

Advisory Council on National Records and Archives

Third Annual Report 2005-2006

To the Right Honourable the Lord
Falconer of Thoroton, Lord High
Chancellor of Great Britain and
Secretary of State for Constitutional
Affairs.

Over a year since the introduction of freedom of information, the Council has now adapted itself to a world without the thirty-year rule. Members now have much more to do, all of them having served several times on panels to advise on the public interest in the release of information. At the same time our interest in non-public records issues remains strong, and we have been glad to see developments which we hope will benefit local authority archive services and the owners of papers held in public institutions.

Freedom of Information (Fol)

The Council has a statutory responsibility to advise on issues relating to access to public records that are historical records (ie that are over 30 years old).

We were extremely pleased to see the release in January of the first of the notebooks of the Cabinet Secretary, dating from the War years, which resulted in much press comment. We remain grateful to the Cabinet Secretary and the staff of the Cabinet Office for their positive attitude towards the release of these records.

We have approached the duty to give you advice on applications from departments to 'designate records as closed' under s66 of the Fol Act in much the same way as we used to approach extended closure applications. We are most grateful to those departments whose applications we have queried for their constructive and informative responses. We have had a number of exchanges with departments, notably the Foreign and Commonwealth Office, and much appreciate their willingness to explain the reasons for seeking closure.

The Council's panels to advise on the public interest in the release or non-disclosure of information take their duties very seriously, since we understand that freedom of information provides for no other consultation with representatives of the general public. During the course of the year, [26] panels have considered [95] cases. These fell into seven categories:

- information which would cause damage to international relations (34 cases);
- information which would cause severe mental distress to people affected by or to the victims of crime (27 cases);
- information which would identify individuals who had provided information to the police and security forces (16 cases);
- information which could hinder crime prevention or future prosecutions (6 cases);
- information which would damage national security (6 cases);
- information which would identify members of the security and intelligence services (5 cases); and
- personal information about a person considered for honours (1 case).

In the majority of cases, the exempt information formed only a small part of a file, sometimes only a name. In some cases, the department concerned indicated that the period during which it expected that an exemption would apply need only be relatively short. In four cases, panels did not initially agree that the public interest was in non-disclosure, but in each such case the panel was persuaded when supplied with further details. Panel members commented in particular that:

- they need the presentation by departments of balanced arguments on the public interest issues at stake, and we were pleased to see this improve markedly; and
- despite the release of very significant numbers of files under the Act, supervisors, directors of studies and research students should continue to consider, and if possible investigate, the likelihood of essential source materials not being available when they are deciding on research projects.

Last year we raised concerns about the application of the Act to private papers deposited on loan in an archive which is an FoI authority, or part of an authority. Many owners of such papers deposited them on conditional terms, notably that their approval be sought before access is permitted to some or all of the material, before copies are made and before extracts from it are published. We were delighted to see the issue by The National Archives, in consultation with the Information Commissioner, of detailed guidance to archivists and owners on the assessment of collections to determine their status.

Access under the Public Records Act 1958

The Council continues to consider draft applications to you for the retention by departments of records which are 30 years old. Many of these relate to material for which selection and sensitivity reviews have yet to be completed. We have sought to ensure that departments have realistic timetables for the completion of the necessary work in the period allowed for retention.

We reported last year that the Ministry of Defence had discovered that records in one of its stores might be contaminated by asbestos. We have now learned that since they are considered to be contaminated and that there is no practicable method of decontaminating them sufficiently to ensure the safety of users and conformity with the law, digitisation followed by destruction is the only course available. A few of the most significant files might be encapsulated.

Private papers

The public continue to benefit from the scheme which enables the owners of significant papers to donate them to the State in lieu of tax. We have been asked by the Chief Executive of The National Archives to advise on the allocation of several important collections and individual documents during the year. None raised any difficult issues.

A member of the Council asked us to investigate the fate of property title deeds. Now that compulsory registration of title to land has been extended across the whole country, more and more title deeds are ceasing to have any legal value. Their fate after registration has been completed seems to vary significantly, but we fear that many deeds which would be valuable for research are being sold by legal practitioners or destroyed. We are grateful that The National Archives has recognised that, while some 20th century deeds are of little value, all title deeds should be assessed and where appropriate preserved in a suitable repository, and is taking action to address the issue.

Local authority archives

The Council was interested to learn of a pilot scheme for the self-assessment of local authority archive

services. We understand that this will enable The National Archives to ensure that it pays particular attention to those local authority archive services that are most in need of assistance, and will be the basis of a scheme of comparative assessment which can be used to measure performance. We recognise the value of such a development, both to The National Archives and to local archives, so long as the measures used accurately target all essential services.

