

Paul Dacre
Chair
30-year Rule Review
c/o The National Archives
Kew TW9 4DU

28 February 2008

Dear Paul,

Thank you for your letter of 28 December seeking our views on the review of the '30-year rule'. I welcome the review, as the Department of Health is committed to openness and to sustaining improvements in our records management practice.

In the context of business requirements for the Department and our Agencies, reduction in the closure period to 25 or 20 years would be acceptable, but release earlier than this would raise practical difficulties and risk making sensitive documents available too early.

The following points respond to your specific questions:

Should 30 years remain as a point in which government records are made available to the public?

We feel that moving the release point to 25 or 20 years would represent a positive move in the spirit of more openness, and would support it subject to suitable provision for a transition period.

We would suggest that this should also be subject to two caveats:

- restrictions on the retention of personnel files as active records for the current 75 years should remain; and
- it should still be possible to apply for a Lord Chancellor's Instrument, or a similar challenge process, if there are specific reasons to retain documents longer than the new closure period for business purposes, or if there are particular sensitivity issues.

Benefits and risks of any change

There would be benefits in transferring material to the National Archives for release earlier than 30 years, particularly with electronic material. It would ensure that such material is held in an environment where digital continuity issues could be addressed – ensuring that it remained available for access.

The passage of time under the current regime allows for reflection on the merits of retaining the material for permanent preservation. There is a risk that a significantly shorter period of retention might unduly influence the records being retained for permanent preservation.

Depending on the closure period proposed, there may be an impact on the quantity and quality of material retained within a records management system. Officials working on sensitive areas of policy formulation and implementation have a measure of protection from the current regime in that their involvement is recorded within a closed file for at least 25 years. The passage of time reduces the original sensitivities and the concern that identifiable information about the officials (primarily their names) is released. Such sensitivities would need to be borne in mind when considering the release of information under a revised closure period. For example, a modern contract might last for 20 years, in which case the records would have an administrative period for at least that length of time.

It will be important to allow sufficient time to move to the new arrangements, as there would be a risk of hasty or rash decisions on either release or disposal. We would suggest a three to five year transition period.

Impact any reduction in the 30-year closure period would have on your department

The Department and its Agencies consider that a closure period of less than 20 years would be a considerable burden in terms of:

- the amount of material that would need to be opened;
- the amount of effort required to consider sensitivities and Freedom of Information exemptions for this material; and
- the physical process of making the material available.

However, a cut-off point of 25 or 20 years would be manageable as long as there are arrangements for retaining some material for longer – which we accept would need to be determined a challenging set of criteria. The possibility of releasing categories of material earlier should also remain.

We do not consider the revisions to the closure period to have an impact on material where statutory bars already prohibit the information being released.

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Options for planning and implementing a transition to any new arrangements

If the closure period were reduced to 25 or 20 years we would need a reasonable transition period of three to five years and minimal temporary extra resources in order to cope with the large amount of files to be assessed. The longer period would allow us to phase the work more efficiently, and would cut down the extra resources required.

The 30-year closure period is implemented with the understanding that files are selected for permanent preservation and then 'opened' to the public. There may be merit in separating the arrangements for permanent preservation from the 30-year closure period. This would allow some categories of records to be opened earlier, but would not necessarily mean that they would be preserved by the National Archives in perpetuity. It follows that there would need to be arrangements for the endorsement of the destruction decision when it were to fall due.

We would, of course, be happy to provide supplementary material. Please do not hesitate to contact us if we can be of more assistance.

*Yours sincerely,
Hugh Taylor*

**HUGH TAYLOR
PERMANENT SECRETARY**