in the period after which official papers should generally be released to the public, and this should be introduced on a phased basis. In particular you asked the Council to consider whether any reduction in the 30-year rule would require changes to the Council's model and operation and the effect of a reduction on the public records system as a whole. One of the key recommendations of the Review was that government departments should still seek your approval, acting on the advice of the Advisory Council, to retain records in accordance with s3(4), Public Records Act, 1958 under a lower transfer rule. The Council welcomes this recommendation and firmly believes that the issue of retention is clearly an important one that allows government departments to keep records in their custody with independent scrutiny on the process via the remit of the Council. In the Council's advice to you on any matter, the primary factor of consideration for the Council is the public interest. The Council believes that the continuation of external scrutiny in the area of retention is crucial.

The Council has considered the impact a reduction in the transfer rule would have on the Council and the public records system and will write to you with its detailed views shortly. In brief, the Council believes that while recalling its own preference for a reduction to 20 years, it does not object to the Review recommendation that the government should replace the current 30 year rule with a 15 year rule, regarding both the transfer of public records to the National Archives and other places of deposit. When advising you on the potential impact of a reduction in the transfer rule on the public records system, the responsibility of the Council, first and foremost, is to be satisfied that a new transfer rule would be fit for purpose and would allow The National Archives, government departments and the Council to maintain a workable system.

## **Changing Information Landscape**

The Council believes that its role and remit should be kept under review in line with the changing information landscape but that a reduction in the transfer rule will not of itself require a change in the role and remit of the Council in the short term. However, other developments in the information management arena such as the preservation of digital information becoming a key priority, accountability and provenance becoming ever more relevant and information management in government achieving a higher profile has ensured that the information environment within which the Council advises is changing. The Council is engaging with the challenges posed by the digital agenda, advising on digital information that is much younger than 30 years. It already needs to consider issues concerning the use, organisation and structure of digital information and will be required to understand the distinct access issues associated with digital information. It will be important to ensure that the Council has the full range of skills necessary for advising on digital information. In line with the changing information landscape the Council acknowledges that its work inevitably has to be embedded in the wider government and information management context.

The Council notes with interest the publication of the Cabinet Office Review of Data Handling Procedures in Government which sets out an agreed set of mandatory standards that apply across government when managing information risk. As a public body we are also subject to these mandatory standards.

## **Advisory Council on Public Records**

In accordance with the Freedom of Information Act 2000, the Council continues to act on your behalf in advising government departments on the strength of the public interest in the release of historical information that attracts a qualified exemption and the public interest in its non-disclosure. We have convened 24 panels of members which have advised on the public interest in the release of closed historical information held at The National Archives and have considered 113 cases in total. This year has seen an increase in the number of cases where release of information would be likely to physically or mentally endanger living individuals primarily in the form of crime scene photographs and details of murders that would impact on surviving relatives if released.

The panels have also advised on several cases throughout the year where the information if released, could damage the relations of the UK with other countries.

In the main, panels have readily agreed with departments that the public interest lay in non-disclosure, but in some cases we felt it necessary to seek further information before advising you. In most cases upon clarification being provided, particularly with regard to sensitivities in Foreign and Commonwealth Office information, the panels have agreed that the public interest lay in non-disclosure. The Council is grateful to the Foreign and Commonwealth Office for providing guidance on when it consults other countries' administrations with regard to Freedom of Information requests. We are also grateful to the Ministry of Defence for releasing some additional information on the Cyprus issue following the query of a panel.

The Council has continued to fulfil its statutory duty under the Public Records Act by advising on the retention of records by departments and has also considered other information management issues that have arisen since the introduction of Freedom of Information. On your behalf the Council granted approval for Natural England to retain a substantial number of records because of a review backlog that had arisen at the department and looks forward to

an update on progress in the near future. The Council is also grateful that on the advice of the Council you granted approval for the Land Registry to retain specified records as long as the relevant statutory provisions are in place.

The Council still monitors with interest the progress made by the Home Office on the only outstanding area of work since the granting of the moratorium on the review and transfer of records to The National Archives. We are satisfied that the Home Office is making progress on the outstanding data population work and appreciate the progress reports provided.