Electronic records

It is clear that organisations of all kinds, from government departments to small businesses, are going to have to adapt themselves to a new environment where records are created and stored electronically. This is already having an impact on archival services, which will have to be prepared to receive electronic records, to preserve them indefinitely and to make them available to the public. We have been impressed by the lead in this area given by The National Archives, with its very substantial Seamless Flow programme. We look forward to being consulted at frequent intervals as issues arise and experience develops.

Membership of the Council

Four members of the Council retired at the end of 2005: Professor Caroline Barron, Professor Peter Clarke, Sir Patrick Cormack MP and Miss Rosemary Dunhill. The four of them were the last remaining former members of the Historical Manuscripts Commission, and two, Professor Clarke and Miss Dunhill, had previously served on the Advisory Council on Public Records. We are most grateful to all of them for their contributions to the Council's, and before that to the Commission's, deliberations. You appointed four new members with effect from 1 January, Dr Jeevan Deol, Professor Arthur Lucas, Mr Keith Simpson MP and Ms Janet Smith. Members during the year were:

- Professor Caroline Barron, Professor of the History of London, Royal Holloway College, University of London (*retired December 2005*)
- Sir Rodric Braithwaite GCMG, retired, formerly British Ambassador to Moscow and chairman of the Joint Intelligence Committee
- Sir Charles Chadwyck-Healey Bt DL, retired, formerly academic publisher
- Ms Else Churchill, Genealogy Officer of the Society of Genealogists
- Professor Peter Clarke, Emeritus Professor of Modern British History, University of Cambridge (*retired December 2005*)
- Sir Patrick Cormack MP, Conservative MP for Staffordshire South (*retired December 2005*)
- Dr Jeevan Deol, lecturer in the South Asia Department of the School of Oriental and African Studies, University of London (*appointed January 2006*)
- Professor Harry Dickinson, Richard Lodge 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
- Miss Rosemary Dunhill OBE, archivist of Jesus College, Oxford and formerly County Archivist of Hampshire (*retired December 2005*)
- Sir David Durie KCMG, retired, formerly Governor and Commander in Chief, Gibraltar
- Mr Peter Fox, Librarian, Cambridge University Library
- Dr Dorothy Johnston, Keeper of Manuscripts and Special Collections, Hallward Library, University of Nottingham
- Professor Arthur Lucas CBE, Emeritus Professor of Science Curriculum Studies at, and formerly Principal of, Kings College London (*appointed January 2006*)
- Professor Heidi Mirza, Professor of Racial Equality Studies, University of Middlesex
- Dr Michael Riley, senior lecturer in history, Bath Spa University College
- Rt Hon the Lord Roper, formerly Chief Whip for the Liberal Democrats in the House of Lords
- Lord Rowlands CBE, formerly Labour MP for Merthyr Tydfil
- Dr Elizabeth Shepherd, senior lecturer in archives and records management, University College London
- Mr Keith Simpson MP, Conservative MP for Mid Norfolk (*appointed January 2006*)
- Mr Andreas Whittam Smith CBE, journalist, First Church Estates Commissioner
- Ms Janet Smith, County Archivist of Hampshire (*appointed January 2006*)
- Ms Catherine Maxwell Stuart, owner of the private family and estate archive at Traquair House, Innerleithen, Peeblesshire
- Ms Stephanie Williams, author, journalist and user of archives

The secretary of the Council is Mr Tim Padfield.

During the course of this year we have seen Mrs Sarah Tyacke retire as Chief Executive of The National Archives and Dr Elizabeth Hallam Smith move to a new post in the House of Lords. They have both made very significant changes to the work of the Public Record Office, now The National Archives, and have seen its public accessibility and visibility immensely enhanced. We wish them both well for the future and thank them for all they have done. We were pleased to welcome Mrs Tyacke's successor, Ms Natalie Ceeney, to our meeting in October.

Mrs Tyacke and then Ms Ceeney attended all our meetings, and were variously accompanied by Dr David Thomas, director of Collections and Technology, Dr Hallam Smith, director of National Advisory and Public Services, Mrs W.Jones, director of Finance and Corporate Services, Mr Nick Kingsley, head of National Advisory Services, Ms Meg Sweet, head of Records Management and Mrs Vanessa Carr, head of Research, Knowledge and Academic Services, all at The National Archives.

On behalf of the members

Sir Anthony Clarke
Master of the Rolls
Chairman