

Principles for determining the access status of records on transfer

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Introduction

Public records selected for permanent preservation should be transferred to The National Archives or an approved place of deposit no later than 20 years after creation, unless the Secretary of State authorises a department to keep them for longer.

Departments should have effective arrangements to determine which records should be selected for permanent preservation and whether they should be retained in the department, designated as open on transfer, or transferred as closed.

The process of determining whether records should be retained or access should be restricted is called 'sensitivity review'.

Transfer or retention

When sensitivity reviewing records, departments may identify records which are appropriate for retention within the department beyond 20 years, under section 3(4) of the [Public Records Act 1958 \(PRA\)](#) (see Retention of public records by departments). Departments should submit applications to retain records to The National Archives for review and advice. The Advisory Council will then consider the case in favour of retention of the record beyond the 20 year period. The retention of individual records will be considered by the Advisory Council, unless there is a standing authorisation already in place for the retention of a whole category of records. It will consider such applications on the basis of the guidance in chapter 9 of the White Paper [Open Government \(Cm 2290, 1993\)](#) or subsequent revisions of government policy on retention. If it is satisfied with the application, the Advisory Council will recommend approval by the Secretary of State.

Closure on transfer

Public records transferred to archives services should be made available for public inspection (transferred as open) unless exemptions under the Freedom of Information Act (FOIA) have been identified and are considered to still apply at the time of transfer. This includes exemption under the Environmental Information Regulations and prohibitions on access in other legislation.

Restrictions on public access should only be in place with good reason, giving due weight to the passage of time. In reviewing records for release, departments should ensure that records

become available to the public at the earliest possible date, and if they are to be transferred as closed, the date when the closure period will be ended or reviewed should be specified.

Researchers have a right to make an FOI request for a closed record at any time. Closed records must be reviewed if a request is received. The review process includes consultation with the responsible transferring body which, for public records, is a requirement under the FOIA s66.

General access principles

Greater openness is of long term benefit both to the citizen and to the Government. The FOIA contains exemptions to protect legitimate interests and sensitivities but public access should not be restricted unless there is good reason to do so.

Transferring authorities should identify which records require closure on transfer; which FOI exemptions apply and why; and how long records should be held as closed by archives services before they are either opened or re-reviewed.

1. Closure should be specific

Transferring departments should specify the grounds for closing records under the FOIA and explain why exemptions apply. These details may be withheld from the public if the exemption and/or its application are sensitive (for example information supplied by security bodies).

As a general rule records should remain closed where the public interest in keeping them closed outweighs that of making them available (this applies to qualified exemptions only). Departments should identify which records, or potentially which parts of records, require closure and apply restrictions appropriately. Large numbers of records should not be closed if only a few actually contain sensitive information. If there are multiple reasons for closure then identify all of them.

2. Closure should be for a limited time span

Closure should be for a finite time as sensitivity reduces over time. In certain circumstances, such as international sensitivity, it is not always possible at the time of transfer to identify a specific date at which records can be opened. In this case a date should be set for when the

record should next be reviewed by the department to assess whether continued closure is required.

Closure periods are set from the end date of the record rather than from an incident or specific documents within a file. It is highly unlikely that a closure period beyond 100 years will be required and permanent closure periods will not be accepted.

3. Closure should be applied consistently

Closure should be consistent with the FOIA and other relevant legislation. Information which a department would provide if it received an FOI request should not be closed on transfer to an archives service. Access conditions should also be consistent with similar information in other transferred records or those created by different departments. Therefore, departments should consult with other authorities as necessary during the sensitivity review process.