

BEYOND THE PRO: PUBLIC RECORDS IN PLACES OF DEPOSIT

Guidance about preserving and making available to users public records kept outside the Public Record Office.

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CONTENTS

Introduction

Part 1: Context

This part looks at the Public Records Acts. It explains how public records are defined, illustrates their life-cycle, and indicates which sections of the Acts are most relevant to places of deposit.

- 1.1. Public Records Acts 1958 and 1967
- 1.2. Definition of public records
- 1.3. Life-cycle of public records

Part 2: Places of deposit

This part discusses standards of storage and public use facilities and the resources which may be needed to meet those standards.

- 2.1. General
- 2.2. Standards: storage facilities
- 2.3. Standards: public use facilities
- 2.4. Resource implications of meeting place of deposit standards

Part 3: Public records in places of deposit

This part explains how public records should be managed after transfer to a place of deposit.

- 3.1. General
- 3.2. Administrative retention of records
- 3.3. Access: the 30-year-rule and variations
- 3.4. Loans of public records
- 3.5. Temporary returns of public records
- 3.6. Public records as evidence
- 3.7. Arrangements for transferring public records from one place of deposit to another
- 3.8. Destroying public records
- 3.9. Donating public records not selected for preservation

Appendix: List of publications and further guidance

INTRODUCTION

This guidance is issued with the authority of the Keeper of Public Records. It explains how to preserve and make available for use public records held in 'places of deposit' appointed under the Public Records Act 1958. It will also help organisations seeking to preserve public records by telling them what is involved.

Organisations running places of deposit are expected to care for public records in their custody in accordance with the Public Records Acts and guidelines drawn by the Public Record Office (PRO) and government departments. In particular, facilities for storage and public use of the records should reach certain standards.

At present there are about 250 places of deposit, run by some 150 organisations, preserving 20 per cent of public records selected for permanent preservation. Public records are preserved in places of deposit for one of three reasons:

- * they were created locally and have a specific local interest;
- * they are of a nature or format which requires very specialised skills for their preservation and/or use, not available at the PRO;
- * certain public records bodies (such as museums and galleries) have an administrative need to keep their own archives.

The links between locally created public records and other locally preserved records are usually stronger than those with records preserved in the PRO. Over half the places of deposit are run by local authorities. Their archive services provide local access to locally created public records, thereby meeting the needs of most users.

The PRO's Liaison Officer inspects places of deposit to ensure that standards are maintained and provides advice and guidance about the management of the public records. He/she will be happy to deal with any enquiries about this guidance, and can be contacted at the address given on the title page.

The Records of the Nation, eds. G H Martin and Peter Spufford (The Boydell Press, 1990) gives a useful history of the PRO's relationship with places of deposit. See 'Liaison: Public Records held in Other record Offices' by Alexandra Nicol, pp 139-150.

PART 1: CONTEXT

1.1. PUBLIC RECORDS ACTS 1958 AND 1967

These Acts provide the framework for managing public records. The 1958 Act gives the Lord Chancellor general responsibility for public records (s.1(1)). The 1967 Act reduced the normal closure period for records from 50 to 30 years; most of the rest of the 1958 Act is still in force. *Figure 1* lists the sections of the 1958 Act most relevant to places of deposit with cross-references to this guidance.

The Lord Chancellor has delegated some of his powers, including appointing places of deposit, to the Keeper of Public Records. This delegation does not affect the Lord Chancellor's general responsibility for public records in places of deposit.

Figure 1: Sections of the Public Records Act 1958 most relevant to places of deposit

| SECTION OF 1958 ACT | PART IN GUIDANCE | SUBJECT COVERED |
|----------------------------|-------------------------|--|
| S.2(4)(g) | 3.4 | Loans of records for exhibitions |
| S.3(4) | 3.1 | Selection and transfer of records for preservation |
| S.3(4) | 3.2 | Administrative retention of records |
| S.3(6) | 3.9 | Donation, as an alternative to destruction, of records not selected for preservation |
| S.4(1) | 2.1-4 | Appointment of places of deposit for records preserved outside the PRO |
| S.4(3) | 3.7 | Permanent transfer of records from one place of deposit to another |
| S.5(1) as amended | 3.3 | Access: the 30-year rule and variations |
| S.5(5) | 2.1-4 | Public use facilities in places of deposit |
| S.6 | 3.8 | Destruction or disposal of records selected for preservation |
| S.10(1) | 1.2 | Definition of 'records' |
| First Schedule | 1.2 | Definition of 'public records' |

PART 1: CONTEXT

1.2. DEFINITION OF PUBLIC RECORDS

Public Records are defined in S.10(1) and the First Schedule of the 1958 Act. 'Records' in general are defined as carriers of information in any format (e.g. paper, photo-graphic, film, sound, electronic) (S.10(1)). 'Public Records' are specifically defined in the First Schedule; the definitions are summarised in *Figure 2*.

Up to date lists of bodies whose records fall under the provisions of the Public Records Acts are maintained by the PRO's Government Services Department. Enquiries about the status of records should be referred to the Liaison Officer.

