



**ADVISORY COUNCIL ON  
NATIONAL RECORDS AND ARCHIVES**

**Date:** 12 February 2018  
**Time:** 11:00-16:30  
**Venue:** The National Archives, Kew

**Chair:** Sir Terence Etherton, Master of the Rolls

**Minutes:** Trish Humphries

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**Members:** Mr Trevor Woolley, Deputy Chair  
Ms Hillary Bauer  
Dr Helen Forde  
Sir John Ramsden  
Mr Michael Smyth  
Ms Jeannette Strickland  
Ms Angela Kelly  
Lady Moira Andrews  
Ms Liz Copper  
Dr Peter Gooderham  
Mr John Wood

**Non-members:** Mr Jeff James, Chief Executive, The National Archives  
Ms Lucy Fletcher, Associate Director, Government Audience, The National Archives  
Mr Ian Cross, Head of Government Transfer and Access, The National Archives  
Ms Louisa Green, FOI Manager, 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  
Mr Peter Farr, Office of the Master of the Rolls  
Ms Caroline Ottaway-Searle, Director of Public Engagement, The National Archives

**1. Welcome, apologies and introductions**

1.1 The Chair introduced four new Advisory Council members to their first meeting. Lady Moira Andrews, Ms Liz Copper, Dr Peter Gooderham and Mr John Wood had all recently been appointed and were welcomed by the members.

1.2 There were apologies from Dr Elizabeth Lomas and Ms Lesley Ferguson.

**2. Minutes and matters arising**

2.1 The minutes of the meeting of 13 November 2017 were agreed as an accurate record.

## 2.2 Matters Arising

*Item 2.4* Members had discussed the current position on delegations and absolute exemptions at the meeting in November, and a letter had been sent from the Master of the Rolls to the Secretary of State. The National Archives had been asked to comment on the recommendations and provide additional information, and a response to this request had been sent.

*Item 3* A paper on media activity relating to the Council over the Christmas period had been circulated by the Media Manager and she joined the meeting to give a brief update. The media working group had been made aware of the articles which mentioned the Council and had approved any responses provided.

## 3. Advisory Council Annual Report 2017/2018

3.1 The Deputy Chair advised that the Annual Report would need to be drafted for consideration at the May meeting and he wanted the members to have an opportunity to contribute. The statistics for the report were due to be received from The National Archives in April, and it was felt that there was likely to be a higher number of withdrawals this year.

3.2 It was suggested that the report should provide an explanation of the issue regarding absolute exemption, including the number of closures made exclusively under absolute exemptions, and consideration should be given to including details of any response from the Secretary of State, specifically in reference to the Code of Practice.

3.3 Members were asked to contact both the Secretary and Deputy Chair with any comments or suggestions.

3.4 Mr James advised that The National Archives' Annual Report, in which the Council report would be published, would be much shorter and more functional this year, with a fuller report online.

## 4. Ministry of Defence

4.1 Mr Tony Lewis and Mr Paul Stevenson from the Ministry of Defence (MOD) joined the meeting to provide members with an update on progress towards the transfer of selected Service Personnel Records, following the Council's endorsement of a proposal to select these records in 2011.

4.2 A paper circulated prior to the meeting outlined the current position on the record sets and recommended the transfer of a digitised copy of the records, with MOD enhancing the current public access scheme whilst the records remained with them.

4.3 Council members were concerned about the length of time the digitisation process would take, and how it would be funded. There were a number of issues which were still not clear, including whether MOD would be able to fund the project, which would take years to complete, and where the records would be stored once the department's current storage contract expired.

4.4 Following discussion, the Council agreed to recommend a retention for one year for additional records related to the project which were not already covered, and requested that MOD provide an update on progress to the November meeting.

4.5 The Council was content in principle with the proposal to transfer digitised copies of the records, and for The National Archives to accession, but did not believe that the proposal for an enhanced public access regime at MOD was compatible with the respective roles and duties placed on MOD and the Keeper of Public Records under the Public Records Act. The Council felt that any funding for

digitisation should be ring-fenced for the duration of the project to ensure the integrity of the accessioned digital records.

4.6 Council further agreed that if the transfer of digitised copies prove not to be possible, the default position should be for a full transfer of the paper originals to The National Archives in the normal manner.

## 5. DExEU

5.1 The Council considered draft memorandum by DExEU on criteria for engaging 27(1) where the release of a record might undermine the UK's negotiating position in the Brexit process.

## 6. FCO Checklist Review

6.1 At the meeting in November, Council members had agreed to review the FCO checklist in more detail. A number of queries were raised and would be passed back to FCO.

## 7. Departmental Retention Requests

The Council considered papers from the following departments relating to the retention of records:

- **HMRC** – The Council noted the update on the department's work to improve its information management capacity and requested an update in July to explain the department's plans beyond 2020.
- **Department for Work & Pensions** – The Council felt that the paper requesting a retention of two years for digital legacy records did not provide sufficient information and requested information about the timescale of appointment of expertise and more detail about the record subject before the retention request could be agreed.
- **Cabinet Office** – The Council agreed to a retention request of three years for a specific series of records, but asked for an update in May 2019.

## 8. Access to Records

Three members recused themselves from discussion on specific entries:

Ms Kelly – Entries regarding Northern Ireland

Sir John Ramsden – Entries regarding India and Sikh terrorism

Mr Smyth – Entries regarding Diego Garcia

### Outstanding Queries

The Council considered the outstanding departmental responses to the queries it had raised on the schedules of applications it had considered in 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.

### Paper 8.3 January-February 2018

In January a schedule of closure applications and a schedule of retention applications 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, wither in written form or orally by Ms Davis. Where a response has not been provided, or members remained unhappy, the queries were carried forward.

## 9. Forum on Historical Manuscripts and Academic Research

9.1 Members were advised that it was hoped the recruitment of new external members would commence in late Spring. They were also pleased to note that Dr Helen Forde and Ms Jeannette Strickland were confirmed as Council members of the Forum.

9.2 No Forum meeting had been held since the last Council meeting.

## 10. FOI Panel Update

10.1 The Council reviewed the panel update paper. The Council was concerned that some cases were being put to it only after lengthy delays. It asked for action to reduce such delays and to provide more information when they occurred.

## 11. CEO's Update

Mr James updated the Advisory Council on the following:

- **Misplaced Records** – The issue of misplaced, or records recalled from The National Archives by government departments and subsequently misplaced – received some media attention over Christmas. The National Archives and DCMS were commissioned by the Cabinet Secretary to provide a briefing and recommendations on the issue. The numbers of records involved are relatively low – 543 records or 1.4% of records recalled over the last 5 years. A number of recommendations have been made and will be taken forward.
- **New Ministers** – A recent change had resulted in a new Secretary of State for The National Archives, Matt Hancock, and a new day-to-day Minister, Lord Ashton. A visit by Lord Ashton was being arranged and an invitation to attend a Council meeting will be extended. The MR also suggested that he should meet with the new Secretary of State.
- **Foundation** – The National Archives is in the process of establishing a charitable foundation to support education and engagement initiatives, both at The National Archives and in the archives sector more widely.
- **Tailored Review** – It is likely that the tailored review of both The National Archives and the Advisory Council will be postponed until 2019, after the UK's exit from the European Union given The National Archives' extensive commitment to the publication of retained EU legislation as set out by the EU Withdrawal Bill.

## 12. Any Other Business

There was none.

### Date of Next Meeting

The next meeting of the Advisory Council would be held on 14<sup>th</sup> May 2018 at The National Archives.

There being no further business, the meeting was closed.