

**Minutes of the 84th meeting of the
Scottish Records Advisory Council
held in the Lord Clerk Register's
Room in General Register House,
Monday 25th October 2004**

Present: Professor Hector MacQueen, Chairman; Professor Lynn Abrams; Dr Mike Barfoot; Mr Peter Daniels; Professor Roger Davidson; Mr Hamish Hamill; Mr Jim McGonigle; Mr Frank Rankin; Miss Marion Stewart.

In attendance: Mr George Mackenzie, Keeper of the Records of Scotland; Dr Peter Anderson, Deputy Keeper, NAS; Mr Duncan Macniven, Registrar General; Mr Stephen Bruce from the Public Records Branch of the Scottish Executive and Dr Alison Rosie, Secretary.

1. Membership: Professor MacQueen had accepted an invitation to continue as Chairman for another four years. He noted that the Council lacked representation from the following areas: private records, medieval historians and users. These places could be filled by co-option rather than through the formal procedure. He welcomed suggestions for co-options from the Council.

2. Apologies Apologies had been received from Sheriff David Smith and Lord Kingarth.

3. Minutes A number of minor corrections were noted.

4. Matters Arising

i Scottish National Health Service Records

Dr Anderson reported that there had been no progress since the last meeting.

iii Postgraduate Training

The two new postgraduate courses at Dundee and Glasgow had begun and the student take-up had been good for both.

5. Freedom of Information and the Public Records Strategy

Stephen Bruce summarised progress on FoI since the last meeting:

- The final version of the Section 60 Code of Practice was published on 6 September and was available on the Executive's website;
- the various commencement orders were in place;
- Fees regulations and guidance had been published;
- A consultation paper on the criteria for bringing new authorities within the scope of the Act was being produced;
- A series of workshops and seminars was being rolled out to train staff to ensure that the Scottish Executive had everything in place for 1 January;
- The FoI Unit was expanding with the addition of a rapid response force to deal with difficult requests under FoI and ensure a consistent approach within the Executive.

Mr Bruce reported on the latest developments regarding the Public Records Strategy.

- The Consultation paper had been circulated to members prior to the meeting. Subject to Ministerial clearance, it was due to be distributed towards the end of November or early in December. The Unit was due to meet with OSIC to discuss enforcement aspects. There would be a consultation period of at least 3 months;
- It was hoped to complete work on the strategy in Spring 2005 and implement it during the rest of the year and into early 2006 for items not requiring legislation;
- Mr Bruce would be talking to various groups to point out the benefits of the strategy: chief executives, university managers, COSLA, Universities Scotland etc. He hoped that the user workshops proposed by the SCA would go ahead.

The Chairman noted that most of what was proposed had been included in the early legislation document produced by the SRAC and would meet with the approval of the Council. He had, however, some concerns about what was proposed to replace the SRAC. Whatever replaced it should have appropriate powers of enforcement. The Council had been set up by statute to advise Ministers and its functions had extended alongside those of the NAS. It was, however, not properly resourced and its functions were not fully set out in statute. The feeling in the workshops had been that the expertise on the SRAC was under-exploited and there was some support for following the model of the English and Australian advisory councils. Since the 1998-9 National Archives Legislation document, the arrival of FoI had changed the picture. The Scottish Executive clearly wanted to reduce NDPBs so it might be difficult to raise much support for an amplified SRAC. The question was not, however, about the status of the SRAC, but rather about the status of public records and what kind of body was actually needed to perform the advisory function in relation to the wider public interest in archives? The consultation paper didn't tackle this issue properly.

The Council also raised concerns about the Scottish Council on Archives (SCA) as a replacement for the SRAC along the lines of the Scottish Museums and Scottish Library and Information Councils (SMC, SLIC). While the SCA did much good work, and had been set up to be a broad-based organisation including users as well as professional archivists, it was mainly archivists who turned up at meetings. Funding was important. The SMC and SLIC had separate staff and offices, unlike the SCA which was supported, but not funded to anything like the same extent. Mr Daniels pointed out that the SCA consisted primarily of professional archivists with vested interests. Any discussion such a body had concerning the award of funds or grants would involve a clear conflict of interest. Professor Davidson was also disappointed that there seemed to be little place for advocacy of user interests in the document. Mr Bruce agreed to give these issues further consideration.

