



Advisory Council on National Records and Archives Eleventh Annual Report 2013-14

To the Right Honourable Chris Grayling MP, Lord Chancellor, Secretary of State for Justice:

The Advisory Council on National Records and Archives (hereafter the Council) encompasses the Advisory Council on Public Records and the Advisory Council on Historical Manuscripts. All three councils function as one body to advise you on issues relating to public records that are more than 30 years old (reducing to 20 years), including public access to them, to advise you on wider matters relating to the archive sector, as well as advising the Chief Executive and Keeper, The National Archives, in his capacity as Historical Manuscripts Commissioner, on matters relating to historical archives outside the public records system.

The 20-year rule

On 31 December 2013, central government completed the first year of its ten-year transition from the 30-year rule to the new 20 year rule. As part of this transition The National Archives again collated and published on its website information from departments on their current holdings and their progress in identifying and tackling any backlogs in appraisal, selection and transfer.

At the Council's February meeting, The National Archives gave a presentation to members on the current position within the major government departments. The Council noted the positive impact made by the transparent approach to monitoring the transition. While the picture painted by the records transfer report is mixed, with some departments clearly making stronger progress than others, it is evident that the requirement to report on their progress has focussed the minds of departments on

the transition in particular and their records management more generally. The Council looks forward to further progress in the coming year, particularly from those departments reporting substantial backlogs.

Engagement with departments

An important part of the Council's role is to consider and provide a robust challenge to departments that request permission to retain records beyond the point at which they would usually be transferred to The National Archives. Before taking a view on, such requests, the Council seeks to reassure itself that the department has provided a sufficient justification for retaining these records. Where departments are asking for permission to retain records because they have a backlog of files waiting for review, the Council also wants to be satisfied that they have workable plans in place for the review and transfer of these records in place, and that, as far as possible, these plans will have no, or minimal, impact on their on-going annual transfers. During the past year, the Council has invited representatives from the Cabinet Office, Crown Prosecution Service (CPS), Home Office and the Foreign and Commonwealth Office (FCO) to its meetings to explain their review and transfer plans. In the course of these meetings, members have been able to discuss areas of concern with the departments, explore possible solutions and suggest amendments to their proposals. The Council has also continued to take a keen interest in departments' progress against the milestones set out in these plans.

The Foreign and Commonwealth Office

In 2013-14 the Foreign and Commonwealth Office (FCO) concluded its work to transfer the Colonial Administration Files – also known as the 'Migrated Archive' – to The National Archives. The eighth and final tranche of these records was released in November 2013. The Council is glad that this longstanding issue, in which it has taken a detailed interest for several years, has finally been resolved.

During 2013-14 we continued to scrutinise the work FCO is undertaking to resolve the problem of its 'special collections' – an accumulation of records in its archive that are outside the FCO departmental file series. Some of these records date back to the 19th century and they cover a wide range of subjects. FCO's current estimate

is that the special collections include around 600,000 files. Officials from FCO were invited to attend two meetings of the Council during 2013-14 to discuss their plans for the review and transfer of these records. The Council looks forward to continuing this dialogue during 2014-15.

The Council is grateful to the Foreign and Commonwealth Office for hosting our meeting in November 2013.

Triennial Review of the Council

During 2013-14, as a non-departmental public body, the Council was subject to a review of its purpose, status and functions. Such reviews are required to take place once every three years. Members of the Council and external stakeholders were invited to provide information and comment to the review team.

The final report of the review was published on 20 March 2014. It concluded that there remains a need for the Council to continue its current functions, in its current form and that it meets all three of the tests set by the Government for the delivery of functions by a non-departmental public body (NDPB). The review made a number of recommendations concerning the Council's governance structures, its recruitment processes and its reporting arrangements in respect of wider archives sector responsibilities, which we will act upon in the coming year.

