

From: [REDACTED]
To: [REDACTED]
Subject: Commons Commissioners Case files
Date: 15 February 2006 15:31:50

Hello [REDACTED],

Thank you for your email in connection with the above, and for giving me such a lot of information. It really helped me to get a handle on the issue, so I was very grateful.

Firstly, you are absolutely correct in thinking that TNA couldn't take in the case files before they have been reviewed and selected for permanent preservation. I'm afraid we would be overrun if we went down that route.

I can understand the Sustainable Land Unit being concerned about the safe storage of the files once they have been disbanded, but it is up to DEFRA to ensure the safe keeping of the files until they are reviewed, and to provide access.

There are also other considerations which you may want to consider, at this point.

The Commons Bill is at present working its way through the parliamentary process, but there seems little doubt that it will be passed. Under it, the Commons Commissioners' functions would be abolished, and Commons Registration Authorities would take forward the new measures under the legislation for the re-registration of common land. The management would be taken up by the creation of Commons Associations. According to the 'Final Regulatory Impact Assessment' on the Bill, DEFRA and the Welsh Assembly Government are to oversee both the process of updating the registers and the establishment and operation of the Commons Associations. In that case, would DEFRA be setting up a new business unit to deal with this, and shouldn't the case files be transferred to it, when it is established?

There is a link to various reports and the Commons Bill :

<http://www.defra.gov.uk/wildlife-countryside/issues/common/legislation/commons-bill/index.htm>

Also on p.88 of the Final Regulatory Impact Assessment it mentions that if the outcome of an application is contested the process will have to be pursued through the courts, so there may be a legal need to keep the files.

On p.83 there is a discussion on the possible scale of fresh registrations and the text reads 'Commissioners cases between 1979-1990 might be the only way of determining the number of cases', so there may be a need to use the files for this purpose as well.

I think because of the above it is also impossible for TNA to give an appraisal consideration to the files at this stage. The new measures under the Commons Bill and the open access disputes that have already arisen under the Countryside and Rights of Way Act 2000 , means these files have assumed a much higher profile.

I hope this helps, but do let me know if you have any queries.

Best wishes,

[REDACTED]

[REDACTED]
Development Client Manager, The National Archives

Tel: [REDACTED]

www.nationalarchives.gov.uk

-----Original Message-----

From: [REDACTED]@DEFRA.GSI.GOV.UK]

Sent: 15 February 2006 11:24

To: [REDACTED]

Subject: Commons Commissioners Case files

I was recently contacted by the Sustainable Land Unit (SLU) in Bristol in connection with Commons Commissioners case files.

* The Commons Commission was set up back in the 60s to adjudicate on disputed registrations of common land. Each dispute resulted in a case file containing various historical documents relating to ownership and boundaries of land (conveyances, maps etc) and the Commission's decision. This used to be the responsibility of the Dept of Environment (and others?) but was inherited by us when Defra was formed. It is now managed by the SLU. However the legislation is due to be repealed shortly resulting in the demise of the Commons Commissioners. The relevant branch of the SLU will then be disbanded.

* We haven't reviewed any of these case files yet (of which there are several hundred) - they are scheduled for 2R in due course - although they may have been reviewed by previous departments (there are some files in TNA).

* Members of the public occasionally seek access to these case files via the SLU. However, once the relevant branch of the SLU is disbanded there is concern that the public will not have an avenue to access them. The SLU has asked if TNA would be prepared to take over storage of these case files now to allow continued public access.

In my view, the short answer to their question is - No! TNA might be interested in taking a sample (but probably not all) of these case files following 2nd review, but I don't think it is appropriate or necessary to take them all now, i.e. outwith the normal review cycle. In my view it is Defra's responsibility to ensure the files are securely stored and public access provided for until they are 2Rd. When the SLU branch disbands, they will have to ensure procedures are put in place to allow continued public access. I've advised the SLU along these lines but said I'd run it past TNA - just in case!

I've looked on PROCAT and there are some "Commons Commissioners" files in the archives (under classes AT, BL, CRES, HLG, J, LW, MAF & WORK); mainly legislation, but there may be one case file - CRES 58/1342.