Mr Bruce did not view the question of the SRAC and SCA as a straight trade. The power of the Keeper to get advice from a range of experts was another way of setting up an equivalent to the SRAC without the cumbersome procedures of an NDPB. The Keeper noted that what the SCA didn't have was a range of people from senior positions bringing in expertise from the law, local authorities and central government.

He was open-minded as to how this could be done but this expertise was needed in any replacement body.

The Council favoured holding a special meeting early in 2005 to discuss the strategy paper in detail and prepare a response to the consultation.

6. News from the NAS

The Keeper updated the Council on recent developments in the NAS.

i. Scottish Family History Service

The new joint Internet service, using the ScotlandsPeople brand, would begin early in January and the Scottish wills from the SCAN project would be transferred to it from that date. Further NAS digitisation work, including the church records being scanned, would feed into the new joint service in due course. Planning for the accommodation changes to provide the new Family History Centre based on the Register House campus continued and construction work would begin in the spring of 2005. The new centre, due to open mid 2006, would involve refurbishing the Adam Dome, opening up the large space behind it, to be known as the Reid Search Room, and also the rear dome, which would be refurbished to approximately its original look and be renamed the Matheson Dome. In addition, there would be a link into New Register House with a new dedicated space for professional searchers wishing to reserve a space and enjoy office facilities.

As yet none of the Local Authorities had signed up to the scheme but discussions were ongoing with Glasgow, South Ayrshire, Dundee and Borders Councils. Miss Stewart pointed to positive developments in Dumfries where a committee had already been formed with proposals to produce a handbook listing all the genealogical sources in the area and a website involving the registrars, museums as well as the archives

ii. Digitisation of Sasines

NAS had agreed with Registers of Scotland (RoS) on a joint project to accelerate the digitisation of the Register of Sasines for the last 40 years, the normal prescriptive period for searches. This would involve the digitising of the Minute Books or abridgements, and the construction of a single persons and places index, which would in turn be linked to digital images of the Sasines themselves. The service would probably be provided on the Internet via the RoS facility Registers Direct, though it was also intended to provide a service on screens in GRH for residual public use.

iii. Fees and Charges

The revised charge for desk space in the Dome area had been introduced and despite some initial concern, the legal search firms had now accepted the new system. The charges made for producing and copying records were being reviewed.

iv. Accommodation

Phase 4.2 of the refurbishment programme for General Register House had been completed during the quarter. Work continued on planning for the Scottish Family History Service and outline planning approval has been obtained for everything except proposed disabled lifts at the front of GRH and New Register House. Tendering for the upgrade to the digital reprographic unit would take place towards

the end of October and equipment would be temporarily relocated within the former smoking room. Planning work on TTH2 would re-commence shortly.

v. Extended Opening Hours

NAS had been disappointed to be unable to extend opening hours during the summer, due to a lack of volunteers among staff. The main problem had been a combination of temporary contract staff, who were not eligible to do this work, and the extension of Flexible Working Hours by the Scottish Executive. This put a considerable strain on the archive attendants, who were required to open and close the building, and reduced the number of volunteers available to staff the search room out of normal hours. The situation was under review.

