



**ADVISORY COUNCIL ON
NATIONAL RECORDS AND ARCHIVES**

Date: 25 September 2020
Time: 13:00-16:00
Venue: Meeting by Video Link

Chair: Sir Terence Etherton, Master of the Rolls

Members: Mr Trevor Woolley, Deputy Chair
Ms Hillary Bauer, (Deputy Chair of the Forum)
Mr Michael Smyth
Ms Lesley Ferguson
Dr Helen Forde
Ms Liz Copper
Mr John Wood
Mr Stephen Hawker
Mr Martin Howard
Professor Phillip Johnson
Professor Leon Litvack
Ms Helene Pantelli
Mr David Rossington
Mr Martin Uden
Lady Moira Andrews
Dr Peter Gooderham
Ms Jeannette Strickland

Minutes: Isabel Saunders, Senior Governance Coordinator and Secretary to the Advisory Council

Non-members: Ms Asha Bagayat, Head of Governance

TNA: Ms Lucy Fletcher, Director for Government and Information Rights
Mr Sam Whaley, Head of Strategy and CEO's Office
Ms Victoria Davis, Senior Access Manager
Ms Helen Potter, Head of the Freedom of Information Centre
Service Owner (Digital Selection and Transfer)
Senior Digital Transfer Advisor
Senior User Research

MR's Office: Ms Amy Shaw, Office of the Master of the Rolls

Departmental Attendees: Mr Alex Howell, Deputy Director, DCMS ALB

1. Welcome, introductions, apologies and declarations of interest

1.1 The Chair welcomed everyone to the meeting.

1.2 The Chair introduced Isabel Saunders to members as the new secretary to the Advisory Council on National Records and Archives.

- 1.3 Apologies for absence were received from, Jeff James Lucy Fletcher deputised for him.
- 1.4 The Chair confirmed there was no need for members to declare any conflicts of interest given the business of the meeting was training.

2. Update on S.65 and S.66 of the FOIA

- 2.1 The Deputy Chair provided a brief verbal summary covering the history of the S.65 and S.66, including the key concerns of the Governance Working Group.
- 2.2 DCMS indicated that the arrangements now being worked up were interim ones, and that as such there was no immediate proposal to extend the role of the Council to advice under S.66 though this might be considered in the slightly longer term. There would be ongoing liaison with the Advisory Council on this matter.
- 2.3 Lucy Fletcher updated members on the Code of Practice, noting reference to S.65 and S.66 would be removed from the Code on the advice of DCMS Legal, whilst awaiting clarity. On behalf of TNA she emphasised the importance of any solution ensuring TNA is able to comply with FOI deadlines.
- 2.4 The Master of the Rolls thanked Alex Howell for attending and stressed the urgency of a resolution to this matter.

3. Chief Executive Officer's Report

- 3.1 Lucy Fletcher introduced the Chief Executive and Keeper's update paper on current issues and ongoing matters.

Swedish School

- 3.2 This initiative was part of the wider Archives for Everyone vision, as well as contributing commercially to TNA. TNA regularly collaborates with higher education institutions and this initiative continues with that, by offering an opportunity to have a permanent base for an education facility on site. The space being used was a conference wing, and no repository space was being lost.

20-Year Rule

- 3.3 Confidence was low that departments would meet the policy intention of the 20-year rule, but this had been the case for a number of years and this message had been given to the Secretary of State. Overall however, there was a healthy compliance and TNA had worked with departments so they could legally retain their records.
- 3.4 With regard to the resumption of transfers to TNA over 2,000 records had been received in the first two weeks, with a focus on the Foreign Office, Cabinet Office and Treasury. The overall picture was pleasing and the government reading room was booked until the end of October.

Code of Practice

- 3.5 The Chair of the Governance Working Group requested a copy of the draft ministerial submission and the Code of Practice for the Working Group to ensure the Council's interests are properly covered. Lucy Fletcher agreed to share the draft and suggested it may be appropriate for the Council to make their own submission if it had a different view.

ACTION: Lucy Fletcher to share a copy of the ministerial submission and Code of Practice with the Governance Working Group.

4. Public Minutes for the Website

Public Minutes of the meeting held on 18 November 2019

- 4.1 The public copy of the minutes of the meeting held on 18 November 2019 were approved for the website.

Public Minutes of the meeting held on 10 February 2020

- 4.2 The public copy of the minutes of the meeting held on 10 February 2020 were approved for the website.

Public Minutes of the meeting held on 11 May 2020

- 4.3 The public copy of the minutes of the meeting held on 11 May 2020 were approved for the website.

ACTION: The Secretary to the Advisory Council to publish the approved public minutes on the website.

5. Any Other Business

- 5.1 The Chair gave his apologies and noted the Deputy Chair would be chairing the remainder of the meeting.
- 5.2 The Chair noted he would bring Sir Geoffrey Vos, the incoming Master of the Rolls, to the November meeting of the Council.

6. Access of Transfer Process

- 6.1 Members of the Council received a short presentation on the access of transfer process as it relates to closure periods, redactions and how checklists translate into closure entries.

ACTION: Victoria Davis to provide more information on how the public interest test under S37 (1)(ac) and 37 (1)(ad) could be exercised by the Council on the basis of the information made available to the Council.

7. Foreign and Commonwealth Office Memorandum and Checklist

- 7.1 Members of the Council received a short presentation on the FCO Memorandum and Checklist, including guidance on S.27 (i) and S.27 (ii).

ACTION: Victoria Davis to engage with FCO on providing additional material on the content of 'derogatory comments' in S.27 (i) cases to help members reach an opinion on the balance of public interest.

8. Information in the Public Domain

- 8.1 Members of the Council received a short presentation on information in the public domain, covering how information in the public domain can affect the outcome of an FOI request.

9. Presentation on Transfer of Digital Records

- 9.1 Members of the Council received a presentation on the transfer of digital records, covering the introduction of a new transfer of digital records product, why this is being built, an overview of the Closure Exposure and how an Explore phase works.
- 9.2 Members were also given the opportunity to feed their opinions back to TNA.

There being no further business, the meeting was closed at 16.11pm.