



**ADVISORY COUNCIL ON
NATIONAL RECORDS AND ARCHIVES**

Date: 5 May 2023
Time: 11:00-15:50
Venue: The National Archives and Video Link

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

Members: Mr David Rossington, Deputy Chair
Lady Moira Andrews
Ms Liz Copper
Dr Nigel Fletcher
Dr Helen Forde
Mr Peter Gooderham (via VL)
Ms Kate Grimley-Evans
Mr Stephen Hawker
Mr Martin Howard
Professor Phillip Johnson
Professor Leon Litvack, Deputy Chair of the Forum
Sir David Natzler
Ms Helene Pantelli
Mr Jonathan Scherbel-Ball
Mr John Wood

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

Non-members:

TNA: Senior Access Manager
Ms Asha Bagayat, Head of Governance
Head of the FOI Centre
Strategic Compliance Lead (via VL)
Ms Lucy Fletcher, Public Access and Government Services Director
Mr Jeff James, Chief Executive and Keeper
FOI Manager (via VL)
Transfer Manager (via VL) (Observer)
Mr Malcom Todd, Head of Policy
Mr Sam Whaley, Head of Strategy and CEO's Office (via VL)
Governance Coordinator

MR's Office: Mr Terry McGuinness, Office of the Master of the Rolls

Departmental Attendees: British Library and The National Archives' Sponsor,
DCMS (Observer)
FCDO (Item 8)

1. Welcome, introductions, apologies and declarations of interest

- 1.1. The Chair welcomed everyone to the meeting.
- 1.2. Dr Jeannette Strickland and Mr Martin Uden submitted apologies for absence.
- 1.3. There were no declarations of interest.

2. Minutes and matters arising

Minutes of the meeting held on 10 February 2023

- 2.1. Subject to amendments proposed by members and the Secretariat, the minutes of the meeting held on 10 February 2023 were approved as a correct record.

ACTION: The Secretariat to update the minutes with the suggested amendments and upload the public set of minutes to the website.

Actions Log

- 2.2. The Deputy Chair provided an update on the letter the Advisory Council had written to the Department for Digital, Culture, Media and Sport (DCMS).
- 2.3. The Action Log was noted. The following actions were closed:

Items 1, 2, 3, 4, 5, 6, 7, 8, 34 and 21.

ACTION: The Secretariat to update the Actions Log with the items reported at the meeting.

3. Chief Executive Officer's Report and Government Landscape Update

- 3.1. The Chief Executive and Keeper introduced his update paper on current issues and ongoing matters.

- 3.2. Members asked Ms Fletcher for a summary of any key themes on the end of the 10-year transition period to the 20-year rule. Ms Fletcher noted there were still high levels of paper records which required transfer, but that it was also important to use this opportunity to look forward to departments completing the discovery work for their digital records. Additionally, the topic would also feature in The National Archives' annual report.
- 3.3. Members asked if there was any further update on the changes at Twitter impacting the recording of Government tweets. Mr James updated members that The National Archives was applying for the grey tick as it was a government body. Upon securing a grey tick The National Archives would be able to access the Application Programming Interface.
- 3.4. Members discussed the Government-issued guidance on non-corporate communication. They noted it lacked clarity and asked if there were any plans to promote it more widely. Mr Todd noted that feedback so far showed people had understood the guidance. Ms Fletcher added The National Archives was supporting Government to roll out this guidance by supporting workshops on the topic. Members suggested a few simple summary points accompanying the guidance would help to clarify its meaning and highlight the key focuses. Mr James noted The National Archives would continue to assist with the workshops and that they were anticipating further guidance in the future.
- 3.5. Members congratulated The National Archives on its work with the Public Record Office of Northern Ireland and its lending of the Good Friday Agreement to them.

4. Advisory Council Records Report

- 4.1. The Secretariat introduced the paper on the Council's own records. She updated members on the progress made since the previous update and presented the first set of records which had been prepared and for which closure was required. She summarised the recommendations made within the report.
- 4.2. Members queried the selection of the individual VHS tape which formed part of the legacy records. The Secretariat noted The National Archives did not have the right environmental facilities for the storage of the tape and that the content of the tape did not merit selection.
- 4.3. Members noted the update and agreed the recommendations in the report.

DECISION: Note the appraisal of the VHS tape and agree its destruction. Approve the closure of records as agreed by the Governance Working Group.

5. Production of the Annual Report 2022/2023

- 5.1. The Secretariat introduced the draft report to members. She noted that some text was still awaiting the most up-to-date figures. She also noted the report would go through a formal proofreading and design phase once members had approved the plain text. She invited members to submit comments on the report and delegate any final amendments to the Deputy Chair and the Secretariat. The final report would be submitted to the Master of the Rolls' office for sign-off.
- 5.2. Members noted they were pleased with the presentation of the data and requested that the data in the remaining annex be presented in a similar way to that in the rest of the report. Members also noted some small linguistic changes they wished to be implemented. Members requested the addition of a paragraph on sustainability.
- 5.3. Members noted the draft and agreed the recommendations in the report.

DECISION: The Council agreed the delegation of final amendments to the Deputy Chair and the Secretariat.

ACTION: The Secretariat to liaise with the Deputy Chair and the Master of the Rolls on finalising the annual report, including the amendments noted at the meeting. The Secretariat to ensure the report is laid before Parliament.