Major series of records which are **NOT** public records under the 1958 and 1967 Acts are:

- a. Records created by local authorities.
- b. Records of the Duchy of Lancaster (except the records of the Chancery Court of the County Palatine of Lancaster, which are public records).
- c. Police records (except those of the Metropolitan Police, which are public records).
- d. Registers of births, marriages, deaths and adoptions kept or deposited in the General Register Office.
- e. Records of the Public Trust Office relating to individual trusts.
- f. Records of government departments or bodies wholly or mainly concerned with Scottish affairs or which carry on their activities wholly or mainly in Scotland. Separate legislation applies to these records, which are under the charge and superintendence of the Keeper of the Records in Scotland.
- g. Records of the government of Northern Ireland. These are preserved in the Public Record Office of Northern Ireland.
- h. Bodies whose constitution provides that they do not carry out functions, or hold property, on behalf of the Crown, or which have the power to own their own property (unless are named in the First Schedule of the 1958 Act or are given public record status by other legislation).
- I. Records of parliament.
- j. The Royal Archives.
- k. Records of nationalised industries. (Except of British Coal, which are public records. British Rail records which are preserved in the PRO become public records on transfer; other British Rail records are not public records.)
- l. Records of the Established Church

Figure 2: Public records for the purposes of the Public Records Act

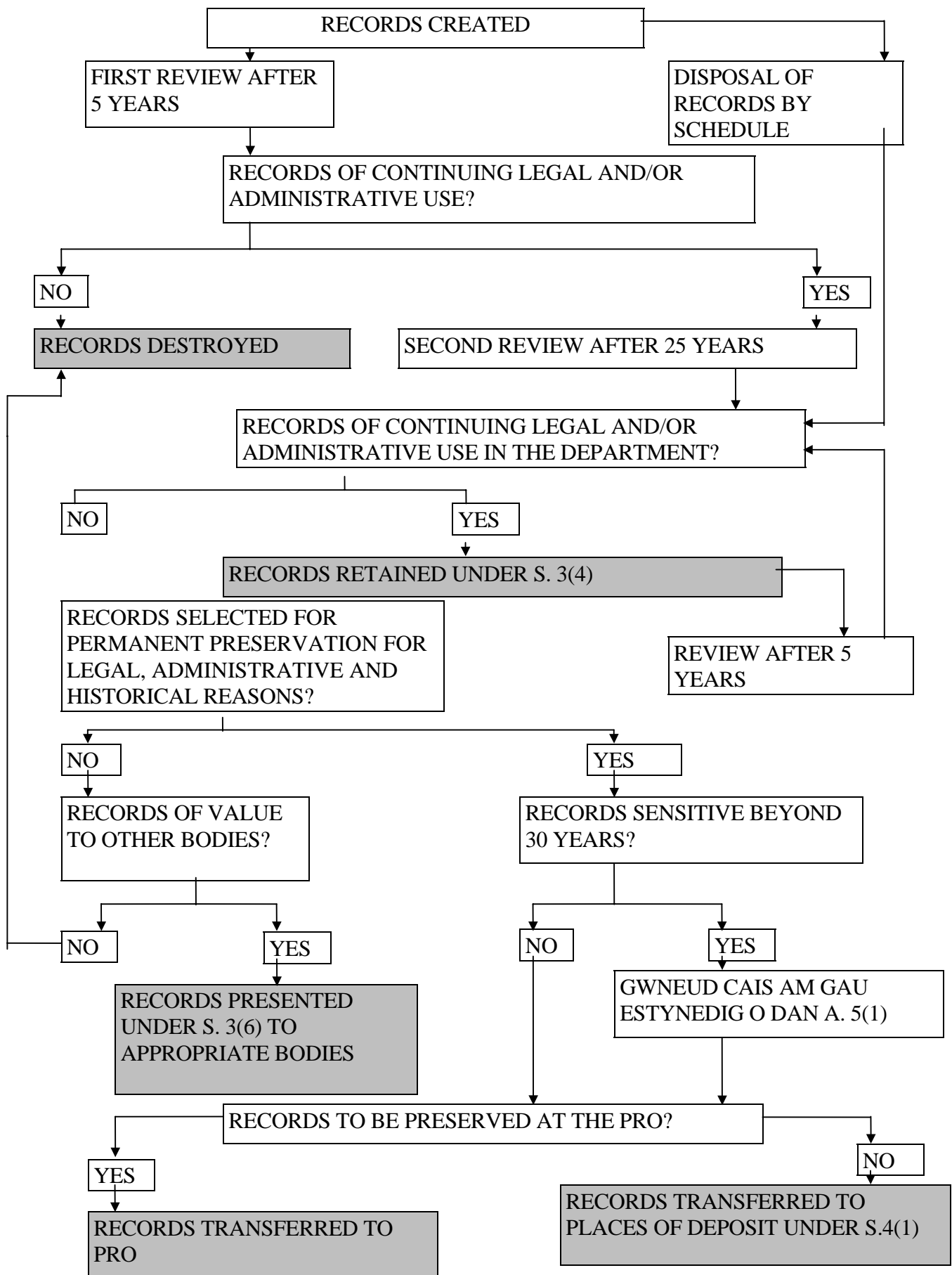
| CATEGORY OF PUBLIC RECORDS | FIRST SCHEDULE | NOTES |
|---|-----------------------|--|
| Records of government departments and agencies | Para 2 | These records belong to the Crown and are created, inherited or taken over for administrative use. Executive Agencies established under the 'Next Steps' initiative remain part of the Civil Service and the ministers of their sponsoring department are responsible to Parliament for them. |
| Records of boards and establishment under government departments of non-departmental and other public bodies. | Para 3 | The Table following paragraph 3 of the First Schedule lists bodies whose records are public records. The list is updated in line with subsequent legislation. |
| | Para 7 | The Lord Chancellor can decide whether or not such records are public records. These decisions are published in the Keeper's Annual Report. |
| Records of English and Welsh courts | Para 4 | This covers the records of any tribunal exercising a jurisdiction over or connected with any UK government departmental function. Included are the records of Quarter Sessions, Magistrates Courts and Coroners Courts for which under s. 4(2) of the 1958 Act the Lord Chancellor should choose a place of deposit. |
| Records in the PRO before 1959 | Para 5 Para 6 | Covers records which were taken into the PRO as public records under the Public Record Office Act 1838. Any records which are continuations of these classes are also covered. |
| Records designated by Orders in Council as public records | Para 7 | Only covers British Rail and the New Towns Commission to date. |

