



**ADVISORY COUNCIL ON
NATIONAL RECORDS AND ARCHIVES**

Date: 16 February 2024
Time: 11:00 – 15:10
Venue: The National Archives (TNA) and Video Link

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

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

Minutes: Ms Jenna Birley, Governance Manager and Secretary to the Advisory Council (TNA)

Non-members:

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

MR's Office: Mr Samuel Allan, Private Secretary to the Master of the Rolls

Departmental Attendees: Metropolitan Police (MEPO) (Item 8)

1. Welcome, introductions, apologies and declarations of interest

1.1. The Chair welcomed everyone to the meeting. Members welcomed Ms Birley to her first meeting in the role of Advisory Council Secretary. Members also welcomed Mr Murphy to the meeting in his new role as Head of the FOI Centre.

1.1. Apologies had been received from Lady Andrews and Sir David Natzler.

1.2. Members wished to record their sadness at the untimely passing of Dr Strickland in December. Members wished to pass on their condolences to her family.

1.3. Mr Rossington recused himself from consideration of the Gambling Commission element of item 9.2.3, as a member of the Gambling Commission Board.

2. Minutes and matters arising

Minutes of the meeting held on 6 November 2023

2.1. Subject to a minor amendment proposed by members, the minutes of the November meeting were agreed as a true and accurate record.

Actions Log

2.2. The Action Log was noted. The following actions were closed:

Items 26, 27 and 28.

3. The National Archives Update

3.1. Chief Executive Officer's (CEO) Update and Government Landscape

3.1.1. The CEO and Keeper introduced this update paper which was taken as read.

3.1.2. It was noted that the subject of wills would be addressed later on the agenda (item 5).

3.1.3. Members wished to offer their congratulations to those involved in producing the National Archives' Great Escapes exhibition and encouraged those who had not yet visited it to do so.

3.1.4. Members referred to a recent article in the Guardian ("National Archives censor files showing late queen concealed relative's wealth") and asked for clarification on the claims made within. Members were informed that proper processes had been followed. The documents in question had been transferred to the National Archives before the enactment of the FOI Act and had therefore been subject to a different redaction and reclosure process than was used since its enactment.

3.1.5. Members asked for an update on the recruitment of TNA's new CEO. Dr James informed them that this was in train and an update would be provided to the Council in due course.

4. Administrative Items

4.1. Governance Working Group (GWG) Update

Mr Rossington provided a verbal update on the last GWG which took place on 12 January 2024. The principal item for discussion had been the updated Foreign, Commonwealth and Development Office (FCDO) checklist. Further GWGs remain to be scheduled for 2024.

ACTION: Secretariat to schedule a GWG meeting before the next Advisory Council.

4.1.1. FCDO Updated Checklist.

The FCDO had presented an updated checklist for discussion at the January GWG meeting. Members had had constructive discourse with FCDO colleagues and many of the recommendations put to them by members had been incorporated. It was noted that the intention of the checklist was to be a working document.

4.1.2. Mr Rossington provided some clarification on when members will not receive further information from the FCDO in response to their closure and retention queries.

4.1.3. Members noted that, this being the case, the schedules need to properly describe the piece in order to demonstrate the Public Interest Test is being fulfilled.

4.1.4. It was noted that the Council does reserve the right to review individual case files in exceptional circumstances.

4.2. Verbal Update on File Review

Mr Rossington provided an update on this individual file on behalf of Sir David Natzler. His recommendation was to accept the advice of the Department.

Advisory Council accepted the recommendation.

4.3. Annual Report 2023-24

4.3.1. Ms Bagayat provided an update on the Advisory Council's Annual Report submission for 2023-24. It was the Secretariat's intention to present a draft for approval at the next Council meeting in May.

4.4. Verbal Update on Advisory Council Files

4.4.1. Ms Bagayat informed the Council that their own public record submissions were up to date. Ten files were pending sensitivity review for the current year.

5. Digitisation and Storage of Wills

5.1. Mr Rossington introduced this item and asked Council to consider whether to proceed with writing a letter to the Department for Culture, Media and Sport (DCMS). The proposed letter was appended to the paper for consideration.

