

Operational Selection Policy OSP12

Records of the central direction and oversight of government policy and programmes, 1970 – 2000

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Contents

1 General

- 1.1 Authority
- 1.2 Scope
- 1.3 The National Archives Acquisition Policy Themes

2 The Queen as Constitutional Monarch

- 2.1 Introduction
- 2.2 The Appointment of the Prime Minister
- 2.3 Privy Council and other Records Relating to Prerogative Powers
 - 2.3.1 The Privy Council
 - 2.3.2 (Lord) President of the Council
 - 2.3.3 Privy Council Committees and other bodies
 - 2.3.4 The Judicial Committee of the Privy Council
 - 2.3.5 Other Prerogative Powers

3 Parliament

- 3.1 The Records of Parliament
- 3.2 The Public Accounts Committee and the Comptroller and Auditor General
 - 3.2.1 Introduction
 - 3.2.2 The Exchequer and Audit Department and National Audit Office Records

4 The Prime Minister

- 4.1 The Office of Prime Minister
- 4.2 The Records

5 The Cabinet

- 5.1 Introduction
- 5.2 The Records of the Secretary of the Cabinet and the Cabinet Secretariats
- 5.3 The Leaders of the Houses
- 5.4 The Lord Privy Seal
- 5.5 The Records of the Chief Whip's Office
- 5.6 The Records of the Ceremonial Branch
- 5.7 The Records of the Central Intelligence Machinery
- 5.8 The Records of other Cabinet Office Functions
- 5.9 The Official History Programme

6 Ministers and Their Departments

6.1 Introduction

6.2 Ministers' Private Office Records

6.3 Special Advisers Records

6.4 Records of Ministerial Nominations and Appointments to Public Bodies

6.5 Non-Departmental Ministers

7 Judicial Review of Ministerial Decisions

7.1 Judicial Review within the English Legal System

7.2 Judicial Review Records

8 Implementation

1 General

1.1 Authority

The National Archives' Acquisition Policy announced the Archives' intention of developing Operational Selection Policies across government. These would apply the collection themes described in the Acquisition 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 at any time in the light of comments from record producers, reviewers or users of the records or as a result of newly discovered information. There is no formal cycle of review - we welcome comments at any time. The extent of any review or revision exercise will be determined according to the nature of comments received.

If you have any comments upon this policy, please e-mail information.management@nationalarchives.gsi.gov.uk or write to:

Information Management and Practice Department
The National Archives
Kew
Richmond
Surrey
TW9 4DU

This Policy does not provide guidance on public access to selected records.

1.2 Scope

This Operational Selection Policy describes the records created at the centre of government in the United Kingdom during the period 1970 to 2000 and states which of these records will be selected for permanent preservation. It addresses directly the records of the Prime Minister's Office, the Privy Council Office, the Cabinet Office and the National Audit Office.

This Operational Selection Policy covers the executive processes, both formal and substantive, at the heart of the government of the UK. Parliament is not covered as it is not subject to the Public Records Act and holds all the records of its own proceedings. Judicial records will be the subject of separate Operational Selection Policies. However, two areas where these capacities touch the executive closely - the Public Accounts Committee, and judicial review - are briefly referred to in this policy. The records of the National Audit Office, which reports to the Public Accounts Committee, are covered in this Policy.

Because the United Kingdom has no written constitutional provision the policy and administrative processes at the centre of government are subject to

constant change, some of which is profound or radical or both and is effected by legislation (eg devolution of power to Scotland and Wales), but some of which is subtle, with the full implications becoming apparent only over a longer timescale. The records of major constitutional change will be dealt with in other Operational Selection Policies, but this Policy will address the records arising from the relationships at the heart of government within which subtle and evolutionary constitutional adaptation may from time-to-time be evident.

The records of the Royal Family and the Royal Household fall outside the scope of the Public Records Act, and are not addressed by this Operational Selection Policy. Prerogative powers in the areas of the use of the title 'Royal' and of the monarch as Head of the Church of England are now administered by the Department for Constitutional Affairs, although for the period covered by this Policy they were the responsibility of the Home Office's Constitutional Unit. The selection of records relating to the use of the title, "Royal" and the monarch's prerogative powers as Head of the Church of England are addressed in this Policy. The Crown's prerogative of mercy is handled by Home Office's Justice and Victim's Support Unit and will be included in an Operational Selection Policy on criminal justice.

The records of the Judicial Committee of the Privy Council are not public records, and fall outside of the scope of this Operational Selection Policy.

