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

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Dear Mr Dacre,

REVIEW OF THE "30 YEAR RULE" GOVERNING THE TRANSFER OF RECORDS TO THE NATIONAL ARCHIVES

Thank you for your letter of 28 December 2007, setting out the Review Panel's terms of reference and seeking the Treasury's views on a possible change to the "30-year rule". This also incorporates responses from the Office of Government Commerce and the Office for National Statistics. The UK Debt Management Office was invited to comment but, as they transfer little material to The National Archives, the impact would be minimal.

The Treasury's response is based on questions posed by our Review Secretary, James Strachan, prior to his meeting with our Head of Knowledge Management, Jacky Rees and our Departmental Records Officer, Nicola Last where James advised the Treasury to base its scenario planning on a reduction in the rule from thirty to twenty years.

I am, personally, cautious about the proposal to reduce the rule to 20 years or less. I recognise that such a move, like the FOI Act, will encourage greater openness and accountability in government and help the public to understand the policy making process better. But I am also conscious of the need to safeguard the space for officials to give free and frank advice to Ministers. For example I am aware of a number of officials who still work in Whitehall, myself included, who were involved in giving advice on Nigel Lawson's latter Budgets. Although the FOI Act has already curtailed this space, there is provision to redact the names of officials before releasing information.



INVESTOR IN PEOPLE

Review of the “Thirty Year Rule”: Response from HM Treasury

Background

This response is based on questions posed by the Review Secretary, James Strachan, prior to his meeting Jacky Rees, Head of Knowledge Management, and Nicola Last, our Departmental Records Officer. At this meeting James advised the Treasury to base its scenario planning on a reduction in the rule from 30 to 20 years.

Summary of Recommendations

In principle, and in the spirit of greater openness, the Treasury would support a reduction in the 30 year rule from 30 to 20 years, if the following points are taken into consideration:

- **it is not yet clear what the overall cost of the change will be for departments, or how this will be financed.** Our starting assumption is that this will need to be financed from within department's existing CSR07 settlements;
- **sufficient time will be needed to ensure departments can comply with and implement the proposed change.** The Treasury has based its costs on a 3 year delivery plan to review and potentially transfer the records in scope; and
- **clearer direction and consistent advice is needed from The National Archives on the scope of the proposal to enable departments to determine which records are of historical importance.**

Main Review

1. Current issues under the 30-year arrangement, and your general views about possible change.

The Treasury currently reviews and transfers its records to The National Archives (TNA) during the 29th year. The Records Management Unit conducts a file-by-file review to determine which files are potentially worthy of historical preservation. A large proportion of the Treasury's legacy paper files relate to policy development and are therefore of historical interest to TNA. **Over the past five years the Treasury has transferred on average sixty three per cent of its thirty-year old paper records to TNA.** This is one of the highest transfer rates (in relation to the number of files created) in government. All the files that are selected for transfer undergo a sensitivity check, which involves liaising with contributors such as policy teams, other government departments, individuals, and organizations.

The vast majority of the Treasury's files are opened on transfer as sensitivity generally declines with age (although there have been incidents where sensitivity has increased). To date the Treasury has rarely sought an extended closure on more

under the new rule, as well as a review of the electronic records holdings in Jigsaw (currently 5 million documents)

The Number of Treasury Files to be Reviewed within Scope of the Proposed Reduction

Target Reviewer Rate per Day	12
Number of HMT files to be reviewed	281,493

The file numbers included in this proposal are a best guess as it is not possible to give a definite figure without reviewing fully the contents of the Treasury's 26,000 boxes.

The Cost of Resources Required to Deliver the Review of These Files within a Three-Year Time Frame

Number of files per annum	2652
Number of files over 3 years at target rate	7956
281,493 files divided 7956	35
32 full time range C reviewers at £20k per annum for 3 years	£2,112,000
3 full time range D lead reviewers at £25k per annum for 3 years	£225,000
Total	£2,337,000

Contractor Charges (payable regardless of when the Treasury reviews the files)

Retrieval of 281,493 files	£261,788.49
Permanent withdrawal of 281,493 files	£261,788.49
Cleaning at 60% of files	£574,245.72
Destruction at 40% of files	£76,566.10
281,493 files covers	£281,493.00
46,916 acid free boxes	£136,525.56
Contractor Charges for 3 year period	£1,592,407.39
Reviewer Costs	£2,337,000.00
Total	£3,929,407.36

