



ADVISORY COUNCIL ON NATIONAL RECORDS AND ARCHIVES

Date: 8 May 2017
Time: 12:30-17:00
Venue: The National Archives, Kew

Chair: Sir Terence Etherton, Master of the Rolls

Minutes: Beth Watson - Advisory Council Secretariat

Members: Ms Hillary Bauer
Mr John Evans
Ms Sarah Fahy
Dr Helen Forde
Mr Stephen Hawker
Mr John Millen
Sir John Ramsden
Mr Michael Smyth
Ms Jeannette Strickland
Mr Trevor Woolley

Non-members:

Mr Jeff James, Chief Executive, The National Archives
Mr Ian Collins, Head of Government Transfer and Access, The National Archives
Ms Helen Potter, Head of the FOI Centre, The National Archives
Ms Victoria Davis, Access at Transfer Manager, The National Archives
Mr Sam Whaley, Head of the Chief Executive's Office, The National Archives
Ms Trish Humphries, Secretary to the Forum on Historical Manuscripts and Research

1. Welcome, apologies and introductions

- 1.1 There were apologies from Rodney Brazier and Angela Kelly.
- 1.2 The Master of the Rolls thanked Sarah Fahy and Stephen Hawker, whose last meeting this was, for their hard work and commitment to the Council over the past six years.

2. Minutes and matters arising

- 2.2 The minutes of the meeting of 13 February 2017 were agreed as an accurate record.
- 2.3 The secretariat provided an update on the roll-out of the new IT solution.
- 2.3 The Access at Transfer manager had met with Mr Millen to discuss how information concerning closed and retained records was presented on Discovery.

2.4 TNA agreed to report back on why Lord Chancellor's Instruments were replaced as the mechanism for departments being given permission to transfer records closed with the introduction of the FOI Act.

3. Advisory Council Working Group

3.1 The Council considered the working group's interim report and recommendations. It was agreed that:

- a) A deputy chairman of the Forum on Historical Manuscripts and Academic Research be appointed.
- b) The current working practice by which the acting chair of the Forum advises CE/TNA in his capacity, deriving from the Royal Warrant, as Historic Manuscripts Commissioner, should be formalised and reflected in the Forum's revised terms of reference.
- c) Consideration should be given to remunerating members.
- d) A deputy chairman of the Council should be appointed.
- e) Council meetings should be extended in duration to address the increased workload, routinely beginning at 11:00. It was agreed that this should be implemented from July 2017.
- f) The Council should issue a guidance document for Departments on how to work with the Council.
- g) Hard copies of guidance should be issued to Council members.
- h) The determination of whether the public interest in maintaining an exemption outweighs the public interest in disclosure in panel considerations of FOI requests should be made by majority vote within the panel with dissenting opinion recorded
- i) It should be open to a Panel, following proper consideration of an FOI request, to advise on the public interest contrary to the Department's/TNA's recommendation.
- j) The template for FOI panel returns should be amended to draw the attention of panel leaders to the Council's request that they should identify issues which would merit wider exposure through inclusion in the FOI panel report to the full Council.
- k) Records should be kept, and reported periodically to the Council, of the extent to which appeals were made against FOI request decisions following advice from panels, and the extent to which they were upheld by either the Information Commissioner or an information tribunal.

4. Media Sub-Committee

4.1 Mr Evans introduced his paper which set out proposals for a new media sub-committee (MSC). The Council agreed that the sub-committee should be set up as soon as possible and membership should include the Council's Deputy Chair.

4.2 It was agreed that the MSC should report back at the next meeting.

4.3 The Council expressed concern that, when Mr Evans stepped down from the Council in September, there would be no one with media expertise amongst the membership. It was clear that this needed to be addressed in the forthcoming recruitment campaign.

4.4 Dr Lomas, Mr Smyth and Dr Forde volunteered to join the committee.

5. Forum on Historical Manuscripts and Academic Research

5.1 Dr Lomas said that the Forum's next meeting would be on 29 June and that she would update the Council on any outcomes at the next meeting. Meanwhile the Forum was continuing to press forward with its plans to celebrate the 150th anniversary of the Historic Manuscripts Commission. She had also had discussions with the working group on how to develop stronger links between the Council and the Forum.