Constituency papers and those relating to ministers' personal interests which are handled by ministerial private offices, and papers of special advisers acting purely in a party capacity which have been kept separately from departmental records are not deemed to be public records and this Policy does not address them.

This policy does not address records relating exclusively to Scotland, Wales or Northern Ireland. It does not address the records of HM Treasury; or records of the ongoing initiatives and measures to improve the day-to-day management and efficiency of the civil service which have been sponsored successively by the Treasury, the Civil Service Department, the Management and Personnel Office, the Office of the Minister for the Civil Service, and the Office of Public Service: these are covered separately in OSP24, *Records Relating to the Machinery of Government and the Management of the Civil Service, 1974 to 2000*. Nor does it address the records of the Central Statistical Office or those of the later Cabinet Office agencies - the Civil Service College, the Central Computers and Telecommunications Agency, and the Civil Service Medical Advisory Service. Selection of records created in these agencies will be addressed in subsequent Operational Selection Policies.

The Policy does cover the records of the national intelligence machinery based in the Cabinet Office, but it does not cover the records of the security and intelligence agencies. The records of the Security Service are already covered in Operational Selection Policy OSP8, and those of GCHQ in Operational Selection Policy OSP28.

As the 1990s advanced records in all the departments referred to in this Operational Selection Policy were increasingly created in electronic form. Although policy and practice up to the time of publication of the white paper, *Modernising Government*, in 1999, and subsequently continued to be to print out hard copies of business documents to paper files, systems were coming into use which were conceived and designed to be used electronically, such as those based on world wide web technology. In that they were designed to be electronically inter-active, in their capacity to purvey much larger quantities of information including directly to the general public, and in their capacity to be subject to revision and deletion from minute to minute, these records do not have a previous paper equivalent, and nor is their content ever likely to be printed to hard copy on any coherent and comprehensive basis. For the last few years covered by this Policy therefore a selection approach specifically to address the Prime Minister's Office website will be operated – to transfer to The National Archives snapshots of the website at the time of major events in a world-wide or UK-wide context. This is in addition to the Policy of selecting 'harvested' copies of government websites, including those of the Prime Minister's Office, the Cabinet Office and the Privy Council Office detailed in OSP27, *Government Websites*. This approach will be subject to continuous review from both research value and technical preservation viewpoints, and also from the viewpoint of its potential extensibility, or not, to Internet and Intranet records of the other departments covered in this Policy. Otherwise, where the electronic records simply supersede and replace paper forerunners, this Policy covers records in both paper and electronic forms.

This Policy is not an exhaustive statement of all the records that should be selected for permanent preservation. It is intended to provide a clear direction to the records staff of central government departments in determining which records should be permanently preserved at The National Archives.

1.3 The National Archives' Acquisition Policy themes

The records addressed in this operational selection policy fall within the scope of the Acquisition Policy themes of:

- 2.2.1.1 Formulation of policy and management of public resources
- 2.2.1.2 Management of the economy
- 2.2.1.3 External relations and defence policy
- 2.2.1.4 Security
- 2.2.1.5 Social policy
- 2.2.1.6 Cultural policy

2 The Queen as Constitutional Monarch

2.1 Introduction

At the beginning of the 1600s the Stuart monarchs claimed the prerogative to exercise legislative, executive and judicial functions personally. During the period leading up to the Glorious Revolution of 1688 and thereafter, the principal legislative function was assumed by Parliament, the courts increasingly asserted their judicial independence, and the convention became established that 'policy', that is, the day-to-day executive work of government should be determined by secretaries of state who could retain the support of Parliament. Over the course of the last three centuries Parliament has replaced many of the prerogative powers of the monarch by statutory powers vested in the secretaries of state or in the courts. Over the same period the secretaries of state and the first lord of the Treasury (coming in due course to be known as the prime minister) have claimed the right for ministers to advise the monarch in the exercise of all the remaining area of prerogative power. Nonetheless by convention the monarch is kept fully and regularly informed by the prime minister of the policy of the government and the Queen has an unrivalled fund of experience on the basis of which she may advise her ministers in successive administrations. The monarch continues formally to signify her assent to many actions of government.

2.2 The Appointment of the Prime Minister

The power to appoint the prime minister is sometimes referred to as the most significant area of the prerogative retained by the monarch. In practice it would now be extraordinary if the monarch did not appoint the elected leader of the largest party in the House of Commons. During the period covered by this Operational Selection Policy there were periods when the largest party did not itself command an overall majority of the House of Commons. The constitution requires that at such times the monarch makes the choice of whom to invite to form the new administration, and in such circumstances there would be an expectation that impartial advice would be sought by the monarch from senior members of each of the political parties, from officers of the Royal Household, from the Cabinet Secretary, and perhaps others. The records of any such consultations would be found in the records of the Royal Household, and in those of the Cabinet Office; all such Cabinet Office records will be preserved.