1.3 LIFE-CYCLE OF PUBLIC RECORDS

The Public Records Acts provide the framework for selecting and preserving public records; *Figure 3* illustrates the life-cycle of public records within the framework. The shaded boxes show the options for public records at the end of their active legal and administrative lives. The flowchart is not fully comprehensive but gives a broad overview of the system.

The PRO's Government Services Department (GSD) oversees most of the processes illustrated in the flowchart. The Liaison Officers is involved only when records go to places of deposit. For example, government departments select records for permanent preservation in the PRO with supervision and advice from the PRO's inspecting officers in GSD. Places of deposit are usually responsible for selecting locally created public records; with advice from the Liaison Officer. He/she provides on request written guidance about selecting some of the main classes of public records kept in places of deposit (see section 3.1 below and the Appendix).

FIGURE 3: LIFE CYCLE OF PUBLIC RECORDS



PART 2: PLACES OF DEPOSIT

2.1 GENERAL

PUBLIC RECORDS ACT 1958 S.4(1)

If it appears to the Lord Chancellor that a place outside the Public Record Office affords suitable facilities for the safe-keeping and preservation of records and their inspection by the public he may, with the agreement of the authority who will be responsible for records deposited in that place, appoint it as a place of deposit as respects any class of public records selected for permanent preservation under this Act.

Section 4(1) of the 1958 Act provides for the deposit of any public records, in buildings (e.g. record offices) run by organisations other than the PRO. The power to appoint these places of deposit has been delegated to the Keeper of Public Records by the Lord Chancellor. His general responsibility for public records in places of deposit is, however, unaltered. No organisation is obliged to hold public records, but if it agrees so to do, then it accepts responsibility for the records and for meeting the required standards of storage and public use facilities. The costs of caring for public records in place of deposit must be borne by the organisations which maintain them; no central government funding is earmarked for archives.

Places of deposit are officially appointed in the annual Lord Chancellor's (Places of Deposit) Instrument. A schedule, issued with the Instrument, lists all the places of deposit and the classes of public records they hold. Places of deposit are appointed to preserve specific classes of public records, not public records generally. Since the aim of local deposit in most cases is to facilitate local access, only a few places of deposit hold single classes. A wider range of public records is usually deposited with bodies, like local authority archive services, which keep complementary archives. An appointment to hold public records does not indicate that the authority responsible for them is equipped to run a full archive service. This is particularly true of bodies appointed for limited classes of records.

Figure 4 analyses places of deposit and the records they hold.

Appointments are not made for all time. If standards decline so that the conditions for preservation and public use of the records become unacceptable, then the appointment will be revoked and the public records withdrawn. The PRO's Liaison Officer inspects places of deposit when they are first appointed, and regularly thereafter, to check that standards are maintained. The Liaison Officer must be told about any proposals to replace or alter substantially buildings in which public records are stored and used. Plans of, and specifications for, any construction work should be sent for comment at an early stage. Public records should not be moved until the new premises have been inspected and passed for appointment. Public records must not be held in premises which have not been appointed or where appointments have been revoked.

Figure 4: analysis of places of deposit and the records they hold

| TYPE | NOTES |
|--|--|
| All county record offices and major district level archive services, e.g. Dorset, Kent, Bristol, Birmingham | Account for 40% of places of deposit. Public records may account for 10% of an office's collections. Public records held are of courts or semi independent local bodies which are primarily of local interest. |
| Other local record offices at district level, e.g. Bromley, Wigan | These look after a limited number of public record classes which are more appropriately placed at this level than with a county record office. |
| Government departments and other public records bodies | These are appointed either to look after their own records, e.g. museums and galleries; or to take records in formats which the PRO lacks the facilities to store and make available, e.g. Imperial War Museum (films); or to take material of national importance which is more appropriately placed with like material, e.g. National Maritime Museum. |
| Specialist record offices, e.g. charities, NHS authorities and trusts, and universities | Includes institutions which hold very small quantities of public records as a proportion of their total holding. |
| <p>Small institutions with links to government departments, e.g. regimental museums.</p> <p>Town councils with a public records element among their own records.</p> | These rarely fun full archive services and are assessed for appointment accordingly. They are appointed to hold limited categories of records, usually with strong historical links to the institution concerned, particularly if an archive service is operating at a higher local government level in the area. |

2.2 STANDARDS: STORAGE FACILITIES

The Keeper must be sure that 'suitable' (1958 Act s.4(1)) storage facilities are provided for public records before appointing a place of deposit. Places of deposit are assessed against BS 5454: 1989 *Recommendations for Storage and Exhibition of Archival Documents* (British Standards Institute 1989) and are expected to provide storage accommodation that matches the recommendations as nearly as possible. The most important recommendations are that records must be kept securely, in the correct environmental conditions, with adequate precautions against fire and flood. A useful summary of the main recommendations is in the Appendix to *A Standard for Record Repositories* (Historical Manuscripts Commission, 1990).

