

Operational Selection Policy OSP 56

Attorney General's Office (AGO): Paper Records 1987 - 2012

September 2012

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Document Authority

The National Archives' Acquisition Policy statement announced the Archives' intention of developing, in consultation with departments, Operational Selection Policies across government. These Policies would apply the collection themes described in the policy to the records of individual departments and agencies.

Operational Selection Policies are intended to be working tools for those involved in the selection of public records. This policy may, therefore, be reviewed and revised in the light of comments received from the users of the records or from archive professionals, the department's experience of using the policy, or as a result of newly discovered information. There is no formal cycle of review and revision will be determined according to the nature of the comments received.

Note that under current legislation information obtained during some of the processes carried out by the Attorney General's Office cannot be disclosed.

If you have any comments on this policy, please email information.management@nationalarchives.gsi.gov.uk

or write to:

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Executive summary

The purpose of this policy is to assist Attorney General's Office (AGO) record staff in selecting paper files for permanent preservation.

The AGO's files hold information originating from other government departments (OGDs). The AGO will capture information that is unique to the Office and will select only files on areas where AGO officials have had a significant input.

This includes advice on:

- files relating to European secondary legislation where the AGO has taken the lead
- advocacy in international or European cases where HMG is the plaintiff or defendant
- House of Lords cases
- files containing Law Officer's advice where there is a significant amount of input from the AGO that is not held elsewhere (including advice relating to Northern Ireland, the Channel Islands and the Isle of Man)
- files relating to new Royal Charters
- files relating to peerages

AGO will also select files in line with The National Archives' [General guidelines for the selection of records](#) as well as generic Operational Selection Policies (OSPs).

The central OSPs are:

[OSP 38 Records of internal administration](#)

[OSP 24 Records relating to the machinery of government](#)

[OSP 35 Boards and committee records](#)

The AGO website has been captured and can be accessed in the [UK Government Web Archive](#).

Section 1: Background information

1.1 Name of department

Attorney General's Office (AGO or 'the office')

1.2 Background, functions and activities

The main aim of the Attorney General's Office (AGO) is to provide high quality legal and strategic advice and support to the Attorney General and the Solicitor General (The Law Officers) in their functions.

The role of the Attorney General includes:

- Chief Legal Advisor to the Crown
- a Minister of the Crown with responsibility for superintending the prosecuting departments
- a number of independent public interest functions

The Attorney General also holds the separate office of Advocate General to Northern Ireland.

The Priorities of the Office are to support the Attorney General as:

- Chief Legal Advisor
- superintendence and engagement with Criminal Justice System
- public interest functions
- engagement with Northern Ireland as Advocate General to Northern Ireland
- accountability to Parliament, the public and the media

The work of the AGO also covers advice and support on the Attorney and Solicitor General's criminal and legal casework in the public interest, including:

- referring sentences to the Court of Appeal if they may be unduly lenient
- questions of contempt of court
- prosecutions requiring the Attorney General's consent
- issuing a nolle prosequi, to stop a prosecution on indictment
- taking action to restrain vexatious litigants
- intervening in the public interest in certain charity and family law cases
- appointing advocates to act for the Crown
- exercising the discretion to appoint 'advocates to the court' and 'special advocates' to represent the interests of litigants in cases involving sensitive material
- referring any points of law to the Court of Appeal after an acquittal in criminal cases
- litigation and correspondence arising from the Attorney General's role

The AGO's Law Officers have certain public interest functions, for example, in taking action to appeal unduly lenient sentences; bringing proceedings under the Contempt of Court Act; giving consents for prosecutions; issuing a nolle prosequi; referring to the Court of Appeal on a point of law; and protecting charities.¹

The Law Officers also deal with questions of law arising on Government Bills and with issues of legal policy. They are concerned with all major international and domestic litigation involving the Government and questions of European Community and International Law as they may affect Her Majesty's Government, and on occasion - where it does not conflict with their Governmental role - they give advice to Parliament on procedural questions, matters of standards and privileges, and on the meaning and effect of proposed legislation.

¹ Refer to [OSP 40](#) (sections 9.3 and 12.3) for records created by the Court of Appeal and the Court of Criminal Appeal

1.3 Relationship with other organisations (agencies/NDPBs/departments/other statutory bodies)

The Attorney General and Solicitor General have overall responsibility for the work of:

- Crown Prosecution Service, which from 1 January 2010 incorporates the Revenue and Customs Prosecutions Office
- Her Majesty's Crown Prosecution Service Inspectorate
- Treasury Solicitor
- Serious Fraud Office²

Each office is responsible for the records it creates as part of its own unique functions and activities. Each office is required to produce and maintain its own records policies and procedures.