The prime minister informs the monarch of affairs of state by means of weekly audiences at the Palace and by correspondence, much of which is in practice conducted by their respective private secretaries. No record of the audiences is made, although subsequently references to them may arise in the correspondence, which will be preserved in the records of the Prime Minister's Office (see 4, below).

2.3 Privy Council and Other Records Relating to Prerogative Powers

2.3.1 The Privy Council

The responsibilities for advising the monarch on the exercise of the remaining prerogative powers have been assumed by the prime minister and the various secretaries of state as the machinery of government has evolved over the last three centuries. The Privy Council continues to be the constitutional vehicle for the exercise of many formal prerogative actions, most of which are instigated by secretaries of state acting in their roles as privy counsellors.

The Privy Council originated in the fifteenth century as a body of counsellors meeting to advise the monarch on day-to-day problems of government. Although its legislative role is now limited to making orders in Council and issuing royal proclamations its constitutional primacy and prestige remain significant (attendance at meetings of the Council remains the first item in Questions of Procedure for Ministers as issued by successive prime ministers). Orders in Council are of two kinds: prerogative, such as those relating to the constitutions or currency of overseas territories; and statutory, made under the authority of an act of Parliament. Royal proclamations are issued on the advice of the Privy Council when it is desired to give wide publicity to the action of the sovereign in Council, as for the purposes of dissolving, proroguing or summoning Parliament, and the declaring of war. Modern orders in Council are considered to be published documents and as such are not systematically collected by The National Archives, but some are included amongst the minutes and papers of the Council in the registers of the Privy Council, which will be preserved in their entirety (Acquisition Policy criterion 2.2.1.1).

The Council itself has a number of remaining functions, such as authorising the issue of charters and letters patent under the great seal and appointing and swearing in many senior appointees. The larger part of its administrative work is now discharged by the Privy Council Office or by committees. The following records of these functions will be preserved.

Chartered bodies: the Privy Council administers the establishment of new chartered bodies, and regulates significant changes to the regulations governing existing chartered bodies. Records demonstrating the establishment of new chartered bodies, or major changes to the regulations of existing bodies, will be preserved (Acquisition Policy criterion 2.2.1.1);

Colonial orders: the Privy Council administers the preparation and issue of orders, statutory instruments and other regulations made by the Privy Council Office for British Dependencies under the Foreign Jurisdiction Acts 1890-1913, the Judicial Committee Acts, 1833-1915 and the Commonwealth Settlement Acts, 1922-1967. These regulations themselves are printed legal documents and Privy Council files containing them need not be preserved, but policy files on the development of these functions will be preserved (Acquisition Policy criterion 2.2.1.3);

Instruments: the Privy Council approves and issues instruments applicable in the United Kingdom under various pieces of legislation. Policy files on the preparation of UK instruments will be kept (Acquisition Policy criterion 2.2.1.1). Except where the instrument relates to the administrative business of the Privy Council itself, individual Privy Council Office files on instruments will not be kept; the significant files on the development of these instruments will be preserved in the records of the lead department for the subject of the instrument. The instruments themselves are published legal documents and the Privy Council's file copy need not be preserved;

Appointments: the rules of some chartered institutions and universities specify that appointments to their governing councils are to be made by the Privy Council. Files on appointments are generally routine case papers. As representative examples of the records generated by this work have already been kept, these files will not be preserved in future, except where questions of significant policy or precedent are involved, or where the appointments were of contemporary significance and high profile (Acquisition Policy criterion 2.2.1.1). Files considering the appointment of governors of the BBC would be examples of this;

Cemeteries and burial grounds: the Privy Council is the body charged in the Burial Grounds Act 1853 with approving closures of burial grounds. Policy files on discontinuation of use of burial grounds will be kept. Case files on the discontinuation of particular burial grounds will not be preserved (Acquisition Policy criteria 2.2.2.1 and 2.2.2.2).

2.3.2 (Lord) President of the Council

The Privy Council Office duties of the (Lord) President are minimal. The (Lord) President is usually a minister of Cabinet rank who is assigned extra-departmental duties from time to time by the prime minister.

