



**ADVISORY COUNCIL ON  
NATIONAL RECORDS AND ARCHIVES**

**Date:** 21 May 2021  
**Time:** 10:00-15:00  
**Venue:** Meeting by Video Link

**Chair:** Sir Geoffrey Vos, Master of the Rolls

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

**Minutes:** Isabel Saunders, Senior Governance Coordinator and Advisory Council Secretariat (TNA)

**Non-members:**

**TNA:** Ms Asha Bagayat, Head of Governance  
Ms Susan Browne, Head of the Freedom of Information Centre  
Ms Victoria Davis, Senior Access Manager  
Mr Andrew Dyer, Strategic Compliance Lead  
Ms Lucy Fletcher, Director for Government and Information Rights  
Mr Jeff James, Chief Executive and Keeper  
Mr Sam Whaley, Head of Strategy and CEO's Office

**MR's Office:** Mr Sam Allen, Office of the Master of the Rolls

Mr Terry McGuinness, Office of the Master of the Rolls

**Departmental**

**Attendees:** MoJ (Item 5)  
DWP (Item 9)

**Observers:** Mr Michael Murphy, FOI Manager

**1. Welcome, introductions, apologies and declarations of interest**

- 1.1. The Chair welcomed everyone to the meeting.
- 1.2. Ms Helene Pantelli submitted apologies for absence. Mr Michael Smyth submitted apologies for lateness.
- 1.3. There were no declarations of interest in relation to the business of the meeting.

**2. Minutes and matters arising**

**Minutes of the meeting held on 1 March 2021**

- 2.1. Subject to amendments proposed by members, the minutes of the meeting held on 1 March 2021 were approved as a correct record.

**ACTION:** The Senior Governance Coordinator to update the minutes with the suggested amendments and upload the public set of minutes to the website.

**Actions Log**

- 2.2. The Action Log was noted, with the Deputy Chair reviewing the action log and noting a number of proposed amendments. Members discussed item 25 of the log, which remained open, Mr John Wood confirmed he would refresh the wording for item 25. The Deputy Chair noted that item 6 should be reopened. The following actions were closed:

Items 78, 95, 1, 2, 3, 4, 5, 7, and 8.

**ACTION:** Mr John Wood to provide amended wording for item 25.

**ACTION:** the Senior Governance Coordinator to update the Actions Log with the items reported at the meeting.

### **3. Chief Executive Officer's Report**

- 3.1. The Chief Executive and Keeper introduced his update paper on current issues and ongoing matters.
- 3.2. Members asked about future plans for the digital download service available on the website. JJ responded that a number of options were being considered going forward.
- 3.3. Members commented on the plans for collaboration with various institutions. JJ noted The National Archives had existing collaborations with the University of Oldenburg and was moving forward with the digital collaboration with Harvard University on the use of Digital Record Identification (DROID) software. TNA continued to collaborate with a number of UK institutions but was also keen to increase engagement internationally.
- 3.4. Members asked for further details of x-ray microtomography technology. JJ confirmed he would circulate further information on this after the meeting.
- 3.5. Members praised TNA for its online engagement activity and asked about whether there was any analysis of the impact of this work. JJ responded that the customer insight team considered the engagement activity and any feedback received, this then forms part of any future plans.
- 3.6. Members raised concerns on the long term storage capacity for TNA in light of current projects, particularly the acquisition of the Ministry of Defence (MoD) Service Personnel Records. JJ noted work had been ongoing at Kew and at Deep Store where a further 10 linear kilometres had been found at each. This would ensure there was sufficient capacity in the short term. Longer term, TNA was exploring future storage options.
- 3.7. JJ also gave a brief update on the current progress of the reopening of the Kew site. JJ noted this had gone well following the reopening at the end of April and demand was being met. Going forward TNA was looking to expand slots available to readers, to allow readers to return more frequently and to allow readers to pre-order more material at each visit.

**ACTION:** JJ to circulate further details of the x-ray tomography technology.

### **4. Administrative Matters**

#### **Update on the Governance Working Group**

- 4.1. The Deputy Chair gave an update on work since the March 2021 meeting. He highlighted the presentation from the FCDO which the Group had received on

the use of technology for sensitivity reviewing born digital records. The Group had invited the FCDO as the department was leading the way in its use of technology for born digital records. He noted the current concern of the Working Group was on the use of informal media and ensuring the public record was maintained. Other issues of discussion by the Group included the application of S37 of the Freedom of Information Act (FOIA). The Group had requested a further discussion on how best to apply the public interest test for S37 at the July meeting. He also noted discussions on Council procedure and process, and the lack of further progress on issues relating to S65 and S66 of the FOIA.

