



the
**NATIONAL
COUNCIL ON
ARCHIVES**

REVIEW OF 30 YEAR RULE: COMMENTS OF NATIONAL COUNCIL ON ARCHIVES

1. The National Council on Archives (NCA) welcomes the opportunity to submit its views on the review of the 30 year rule. The NCA was established in 1988 to bring together the major bodies and organisations, including service providers, users, depositors and policy makers, across the UK concerned with archives and their use. It aims to develop consensus on matters of mutual concern and provide an authoritative common voice for the archival community. In responding to this consultation we are aware that a number of our members, including the Society of Archivists and the Association of Chief Archivists in Local Government will be submitting their own responses.

2. The NCA welcomes the review of the 30 year rule since the nature of records and public expectations have changed radically since the closure period was established in 1967.

Although the rule applies strictly only to public records, ie those of central government and its agencies, it should also be borne in mind that the period has been widely adopted in the archive sector for a range of records from many other sources. Any change proposed by the Review is likely to have implications beyond the limits of central government. The increasing role of electronic records and information in the transactions of government and most other organisations, and the implementation of the Freedom of Information Act in 2000 have combined to alter the landscape almost beyond recognition.

3. In conducting this review it is important to distinguish between *transfer of records*, and *access to records*. In an electronic environment the act of transfer will become less and less significant (although fraught with technological difficulties), while the implementation of the Freedom of Information Act has enabled access to records in current use.

4. From the point of view of users of records the NCA welcomes in principle any reduction in the period of closure on the grounds that it increases the range of sources of information available for researchers and encourages openness, accountability and transparency. It would also recognise the much greater scale and range of interest in government information, and archives and records as a whole, over the last 40 years: when the current rule was established, interest in government records was largely confined to a relatively small circle of academic users. While the Freedom of Information Act provides a means of access to specific information, this does not provide the "browse facility" which a shorter closure period would offer. Any general reduction in the closure period must of course be subject to appropriate protection for personal and other sensitive data; the Review Team will also have to satisfy itself that any reduction will not unduly inhibit the ability of civil servants to express themselves freely in the development of policy etc. The "unselfconscious" quality of archives has always been regarded as one of their major strengths as reliable (but not necessarily accurate, honest or objective) evidence. The NCA would not wish at this stage to suggest a specific figure to which the standard should be reduced.

5. In conducting the review the Team will need to bear in mind that their recommendations will have direct effects not only on central government departments and The National Archives, as the covering letter, in discussing the background to the Review, suggests. A large proportion of public records in traditional media are held in other repositories designated as Places of Deposit, many of which are local authority record offices. Although TNA has tried to set down clear procedures for the regular transfer of records from local agencies, such as NHS services, Magistrates' Courts, coroners etc, there is little evidence that these arrangements work effectively in practice: transfers of records appear to be more the result of local storage crises or clearance of buildings rather a planned procedure, and are certainly not triggered by the present 30 year rule. A reduction in the period could however result in extra burdens on PODs trying to accommodate additional records with no extra resources. The NCA would strongly recommend that the current review should be linked to a review of the future role of PODs and the way in which they operate.

6. The 30 year rule has been closely linked historically with the process of review and appraisal of files, to identify those which are appropriate for permanent retention as archives. This approach is predicated on a paper-based model of record keeping. It is widely understood that digital information cannot be managed in this way, and that the process of identifying, selecting and ensuring the preservation of electronic archives must take place very much earlier in the process - indeed at the point of creation. It must be clearly understood that the present review is concerned only with access to records, not with their review and appraisal. However if the Review Team recommends a reduction in the 30 year period it would be necessary to ensure that the appraisal process was complete before that period had elapsed: a situation in which released/transferred records were subsequently destroyed would be unacceptable.

7. Any change in the standard closure period would need to be reflected, or at least acknowledged, in the definition of "historical records" set out in s62 of the Freedom of Information Act. This in turn might have implications for the range of exemptions set out in s63 which cannot be applied to historical records. It would be perverse if the outcome of a Review intended to increase access to government records were the application of a greater number of exemptions which could be perceived as restricting rather than promoting access. It would also be unfortunate if new administrative burdens were imposed on TNA and PODs in managing access, without the necessary additional resources to deal with them. Changes to the Act would of course have implications not just for central government and its agencies, TNA and PODs, but for all public bodies falling within its scope.

8. If the Review Team recommends changes in the 30 year rule, and it is decided that the necessary changes to the Public Records and Freedom of Information Acts can only be effected by primary legislation, then the NCA urges that the opportunity should be taken to revisit the issues raised in the consultation on proposed archive legislation in 2003-4, to see what other deficiencies in the present legislative framework could be addressed at the same time.

I hope these comments will be helpful to your Review. The NCA will be happy to enlarge on any of the points raised if that would help.

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