6. Annual Report 2016/17

6.1 Members felt that the current format was quite dated and asked that it be re-drafted.

7. Departmental Updates

7.1 The Council considered updates from the Department for Business, Energy and Industrial Strategy, and the Home Office on their progress against their plans for the transfer of their records to TNA.

8. Departmental Retention Requests

8.1 The Council considered applications to retain material because of a review backlog (ground 4) from the following departments:

- **Animal and Plant Health Agency** – The Council was concerned that the review programme was very dependent on recruiting staff. The Council agreed to recommend that the APHA be permitted to retain its records for 1 year rather than the requested 2 years. It asked that the APHA provide an update at the end of 2017.
- **Companies House** – The Council noted the substantial resource and recruitment issues faced by Companies House. The Council agreed to recommend that Companies House be permitted to retain its records for 1 year rather than the requested 2 years. It asked that it return with a mature plan next year.
- **HM Land Registry** – The Council agreed to recommend that HMLR be permitted to retain its records for 1 year.

8.2 The Council considered an application from the **Home Office** requesting that it be permitted to retain a file following an Upper Tier Tribunal decision. The file had previously been open at TNA. The Council agreed to recommend that the Home Office be permitted to retain the file.

9. Access to records

9.1 Outstanding queries

The Council considered the outstanding departmental responses to the queries it had raised on the schedules of applications it had considered in 2016 and early 2017. It was content to approve the majority of the applications on the basis of the clarification and/or amendments provided by departments. Those that were not agreed were carried forward.

9.2 Queries raised on FOI Exemption Schedule 85 (closure) and RI128 Schedule (retention)

In April 2017 a schedule of closure applications (FOI Exemption Schedule 85) and a schedule of retention applications (RI 128 Schedule) were sent to members. Members were asked to raise any queries within 10 days.

The Access at Transfer Manager collated the queries and a list of them was circulated with the papers for this meeting, with responses being provided where possible. At this meeting members were asked if they were content with the responses provided, either in written document or orally by

Ms Davis. Where a response has not been provided, or members remained unhappy, the queries were carried forward.

10. FOI Panels Update

10.1 The Head of the FOI Centre ran through her update paper. She noted that during the course of this year there had been two complete releases and one partial release of information following challenge by panels.

11. CEO's Update

11.1 Mr James updated the Advisory Council on the following:

- **Impact of General Election on public appointments** – He informed the Council that no appointments or reappointments will be made, or approval to launch recruitment campaigns be given, until after the general election. The secretariat was working with the DCMS Arms-Length Bodies team to ensure that the submissions to recommend members for reappointment and to launch a new recruitment campaign to replace those stepping down would be ready to go to the Secretary of State as soon as he or she was appointed.
- **Cross-Government Records Management project** - Discussions continued about TNA's future 'offer' to Government: how it may better target its resources and reshape services to provide measurable impact on the cross-government information management landscape.
- **Developing our Future Workforce** - The aim of the plan was to make positive changes to working practices: reducing bureaucracy, simplifying processes, and working more collaboratively across the organisation. The first phase (ending June 2017) included knowledge and idea sessions for staff on digital awareness, procurement processes and organisational culture.
- **Launch of *Archives Unlocked*** - The new strategic vision and action plan for archives in England was launched by the Minister, and published on TNA's website (and in print) on 29 March 2017. The written ministerial statement was placed on Hansard and the launch event trended on Twitter.
- **Public Space Programme** – TNA was in the final days of the first phase of the Public Space Programme, and was on track complete the main construction works to the events, public refreshment and welcome areas by Monday 15 May.

11.2 Members asked about the 1939 Register. Mr James said that the project had been a success. The lessons learned from both the Register project and the 1911 Census would inform discussions on the 1921 Census.

12. AOB

12.1 The Council wished to formally record its thanks to Carol Tullo, who would shortly be stepping down as TNA's Director for Information Policy and Services for her work supporting the Council.

12.2 There being no further business, the meeting was closed.