Accommodation Cost Options

Option 1: Potential loss of rental revenue over the three year period if review team have to be based at 1 Horse Guards Road	£1,395,000.00
Option 2: Provision of temporary accommodation and office furniture at offsite storage contractor's site for three year period	£660,126.00

Should this solution not be acceptable to TNA and the other departments, a coordinating authority should be created whose remit is to ensure that sensitivity guidance to all departments is consistent and regularly updated. It was suggested at the meeting with the Review Secretary that **a pan government review team might be a more cost effective way forward but logistically this is likely to take longer to become operational.**

The Treasury could also consider allocating the files to be sensitivity checked back to the originating lead policy team in the business. This would impact their ability to conduct 'business as usual'. It could also hamper the department's ability to fulfil its statutory obligations. If this option were pursued then assistance with guidance and training would be required.

There are certain routine elements of the review process that are currently being transferred to the offsite storage contractor including file listing (capturing key metadata for The National Archives Catalogue) and the straight to listing review of clearly defined non-sensitive records. This should also decrease the number of reviewers required. However **the offsite storage contractor has made it clear that they are not prepared to undertake sensitivity checking.** They feel sensitivity checks need to be conducted by someone with an in-depth understanding of the business. The Treasury could use the contractor to help weed the ephemera.

The National Archives could provide departments with trend analysis on which files have been previously accessed at TNA to help provide a steer on what should be reviewed and in what order.

It was suggested to the Review Secretary that this proposal could be piloted with one or two key departments to determine the true impact. This more staggered approach would also help offset another concern about departments chasing after a very small pool of people with the right skills, given an identified records skills shortage.

The Treasury agrees with UKDMO and ONS that the process for seeking an extended closure period (Lords Chancellor's Instruments) will need to be reviewed to ensure it can cope efficiently with the likely increase in applications.

Finally, **The National Archives need to provide more mandated direction.** Their guidance has tended to be nebulous, which does not support Departmental Records Officers in trying to enforce best practice within departments.

Review of the “Thirty Year Rule”: Response from Office for National Statistics

1. Current issues under the 30-year arrangements, and your general views about any possible change.

The Office for National Statistics (ONS) currently has no issues regarding the 30-year arrangements. Any reduction of the 30-year arrangement would result in an increase in workload across the department and it is anticipated that there will be no additional resource. Based on this anticipation it is desirable that there will be a phased approach to any reduction i.e. departments will need to be given x amount of time to process the immediate backlog that any reduction will generate.

There is one area that we would like to see an immediate change to the 30-year rule, and this is in regards to returns from the Decennial Census returns for England and Wales. In order for the Government to maintain its pledge of Census closure for 100 years these Census returns currently have to be retained by the Registrar General (Statistics Board from April 08). The method currently used is bureaucratic and relies on the whim of the Lord Chancellor of the day; this means that it is difficult for the RG to make assurances about the closure of records to the public. Without these assurances the public's faith in the Census process may be shaken which would result in lower response rates.

Any reform of the 30-year rule should look to address this concern ideally ensuring that Census returns remain closed in custody of the Keeper of Public Records for 100 years.

2. How FoI, and case law emerging from the Information Commissioner's rulings, have affected your operations.

Our perception is that FoI has impacted on the approval process for LCIs. The application process has become more labour intensive and the evolution of FoI is resulting in conflicting advice and guidance from TNA throughout the process. This is in no way a criticism of TNA it merely demonstrates the learning curve involved. For example we have had instances where particular applications have passed back and forth between ONS Records Management and TNA several times. Pre FoI our experience was that similar applications would have been accepted more readily.

3. The cost of your current operations, broken down as far as possible into constituent operations such as storage, appraisal, selection, sensitivity review, cataloguing and transfer.

