

Minutes Of the Seventy-seventh meeting of the
Scottish Records Advisory Council held in New
Register house, Monday 23rd April 2001.

Present: Professor Anne Crowther, Chairman; Dr M Barfoot; Mr A Cameron; Dr Roger Davidson; Dr David Ditchburn; Mr Hamish Hamill; the Hon Lord Kingarth; Professor H MacQueen; Mr F Rankin; Sheriff D Smith.

In attendance: Mr G P Mackenzie, Keeper of the Records of Scotland; Dr Peter Anderson, Deputy Keeper, National Archives of Scotland; Mr John Randall, Registrar General; Dr A Rosie, Secretary.

1. **Membership:** The Chairman welcomed two new members of the Council to their first meeting: Dr Roger Davidson, a modern economic historian from the University of Edinburgh, with a particular interest in medical records and government policy, and Mr Hamish Hamill, formerly of the Justice Department. The Chairman also raised the issue of the co-opted members. Their role in the Council was welcomed. Replacements for the current representatives would be sought from the Society of Archivists (Scottish Region). Owing to proposed changes in the methods of appointing members, which would not be clarified until October, the Council was lacking a member to replace Lord Dundonald.

2. **Apologies:** Apologies were received from Mr Peter Daniels and Mr James McGonigle.

3. **Minutes:** The minutes of the 76th Meeting were approved.

4. **Matters Arising:** The Chairman noted that the transfer of the NAS from the Justice Department to the Executive Secretariat had taken place since the last meeting. The SRAC contact in the Executive Secretariat is Carol Robb who proposes to attend the next SRAC meeting.

5. News from the NAS:

a. *Accommodation:*

The current phase of the refurbishment of GRH is coming to an end. The next phase begins late summer. The business case for Thomas Thomson House 2 is still being finalised.

b. *Consultancy Report:*

A summary of the report was circulated. The main themes addressed were planning and record issues, public and private records, the impact of Freedom of Information (FoI), the role of SCAN and staff recruitment. The report had been particularly hard-hitting on management and the need for the NAS to work out its customer base. On 8th and 9th May, the senior management of the NAS would be meeting to discuss the implications of the report and to develop a strategic plan for the future. The Council asked to be kept informed of developments, particularly from the point of view of users.

The Council discussed the NAS' responsibilities as regarded private records. In the past, before the development of local authority archives, the NAS had taken in records as a place of last resort. At present the NAS has to consider carefully the implications of bringing in collections (particularly in terms of space). Dr Ditchburn queried whether the consultants were moving in the direction of the PRO model but Mr Mackenzie stressed there was no suggestion that the NAS divest itself of private records.

c. NAS website and SCAN

The NAS website had been launched at the end of November. The Council agreed that the entire SRAC minutes, rather than just a summary, should be put on the site.

The SCAN project was moving ahead well. Guidelines had been drawn up on cataloguing standards. The wills imaging was producing a high output of 1200 images per day. Digitising of images on demand was becoming a possibility. In the future access to the indexes and other resources would be free but there would be a charge for copies of wills.

Funding for the SCAN project comes to an end in 2002. There is the option of a more independent development of SCAN or its re-absorption into the NAS.

6. Freedom of Information (FoI)

Since the last meeting, Mr Hamill and the former Keeper Patrick Cadell had had discussions with the Secretariat on FoI and Data Protection. Dr Anderson is also on the FoI Implementation Group.

The Council discussed the Consultation paper on Draft Legislation. Comments are due to be sent to the Executive Secretariat by 25th May.

The Chairman outlined areas of general agreement:

1. The Council welcomed the principles of the Bill and the notice it had taken of historical records
2. The Council welcomed the role of the SRAC in S.67 which extends its powers of advice over FoI; the emphasis given to the role of the Keeper in drawing up a code of practice(S.60); and the Commissioner's duty to consult the Keeper of the Records (S.43)
3. The Council believed that the act should attempt some definition of a public record.

The Council went on to discuss particular sections of the Bill in more depth and the points they wished to bring to the attention of the drafters:

S.24 Information otherwise accessible

The archivists' belief that if a document is in an archive it is accessible, is at variance with the opinion of the drafters. It was unclear whether the Bill would make it more difficult for archivists who would be required to undertake research for enquirers. The Council agreed that a public archive ought to be considered an exempt organisation.

Mr Mackenzie pointed out that the NAS' statutory instrument could become a 'publication scheme'. According to the draft legislation, this publication scheme would have to be ratified by the FoI Commissioner.

S.42 General functions of the Commissioner

It appears in S42(3) that the Commissioner would be able to investigate the quality of records management in a local authority if invited to do so by that authority. The Council felt that the lack of any obligation to consult the Commissioner in such a case was unsatisfactory. While one of the roles of the Keeper is to give advice on good practice, his statutory role is limited and does not cover health boards or universities.