BS 5454 is very detailed and smaller record offices and institutions may not be able to conform in every respect. **Figure 5** gives a summary of those standards which **must** be met for appointment as a place of deposit. Meeting them does not guarantee appointment but does ensure consideration for appointment. Each place of deposit has to be assessed individually, taking into account the quantity and nature of public records preserved and the type of institution preserving them.

Figure 5 summarises the minimum storage standards for places of deposit. **Figure 6** is a more extended list of the risk management measures that the Liaison Officer may look for. The list draws heavily upon *Archive Buildings in the United Kingdom 1977-1992* by Christopher Kitching (Historical Manuscripts Commission, 1993), which is essential reading for anyone responsible for archives.

Figure 5: Minimum storage standards

| SUBJECT | STANDARD | NOTES |
|-----------------------|--|---|
| Security | 24 hour intruder alarm linked to a police station or security agency | Must apply to the storage area; should apply to the whole building. |
| | Building secure against unauthorised entry and vandalism. | Any strongroom windows must be blocked or barred, and external strongroom doors must be of stout construction fitted with mortice deadlocks or security locks. |
| | Access to the archives area strictly controlled by archives staff | This is particularly true of the strongroom, access to which should be restricted to archives staff or persons authorised by them. |
| Fire | Building structure offering a fire resistance at least in accordance with the building regulations. | The strongroom should ideally afford a fire resistance of 4 hours. |
| | 24 hour smoke detectors with automatic fire alarms linked to the fire station or security agency | Detectors are essential, both in the strongroom and the building as a whole. |
| Water | Protection against damp or water ingress into the building and (particularly) the strongroom | Plumbing and drains in, above or adjacent to the strongroom should be avoided. Water alarms should be considered for basement storage. |
| Environmental control | Temperature and relative humidity in the strongroom controlled at stable levels between 13 - 18 C and 55 - 65%RH | The environment must be monitored constantly and appropriate recordings kept. 'Stable' means that fluctuations in temperature and humidity should be no more than +/- 1C or +/- 1%. |
| Space | Strongroom space for anticipated accruals of records for the next 3-5 years | Records must be properly shelved. |

Figure 6: Risk management in places of deposit

| SUBJECT | RISK | COUNTER-MEASURES |
|----------------|---|---|
| Site | Restricted access for emergency services | Avoid shared-use buildings and buildings hemmed in by adjacent properties. |
| | Subsidence | Check with structural engineer. Check existing buildings on site for settlement cracks. |
| | Structural damage | Check exposure to the elements (e.g. wind, sun, sea air); age of building; method of construction. |
| | Fire/explosion | Avoid adjacent woodland, airports, military sites, industrial premises, flammable stores. Is the fire brigade close enough to respond quickly? |
| | Flood/damp | Avoid waterside sites, low lying ground, basement storage. |
| | Atmospheric pollution | Avoid sites adjacent to or downwind from industrial processes, derelict or demolition sites, busy main roads, and railway lines. |
| | Vandalism/crime | Avoid isolated or partially concealed sites and areas known to be prone to crime. Are the police within easy reach? |
| Fire | Low structural vents and appliances | Improve fire resistance, preferably to 4 hours. |
| | Air conditioning vents and appliances | Air conditioning vents and ducts which close automatically in the event of a fire. |
| | Electrical wiring and appliances | Capacity to isolate electricity supply to the strongroom from outside the storage area. |
| | <u>Other risks:</u> Flammable finishes and fixtures Vertical openings, e.g. lifts | <u>Other counter-measures:</u> Compartmentalisation of storage areas. Plant rooms separate from storage areas. 24 hour fire detection system linked directly to the fire brigade. Hand-held extinguishers. Automatic fire extinction system. |

| SUBJECT | | COUNTER-MEASURES |
|-----------------------|---|--|
| Security | <u>General risks:</u> Open access site Concealed areas of the building Access to site via adjacent buildings External openings: doors, windows, vents, chimneys, roof-lights External features: window ledges, drainpipes, fire escape ladders | <u>General counter-measures:</u> Erect perimeter fencing/walling. 24 hour intruder alarm system linked directly to the police. External/internal cameras and Closed Circuit Television (CCTV). Good external lighting. |
| | Shared-use premises | Security locks isolating record office areas. |
| | Members of the public using the records | Constant searchroom invigilation; public confined to one area. Document controls, e.g. logs of use, counting and weighing documents. |
| Water | Defective guttering and drainage Inadequate roof | Regular checking and maintenance programme. |
| | Basement storage Hot water and other water and service pipes | Water alarms. Run-off for accumulated water. One-way valves in drains/sumps. |
| Environmental control | Structure with low thermal inertia | Constant monitoring of temperature and relative humidity. |
| | Windows in storage areas | UV filters/blinds for windows. |
| | Defective air-conditioning or air handling systems | Compartmentalisation of storage areas. Remedial action with extra humidifiers/dehumidifiers. |

PART 2: PLACES OF DEPOSIT

2.3. STANDARDS: PUBLIC USE FACILITIES

PUBLIC RECORDS ACT 1958 S.5 (5)

The Lord Chancellor shall as respects all public records in places of deposit appointed by him under this Act outside the Public Record Office require arrangements to be made for their inspection by the public comparable to those made for public records in the Public Record Office...