5.2. Members noted that the CEO and Keeper had written to the Ministry of Justice's Minister to set out the National Archives' position on the subject, and to offer assistance in an advisory capacity if required.

5.3. Members considered the draft letter and agreed the content but requested the language be strengthened to be clearer.

5.4. Members considered the recipients of the letter. It was felt that, given the Council's role in providing advice to inform policy development, it ought to be addressed to the sponsoring Department's Minister, copied to the Directors General. Members also felt it would be constructive to offer a meeting to discuss further if required. The letter would be drafted on behalf of the Advisory Council and signed by Mr Rossington as Deputy Chair, and Prof. Litvack as Deputy Chair of the Forum for Historical Manuscripts and Academic Research.

ACTION: Mr Rossington to redraft the letter in accordance with the feedback received from members and to circulate to TNA colleagues and signatories for approval. Once approved, the letter was to be sent to the Minister responsible for Archives, Lord Parkinson, and the Directors General of DCMS.

6. FOI Panel Update

- 6.1. The Head of FOI Centre presented this report and highlighted key metrics to members.
- 6.2. Members were informed the FOI Centre concluded 2023 having received over 4,000 requests. The Advisory Council Panels had considered a total of 840 cases, each being assigned the maximum number of twenty cases each. FOI requests for the recently transferred MoD Service Personnel records, handled by the MOD Access Service, received over 18,000 requests for those records by the end of 2023.
- 6.3. Members queried whether some Departments are being too cautious with their application of s. 38 of the FOI Act.
- 6.4. Similarly, Members requested Departments be reminded of the correct language to use in their justifications such as, for example, using 'could' when 'would' or 'would be likely to' would be more accurate. It was confirmed that TNA colleagues would be proofreading for this particular issue thoroughly.

7. Access to Records

- 7.1. The Council considered outstanding Departmental queries from September 2023 which included clarifications, revised applications and updates; withdrawn applications; applications carried forward; and the record of recusals.
 - 7.1.1. A specific concern about the length of time being taken to resolve queries was raised by members. There had been progress on this and Council was most grateful to the TNA Senior Access Manager. Council's continuing concerns would be raised with Departments by the Senior Access Manager.
- 7.2. The Council then considered the same from November 2023.
- 7.3. The Council then considered the same from February 2024.
 - 7.3.1. 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 to the next meeting, as the relevant department had yet to respond.
- 7.4. The Council noted comments on applications to close records under draft FOI Schedule 151 and 152 and Retention Instrument 156.

8. MEPO Update

8.1. Representatives from the MEPO joined the meeting.

ACTION: MEPO colleagues to provide additional detail as requested to the Advisory Council.

ACTION: The Advisory Council to write to the MEPO, outlining their duties under the Public Records Act.

9. Departmental Retention Requests

9.1. Departmental applications and updates

The Council considered papers from departments relating to the retention of records and updates on current retention instruments requested by members at previous meetings. Any recommendations for approval were to be advanced to the Secretary of State for ratification.

There were applications for retentions of one year from the following government departments:

- DCMS

Updates were received from the following departments:

- Department for Work and Pensions (DWP)
- Northern Ireland Office (NIO)

9.2. Applications for retentions of one to three years were received from the following Arm's Length Bodies (ALBs):

- Competition and Markets Authority (CMA)
- Gambling Commission
- National Audit Office (NAO)
- North Sea Transition Authority (NSTA)
- Office of Gas and Electricity Markets (Ofgem)
- Office for National Statistics (ONS)

Updates were received from the following ALBs:

- Civil Aviation Authority (CAA)
- His Majesty's Land Registry (HMLR)
- Information Commissioner's Officer (ICO)

- National Savings and Investments (NS&I)
- Water Regulation Authority (Ofwat)

9.3. Applications for retention were received from the following Places of Deposit (PODs):

- Tate

Updates were received from the following PODs:

- Postal Museum
- Science Museum Group (SMG)

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.

10. Any Other Business

10.1. The Advisory Council wished to record its thanks to the Governance Coordinator, for her work in supporting the Council business and its membership in the period they had been without a secretary.

The meeting closed at 15.50pm.