- 4.2. Members asked about the resourcing implications for departments due to the increase of digital records. Working Group members reported that there was no immediate resourcing concern as early digital records were simple, however as technologies proliferated after the millennium there may be greater concerns.
- 4.3. Members asked about the compatibility of the current public records legislation with the use of digital records. JJ noted that the Public Records Act (PRA) was kept under constant review, however had been written as a format neutral piece of legislation. Current work was however being undertaken on the S46 Code of Practice to ensure this supported born digital records.
- 4.4. Members also asked about the implications of departments keeping copies of public records following transfer of the public record itself. LF noted there was a difference between a selected record and what a department might wish to keep. There was a need to ensure that what a department might wish to keep would be suitable and comply with the FOIA.
- 4.5. Members asked if there had been any discussion on the fragmentation of older digital records. Members noted they had not discussed this and this question should be put to the FCDO.
- 4.6. Members noted that overall the use of digital technology to assess and review digital records could bring large benefits for efficiency, organisation and consistency. Members did however note that the FCDO were progressing much faster with this technology than other departments and there was a necessity to ensure other departments engaged and sought to employ these tools.

**ACTION:** The Senior Governance Coordinator to write to the FCDO and Cabinet Office to ask them to address the Council's thoughts on departmental resourcing for dealing with later born digital records and on the potential fragmentation of older digital records.

**ACTION:** The Senior Governance Coordinator and Senior Access Manager to ensure that a paper on the application of the public interest test to S37 is on the agenda for the July meeting.

### **Update on Government Information Management Landscape**

- 4.7. Ms Lucy Fletcher gave a brief update on the current situation and its effect on departments.
- 4.8. She noted the practical threats to departmental compliance with the twenty year rule. Following an annual survey many departments had recorded being nine to twelve months behind on their record management plans due to the impacts of COVID-19. This picture was also expected to worsen over the medium term as departments discovered further ramifications of the pandemic and repeated lockdowns.
- 4.9. In spite of this, some departments had been able to transfer records and TNA had accessioned roughly 41,000 records and departments were ensuring they maintained lawful compliance for their retained documents. Additionally the initial transfer of MoD Service Personnel Records had been successful.
- 4.10. Members noted however there still remained concerns for departments not running digital discovery tools and the implications this had for digital records management.

### **Update on from the Forum on Historical Manuscripts and Academic Research**

- 4.11. Ms Hillary Bauer gave a brief update on the work of the Forum which had focused on contingency management plans for places of deposits, the risks of archive failure as a result of the pandemic and the success of the archives at risk fund. Forum members also expressed interest in the use of blockchain and non-fungible tokens and how this might impact the work of the Forum when assessing acceptance-in-lieu items.
- 4.12. The Forum had also completed its biennial review of its terms of reference and submitted these to the Council for approval.

**DECISION:** The Council agreed the Forum's updated Terms of Reference.

**ACTION:** The Senior Governance Coordinator to add the updated Terms of Reference to the website.

### **Update on the Production of the Annual Report 2020/2021**

- 4.13. The Deputy Chair introduced the draft annual report. He highlighted key areas of the report, including reference to an increase of queries by Council due to further stringency when assessing requests for closure and a new section on digital records, following the Council's interest in this area over the previous year.
- 4.14. Subject to amendments proposed by members, the draft 2020-2021 annual report was approved.

**DECISION:** The Council agreed to the report for 2020-2021 and also agreed to delegate any further necessary amendments to the Deputy Chair, Secretariat and Annual Report group.

**ACTION:** The Senior Governance Coordinator to implement the amendments proposed by members and to ensure the report is laid before Parliament as an annex to TNA's annual report.

## **5. Ministry of Justice (MoJ)**

- 5.1. The MR introduced the item. He noted that this would be a new type of record to be accepted by TNA and as such he would like to discuss the transfer with the President of the Family Division and the Vice President of the Court of Protection to confirm the plan for the records was appropriate.
- 5.2. A representative from the MoJ, joined the meeting to provide an update on the plans to transfer the Malcolm Arnold papers since the March meeting. He also provided some details on the nature of the records, but noted he would provide a more detailed list out of the meeting.