It is difficult to quantify costs across the department. In an organisation as large as the ONS there are numerous staff in the business areas dealing with differing volumes of records. The amount of time spent on this task varies wildly. However, we have a dedicated Records Management team and their costs can be broken down as follows

Salary costs	£198k pa
Property costs	£520k pa (accommodation £13k, storage £507k)

4. The cultural impact on the information creators.

Providing we can still apply to keep records closed where necessary at this point the feeling in ONS is one of ambivalence

Review of the “Thirty Year Rule”: Response from Office of Government Commerce (OGC)

Background to OGC records management

When OGC was formed in 2001, it inherited the paper records from its ancestor organisations, CCTA and PACE. The CCTA files contain largely business records and “significant” files, as outlined below. The PACE files contain deeds, personnel files, accounts files and business and property related registered files.

CCTA file review

CCTA was granted autonomy to be able to manage the file destruction and review process without reference to the then Public Records Office (now the National Archives (TNA)). This followed a decision in 1998 of the CCTA Management Board, which agreed a policy for the retention and destruction of files. The policy was designed to minimise the need for file reviews whilst safeguarding business interests, and the Records Management team has continued with this policy when reviewing CCTA files.

Files fall into one of four categories:

- **Procurement files.** These are destroyed without review when the latest paper on file is 8 financial years old. All procurement files are treated as a single entity – all parts will be retained until the latest paper on the latest file part triggers destruction of the whole file.
- **Financial records.** These are destroyed without review when the latest paper on file is 7 financial years old. This is in line with the Statute of Limitations. With multi-part files each part will be destroyed as it reaches the 7 year deadline.
- **General files** are destroyed without review in the financial year in which the latest paper on file is 5 years old. With multi-part files each part will be destroyed as it reaches the 5 year deadline.
- **Significant files.** Significant files are those which document the evolution of CCTA or document a project or topic where there may be a business need to keep the file for a longer period (for example SSADM or PRINCE) or where there may be a historical interest in the papers (for example work on Smart Cards, the Year 2000 date change). The current DRO is reviewing these thematically, with reference to current OGC staff where appropriate.

Reviews of PACE files

The following process has been agreed with TNA:

- where a particular property can be determined from the file title, the first review is set at 16 years after the last paper date
- if, from the file title, it can be determined that the contents relate to the day to day running of PACE (finance, business planning etc) and they exceed the normal 5-7 year retention schedule for this type of record, the Records Management team pass them for destruction
- for historic deeds, each set of deeds (by property) has been allocated a

Because of the limited amount of records transferred to TNA, OGC does not have a dedicated records appraisal team and therefore is unable to cost appraisal, selection, sensitivity review and cataloguing and transfer activities. Where these are required the DRO and the records manager carry them out as part of routine operational activity.

Storage: The average monthly cost of using the TNT / MoD Pan-Government Records Management contract is £1,925 plus VAT. This will increase as destructions increase (but the cost of storage will also reduce).

4. *The cultural impact on information creators*

The majority of information created by OGC is born digital. The impact of a change of the 30-year rule for electronic records could be huge, as creators are likely to have to review electronic records at a much earlier point in the lifecycle. Given that many OGC staff are not involved in review of paper records, this will be a steep learning curve.

For the creators of the non-current paper records, the impact is nil as the majority of them are no longer with OGC.

5. *Previous work on the likely impact of a reduction from 30 years*

None.

6. *The likely volume of records that would be "brought into play" in the event of a reduction from thirty years*

The records affected are likely to be a subset of the CCTA Significant files. There are currently 1,600 of these. None were registered with a last paper date, so this is added to the database when files are recalled for review. However, from knowledge in the records management team, most date from the early 1990s, so a reduction from 30 years would mean that an unknown number would be brought into play earlier. However, the relatively low number and the thematic review means that these files are subject to ongoing management, and the impact of any reduction would affect a decreasing and probably manageable number.

7. *The likely split of these records between open on transfer, closed until (x) years, retained or destroyed, and how this will differ from today's split*

Our view is that many of the significant files will be of no interest to TNA because they do not fall within the scope of any Operational Selection Policy. Some may have to be retained for ongoing business use (for example, those relating to trademarking or licensing of products such as PRINCE2).

Of the few that may be transferred to TNA, the preference would be for them to be open on transfer in order for any reduction in the 30-year rule to be of benefit to the public. However, these files would have to be subject to sensitivity review.

8. *Options for process or policy changes that might ease any transition to new arrangements, and any support needed to introduce them*

None, provided electronic records are out of scope. As noted above, we think we could manage paper records within current operational activity.