During the period of this Operational Selection Policy the (Lord) President was frequently in addition Leader of the House of Lords or Leader of the House of Commons (see 5.3, below); and was frequently also chairman of the Cabinet [Future] Legislation Committee. Where records of Lord Presidents' policy roles were created as separate file series any significant policy files will be selected for preservation. "Lord" was dropped from the title in 1997.

2.3.3 Privy Council Committees and other bodies

Committees or other bodies of the Privy Council have from time to time administered functions which subsequently developed and were passed to other departments of state, or which became the work of new departments in their own right. One recent example of this was the Central Drugs Co-ordination Unit. Records of such bodies usually pass to the successor organisation, but where such records remain with the Privy Council Office, they will be considered on merit under the criteria given in the Acquisition Policy.

During the period of the pact between the Labour and Liberal parties in 1977-1979, a Joint Consultative Committee was established with a Privy Council Office secretariat as a forum for settling policy issues between the two parties. Minutes, papers and correspondence of the Committee, and any records relating to its establishment and its mode of operation will be permanently preserved (acquisition policy criteria 2.2.1.1). Papers relating to purely administrative arrangements for the conduct of the Committee's business will not be preserved.

2.3.4 The Judicial Committee of the Privy Council

The records of the Judicial Committee of the Privy Council are not public records, and fall outside of the scope of this Operational Selection Policy.

2.3.5 Other Prerogative powers of the Crown

The monarch is the Fount of Honour. She is advised in the bestowal of honours and decorations on United Kingdom citizens by the prime minister, the foreign secretary and the defence secretary, except for those honours which remain entirely in her own gift. The prime minister was supported within his own office on honours and awards matters by the Honours and Appointments Secretary (see section 4.2), and the government collectively was supported by the Cabinet Office Ceremonial Branch (see section 5.3).

Prerogative powers in the areas of the use of the title 'Royal' and of the monarch as Head of the Church of England were administered by the Home Office until 2001. Records relating to the use of the title 'Royal' were created by the Home Office's Constitution Unit as part of the RYL file series. Of the records in the RYL file series concerning the use of the title 'Royal' only those relating to a major institution or involving a significant precedent will be selected for preservation.

Records relating to the prerogative powers of the monarch as the Head of the Church of England are in the Home Office's CHU file series. This is a wide-ranging file series, and this Operational Selection Policy is concerned only with the constitutional aspects of the Home Office's work in this area. Most of this work was routine, or involved processing the decisions of the Church of England Synod. Of the "constitutional" records in the CHU series, only those which involved the discussion of issues raised by the Home Office or which involved substantive input from the Home Office will be selected for preservation.

3 Parliament

3.1 The Records of Parliament

As noted above, Parliament is sovereign and owns and retains custody of all its own records: they are not subject to the Public Records Acts. In the nature of the Houses and their procedures their records are largely formal, printed and published documents.

3.2 The Public Accounts Committee and the Comptroller and Auditor General

3.2.1 Introduction

A Public Accounts Committee of members of the House of Commons was first appointed in 1861 and since then it has been established practice that the Committee is re-appointed in each Parliamentary Session, that it examines reports submitted to it by the Comptroller and Auditor General, that it hears evidence from witnesses and in particular from accounting officers and that it issues its own reports. The records of the Public Accounts Committee are held by Parliament, as noted above.

The Exchequer and Audit Departments Act of 1866 established the Exchequer and Audit Department (now the National Audit Office) under a Comptroller and Auditor General, and required there to be an accounting officer (nowadays normally the permanent secretary or the agency chief executive) for each Parliamentary money vote. The Comptroller and Auditor General is independent of the executive and is responsible directly to Parliament for auditing, certifying and reporting upon departmental accounts; the accounting officers are under a personal statutory duty to ensure that ministers act in accordance with the decisions of Parliament in relation to public expenditure.

Until 1983 the Comptroller and Auditor General's main function was to ensure there had been no impropriety in central government departments' spending; since the National Audit Act of 1983 an increasing proportion of National Audit Office work has been audit of economy, efficiency and effectiveness of departments or authorities in discharging their functions, generally known as value for money or VFM audits.

The records of the National Audit Office and of its predecessor the Exchequer and Audit Department are deemed to be within the ambit of the Public Records Act.

3.2.2 The Exchequer and Audit Department and National Audit Office Records

Within the general administration series only those records on high level corporate planning and budgeting, on preparation of primary legislation, or on major re-organisation will be selected for permanent preservation.

No Establishment, Training, or Welfare files will be preserved.