Arrangements for the public to look at public records should be broadly comparable to those in the PRO. This means not only that physical access to the records must be allowed but also that they must be catalogued. A place of deposit must also provide facilities for copies of public records to be made.

Places of deposit which preserve a range of classes of public records are expected to provide the facilities listed in *Figure 7*.

Figure 7: Minimum standards for public use facilities

| FACILITY | NOTES |
|---|--|
| Accommodation in which records can be inspected under constant supervision | Constant supervision means at least double-manning of the searchroom. Staff on duty should not have to undertake a multiplicity of tasks (e.g. telephone enquiries, photocopying, production of records) if this compromises effective invigilation. |
| Ready production of the records | This means having enough staff for both constant invigilation and the fetching of records from storage. Places of deposit should be open at reasonable hours depending on their size and the nature of their collections. |
| Catalogues of records which are open to inspection | Uncatalogued collections are not available for use. Failure to list public records which are open for use comes close to an infringement of the 1958 Act. |
| Facilities for obtaining copies of records | Copies of documents should be provided on request, subject to conservation and copyright constraints. (NB The PRO's Copyright Officer can give advice about copyright in public records) |
| Regulations for public access which include provision for the safety of the records during inspection and for the prevention of unauthorised access to closed records | e.g. reader registration/tickets, counting/weighing of documents on issue and return, compulsory deposit of bags and coats in lockers and cloakrooms. |

PART 2: PLACES OF DEPOSIT

2.4 RESOURCE IMPLICATIONS OF MEETING PLACE OF DEPOSIT STANDARDS

It is difficult to discuss preserving public records in a place of deposit in isolation from other records it may preserve, particularly if that place of deposit is a record office providing a full range of archival services. Such record offices manage over half the places of deposit and they preserve many collections, including public records. In these places of deposit the well-being of the public records is integrated into the work of the record office as a whole. the Liaison Officer would find it difficult to recommend appointment or reappointment in cases where an archive service running a proposed or existing place of deposit was performing its core functions inadequately.

This section applies specifically to places of deposit which are managed by archive services. Places of deposit which are not themselves record offices are not expected to perform all the core functions discussed below. They are, however, expected to engage the services of a professional archivist.

Core functions are those which an archive service must perform, to fulfil statutory or other requirements and to ensure that a record office is effective and viable. *Figure 8* lists the core functions which an archive service preserving a range of public records would be expected to perform and the resource implications of performing those functions adequately.

Figure 8: Core functions of an archive service

| CORE FUNCTION | RESOURCE IMPLICATIONS |
|----------------------------|--|
| Selection for preservation | Staffing levels that permit the service to survey locally created records, and rescue any at risk, without compromising other core functions. |
| Preservation | Preserving archives demands specialised facilities which are not easily converted to other uses. An archive service should have access to the capital and revenue funding necessary to provide and maintain a record office building. Building costs will vary greatly according to the size and nature of the record office, but recent figures suggest that a new record office building would be likely to cost over £800 per square metre. More crudely, the cost of a new medium-sized record office is likely to top £2 m. |
| Conservation | Conservation of documents requires professional and technical expertise. Resources should be available, either in terms of at least one qualified conservator on the record office staff or sufficient funding to purchase an equivalent level of expertise from an outside agency. |
| Public use | There should be sufficient staff, at appropriate levels, to provide a full public service without compromising other core functions. |
| Reprography | A record office should receive sufficient resources to invest in copying equipment, its maintenance and upgrading. |
| Cataloguing | There should be sufficient staff to ensure that this function is not compromised by, for example, the need to provide a public service. That service will itself be compromised if cataloguing backlogs develop. |
| Outreach and publicity | There should be sufficient resources to encourage use of the records by means of exhibitions, publications and educational services. |

PART 2: PLACES OF DEPOSIT

The cost of running an archive service will vary from place to place. Costs will depend on:

Core functions: range and balance of activities

If a local archive service is performing a full range of core functions (see *Figure 8*) it is likely to encourage an increase both in the number of users and in the number and range of accrual of archive collections. Equally, a record office which extends the number of its functions and which performs at a level above the minimum or average will need to invest in appropriately qualified and experienced new staff.

Collections: size, rate of growth and character

The size, rate of growth and character of an archive service's collections is an important variable. If the collections are growing rapidly the premises should provide for future accruals for many years. A flood of new material coming into a record office will put pressure on cataloguing resources and may affect both the number of qualified staff and the balance of resources allocated to core functions. The specialised nature of archive work is such that a small to medium-sized archive service would find it difficult to operate effectively with less than four qualified archivists. The smaller the archive service, the higher the proportion of qualified staff required.

Users: numbers, range and diversity of interests

The greater the range and diversity of user interests, the more need there is for staff in appropriate numbers and at appropriate grades to deal with users, while not compromising the performance of other core functions. An upsurge in the use of a record office will put pressure on the public service areas of an archive service's premises.

Building: size, layout and specialised storage

The size and layout of a record office will depend on the size of collections, and the number of staff and users to be accommodated. Most record offices outgrow their premises eventually. Record offices which have moved to new premises have noticed an increase both in use and in the deposit of collections. While the majority of record office collections are paper and parchment-based, provision is increasingly made for archives in other media (film, electronic records, photographs) which require specialised storage as well as professional and technical skills different from those needed for paper and parchment. The layout of a record office, particularly of its public areas, will have a bearing on the numbers of staff required to invigilate the public areas.