S43 (3) Recommendations as to good practice

The Commissioner has to consult the Keeper which ensures the latter's role is respected. In her response the Chairman would indicate that this is an area where an Archive Act would be useful. A stronger form of words was suggested.. This would reflect reality more closely.

S.57 Definitions and descriptions of Historical Records

Dr Barfoot pointed out that the 1993 NHS Act had reduced access to health records to 75 years (100 years for minors). It would be a retrograde step to move the closure back to 100 years. Personal health records less than 75 years could be used by serious researchers as long as personal identifiers were not stated. The closure for social security and adoptions is also 75 years. The drafters should be referred to existing NHS practice in Scotland.

S60. Code of Practice as to the keeping, management and destruction of historical records

S60(5) states that the Keeper is to be consulted about revisions to the code but this does not clearly cover those records transferred to other bodies. The draft Bill erroneously assumed that the Keeper was the only custodian of transferred records.

S63. Offence of altering etc. records with intent to prevent disclosure

The Council expressed its concern that the Bill did not deal sufficiently with the obligation of public authorities to preserve their records according to accepted professional standards. The Council would convey their disquiet about the vagueness of provisions in this area and the need for an archives act to reinforce FOI.

S67. Amendment of the Public Records (Scotland) Act 1937

S67(2) states that the SRAC can advise Scottish ministers on records 'held by the Keeper'. It was noted that the Council's role had in fact expanded concurrently with the expansion of the Keeper's responsibilities towards other public archives.

Questions arising:

1. Does the Bill adequately reflect views expressed in the white paper as regards the importance of archive management and the national role of the Keeper?
2. Does the Bill leave a loophole for charging users for consulting records which are currently provided without a fee? The Council felt that it did. The principles of the proposed Archives Act were again cited as a way of avoiding

this problem.

3. Does the Bill supersede the need for an Archives Act? The white paper had mentioned an Archives Act as a possibility . In an ideal world an Archives Act would precede FOI legislation.
4. Does the Bill actually discourage, or make more difficult, the work of researchers in certain fields. The problem of reconciling the principles of FOI with Data Protection were discussed. Certain clauses in the Bill seemed to make access to court and health records more difficult than at present, which was against the spirit of the legislation.

The Chairman undertook, with the Keeper and Professor MacQueen, to draft a set of comments in line with the Council's views, and these would be remitted to the Council for final comment before communication to the Scottish Executive.

7. Public Bodies

Appointments to public bodies are currently in process of change. The old system of nomination via the Scottish Executive no longer applies. Vacant posts will be filled under new guidelines which are due to appear before October.

8. Registrar General

a. 2001 Census

By the week ending 20th April, 2.4 million addresses had been visited by enumerators delivering nearly 70% of forms. Special arrangements had been made for deliveries in areas affected by foot and mouth disease.

b. Records Enterprise

The last financial year had seen record levels for all areas of business – extracts were up 13%; demand via the internet up 34% (55% of all demand). There had been continued growth in the demand for search spaces in the GROS.

c. 1901 Census

The microfilming of these records is almost complete and an index is being produced. It is planned that at least part of the microfilm version should become available before January 2002, and that the digital images should be ready by January 2002 or as soon as possible thereafter.

9. Data Protection

The Council expressed unease about the confused interpretation of Data Protection by local authority archivists. There was an urgent need for a Scottish interpretation of the PRO guidelines, giving straightforward advice. The Society of Archivists is drawing up revised guidelines. The Chairman invited Mr Mackenzie to keep the Council informed on this issue and the matter would be discussed more fully at the next Council meeting.

Dr Barfoot raised the particular problems of health board archives, where many personal files are organised by consultant.. It was unclear whether archivists were the

controllers or the processors of Data Protection regulations. The Council again stressed the importance of archives legislation to clarify this issue.

10. Archivists in Scottish Local Authorities Working Group (ASLAWG)

Mr Rankin reported the good news of two newly appointed archivists: North Lanarkshire and West Lothian. There was, however, a growing shortage of qualified archivists in Scotland, and discussion was proceeding on a Scottish-based training course. The group was meeting on the 24th to discuss the draft proposals for the retention schedule guidance and closure periods. Data protection may mean the closure of archives that have traditionally been open. This will prove more of a problem for genealogists than researchers. The Chairman invited the group to pass its views on these subjects to the Council.

11. Any Other Business

The Chairman noted that she would be pursuing the issue of the destruction of a specific set of closed files by the Scottish Executive. She had queried the closure period of a civil defence file. This file was subsequently destroyed as it related only to England and was presumably duplicated elsewhere. She queried whether another home could have been found for the file. The Keeper indicated that he would report further on this.

At the end of the meeting Mr Mackenzie thanked Professor Crowther on behalf of the Council, for all her hard work and commitment during her years as Chairman.

Next meeting: 22 October at 2.15pm.