In the Audit General and White Files series only those files recording major change in audit principle or practice will be preserved.

Private Secretary's files will be reviewed in accordance with the recently issued *Private Office Papers Guidance*

No financial audit case files on single departments or section files will be selected for permanent preservation.

National Audit Office (NAO) value for money (VFM) files on high cash value or controversial projects will not be preserved. A comparison of these files with the published reports indicated that there was little extra information in these files that was not already articulated in the published NAO reports. For this reason it was felt that these files do not warrant permanent preservation.

4 The Prime Minister

4.1 The Office of Prime Minister

Although effective political power is concentrated in the person of the prime minister there continues to be no statutory basis for this, other than the financial recognition of the first lord of the Treasury in successive ministerial salaries acts, and implicit primacy in provisions within specific-issue legislation (eg the Regulation of Investigatory Powers Act, 2000).

The prime minister ensures that the monarch is fully informed of the general policies and business of the government; advises the monarch on many civil and ecclesiastical appointments; recommends the conferring of certain honours and awards; with the monarch's approval, appoints ministers and gives directions to guide them in the performance of their functions; presides over Cabinet and determines its procedures; and exercises a general supervision over departments, settling departmental differences where reference to Cabinet is not required. The prime minister communicates directly with the heads of other governments; answers questions in Parliament on general policy; and receives deputations about matters of major policy.

The prime minister is advised by career civil servants comprising: private secretaries seconded from departments each of whom has a particular field of responsibility and remains for a few years only; the secretary for appointments, who has a more permanent tenure; a small permanent staff, who provide continuity in the Office and build up the necessary resource of practice and procedure; and from 1974 until 2000 a Policy Unit constituted of a mixture of career civil servants and special advisers appointed on a short term basis by the prime minister for the duration of his administration. In addition, the prime minister is advised by the secretary of the Cabinet who from 1983 until 2000 was also the head of the home civil service, and by the permanent secretary to the Treasury, supported by their respective staffs.

In the matter of honours the prime minister is advised by an Honours Scrutiny Committee. The prime minister is advised by the appointments secretary on the appointment of life peers, privy counsellors and on honours recommendations. The prime minister is also advised by the appointments secretary on many civil and ecclesiastical appointments which remain expressions of the prerogative and are effected by royal warrant or by letters patent, on the award of civil list pensions, and on disbursements from sundry funds of a charitable nature.

4.2 The Records

This Policy covers the periods of office of six prime ministers from 1974 to 2000: Edward Heath (1970-1974), Harold Wilson's third administration (1974-1976), James Callaghan (1976-1979), Margaret Thatcher (1979-1990), John Major (1990-1997) and Tony Blair (1997-2000).

Throughout this period the structure of the records series in the prime minister's office has remained substantially the same. For the period of tenure of each prime minister there has been a main series of general correspondence arranged by subjects. The files in this main series will be selected for permanent preservation, except:

- Those which consist of papers circulated for the information of the prime minister or his close staff (such as Cabinet committee papers, Foreign and Commonwealth Office prints, which would be on the files of those departments) and to which nothing of substance was added
- Speeches
- Formal messages to other heads of state, which will be preserved on Foreign and Commonwealth Office files and
- Other purely routine material

The selected files will include those containing briefs for the prime minister in his capacity as chairman of Cabinet and of Cabinet committees (see also section 5.2, below).

The honours and appointments file series includes papers relating to honours, crown and other appointments. Files on the honours lists rarely contain anything not subsequently published in government gazettes.

Files selected for preservation from the honours and appointments series will be only those few which reflect changes of function, controversy, or honours which were not gazetted, or which are considered to be of historical value.

5 The Cabinet

5.1 Introduction

The central purpose of the Cabinet Office during the period covered by this Operational Selection Policy was to support collective Cabinet responsibility for government policy. The secretary of the Cabinet, assisted by the Cabinet secretariats, is responsible for arranging the business of the Cabinet, Cabinet committees and Cabinet official committees and for promptly recording and circulating the decisions taken so that responsibility for subsequent action is clearly understood.

The secretary of the Cabinet is also responsible for:

- i. Advice to the prime minister and, as appropriate, his ministerial colleagues on matters to do with the management of the government collectively including constitutional matters, propriety issues, the machinery of government, honours, and the conduct of government during elections
- ii. The co-ordination of the work of the intelligence agencies, for which he is the accounting officer

The secretary of the Cabinet has held the post of head of the home civil service since 1983. In the period 1979-1983 the secretary of the Cabinet was joint head of the home civil service, with the permanent secretary, Civil Service Department. The records of the management and supervision of the civil service are dealt with in a separate Operational Selection Policy, OSP24, Records Relating to the Machinery of Government and the Management of the Civil Service, 1974-2000.