Public records

The Council is responsible for advising the Lord Chancellor on the application of the Freedom of Information Act 2000 (FOIA) to historical public records. The Council has this year convened 17 panels of members to consider the public interest in the release of closed information held in The National Archives, when this is requested as part of a FOIA request, with 145 cases being considered in total. Most of these have involved information in the following areas: information that if released would endanger the safety or physical or mental health of any individual; information that would damage international relations; and information relating to law enforcement. The cases were carefully scrutinised and debated by the three members on each of the panels, with reports on the panels' conclusions presented and discussed at the

subsequent meeting of the full Council. In many cases, having been provided with more detail, the Council accepted departments' arguments for closure. The Council in some instances – around one per cent of the cases considered – concluded that the public interest lay in disclosure and therefore the documents were made available at The National Archives.

The Council also considers applications from departments for the extended closure of public records, that is when a government department wishes to close historical information contained in records which are being transferred to The National Archives because it attracts certain exemptions under the Freedom of Information Act (FOIA).

Decisions on these requests have been delegated to the Council by the Lord Chancellor. It is usual practice for members to have sight of applications around two weeks before their quarterly meetings to give them sufficient time to consider them before raising any concerns or questions when they meet. This year the Council considered over 3,600 applications and queried 69 of these (two per cent). It has, wherever possible, asked departments to consider the redaction of the sensitive information rather than the closure of whole files.

Additionally the Council reviews applications from departments to the Lord Chancellor for the retention of public records under the Public Records Act 1958. This year it considered almost 460 applications and raised substantive queries in four instances (one per cent).

As in all its work, the Council will make its recommendations only once it is fully satisfied that a department has made a convincing argument for closure or retention. With this in mind, and with the assistance of The National Archives, the Council has continued to encourage departments to be as consistent and thorough as possible in the information they provide regarding their applications, and the Council has been pleased to note a marked improvement in the quality of the applications it has received. Where members agree that the information on which they are being asked to base their judgment is inadequate or unclear the Council will decline to approve the application until sufficient detail has been provided. In most instances, a

department will be asked to submit a revised application ensuring it answers the queries that members have raised. However, the Council can and will, ask departmental representatives to attend a Council meeting to discuss the matter if it thinks that this is necessary for it to reach a view.

The Council is grateful to departments and The National Archives for handling its queries constructively and in a timely fashion, and for providing it with detailed information on issues relating to freedom of information and access.

The Advisory Council's members and meetings

The Council currently has a membership of 17. Members during the year were:

- Ms Else Churchill, Genealogy Officer of the Society of Genealogists
- Mr John Collins CBE, formerly Deliverer of the Vote, House of Commons
- Dr Jeevan Deol, Affiliated Research Associate, Faculty of Asian and Middle Eastern Studies, University of Cambridge
- Professor Harry Dickinson, Emeritus Professor of British History, University of Edinburgh
- Sir David Durie KCMG, formerly Governor and Commander-in-Chief of Gibraltar
- Ms Sarah Fahy, Global Head of Library Services, Know How and Training Department at Allen and Overy LLP
- Dr Clive Field OBE, Honorary Research Fellow at the 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 Bendor Grosvenor, art historian and adviser on culture policy
- Mr Stephen Hawker CB, independent consultant
- Mr Graeme Herd, Change Manager, North Ayrshire Council
- Dr Elizabeth Lomas, Researcher and Tutor at Northumbria University, formerly Head of Records Management Services for the Royal Household
- Professor Arthur Lucas CBE, Emeritus Professor of Science Curriculum Studies at, and was formerly Principal of, King's College London
- Mr Hamish Macarthur, Information Management Specialist, CEO and Founder, Macarthur Stroud International

- Mr John Millen, formerly Policy Director, Ministry of Defence
- Professor Michael Moss, Professor of Archival Studies at the University of Glasgow
- Mr Ian Soutar, formerly British Ambassador to Bulgaria and Ambassador to the Conference on Disarmament, Geneva

The Secretary of the Council was Ms Beth Watson.