PART 3: PUBLIC RECORDS IN PLACES OF DEPOSIT

3.1 GENERAL

PUBLIC RECORDS ACT 1958 S.3 (4)

Public records selected for permanent preservation under this section shall be transferred not later than thirty years after their creation either to the Public Record Office or to such other place of deposit appointed by the Lord Chancellor under this Act as the Lord Chancellor may direct:

Public records selected for permanent preservation must be transferred either to the PRO or to a place of deposit before they are 30 years old unless approval for their retention has been obtained (see 3.2 below). Places of deposit are not obliged to accept public records which are less than 25 years old when they may still be being used by the creating body.

The PRO is involved in selecting records for permanent preservation following second review in mainstream government departments and agencies. Local places of deposit are usually involved in selecting records produced by locally based public records bodies such as magistrates courts and hospitals. The Liaison Officer can give written guidance about selecting some locally created classes of records.

Figure 9 lists the most significant classes of public records in places of deposit. It notes any extended closure periods (see also part 3.3, **Figure 10**) and references to specific sources of guidance.

DEPOSIT

Figure 10: Main classes of public records in places of deposit giving closure periods and reference to guidance available from the Liaison Officer

| LEAD DEPARTMENT | RECORDS OF... | NOTES |
|------------------------------|--|---|
| Lord Chancellor's Department | Quarter Sessions | Guidance ref.: HOC 38/1967. |
| | Petty Sessions and Magistrates Courts | Guidance ref.: HOC 37/1968 plus PRO interim guidelines, Nov. 1993. |
| | County Courts | Guidance ref.: joint LCD/PRO circular, July 1987. Extended closure on adoption registers or records in other registers: 75 years. |
| | Pre-1958 Probate | |
| | Advisory Committees on Justices of the Peace | Extended closure of 75 years with suitable access at the discretion of the person who has custody of the records. |
| Home Office | Coroners | Guidance ref.: HO 250/1967. Extended closure of 75 years for records concerning a death, with suitable access at the discretion of the person who has custody of the records. |
| Department of Health | NHS authorities, hospital and trusts | Guidance ref.: HC (89)20. Extended closure of 100 years for medical records of patients and administrative records which give details of treatment. |

3.2 ADMINISTRATIVE RETENTION OF RECORDS

PUBLIC RECORDS ACT 1958 S.3 (4)

..... any records may be retained after [30 years] if, in the opinion of the person who is responsible for them, they are required for administrative purposes or ought to be retained for any other special reason and, when that person is not the Lord Chancellor, the Lord Chancellor has been informed of the facts and given his approval.

Records may be retained by public records bodies beyond 30 years for administrative or other reasons, such as security, only when the Lord Chancellor gives approval. This approval is required for both records which have been selected for permanent preservation and records which will be destroyed once they cease to have legal or administrative value. It applies equally to records which are usually preserved in places of deposit. Permission to retain records normally lapses after five years, at which point the position is reviewed.

Departments and other bodies which retain records for reasons other than security must satisfy the Lord Chancellor that arrangements can be made for public access to those selected for permanent preservation and open for use.

3.3 ACCESS: THE 30-YEAR-RULE AND VARIATIONS

PUBLIC RECORDS ACT 1958 S.5 (1)

Public recordsother than those to which members of the public have had access before their transfer, shall not be available for public inspection until they have been in existence for [thirty] years or such other period....as the Lord Chancellor may,.... for the time being prescribe as respects any particular class of public records.

Under this Act, as amended in 1967, the normal closure period for public records is 30 years. Under s.10(2) of the 1958 Act records become open after 30 years running from 1 January in the year following that of the latest document in the record. The Lord Chancellor may set shorter or longer closures. If a record is to be closed for longer than 30 years, he must give permission before the record reaches 30 years and before it is formally transferred to either the PRO or a place of deposit. See **Figure 9** (section 3.1) for a list of closure periods which apply to public records in places of deposit.

Figure 10 lists the criteria used when determining whether or not public records should be closed beyond 30 years.

PART 3: PUBLIC RECORDS IN PLACES OF DEPOSIT

Figure 10: Criteria for extended closure beyond 30 years

| CRITERION | NATURE OF RECORD | CLOSURE PERIOD |
|--|---|---------------------------------------|
| Exceptionally sensitive records containing information the disclosure of which would not be in the public interest in that it would harm defence, international relations, national security including the maintenance of law and order, or the economic interests of the UK and its overseas territories. | All records meeting this criterion, including those concerned with national security and those containing information the premature disclosure of which would impede the conduct of the policy of HM Government abroad. | 40 years |
| Documents containing information supplied in confidence, the disclosure of which would constitute a breach of good faith. | Most records meeting this criterion, including commercial and personal information supplied in confidence. | 40 years, or until death where known. |
| | Tax information | 75 years |
| | Personal information subject to at statutory bar during the lifetime of the person concerned (see note on statute-barred records below) | 75 years, or until death where known |
| | Records of the decennial census of population | 100 years |
| Documents containing information about individuals the disclosure of which would cause either: (i)substantial distress, or (ii)endangerment from a third party, to persons affected by disclosure or to their descendants | Records meeting this criterion and containing sensitive information which would substantially distress or endanger a living person or his or her descendants. | 40 - 100 years |
| | Records containing information from which it is likely that a woman could be identified as a rape victim | 100 years |

Note on statute-barred records

The Public Records Acts may be overruled by legislation prohibiting the disclosure of information held by public authorities (1958 Act s.5(3)). Such legislation applies, whether or not records have been put under extended closure in accordance with s.5(1) of the 1958 Act. The custodians of public records in places of deposit should know about legislation closing certain records in collections which are open at 30 years. For example, the provisions of the Criminal Justice Act 1988 and the Sexual Offences (Amendment) Act 1992 must be applied to quarter sessions and magistrates court records, even though the collections are open at 30 years under public records legislation.