Unfortunately, some of the case files in Iron Mountain could be over 30 years old, but I understand we'd have difficulty identifying them. I could get some examples from IM to see what sort of documents are held, but even if they do contain "valuable" information, I still don't think TNA should take over storage of them at this stage. That time will come after 2R.

This isn't urgent, but I'd be grateful for your views when you get a chance

Regards

Department for Environment, Food and Rural Affairs (Defra)

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/Defra – TNA Visit 19-22.7.2010 – Notes and Action Points:

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out of scope of
the request

Agenda:



Thursday: 22.7.2010: AM only,

■ [Redacted]

8. Outstanding Issues from March Visit,

■ [Redacted]

■ [Redacted]



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the request

8. Outstanding Issues from March Visit:



Commons Commissioners Files:

Contents: Copy of OS map showing boundaries, registered under the Commons Registration Act 1965. Objection to Registration and Statutory Declaration – signed copy.

Registers: Kalamazoo covers,

Volume: Not known

Date Span: Not known

Contents: Name or brief description and situation of common land or green.

Decisions of the Commons Commissioners:

Bound Volumes by County.

Volume: Not known

Date Span: Not known

Contents:

Copy of written signed decision, Index of decisions by location and showing (we think) county reference and register number.

CL Series: Opened 1958 for the Royal Commission on Common Land. Includes reference to registers.

AP:

Defra need to establish volume and date span for all the records.

Contact Natural England to check whether these are their records.

█ to discuss with █ about connection to Land Registry records.

Post Visit Note:

█ is to ask Land Registry to provide a statement on how they interact with Common Land Commissioners and their records.

Smoke Control Orders:

Update from █:

There had been no progress with establishing the legal requirement to retain these records.

Now looking at a possible scanning project so that the originals could be stored with IM.

The full collection had now been transferred to Defra from DCLG.

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the request

27.7.2010

Defra announces changes to arm's length bodies

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the request

The Secretary of State announced that she will be:

- Abolishing the Commons Commissioners.

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the request

The **Commons Commissioners** is a statutory body comprising expert lawyers in commons law who were appointed to adjudicate disputed applications to register common land and greens under the Commons Registration Act 1965. This work began in the early 1970s and has now been concluded, so there is no need for this body to remain.

Defra Website:22.7.2010



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INFORMATION AUDIT REPORT

Programme/ongoing function:
Environmental Land Management. Work streams and nominated contacts:

[Redacted]

- Commons Act 2006 Implementation –

[Redacted]

Report Date:
June 2010

Action follow up date:
December 2011

Redacted under section 40(2) of FOIA 2000 and as out of scope of the request

[Redacted]

[Redacted]

[Redacted]

Redacted as out of scope of the request

Risk Assessment against Key Risk Indicators	Comment & Recommended Action to ensure compliance with Information Management Standards	Date action to be completed by
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[Redacted content]		
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<p>5. Business Value & Research/Historical Value - Is information present which is considered to be of the highest business value or which has potential research/historical value and requires longer term preservation?</p>	<p>Yes, all work streams are responsible for the formulation of policy and legislation, and are involved with committees - details are listed in Annex 1, Section 3 below.</p> <p>The below information may be of long term value to The National Archives:</p> <p><u>Commons Act 2006 Implementation</u></p> <ul style="list-style-type: none">█ [Redacted]█ [Redacted]█ [Redacted]• Commons Commissioners work dating back forty years, Defra provided the Secretariat but it will be wound up in approximately six months. It is thought that some of this information could be appropriate for permanent preservation. There is a Commons and Greens website that provides links to scanned copies of commissioner's decisions. A link to commonsandgreens@defra.gsi.gov.uk is provided on the site. <p><u>Agri-Environment Policy</u></p> <ul style="list-style-type: none">• Information relating to the 22 English Environmentally Sensitive Areas comprising farmer advisory documentation, maps etc. <p>Action: Commons team to contact the KIRM Information Appraisal team (see section 14 below for contact details) to discuss long term preservation of the Commons Commissioner's records.</p> <p>Action: All work streams to ensure that appropriate retention periods are applied as detailed in What to Keep guidance at Annex 2.</p>	<p>September 2010</p> <p>Immediately</p>
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scope of the request

7. **Retention** – Are appropriate retention periods in effect?

