



ADVISORY COUNCIL ON NATIONAL RECORDS AND ARCHIVES

30-year Rule Review
c/o The National Archives
Kew, Richmond
TW9 4DU

22 February 2008

30- year Rule Review submission

Dear Review Team

The Advisory Council on National Records and Archives is delighted to respond to the consultation on the review of the 30-year Rule. The Council speaks to government on behalf of the public with a particular statutory responsibility to advise the Lord Chancellor on matters relating to public records, including public access to them. As a body that specifically advises the Lord Chancellor on all access matters to historical records under both the Freedom of Information (FOIA) and Public Records Acts (PRA), the 30-year Rule Review is deemed critical to the Council.

The Council is unanimously supportive of a reduction of the 30-year rule to 20, subject to appropriate resource provision and a managed transition. The Council agreed that a reduction in the current transfer rule would result in a more effective Freedom of Information Act resulting in more transparency and openness across government thereby serving the public interest.

The Council noted:

- Definition of 'historical record': the Council believes that the definition of a 'historical record' should match the transfer period under the PRA. The Council is therefore of the view that the FOIA exemptions that fall away at 30 years should reduce to 20, but believes it is essential to maintain the protection that currently exists for some categories of sensitive information such as personal information and information pertaining to national security.
- Possible backlogs and more administrative retentions: the Council is of the view that a change in legislation could result in a backlog of records to be transferred with the possibility that Departments who currently struggle with the 30-year rule would find it difficult to cope with a reduced transfer rule during a transitional period. The Council also expressed concern that in the event of the transfer rule being changed, that Departments may be more inclined to retain records for administrative purposes rather than to transfer.

- Risk to quality: the Council believes that a potential risk would exist in relation to the manageability of any change for The National Archives in terms of servicing the Council. For example, in relation to the quality and quantity of FOIA and retention schedules.
- Creation of policy records: the Council expressed concern that the recording of policy discussion across government may be adversely affected if an early transfer date, for example, below 20 years, were to be recommended.
- Review of Council's working patterns: the Council agreed that in the event of a reduction in the current transfer rule the workload of the Council would increase considerably, requiring a review of the current working patterns of the Council.
- A phased approach: the Council stressed the necessity of there being a well-planned phased approach to the transfer of records to The National Archives if the review recommended that the transfer rule be changed to a shorter period.
- The need of resources to handle transition: the Council agreed it would not be appropriate to reduce the 30-year rule without a commensurate increase in the resources of The National Archives and across government for the period of the transition.

Sir Anthony Clarke MR
Chairman