5.2 The Records of the Secretary of the Cabinet and the Cabinet Secretariats

One record set of all Cabinet and Cabinet committee (including the Joint Intelligence Committee - see 5.4, below) minutes, conclusions and memoranda has customarily been bound for the Cabinet Office Confidential Library. All volumes of this set will be preserved. As the preparation and distribution of Cabinet and Cabinet committee papers is converted to an electronic process arrangements will be made for a full set of the definitive electronic records to be preserved.

The notebooks of the secretary of the Cabinet will be selected.

In addition between 1966 and 1991 two series of files - subject files and committee files - were maintained in the secretariat. The subject series files substantially reflect the work of the Cabinet secretariats, as well as some purely domestic Cabinet Office management matters. Secretariat subject files deal with issues which are of direct concern to one or more individual departments and their ministers and it is assumed that the records of those departments will be the principal source for study of the development of law and policy. Cabinet Office secretariat subject files will be selected only when they demonstrate material and sustained Cabinet Office involvement.

The committee (C) files provide i) details of the establishment, composition and terms of reference, ii) briefs for the chairmen, and iii) some information on the committee subject matter. Category i) is very largely duplicated in the Confidential Library bound volumes and so will not be selected. Category ii) exists in only a few instances: briefs for the prime minister as chairman of the Cabinet or of ministerial committees are preserved on the Prime Minister's

Office files (the PREM series) and so the Cabinet Office copies will not be selected. However briefs prepared for other ministers as Cabinet committee chairmen, where they survive in the Cabinet Office files, will be preserved. Category iii) is much more variable and some files may overlap with those in the subject series referred to above. They range from purely administrative papers of only ephemeral significance to policy material that will qualify for selection if not replicated in other preserved records.

5.3 The Leaders of the Houses

The leaders are responsible for the arrangement of both government business and non-government business, in each House. Ministerial salaries legislation makes no provision for these posts; however they are usually held in common with one of the non-departmental ministerial posts: (Lord) President of the Council, Lord Privy Seal, Chancellor of the Duchy of Lancaster, Paymaster General, or Minister Without Portfolio. During the period of this Operational Selection Policy these posts have generally been supported by the Civil Service Department and its successors or by the Cabinet Office.

The leaders records may be seen as reflecting two different (although closely related) functions: procedural issues concerning the members of the House individually or as a body, irrespective of party; and the government's Parliamentary business. In both of these functions the leaders work closely with the whips (see 5.5 below). The records of the leaders' involvement in procedural issues are generally either very short-term in nature, or reflected in the printed proceedings of Parliament, or both, and no or very few files will be selected for permanent preservation. The records concerning the government's Parliamentary programme consist almost entirely of inter-ministerial correspondence with the ministers with primary policy responsibility; as such it comprises duplicate material and will not be selected for preservation.

This approach to appraisal and acquisition of the records has been agreed between the House of Lords Record Office and the National Archives.

5.4 The Records of the Lord Privy Seal

The Office of the Keeper of the Privy Seal was abolished in 1884, since when the ministerial post of Lord Privy Seal has been available to the prime minister to dispose of to meet political requirements of the day. During most of the period covered by this Operational Selection Policy the Lord Privy Seal was in addition Leader of the House of Lords.

5.5 The Records of the Chief Whip's Office

Under UK constitutional convention an administration is formed from members of the House of Commons and the House of Lords. Theoretical distinction between the legislature and the executive is elided at this juncture: ministers are members of both, and the Cabinet Office and ministers' departmental staffs support them in Parliament so far as this is

required to achieve the government's business programme. The merging of the legislative and executive roles is clearly apparent in the operation of the Parliamentary whipping system. The achievement of a government's business programme depends at various stages on the government securing majorities in divisions or votes in the Houses of Parliament. It is the task of the government whips in the Lords and the Commons to achieve the largest possible votes for the government at these divisions. The Chief Whip's Office is staffed and financed by the Cabinet Office.

The government chief whip receives a minister's salary as parliamentary secretary to the Treasury; the assistant whips are also paid and rank as ministers. Since 1965 the Chief Opposition Whip and since 1972 not more than two Assistant Opposition Whips have been paid out of the Consolidated Fund. The government and opposition whips are also frequently the channel of negotiation between the political parties represented in Parliament, for matters which require two- or three-party or more agreement. These discussions are sometimes referred to as 'the usual channels' or 'arrangements behind the Speaker's Chair'.