In October 2013 Mr Oliver Morley, Chief Executive and Keeper, left The National Archives to take up the post of Chief Executive at the Driver and Vehicle Licensing Agency. The Council would like to thank Mr Morley for his contribution as Keeper of Public Records and Historical Manuscripts Commissioner and wishes him well for the future. The Council was pleased to welcome Mr Clem Brohier, Acting Chief Executive of The National Archives, to our subsequent meetings.

Mr Morley, or subsequent to his departure Mr Brohier, attended all our meetings accompanied variously by Ms Carol Tullo, Director of Information Policy and Services; Ms Julia Jones, Head of Information Management and Practice; Mr Stuart Abraham, Freedom of Information Centre Manager; Ms Helen Potter, Freedom of Information Manager; Ms Victoria Davies, Access at Transfer Manager; Mr Ian Cross, Transfer and Accessions Manager; and Ms Julie Lennard, Head of the Chief Executive's Office.

Forum on Historical Manuscripts and Academic Research

The Forum on Historical Manuscripts and Academic Research (hereafter the Forum) was established in May 2010. The Forum in its capacity as subcommittee of the Council provides a means through which the Historical Manuscripts Commissioner can seek advice about activity relating specifically to historical manuscripts (private archives), as well as a place for discussion about academic research issues. As Master of the Rolls I am the chair of this Forum, which has seven members, each with expertise in academic research and/or knowledge and experience of private archives.

The Forum met three times over the last year on 6 June 2013, 31 October 2013 and 6 March 2014. The Forum is grateful to NM Rothschild for hosting its meeting on 31 October.

During these meetings the Forum considered the following issues:

- The work of the Centre for Scientific Archives
- 'Archiving the Arts'
- Archive Service Accreditation
- The National Archives' leadership of the archive sector
- The strategic advisory and casework role of The National Archives' Archive Sector Development department
- The national 'Explore Your Archives' campaign
- Research and Academic Liaison at The National Archives

The Forum also discussed 'Export Stops' and the preservation of the UK's archival heritage. The Forum was particularly disappointed to see the papers of Major James Wolfe leave the country and would be keen for archives and manuscripts to be given the same profile as paintings and other cultural artefacts in public discussions of such issues. It has raised its concerns with the Reviewing Committee on the Export of Works of Art.

The Forum was consulted on draft recommendations by the Historical Manuscripts Commissioner for the allocation of the papers of the 13th, 14th and 15th Earls of Derby and the papers of Robert Falcon Scott, previously accepted in lieu of tax. These deliberations were reported to the Council for any further comment.

The Forum also very much welcomes the publication in 2013 of The National Archives' report 'A Year in Archives', as suggested by the Forum the previous year. This publication is a showcase for the many examples of creative work and best practice in the wider archives sector and the Forum is pleased that it has met with such a positive reception.

Forum on Historical Manuscripts and Academic Research Members

The following members of the Council were also members of the Forum on Historical Manuscripts and Academic Research: Dr Clive Field OBE, Dr Bendor Grosvenor, Ms Elizabeth Lomas and Professor Michael Moss. The remaining members of the Forum are:

- Dr Clive Cheesman, Richmond Herald at the College of Arms
- Dr Ian Mortimer, historian and historical biographer, qualified archivist and Fellow of the Royal Historical Society
- Dr Christopher Ridgway, Curator at Castle Howard and Adjunct Professor in the History Department at the National University of Ireland.

As an ex-officio member, Mr Oliver Morley attended the meetings in June 2013 and October 2013, accompanied on both occasions by Mr Nick Kingsley, Head of Archives Sector Development; Dr Norman James, Senior Manager (Private Archives) and Dr Valerie Johnson, Head of Research. Also as an ex-officio member, Mr Clem Brohier attended the meeting in March 2014. Mr Kingsley, Dr James and Dr Johnson attended all of the meetings and Ms Julie Lennard attended the meetings in October 2013 and March 2014. The Secretary to the Forum was Ms Trish Humphries.

Summary minutes for the Council and the Forum meetings are available at nationalarchives.gov.uk/advisorycouncil/meetings/summaries.htm

On behalf of the members

Lord Dyson
Master of the Rolls
Chairman
2 June 2014