The Chairman noted that his annual report to Ministers had pressed the issue of extended access and that this was in the general spirit of the current legislative framework. The Keeper hoped to have a solution to the problem of staffing in the next year and pointed out the positive benefits to users of internet access to the NAS catalogue.

vi. Freedom of Information

The NAS Publication Scheme had been approved by the Scottish Information Commissioner (SIC) and had come into effect in June. NAS facilitated meetings between Scottish archivists and the SIC about their concerns over the implications of the legislation and its effect upon archive services. A new guidance document, drafted by the Scottish Council on Archives, was being prepared following these discussions.

vii. Electronic Catalogue

The catalogue contained over 3 million entries and was available both in the search rooms and over the Internet. The software manufacturers, DS, were confident that the implementation of a new version of the CALM system, due for later this year, would rectify the load problems and result in significantly better performance. To allow this to be introduced, a formal launch of the system had been postponed from the autumn and would now take place in the spring of 2005.

viii. Exhibitions and Education

The education packs from the Scottish Archives for Schools Project had been published and CD versions were being prepared. The first 2 packs, on the *16th Century* and the *Jacobites*, had been launched at a highly successful event on 25 May 2004, hosted by Euan Robson MSP, Minister for Education, which received good press and TV coverage. The launch of the final 3 packs on *Victorian Scotland*, *Scotland 1901-1938* and *WWII: the Scottish Home Front* and the CD versions, which include sound recordings of certain documents, was being planned in association with Learning Teaching Scotland and the SE Education Department. It was likely to take place in January, which was felt to be a good time to reach teachers in schools.

NAS aimed to display the Declaration of Arbroath in August 2005, to mark the anniversary of the death of William Wallace. A new case for the document was being designed and manufactured in association with the Getty Conservation Institute in California and the Department of Engineering at Heriot-Watt University.

The NAS was working with the National Library of Scotland and the Royal Bank of Scotland to re-produce an exhibition on the Darien Expedition. The exhibition, originally mounted in the 1990s, would be re-produced as images and displayed in the Inter-Oceanic Museum in Panama City. The initiative for this had come from HE Jim Malcolm, the British Ambassador to Panama.

7. Scottish Council on Archives

The Chairman reported that the Council was still very enthusiastic about holding user workshops on the public records strategy consultation. Mr Bruce noted that he was preparing a summary of the paper aimed specifically at users of archives and this could be used at the workshops.

8. Registrar General's report

Slower-than-expected progress had been made in adding images of the older Censuses and the Old Parish Registers to the website (www.scotlandspeople.gov.uk). The digitisation programme had finished in August but the task of indexing the records in a way which would allow the web user to find them had been more difficult than expected. The work on the formatting and indexing of the 1871 and 1861 Censuses was nearly complete, with 1841 not far behind. 1851 was, however, especially difficult because of a change in the county boundaries at the time. Meantime, the index to the Old Parish Registers was being prepared, under a contract which was due to end in February.

Usage of the ScotlandsPeople website continued to exceed expectations with around 24,000 paid accesses to the website every month (double the figure at the time the new web contractor took over in September 2002). The number of accesses has now stabilised, after a period early in the year where it reached 30,000. The figure would probably rise again as the new material was gradually released onto the website.

Work on the integrated website for the Family History Centre was on schedule and due for public testing at the end of the year. The project to digitise the heraldry records of the Court of the Lord Lyon (the third partner in the Scottish Family History Service) was going well.

9. ASLAWG

Miss Stewart reported that the group had decided to retain the acronym ASLAWG. Meetings had been held in the Records Centre in Livingston on 28 April and in the Archive Centre in Callendar House, Falkirk on 8 September. The issues discussed included the following main topics:

i. Freedom of Information

There was continuing anxiety amongst Scottish Local Authority archivists that genealogists - professional as well as recreational - , students, authors and other professional researchers would overwhelm their services with research queries from which many of the enquirers would make financial profit. Local Authorities' inability to make realistic charges for such research would undermine the viability of their archive services whilst obligation to disclose information on records held by archive services could discourage potential private depositors. There was widespread dismay that, in Scotland (unlike the situation in England), records made available in public archive services would not be exempt from the full provisions of the Scottish FoI Act.

ii. Retention Schedules

Various ASLAWG members had sent their authorities' retention schedules to Elspeth Reid (Falkirk) and SLAM (Scottish Local Authority Model retention schedule) had been prepared and discussed at the autumn meeting of SOLAR (Solicitors of Scottish Local Authorities).