### **Advisory Council on Historical Manuscripts**

During the course of the year we have been consulted about manuscripts and collections of papers that have come into public ownership having been accepted by the government in lieu of tax. In each case we have advised the Chief Executive of The National Archives in her capacity as Historical Manuscripts Commissioner on her draft recommendation to the Museums, Libraries and Archives Council on the most appropriate home for such material in the national interest.

These cases have included:

- Family and estate papers of the Winn family, Barons St Oswald, 13<sup>th</sup> to the 20<sup>th</sup> century, now provisionally allocated to Wakefield Metropolitan District Council for retention at the Morley outstore on condition that suitable accommodation in line with national standards is provided at Wakefield or Leeds
- Family and estate papers of the Bromley Davenport family of Capesthorpe, 12<sup>th</sup> to the 20<sup>th</sup> century.

The Council has also considered a progress report from The National Archives about the development and implementation of a strategy for business archives in England and Wales whose principles could be extended to other parts of the United Kingdom. The Council believes that the strategy is both timely and viable against the backdrop of the current economic recession.

### **Advisory Council on National Records and Archives**

The Council has noted with great interest the progress The National Archives has made in transforming the services it delivers to its users including the completion of the refurbishment of its reading rooms and the successful online launch of the 1911 Census. The Council commends the work already being carried out by The National Archives in the form of cross-government projects to address the digital challenge particularly in the form of guidance to government departments to help manage the risks associated with maintaining digital information for business purposes over time. Within the changing information environment we were also pleased to learn of The National Archives' programme to capture and archive government websites.

### **The Council's members and meetings**

Two members of the Council retired at the end of 2008: Lord Temple-Morris and Keith Simpson MP. We are most grateful to them for their contributions to the Council's work. There were no new appointments this year. The Council currently has eighteen members. Members during the year were:

- Sir Rodric Braithwaite GCMG, retired, formerly British Ambassador to Moscow and chairman of the Joint Intelligence Committee
- Ms Else Churchill, Genealogy Officer of the Society of Genealogists
- Dr Jeevan Deol, History Faculty, St Antony's College at Oxford University
- Professor Harry Dickinson, Emeritus Professor of British History, University of Edinburgh
- Rt Hon the Viscount De L'Isle MBE DL, owner of the De L'Isle and Sidney family papers
- Sir David Durie KCMG, retired, formerly Governor and Commander in Chief, Gibraltar and a Director General in the Department of Trade and Industry
- Dr Clive Field OBE, Honorary Research Fellow, University of Birmingham, formerly Director of Scholarship and Collections at the British Library
- Ms Christine Gifford, Information Rights expert and founding director of Public Partners and Gifford Owen
- Dr Jennifer Haynes, Archives and Manuscripts Manager, Wellcome Library, London
- Mr Graeme Herd, Head of Information Technology at Slough Borough Council
- Professor Arthur Lucas CBE, Emeritus Professor of Science Curriculum Studies at, and formerly Principal of, Kings College London
- Professor Heidi Mirza, Professor of Equality Studies in Education, University of London
- Professor Michael Moss, Professor of Archival Studies at the University of Glasgow
- Rt Hon the Lord Roper, formerly Chief Whip for the Liberal Democrats in the House of Lords
- Mr Keith Simpson MP, Conservative MP for Mid Norfolk (retired end of 2008)
- Ms Janet Smith, County Archivist of Hampshire
- Mr Ian Soutar, formerly British Ambassador to Bulgaria and Ambassador to the Conference on Disarmament, Geneva
- Ms Catherine Maxwell Stuart, owner of the private family and estate archive at Traquair House, Innerleithen, Peeblesshire
- Lord Temple-Morris, Labour peer and former MP for Leominster (retired end of 2008)
- Ms Stephanie Williams, author, journalist and user of archives

The secretary of the Council was Ms Lâle Ozdemir.

Ms Natalie Ceeney, Chief Executive of The National Archives, attended all our meetings, accompanied variously by, Ms Carol Tullo, Director of Information Policy and Services, Dr David Thomas, Director of Technology, Mr Nick Kingsley, Head of National Advisory Services, Ms Meg Sweet, Head of Information Management and Practice and Mr Stuart Abraham, Head of Transfer and Access.

We were very grateful to the Metropolitan Police Service for hosting the Council and we welcomed the opportunity to discuss with colleagues there the changing world of information management within the context of policing.

On behalf of the members

Sir Anthony Clarke  
 Master of the Rolls  
 Chairman