

**SRAC Sub-group on retention and disposal of government records
General Register House, 11 February 2005**

Attended by:

SRAC: Professor Hector MacQueen (Chairman), Dr Mike Barfoot, Professor Roger Davidson, Professor Lynn Abrams and Dr Alison Rosie (Secretary)

NAS: Mr George Mackenzie (Keeper of the Records of Scotland), Dr Peter Anderson (Deputy Keeper) and Ms Jane Brown and Dr Hugh Hagan (both of Government Records Branch).

Also attending: Professor Ian Levitt, Department of Social Work, University of Central Lancashire

1. The minutes of the previous meeting were approved. The sub-group had met initially to discuss the consultation exercise undertaken by the NAS in 2003. The Keeper wanted to encourage a continuing dialogue on the present and potential use of the records and was anxious to ensure the NAS was listening to views on appraisal from the academic community.

With the implementation of FoI the formal closure period of 30 years which had pertained previously had been replaced by a series of exemptions. A Scottish Executive team of 8 people (2 full time equivalents) were working with the NAS, looking initially at files covered by the 30 year closure, checking for any exemptions before they were opened. Data Protection trumped FoI in this respect. 1500 files had been opened so far. Where access to closed files had been given by the department in the past, these would be opened automatically. Feelers had been put out to other public sector bodies to look at opening up their closed records with very positive results. Dr Barfoot queried how 'controlled access', involving no disclosure of personal details, had been affected by FoI. The Chairman responded that the Act contained a disclaimer that it was up to the researcher to ensure that any information contradicting FoI did not go into the public domain.

The Keeper said that the Information Commissioner did not favour 'special permissions' for access to closed files – everybody should have access. NAS was reviewing files which had been opened under 'special permission'. Redaction was an option but was very costly. Redacting the files relating to the Dunblane Enquiry and constructing a key had absorbed one person full time for 8 months. If this had to happen on a large scale, it would clog up the system.

Prof. Davidson wanted to know whether Data Protection applied to information in files from the 1950s and 1960s. From his experience, certain departments had been sensitive to the disclosure of civil servants' names and he had been asked to anonymise them. The Keeper responded that the law applied only to, for example, the name of an abused child, and not to civil servants. The Chairman added that it was up to the supervisor to monitor the research student for compliance with Data Protection.

The NAS agreed to issue an information sheet which would spell out the implications for researchers of modern papers, alerting them to which papers were closed and which were open and the process of accessing them.

The Chairman was disappointed to learn that the annual New Year release of files would now cease. This had been a useful way of drawing attention to the existence and value of archives. Ms Brown said that in six months the NAS would review what had been opened as a result of FoI to highlight its results. Dr Hagan added that a press notice had already gone out to publicise this which had raised interest in the press.

The Chairman said that through FoI he could now consult a deceased Judge's papers held in the NLS which had been subject to a fifty-year closure running from 1956. The Keeper noted that FoI would only apply if the papers had been gifted to the NLS, rather than deposited. Dr Barfoot said that many archives were reviewing the circumstances under which they had received private papers as a result of FoI. Lothian Health Board Archives were now approaching owners of deposited papers asking them to make their deposit an outright gift.

Prof Levitt queried the policy regarding documents retained by departments where he believed a 5 year retention period was the normal departmental rule in assessing the value of administrative files. The Keeper said that FoI had made no change to the procedure for reviewing files. The Records Management Branch (RMB) in the Scottish Executive (SE) certainly paid greater attention to disposal than had pertained in previous decades. He cited the recent example of the approved schools case where gaps were found in the records from the 1960s. This state of affairs would not happen now. Ms Brown added that the review of files was tightly regulated by disposal schedules drawn up in cooperation with RMB and in conjunction with the NAS. Lists of files scheduled for disposal were checked by the NAS who could select files for permanent preservation.

The sub-group discussed the impact of FoI on the quality of information recorded. It was felt that FoI had brought about a change in the way minutes were kept: these were now much briefer and did not record the full discussion. The penumbra of other papers surrounding the minutes would also be lost. Annotations would disappear, as would comments by civil servants on appointments. This tendency would be exacerbated by electronic records when only the top copy of a document would be retained.