iii. Scottish Water Records

There had been anecdotal reports of the destruction of local water records. Scottish Water now had a records manager in post and an audit of records was under way. A meeting with this officer was suggested to offer him suggestions as to local authority archive services with whom he could deposit historic archives identified during the audit.

iv. Building Control Records

The Scottish Executive guidelines as to retention of building records was discussed and it was agreed to hold a survey of the retention practices of planning records throughout local authorities.

v. Electoral Registers

ASLAWG had written to the Electoral Commission for clarification about access to registers and rolls for historical research. The response did not provide any firm guidance leaving the danger of inconsistencies of practice. ASLAWG would write to the Scottish Assessors Association for clarification.

vi. Digitisation, Charge and Superintendence & Charging for Access

Disappointment had been expressed that the digital images arising from the current NAS project to digitise kirk session records would not be distributed to local authority archive services. Future charge and superintendence arrangements would need to cover digital records and Scottish public records strategy should also consider digital images. The Registrar General's policy of charging for access to records might challenge the tradition of allowing free access to archives elsewhere.

vii. Scottish Interoperability Pilot

Steve Bordwell of the NAS had given a presentation at the meeting on 8 September. Some local authorities had attended seminars on this subject in June and had enlisted in the project. Others were encouraged to participate.

10. Society of Archivists (Scotland)

The major activity had been the hosting of the annual conference of the Society of Archivists, Conservators and Records Managers, in Glasgow, from 31 August until 2 September. The conference theme was *Accountability, Citizenship and Ethics : the role of archives and records management in nurturing citizenship*. All sessions were well attended, the debate and discussion was vigorous and productive and the whole event ran smoothly.

i. UK Archival Thesaurus

Peter Garrod gave a presentation on this project at the April meeting in Perth. There had been much discussion as to how to expand the currently minimal Scottish input.

ii. Education

Margaret McBryde reported on the current opportunities to promote archives for education and learning – the *Cultural Co-ordinators in Scottish Schools* scheme, the *Heritage Education Officers Group* in Edinburgh, the *Community Access to Archives* project, the *Future Learning and Teaching* funding initiative and the Scottish Museums Council's *Young Scots Remember and Learn from WWII*.

ii. Classics in Scotland

Peter Peacock, Minister for Education and Young People, had replied to the Society's expression of concern at the apparent phasing out of the training of classics teachers, saying that there was currently a surplus of classics teachers in Scotland and that there was no intention to prevent the study of the subject in Scottish schools.

11. AOB

i. Scottish Cultural Commission Review

The Keeper pointed out that it would be helpful for the Council to respond to this review. The NAS would be making its own submission. Archives were a small but highly significant aspect of culture. There was an entitlement to access to culture. People already had an entitlement of access to archives but may not be aware of this.

ii. Environmental policy

The Chairman had responded to a request for a statement from the Council to the effect the SRAC had no official policy but complied with the NAS policy.

iii. Gaelic Language Bill

It was unlikely that there would be any requirement imposed on either the NAS or SRAC to have a Gaelic language policy. The NAS held few Gaelic records although their number might expand in future.

d. SRAC website

The Chairman expressed pleasure at the proposal that the SRAC should have its own microsite. This would give it more profile than currently obtained on the NAS website. The SRAC's counterparts in England, Wales and Ireland had their own sites. Mr Rankin suggested that in addition to material already indicated for the website (including information on what the SRAC does, details of members, minutes of meetings, publication scheme and contact details) it would be useful to invite expressions of interest in becoming a member.

14. Date of next meetings

The next meetings of the SRAC would take place on 18 April 2005 and 24 October 2005. The special meeting to discuss the consultation paper on public records would take place on 17 January.

Visit from Kevin Dunion, FoI Commissioner

Mr Dunion was welcomed to the meeting and introduced to members of the Council. He began by updating the Council on recent developments. A survey held early in 2004 had shown that public authorities were satisfied with their own progress. He would not be surprised if the new survey at the end of the year revealed a decline in

their confidence. The production of publication schemes had gone well with 100% of the first tranche (central and local government and the police) received and passed by OSIC by the due date. This figure had fallen slightly to 99% for the second tranche, which included general practitioners, but OSIC had nevertheless been very pleased with this result. Publication schemes of the third tranche had been of a very high standard.