6. Governance Working Group Update

- 6.1. The Deputy Chair provided an update on recent working group matters.
- 6.2. He highlighted the meetings the Group had had with attending Government departments, the Metropolitan Police, the Cabinet Office and the Ministry of Defence. Members also confirmed to The National Archives that they would value a session on mosaicking as it applies to public records.
- 6.3. The Deputy Chair also updated members on DCMS' response to the Council queries which had been received shortly before the meeting. He noted the response dealt with the points the Council had raised regarding S23 and S24, and S65 and S66 of the Freedom of Information Act (FOIA). The Deputy Chair summarised the points made and noted a copy of the letter would be circulated to members. He proposed that the letter be

considered in detail by the Working Group who would report back to the next Council meeting with proposed actions or follow up.

- 6.4. Members noted that whilst the response to its letter had been received after the annual reporting year had been completed, it may be useful to reference receiving the response in the annual report.

DECISION: The Council delegated consideration of DCMS' response letter to the Working Group.

ACTION: The Secretariat to organise a meeting of the Governance Working Group, with an item on DCMS' response letter.

ACTION: The Secretariat to circulate a copy of DCMS' letter to members for their information.

7. Freedom of Information (FOI) Panel Update

- 7.1. 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.
- 7.2. Members asked why the number of FOI requests The National Archives was receiving had increased so much. The Head of the FOI Centre noted there was no single reason behind the increase and that it was a range of factors.
- 7.3. The Head of the FOI Centre drew members attention to the revised Public Interest Test Form which was being put before members for their approval following endorsement by the Working Group.
- 7.4. In response to the proposed form, members noted it would be useful to clarify the public interest test definitions of 'would' and 'would be likely to'; this would assist departments when setting out their case.
- 7.5. Members noted their interest, when considering FOI cases, in how decisions were reached to close or to redact. The Head of the FOI Centre noted the primary consideration was the physical integrity of the file and what would be understandable of the file after redaction took place. Additionally, there were resourcing implications to redacting material that departments considered.
- 7.6. Members also raised their keenness to be sighted on relevant ICO decisions. The Head of the FOI Centre highlighted that members could

access the ICO website which had been circulated to members previously and that any particularly relevant updates given by the ICO were included in the guidance provided in the report to Council.

- 7.7. Ms Fletcher updated members on the increasing MoD Service Personnel requests. She noted these were increasing month on month and this project represented an unprecedented situation for The National Archives. They continued to work on this area. Members asked if the previous interest in these records at the Ministry of Defence could help The National Archives to predict the increase in interest in these records. Ms Fletcher noted that whilst the records had been held by the Ministry of Defence, they had not treated requests for these records under the FOI regime. She noted there was ongoing work to provide different access routes to the records, including digitisation.
- 7.8. The Council noted the report.

8. Foreign, Commonwealth and Development Office (FCDO)

- 8.1. Representatives from FCDO, joined the meeting to provide an update on the ongoing work at FCDO since its last report to the Council.

DECISION: The Council thanked FCDO for joining the meeting.

9. Departmental Retention Requests

- 9.1. 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.
- 9.2. The Council's decisions made in respect of each paper have been noted below. Any resulting approval recommendations will then go forward to the Secretary of State.

ACTION: The Secretariat 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 government departments:

- Department for Culture, Media and Sport (DCMS)
- Department for Work and Pensions (DWP)
- Ministry of Justice (MoJ)

Updates were received from the following departments:

- DWP

Applications for retentions of one to three years were received from the following arm's length bodies:

- Civil Aviation Authority (CAA)
- Competition and Markets Authority (CMA)
- Companies House
- Crown Estate
- Equality and Human Rights Commission (EHRC)
- Environment Agency
- His Majesty's Revenue and Customs (HMRC)
- Information Commissioner's Office (ICO)
- National Audit Office (NAO)
- North Sea Transition Authority (NSTA)
- Office of Communications
- Office for Students (OfS)
- Office for Nuclear Regulation (ONR)
- Office for National Statistics (ONS)
- Pensions Regulator

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

- Health and Safety Executive (HSE)

10. Access to Records

- 10.1. The Council formally approved the acceptance of schedules seen outside the meeting, with the exception of any queries which were brought to the meeting.
- 10.2. A schedule of closure applications, together with a schedule of retention applications, was sent to members prior to the meeting. Members had been asked to raise any queries within 10 days.
- 10.3. The Head of Government Services collated the queries and a list of them was circulated with the papers for this meeting, with responses being provided where possible.
- 10.4. 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.

- 10.5. Council was grateful that a significant proportion of old requests for further information from departments had now been answered, although a number still remained to be resolved. Council welcomed the new method of presentation of schedules by The National Archives which highlighted outstanding cases, and the efforts made by Charlene Amarte and her team to resolve these old requests. It asked the Working Group to consider further how to expedite these cases, on the basis of advice from The National Archives.

Outstanding Queries

- 10.6. Mr Howard raised a substantive point regarding schedule items. He noted he had concerns as to how Defence Intelligence material was being with in the schedules. He expressed concern that citing Defence Intelligence may create a situation where items were treated de facto as absolutes. Members agreed that departments needed to cite an explicit reason for retention, such as information classification level. They agreed that the Secretariat should write to the relevant departments and propose a meeting to discuss this with Mr Howard in more detail.

ACTION: The Secretariat will write to the relevant departments, raising the issue and propose a meeting.

Queries on closure and retentions schedules (February 2023)

Queries on closure and retentions schedules (May 2023)

- 10.7. 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 comments and typographical errors (May 2023)

- 10.8. The Council noted the comments made.

11. Any Other Business

- 11.1. Ms Fletcher updated members that a number of previous items the Council had recommended for retention would now be covered by different retention instruments than originally listed as, but this would not affect the length of retention provided to these bodies.

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

There being no further business, the meeting was closed at 15.50pm.