The Government Chief Whip works very closely with the Leaders of the Houses, and the records are similar in their concerns with procedures of the respective Houses, and with the principal policy departments sponsoring legislation. Records of the Commons Chief Whip's Office will be selected for preservation only if they reflect high profile or controversial aspects of the management of governments' business programmes, or high profile or controversial negotiations between two or more of the parliamentary parties.

5.6 The Records of the Ceremonial Branch

Within the government honours policy is deliberated by the Official Committee on Honours, Decorations and Medals, which was supported by the Ceremonial Branch. Originally formed in 1937 as the Ceremonial Branch of the Treasury, it passed to the Cabinet Office in 1992. Although it was renamed as a Secretariat in 2000 the form branch is used throughout this Operational Selection Policy. All the records of the Committee, and other Ceremonial Branch policy records on the drafting of related documents (eg statutes and royal warrants), determining the conditions of eligibility for, and general administration of the orders of chivalry, decorations and other medals will be preserved.

Ceremonial Branch also supported the Political Honours Scrutiny Committee. The meetings of the Committee are informal and no minutes are taken so there are no records available for selection.

5.7 The Records of the Central Intelligence Machinery

The main instrument for advising on priorities for intelligence gathering and for assessing its results is the Joint Intelligence Committee (JIC). The JIC both tasks and represents the departmental intelligence branches and the security and intelligence agencies - the Secret Intelligence Service, Government

Communications Headquarters and the Security Service. In 1957, reflecting the broadened scope and role of intelligence, the JIC was brought within the Cabinet Office. In 1968 the post of Intelligence Co-ordinator was created and an Assessments Staff was established to co-ordinate and prepare papers to be discussed by the JIC. In addition Cabinet Office staff support the Ministerial and the Permanent Secretaries' committees on the intelligence services within the Cabinet committee structure, all the records of which are preserved within the Confidential Library series (see section 5.2, above).

All the formal records of the JIC will be selected for permanent preservation.

The records of the Security Service are covered in OSP 8; the records of Government Communications Headquarters are covered in OSP 28. The records of the Secret Intelligence Service will be addressed in a future Operational Selection Policy.

5. 8 The Records of other Cabinet Office Functions

Within the period of this Operational Selection Policy additional responsibilities associated ministerially or officially with the Cabinet Office have included, for examples: the co-ordination of social services, initially led by the Lord President of the Council in Harold Wilson's administration but reporting to the Secretary of State for Social Security in the Heath government (*The National Archives reference* - CAB 152); the negotiation of entry in to the EEC, led by the Lord Privy Seal (CAB 170); civil science policy (CAB 168 and 178); the Central Policy Review Staff (CAB 184); the (Renton) committee on statute law revision and public bill procedure, reporting to the Lord President (CAB 135); policy for the electronic delivery of public services, led by the Chancellor of the Duchy of Lancaster (CAB 172); constitutional issues; many and varied domestic machinery of government issues; public service issues wider than the civil service; standards of service by public authorities; standards of conduct in public life; open government issues; the role of women; the professionalisation of the government statistical service; and government computing policy.

Where records of short- or medium-term responsibilities were created in and have been retained within the Cabinet Office all principal policy papers will be selected for permanent preservation.

5. 9 The Official History Programme

The Cabinet Office has managed the Government's Official History Programme since 1939. In 1966, the programme was extended by the prime minister to include histories of peacetime events. Official histories utilise inter alia the closed records of government departments. The programme is overseen by a Cabinet committee, and a standing cross party group of privy counsellors who ratify choices of topics for the official history programme and authorise access to records of administrations of different political parties. The

secretary of the Cabinet reports on all aspects of the programme to the prime minister who appoints the official historians. Day-to-day responsibility rests with the head of the Cabinet Office Historical and Records Section, reporting to the Cabinet secretary.

The minutes and papers of the Cabinet committees which have had oversight of the programme will all be preserved within the Confidential Library series (see 5.2 above). The principal files on the management of the programme and of individual histories will also be selected (CAB 103). The histories themselves are designed to be published and will not therefore be selected for preservation as records.

6 Ministers and their Departments

6.1 Introduction

The constitutional conventions are that the senior members of the government individually receive their seals of office from the monarch, and are individually publicly accountable for the policies and work of their own departments. This public accountability is sustained in Parliament when in session through parliamentary questions and other Parliamentary debate procedures, through meetings and correspondence with MPs, interest groups, etc, and through other activities such as interviews in the media.