Section 2: Material transferred to The National Archives in the past

The Attorney General's Office (and predecessors) has transferred records to The National Archives, within the following series:

- LO 1 Law Officers' Department: Patents for inventions (1839-1885)
- LO 2 Law Officers' Department: Registered files (1885-1979)
- LO 3 Law Officers' Department: Law Officers' opinions (1889-1993)
- LO 4 Law Officers' Department: Patents appeal files and registers (1906-1933)

² www.attorneygeneral.gov.uk/Departments/Pages/default.aspx

Section 3: Analysis of records produced

3.1 Committee structure within the agency or parent department, including statutory committees directing the work of the organisation

Table 1: Key committees

Name of committee	Terms of reference	Select? Yes/No	Reasons for selection/non-selection, including comments on the quality of information
Executive Board	Responsible for ongoing governance and management of the office, and co-ordination between the other statutory bodies that the Attorney General is responsible for	Yes	Key Governance Board - selected in accordance with OSP35 Board and committee records

3.2 Electronic formats

The AGO maintains a print to paper policy.

All business emails and other relevant electronic records are captured in AGO's registered files.

3.3 Publications produced by the organisation

Table 2: Types of publications and preservation strategies

1 Types of publications	2 Important to preserve? Yes/No	3 Reasons for answer in column 2	4 Preservation at The National Archives or British Library?
Attorney-General Guidelines	Yes	Key summary of guidance from Attorney-General The guidance is not binding and does not have the effect of law but is nevertheless expected to be followed by prosecutors	Captured within UK Government Web Archive
Annual reports	Yes	Would not normally be selected (OSP36 Publications/grey literature) but is automatically captured within UK Government Web Archive	Captured within UK Government Web Archive

Section 4: Proposals for the selection of records

Aspects of The National Archives' Acquisition and disposition policies³ that are relevant to the records of AGO are:

- 6.1 The National Archives will select for permanent preservation public records which document:
- the decision-making process in government
 - the Crown's rights and obligations

The AGO's files holds information originating from other government departments (OGDs). The original documentation held outside the custody and responsibility of AGO will be reviewed by the relevant OGD through relevant selection policies and processes.

The AGO will capture information that is unique to them and include only files on areas that the Office and Law Officers have had a significant input to, and falling into the following categories:

- files relating to European secondary legislation where the AGO has taken the lead
- advocacy in international or European cases where HMG is the plaintiff or defendant
- in House of Lords cases where the government has been represented by the Law Officers, in line with [OSP 42 Records of Departmental legal branches](#) (section 12.3)
- files containing Law Officer's advice where there is a significant amount of input from the AGO that is not held elsewhere, including advice relating to Northern Ireland, the Channel Islands and the Isle of Man
- files relating to new Royal Charters
- files relating to peerages

³ nationalarchives.gov.uk/documents/information-management/acquisition-strategy.pdf

AGO will also select files in line with The National Archives' [General guidelines for the selection of records](#)⁴, specifically:

- files cited in, or noted as consulted in the preparation of Cabinet Office official histories
- files relating to notable events which gave rise to significant controversy or interest at the time
- files concerning persons or events of note, where they add significantly to what is already known
- major events, development or trends in legal history and files containing legal precedents

Under [OSP 38 Records of internal administration](#), select:

- files relating to the history of the department, its organisation and procedures in the areas in which the AGO leads
- files relating to obsolete activities or abortive projects
- files relating to reviews and changes concerning the role of the Law Officers

Under [OSP 24 Records relating to the machinery of government](#), select:

- files containing Law Officer's advice on preparation of the 1990's devolution programme.

Under [OSP 35 Boards and committee records](#), also select:

- the agenda, papers and minutes of the Executive Board
- the agendas, circulated papers, minutes and reports of boards and committees which include the Law Officers - for which the AGO provided the secretariat, or for which the AGO hold the main set of papers

⁴ nationalarchives.gov.uk/documents/information-management/general-guidelines.pdf

Section 5: Additional information and follow-up

5.1 Implications of this report for the selection of records held in related departments/agencies

There are no envisioned impacts on the records of the Crown Prosecution Service, Her Majesty's Crown Prosecution Service Inspectorate, Treasury Solicitor, or the Serious Fraud Office.

5.2 Follow-up

This policy will be reviewed two years from the date of its approval, or if the Office undergoes major machinery of government change which affects its function and activities.