Open Government (Cm 2290, HMSO 1993) gives a list of statutory provisions prohibiting the disclosure of official information in Annex B.

Archivists in places of deposit should also be aware that the Data Protection Act 1984 may limit disclosure of information from the records they preserve.

PART 3: PUBLIC RECORDS IN PLACES OF DEPOSIT

The public may see closed records under certain circumstances. The person in charge of a place of deposit may have general authority from the transferor of the records to produce classes of records to users who have undertaken in writing not to take note of, or to disclose, specified information which the extended closure is designed to protect. Where no general authority exists, the consent of the transferor of the records must be sought for access to particular closed documents before they are made available to a user. A similar written undertaking may be required. **Figure 9** (section 3.1) notes where discretionary access may apply to public records in places of deposit.

Archivists in places of deposit must take account of other legislation which may have the effect of closing certain public records which have not been restricted under the Public Records Acts (see the note to **Figure 10** on statute-barred records).

Public records held in places of deposit may include 'specified information' within the terms of the Rehabilitation of Offenders Act 1974, s.9. Archivists in places of deposit may be required to provide access to these records in the course of their official duties. Under s.9(2) of this Act they can claim the protection of the Act.

Information from court records open to public inspection may be disclosed to any enquirer. Information from court records not open to public inspection may be disclosed to:

A court, a judge (including a recorder or deputy making the enquiry in his or her official capacity), the police or a solicitor on their behalf.

The following public authorities: the Lord Chancellor's Department, the Home Office, the Law Officers' Department and the Office of the Director of Public Prosecutions.

Other authorised persons prescribed by the Secretary of State under s.9(5) of the Rehabilitation of Offenders Act.

The offender him/herself or any person expressly authorised by him or her (e.g. a solicitor).

Archivists need to ensure both that information is released only to the above persons and that they receive only information in which they have a legitimate interest.

3.4 LOANS OF PUBLIC RECORDS

PUBLIC RECORDS ACT 1958 S.2 (4)

The Keeper of Public Records shall have power to do all such things as appear to him necessary or expedient for maintaining the utility of the Public Record Office and may in particular

(g) lend records, in a case where the Lord Chancellor gives his approval, for display at commemorative exhibitions or for other special purposes.

The above section of the Act applies only to records in the PRO and not to records in places of deposit. If people running places of deposit wish to arrange for public records to be exhibited outside their custody, they must contact the PRO's Head of Preservation to arrange for the records' transfer to the PRO. The records can then be loaned under the above section of the 1958 Act, subject to the PRO's loan conditions being met. Details of these conditions are available from the Head of Preservation.

3.5. TEMPORARY RETURNS OF PUBLIC RECORDS

PUBLIC RECORDS ACT 1958 S.4 (6)

Public records in the Public Record Office or other place of deposit appointed by the Lord Chancellor under this Act shall be temporarily returned at the request of the person by whom or department or office from which they were transferred.

Bodies creating public records have the right under this section of the 1958 Act to have records which have been transferred for preservation in the PRO or a place of deposit returned temporarily to them. This right is limited to records transferred by the body itself or its predecessors. Such records must be returned to the PRO or place of deposit as soon as possible, and in any case within one year.

PART 3: PUBLIC RECORDS IN PLACES OF DEPOSIT

3.6. PUBLIC RECORDS AS EVIDENCE

EVIDENCE ACT 1851 S.14

Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from proper custody, and no Statute exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in any court of justice, or before any person now or hereafter having by law or by consent of parties authority to hear, receive, and examine evidence, provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the office to whose custody the original is intrusted....

Copies of public records in the PRO, certified and sealed, are admissible as evidence in legal proceedings without further proof (Public Records Act 1958 s.9(2)). The Act makes no corresponding provision for the admissibility of copies of public records not in the PRO. Section 14 of Evidence Act 1851 applies to these records. Where records are documents of such a public nature that the originals would be admissible if produced from official custody then a copy will suffice as long as it is signed and certified by the person in whose custody it is kept.

There are, however, occasions when original public records may have to be produced in legal proceedings. In those cases the person running a place of deposit is responsible for ensuring the safety of the records by following these rules:

- a. Records both in transit and in use in court must be accompanied at all times by a senior member of the qualified archival staff.
- b. They must never be entrusted to a third party outside the direct control of the archivist in charge of the place of deposit.

3.7 ARRANGEMENTS FOR TRANSFERRING PUBLIC RECORDS FROM ONE PLACE OF DEPOSIT TO ANOTHER

PUBLIC RECORDS ACT 1958 S.4 (3)

The Lord Chancellor may at any time direct that public records shall be transferred from the Public Record Office to a place of deposit appointed under this section or from such a place of deposit to the Public Record Office or other place of deposit.