6.2 Ministers' Private Office Records

The National Archives together with the Cabinet Office has issued *Guidance on the Management of Private Office Papers* and this section gives the substance of that guidance as it will be applied to selection for permanent preservation.

Constituency and party political papers and those relating to ministers' personal interests which are handled by ministerial private offices are not deemed to be public records and this policy does not address them.

Papers in the following categories are likely to constitute public records:

- Letters/minutes from outside the department (from officials in other departments; from other ministers; from members of the public)
- Internal submissions from departmental policy areas
- Originals or copies of submissions which have been annotated by the minister, private secretaries' notes conveying the minister's views to policy areas and private secretaries notes of ministers' meetings and telephone conversations
- Information papers relating to a minister's portfolio

- Copies (and collections) of outgoing correspondence
- Papers received by and retained in the private office
- Ministers' official diaries and records of meetings with outside interest groups/lobbyists
- Ministers' notebooks
- Private secretaries' notebooks

Original submissions and other action papers, as annotated by the minister and or the permanent secretary, may be sent back to the policy branches to be placed on the appropriate registered files, or private offices may retain the top copies of papers and file them on their own series of registered subject files. Some papers received or authored within private offices will be inappropriate for any wider distribution at the time within the department. In all these cases the papers will be reviewed and selected or rejected for permanent preservation in accordance with the relevant subject or departmental Operational Selection Policies or other appraisal criteria agreed between The National Archives and the Department.

In the course of the 1990s the evidential records of ministers' actions were considered within the context of the review of standards in public life. As a result procedures for the retention of records of ministers' official engagements and meetings with outside interest groups were agreed and adopted, so that these could in future be given in evidence in the event of a public inquiry. However, these records will not be selected for preservation as they are unlikely to add anything material to other extant records, except in the rare instances where they have been adduced as evidence before formal inquiries.

6.3 Special Advisers Records

Depending on their roles the papers of special advisers may be filed among the records of departmental policy units or within ministers' private office records in which cases they will be reviewed in that context.

Papers of special advisers acting purely in a party capacity and which have been kept separately from departmental records are not public records and will not be selected for transfer to The National Archives.

6.4 Records of Ministerial Nominations and Appointments to Public Bodies

Over the period of this policy the patronage exercised by the prime minister, secretaries of state and other ministers has increasingly been subject to co-ordination by the Public Appointments Unit, initially (from 1977) within the Civil Service Department and from 1981 in the Cabinet Office. All Public

Appointments Unit files on high profile or controversial appointments will be selected for permanent preservation.

6.5 Non-Departmental Ministers

Prime ministers may appoint non-departmental ministers to take responsibility for policy or strategy initiatives which do not fit easily into the existing distribution of departmental functions, or which are seen as requiring an immediate high profile government response. Typically such non-departmental ministers are any of Lord President of the Council (see also 2.3.2 above), Lord Privy Seal, Chancellor of the Duchy of Lancaster, Paymaster General, or Minister Without Portfolio. The posts of Leader of the House of Lords and Leader of the House of Commons have normally been held by two of the non-departmental ministers (see also 5.3 above).

Their offices are usually staffed by the Cabinet Office (or previously by the Civil Service Department, and the successor offices to the Civil Service Department). The records will be selected according to the same general principles as will be applied to the records of departmental ministers.

7 Judicial Review of Ministerial Decisions

7.1 Judicial Review within the English Legal System

The judges were traditionally reluctant to interfere in what they saw as the legitimate responsibilities of the executive. However, in the second half of the twentieth century and at an accelerating pace as a consequence, perhaps, of the accession by the UK to the UN Covenant on Civil and Political Rights in 1966, the judges' opinions (dicta) and judgements have been increasingly interventionist, quite frequently ruling unlawful decisions taken in departments at the level of the secretary of state.

The general principle of judicial review has now been incorporated in statute in the Supreme Court Act 1981. Although the case law and legal argument are subject to continual evolution Lord Diplock in 1985 identified three broad categories of challenge: illegality, irrationality and procedural impropriety.

7.2 Judicial Review Records

Applications for judicial review must be by leave of the High Court. Judicial review cases in the Supreme Court Crown Office cases list will be reviewed on a file-by-file basis by the head clerk of the Crown Office. All files of cases in which decisions by ministers are set aside will be preserved.

8 Implementation

An implementation strategy for this Operational Selection Policy has been agreed by The National Archives with the relevant departments.