Prof Levitt expressed concern about the records relating to the Private Office and Dover House: letters going out from ministers, diaries and minutes did not necessarily go on a St Andrews House branch file unless they related to Parliamentary Questions or other matters of direct concern to a department. It was therefore difficult for the researcher to track what they were doing at Whitehall. The Records of the departmental under-secretaries (who were responsible for advising Ministers on matters of 'high policy') were good but those of the permanent under secretary of state, both of whom were based most of the week at Dover House, seemed less complete (unless they were copies to departmental files). Ms Brown responded that at the time of devolution, RMB of the SE had brought in the residual files from the Private Office and proposed to retain them for 14 years. Dover House files in the NAS

(ref: SOE14) dated mainly from the 1970s onwards. The clear out in Dover House in 1977 was the last time NAS had specific contact with the Private Office. The Keeper thought this was an issue which could be raised with the Scotland Office. He thought there was still a lot of material in the hands of the SE and PO and these would come to the NAS slowly. But they could be asked for through FoI.

3. Government Records Branch report, 2004

The NAS assessed lists of records from the SE on a weekly basis and selected those files for permanent preservation on their legal or historical worth. In 2004, 52 meters of files were selected for preservation. The NAS has a service level agreement with the SE with agreed targets.

Prof Abrams wondered whether a similar system prevailed in local government. The Keeper replied that what prevailed in local authorities was very variable. Some authorities had appointed records managers as well as archivists but, particularly in the cities, the archivist did not have much to do with records management. The SE was aware of the problem and hoped to achieve a more consistent approach through the Public Records Strategy. Ms Brown added that FoI was an important driver in improving the situation. Local Authorities had been forced to tighten up their act. Similarly, NDPBs were now contacting the NAS for advice on records management and FoI issues. Dr Barfoot thought there was little evidence of more resources being put into archives management in public authorities. The attitude of records managers was also important – and whether they were archivally minded.

The Chairman queried what lay behind the concerns of NAS about the security of files mentioned on the final page of the report. Dr Hagan said this had stemmed from the greater demand for files to be retransmitted to the SE as a result of FoI enquiries. The NAS had been concerned that the files were not being treated properly and were being passed on to other staff or returned in the incorrect folder. GRB had met with the SE and as a result the FoI unit had drawn up guidance on procedures.

Prof Levitt asked what happened to records relating to the residual Scotland Office and what records were being retained to give a view of the SE's relationships with outside bodies? Ms Brown said that GRB had visited the Scotland Office to advise them on their record keeping, selection for permanent preservation and FoI, but they were also being advised by The National Archives as their own files came under the UK FoI Act not the Scottish one.

Prof Levitt also raised the issue of the residual powers of UK departments and other agencies when corresponding direct with Scottish Agencies and what advice was being given on the retention of the correspondence between the Scottish body and the UK authority. A lot of the work of the enterprise boards, for example, related to trade and industry. They responded to UK initiatives and the records would be interesting in showing how much of their work was actually devolved. Dr Anderson mentioned that the Northern Lighthouses Board were a reserved body covered by UK FoI Act. The 1958 public records act exempted bodies which were operating mostly in Scotland but this didn't cover the Board. The Keeper added that the Scotland Office was still technically the owner of its own files but was a UK body. This was a loose end of devolution.

Dr Hagan noted that there was no provision in either of the FoI Acts for transferring FoI requests. This meant that the NAS could not pass on an enquiry to the Scotland Office, it had to be returned to the enquirer who had to lodge it with the appropriate department under the UK Act.

4. NHS Guidance

Dr Barfoot welcomed the guidance and he strongly recommended that the Council approved it. Scottish archivists had begun discussions on this subject in 1983. This new guidance was the first step in building a unified schedule which would eventually cover clinical records. He highlighted the introduction to Annex A, which gave reasons why material should be preserved, as a particularly good feature of the guidance which was sometimes missing from other schedules.

The meeting discussed the question of the minimum retention period. When the period came up there should be a review but this depended on the relationship between the records manager and the archive. In the past, the culture among clinicians had been to keep records for longer because of their research interests but this had largely ceased due to lack of storage space. Professor Davidson wondered whether the minimum retention period actually meant the date of destruction. Dr Barfoot pointed out that boards were able to sample records. Certain categories of record had been flagged up for permanent preservation but it was often difficult to get the NHS administration to do this. The Keeper added that in very few bodies would documents be destroyed once the minimum retention period had elapsed – in most cases they would sit around until the space was required.

5. AOB

Prof Davidson raised the issue of the seating in the West Search Room which was extremely uncomfortable for long periods of research. The Keeper responded that a meeting had been held earlier in the week to discuss this very issue and he hoped that there would be improvements in due course.