Sometimes public records need to be moved from one place of deposit to another. If the person running a place of deposit wishes to transfer public records permanently and has the agreement of the receiving office, he/she should apply to the Liaison Officer at the PRO. Records should not be moved until the Liaison Officer has approved the transfer application.

3.8. DESTROYING PUBLIC RECORDS

PUBLIC RECORDS ACT 1958 S.6

If as respects any public records in the Public Record Office or any place of deposit appointed under this Act it appears to the Keeper of Public Records that they are duplicated by other public records which have been selected for permanent preservation or that there is some other special reason why they should not be permanently preserved, he may, with the approval of the Lord Chancellor and of the Minister or other person, if any, who appears to the Lord Chancellor and of the Minister or other person, if any, who appears to the Lord Chancellor to be primarily concerned with public records of the class in question, authorise the destruction of these records of the class in question, authorise the destruction of these records or, with that approval, their disposal in any other way.

Public records preserved in a place of deposit may not be destroyed or disposed of by any other means unless the Keeper, with the approval of the Lord Chancellor and any other person concerned, agrees. The Lord Chancellor would need to be satisfied that the records were duplicated by other public records which were to be preserved or that there was some other special reason why they need not be preserved permanently. this provision refers specifically to records which have been transferred to a place of deposit under s.4 (1) of the 1958 Act.

PART 3: PUBLIC RECORDS IN PLACES OF DEPOSIT

3.9 DONATING PUBLIC RECORDS NOT SELECTED FOR PRESERVATION

PUBLIC RECORDS ACT 1958 S.3 (6)

Public records which, following the arrangements made in pursuance of this section, have been rejected as not required for permanent preservation shall be destroyed or, subject, in the case of records for which some person other than the Lord Chancellor is responsible, to the approval of the Lord Chancellor, disposed of in any other way.

Records which have not been selected for preservation may be presented (i.e. donated) to bodies, such as local records offices, which have a particular interest in them. Most presentations are made to existing places of deposit, since their continuing existence and bona fides are not usually in doubt.

Institutions which are offered records under this provision are under no obligation to accept them. If they do accept the records then they also accept the following conditions:

1. A 30 year rule on access, unless a variation has been especially agreed.
2. The PRO must agree to any proposals by the recipient to dispose of all or part of the records in any way.
3. Copies of any finding aids subsequently compiled must be supplied to the PRO.

After presentation the records cease to fall under the provisions of the Public Records Acts and become the property of the recipients. Copyright status is unaffected.

If any record office wishes to acquire records which may be public records and candidates for presentation it should contact the Liaison Officer. Presentation is considered when records are reviewed, but government departments are not obliged to present unselected records.

APPENDIX

List of publications and further guidance:

The Records of the Nation, eds. G H Martin and Peter Spufford (The Boydell Press, 1990)

BS 5454: *1989 Recommendations for Storage and Exhibition of Archival Documents* (BSI, 1989)

A Standard for Record Repositories (Historical Manuscripts Commission, 1990)

Archive Buildings in the United Kingdom 1977-1992, Christopher Kitching (Historical Manuscripts Commission, 1990)

- * HOC 38/197 Guidance about preserving Quarter Sessions records
- * HOC 37/1968 Guidance about preserving Magistrates Court records
- * HOC 250/1967 Guidance about preserving Coroners' records
- * HC (89)20 Preservation, retention and destruction of records;
 responsibilities of Health Authorities under the Public Records
 Act
- * PRO Interim Guidelines on the transfer of and retrieval of information from
Magistrates Court records less than 30 years old (November 1993)
- * PRO/LCD Guidelines about preserving County Court records (July 1987)

These items can be obtained from the PRO's Liaison Officer

Beyond the PRO: Public Records in Places of Deposit

Addendum

Since the first edition of *Beyond the PRO* in 1994, there have been a number of changes not reflected in the text. The following should have been noted:

- i. Government Services Department has been renamed the Records Management Department.
- ii. The post of Liaison Officer has been abolished as has the Archive Inspection Services Department. Its successor, the Archive Inspection Services Unit (AISU), now comes under the control of the National Advisory Services Department. AISU will continue the role of TNA liaison with places of deposit.
- iii. British Standard BS 5454: 1989 Recommendations for the storage and exhibition of archival documents has been extensively revised, and replaced with BS 5454: 2000 Recommendations for the storage and exhibition of archival documents. Institutions are strongly advised to refer to the latest edition.
- iv. Page 11: Environment control - the new BS 5454:2000 (section 7.3.2) gives revised figures for temperature and relative humidity levels. The text should be replaced with "Temperature and relative humidity in the strong room controlled at a stable level of 13 - 16 degrees and 45 - 60 % RH".
- v. Page 29: list of publications and further guidance - the following new publications should be noted:

A Standard for Record Repositories (Historical Manuscripts Commission, 3rd edition, 2001).

For the Record (Health Service Circular HSC 1999/053) replaces HC(89)20

Guidance on preserving Magistrates Court records (Lord Chancellor's Department / Public Record Office 1999)

Records of the Environment Agency & predecessors: guidance note (AISD: Public Record Office, 1999)

What is a Public Record? - guidance note for places of deposit (AISD: Public Record Office, 1999)

Note: the guidance document *Beyond The PRO* will be superseded during 2004-05 by the new TNA Framework of Standards. Guidance on the management of public records in places of deposit will be issued separately as part of the Framework.

Steven Jones

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