**DECISION:** The Council thanked MoJ for joining the meeting and providing the update.

**ACTION:** The Senior Governance Coordinator to write to the MoJ.

## **6. FCDO Checklist**

- 6.1. The Senior Access Manager introduced the paper and noted that the FCDO provides a checklist to members to aid in consideration of the schedules. Each year the FCDO propose amendments to the checklist and put these before the Council for review and agreement.
- 6.2. Members noted they were content with the proposed amendments to the checklist, subject to some minor wording alterations.

- 6.3. Members also discussed the benefits of other departments being able to use the checklist for their own closure requests where appropriate. The MR recommended that this issue be put forward for consideration at the July 2021 meeting.

**DECISION:** The Council agreed to the proposed amendments to the checklist.

**ACTION:** The Senior Governance Coordinator to upload the agreed checklist to the Advisory Council's document library.

**ACTION:** The Senior Governance Coordinator and Senior Access Manager to put the use of the FCDO checklists by other departments on the agenda for the July 2021 meeting.

## **7. Access to Records**

- 7.1. The Council formally approved the acceptance of schedules seen outside the meeting, with the exception of any queries which were brought to the meeting.
- 7.2. A schedule of closure applications, together with a schedule of retention applications, was sent to members prior to the meeting.
- 7.3. Members had been asked to raise any queries within 10 days.
- 7.4. The Senior Access Manager collated the queries and a list of them was circulated with the papers for this meeting, with responses being provided where possible.
- 7.5. At the meeting, members were asked if they were content with the responses provided, whether in written form or orally. Where a response had not been provided, or members remained unhappy, the queries were carried forward.

### **Outstanding Queries**

#### **Queries on closure and retentions schedules (March 2021)**

#### **Queries on closure and retentions schedules (May 2021)**

- 7.6. The Council was content to approve the applications on the basis of the clarification or additional information provided by the departments, subject to certain exceptions, which were either queried, withdrawn or carried over, as the relevant department had yet to respond.

## Queries on absolutes, comments and typographical errors (May 2021)

- 7.7. The Council noted the amendments made, clarification or additional information provided.

### 8. Departmental Retention Requests

- 8.1. The Council considered papers from departments relating to the retention of records and updates on current retention instruments, further to requests from members made at previous meetings.
- 8.2. The Council's decisions made in respect of each paper has been noted below. Any resulting approval recommendations will then go forward to the Secretary of State.

**ACTION:** The Senior Governance Coordinator will write to departments to notify them of the Council's recommendations, including any which will go forward to the Secretary of State with regard to their retention requests. There were applications for retentions of one year from the following departments:

- DCMS

There were applications for retentions one to four years from the following arm's length bodies:

- IOPC
- Met Police
- Natural England
- ONS
- Pensions Regulator
- Royal Mint
- Science Museum Group

There were applications for retentions of one year from the following places of deposit:

- Tate

Updates were received from the following departments:

- Cabinet Office
- DfE
- Home Office
- HM Treasury



- MHCLG

Updates were received from the following arm's length bodies:

- FSA
- Ofsted
- UKEF

Updates were received from the following places of deposit:

- Tate

## **9. Department for Work and Pensions (DWP)**

- 9.1. A representative from the DWP, joined the meeting to provide an update on the ongoing work at DWP and summarised the work undertaken since the DWP's last report to the Council.

**DECISION:** The Council thanked DWP for joining the meeting.

## **10. Freedom of Information (FOI) Panel Update**

- 10.1. The Council received a paper providing an overview of the issues and work undertaken by Panels, which included the most recent service statistics, and responded to a number of matters raised by Panel members.

- 10.2. Members discussed the procedure issue noted in the report, whereby one member recuses themselves and the remaining two members cannot reach a consensus. Members agreed that in this scenario it was appropriate that the case was put before a fresh panel and that the new panel should have access to the deliberations of the previous panel.

- 10.3. Members discussed the application of S38 of the FOIA and balancing this exemption against the public interest tests, particularly in cases containing potentially distressing information to individuals who may not be immediate family members. Members noted they had considered this previously and requested this information be recirculated.

**ACTION:** The Head of the FOI centre to circulate information and guidance on the application of the public interest test to S38 of the guidance, particularly to individuals who are not immediate family members.

## **11. Any Other Business**

11.1. The Senior Governance Coordinator provided members with an update on membership for the Council.

11.2. She also noted that going forward the Council should continue to invite departments to attend via video link unless members had a reason for doing otherwise.

11.3. The Chair thanked everyone and closed the meeting by wishing everyone well.

**There being no further business, the meeting was closed at 15.03pm.**