Some areas of concern remained:-

- Would authorities be able to find the information requested even if they had it, particularly electronic information?;
- The interpretation of exemptions, eg. commercial sensitivity and confidentiality;
- Whether archives qualified for exemption. OSIC had recently moved to a mutual understanding with archivists on this issue. There was no definition of an 'archive' in the legislation, though the broad thrust was accepted that if the information was held in a professionally organised archive then it would be likely to qualify for exemption.

Miss Stewart voiced her general satisfaction with Mr Dunion's comments. Her concern, and that of many other archivists working for local authority archivists, had been that there would be an abuse of the system: eg. professional genealogists swamping the archive with their demands and passing the costs on to their clients. Mr Dunion felt that if the local authority had put in place a professional regime whereby information was catalogued and available and the costs reasonable, this would fall into section 25 of the Act and into the charging scheme. A value added service could be put in place if required.

Miss Stewart also raised the issue of private papers deposited in, rather than gifted to, an archive and queried whether there was a risk that new depositors, who for example might wish to withhold access for 30 years, would not wish to gift archives in the future if these would come under FoI, and that as a result records would be destroyed. The Chairman noted that in Ireland there was already the concern that if business archives weren't handed over they would disappear. In Ireland, however, FoI was applicable only to information after 1998. Mr Dunion noted these concerns and agreed to look more closely at this particular issue. He advised that for some collections commercial sensitivity might have a bearing

Dr Barfoot queried how, as regards records management, 'quality of accessibility of information' could be measured. Mr Dunion suggested that the Council look at the annexe to the paper in preparation by Dr O'Brien of the SCA, *Archives and the Freedom of Information (Scotland) Act 2002*. This drew on the conditions set down by the Historical Manuscripts Commission. These conditions were higher than the Commissioner might require. The Chairman noted that this showed the importance of the prospective Archives Act – the standards should be enforceable by the Keeper and the archives world.

Mr Dunion stated that the onus rested on the public authority. The chief executive of that authority was the responsible person. The Act certainly gave rise to a change in practice – eg if you were going to refuse a request on the basis that the information

was accessible, you would have to issue a refusal notice under FoI. The person had the right to challenge the refusal. The Keeper noted that the NAS proposed to try and identify where an enquirer was requesting information under FoI request and then issue a refusal. All other enquiries would be dealt with in the usual way.

Dr Barfoot raised the issue of cataloguing. Many collections were poorly catalogued but still accessible. Indexing was very expensive. Catalogues were focussed on individual records rather than on the range of information available in the archive. For the archivist, providing the information was providing the record that held that information. Mr Dunion replied that the requirement of the Act was the ability to access the document. If the request was for information which was not part of the publication schedule:

- a. where the information was held in a variety of sources, there was clearly a charge involved;
- b. where someone asked to see the original document, the Act was clear that the archive could specify the format - copy or original.

This demonstrated the value of describing the archive fully in the publication scheme.

Mr Rankin welcomed the FoI Act warmly but noted that there was no general statute requiring public authorities to keep records and there was the risk that the authorities might take the option of destroying records. The Chairman also noted that at a recent conference he had attended in Dublin, a change in record keeping in Ireland had been claimed to result from their FoI Act: the record was more formal and the discussions leading up to a decision were not recorded, only the reasons why a particular decision had been reached. Mr Dunion agreed that there was certainly a risk that records would be destroyed but no evidence of it having happened. Indeed recent months had seen the employment by local authorities of records managers and FoI staff. It was clear that there was a lot of information which was not fit to be stored in an archive and which was also non-current, and many authorities were not clear why they were holding it. The purpose of the Act was to allow people to understand how decisions were being made and, as an accountable body, public authorities had to hold information to justify their decisions. He recognised however, that the sooner there was a Public Records Act the better.

The Council thanked Mr Dunion warmly for his attendance at the meeting.