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Commons Act 2006 Implementation

No, The team is not using Defra retention schedules and requires guidance.

The team has submitted a vast amount of legacy material dating back to the 1800's to the Library.

<p>9. File Management – Are paper files being appropriately managed?</p>	<p>In general Yes, the Administrative Support team manages most of the paper files on behalf of the Programme. However there are issues:</p> <p>[Redacted]</p>	<p>[Redacted as out of scope of the request]</p>
	<p>There is a CCMS file series relating to Commons Commissioners, confirmation is required concerning whether this series is managed by the Commons team.</p> <p>[Redacted]</p>	

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scope of the request

11. **Knowledge Sharing & Publication** – Is there scope to improve sharing, publication, re-use and exploitation of information?

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Commons Act 2006 Implementation

The team may be involved with [Commons and Greens](#), the website for the Association of Commons Registration Authorities.

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ANNEX 1

FULL REPORT DETAILS (information collated from Information Audits)

1. Purpose and objectives of the Programme

All work streams listed fall under Environmental Land Management (ELM) and are managed by [REDACTED]
[REDACTED] Commons Act falls under the Wildlife and Countryside
Ongoing Activity (the remainder of the work streams under this programme will be audited separately): [REDACTED]

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FOIA 2000 and as out of scope
of the request

Commons Act 2006 Implementation

Commenced in 2002.

There is no end date but the implementation work may be complete by circa 2006.

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The current principle activities of the Commons team are:

- Winding up of the Commons Commissioners.

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2. Types of information produced

a) Paper file series:

Commons Act 2006 Implementation

[REDACTED] is the contact.

CRMS and a supplementary word document are used to manage the paper files. The word document is held on the shared drive: [\\er330fs\L_ENV\WCLR\ELM\Common Land\17 Commons legislation team\1 Management\3 Branch management\File list.doc](#)

[REDACTED]
[REDACTED]

COM (opened not known, last used not known, quantity not known, but several 10,000s) (records of the Commons Commissioners)

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scope of the request

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scope of the request

3. Information produced of potential historical/business value:
Needs to be maintained long term and may be selected for permanent retention.

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scope of the request

Commons Act 2006 Implementation

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Legacy records:

- [REDACTED]
- Commons Commissioners work dating back forty years, Defra provided the secretariat but it will be wound up in approximately six months. It is thought that some of this information could be appropriate for permanent preservation. Although much of it is not of use some could be considered vital and is used to answer queries. There are tens of thousands of files stored at Iron Mountain.

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ANNEX 2

WHAT TO KEEP – SPECIALISED GUIDANCE

The **specialised** guidance below has been created from information provided by the Programme/Ongoing Function’s teams whilst carrying out the Information Audit. If any key information considered worthy of retention beyond 7 years has been omitted please contact record.management@defra.gsi.gov.uk.

The **specialised** guidance should be used in conjunction with the **generic** guidance by all members of the Programme/Ongoing Function. **Generic** guidance can be found at [What to Keep](#)

Note that any information classed higher than ‘restricted’ must not be retained electronically. It should be printed, placed on a registered file & kept in a locked cabinet - see [Guide to Securing Information](#)

All business areas covered by this report **must** ensure information relating to the following areas is filed in appropriate shared drive folder (or team site when rolled out).

Significant information should be printed & placed on a registered file.

What to Keep	Where to Keep it	Who should save it	When should it be saved?	How long should it be retained?
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Commons Act				

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Commons Commissioners	E-Records	Lead Official	Immediately	Long Life Cycle Keep for more than 7 years Do Not Delete
	Paper Records	Lead Official	Immediately	Long Life Cycle Keep for more than 7 years Do Not Delete

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