



30-year Rule Review

An independent review commissioned by the Prime Minister

Response to consultation by the MLA Council

The Museums, Libraries and Archives Council (MLA) and the nine regional agencies work in partnership to provide strategic direction and leadership for museums, libraries and archives across England. Together we work to improve people's lives by building knowledge, supporting learning, inspiring creativity and celebrating identity.

Museums, Libraries and Archives Council
Victoria House, Southampton Row, London WC1B 4EA

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Introduction

1. The Museums, Libraries and Archives Council (MLA) welcomes the opportunity to respond to the consultation to seek views on the possible modernisation of the 30-year rule. We believe that such a review is timely in the age of freedom of information.
2. MLA is the lead strategic agency for museums, libraries and archives. We are part of the wider MLA Partnership, working with nine Regional Agencies for museums, libraries and archives to improve people's lives by building knowledge, supporting learning, inspiring creativity and celebrating identity. The Partnership acts collectively for the benefit of the sector and the public, leading the transformation of museums, libraries and archives for the future. We work closely with the sector, with local government, and with partners in central government to ensure that the interests of museums, libraries and archives are taken into account in policy making, to improve the sector in order to fulfil its potential, and to ensure that the sector delivers effective outcomes for communities.

General comments

3. MLA supports a thorough and full review of the 30-year rule to strike a balance between more openness in Government, and the needs of good and effective governance. We strongly support endeavours to ensure greater transparency and accountability of Government activities and transactions undertaken on behalf of citizens, whilst at the same time encouraging and engaging the public in their archival documentary heritage by improving the provisions for the disclosure of, and access to, public records.
4. Our response to this consultation is in three parts. The first considers how appropriate the period of 30 years remains in the modern era as the point at which government records should normally be made available to the public; the second looks at the benefits and risks of any change, and the third considers aspects of how new arrangements might be brought forward.

The appropriateness of the 30-year rule in today's information society

5. The 'Freedom of information era' has encouraged citizens to think about their rights of access to the information about decisions taken which influence and affect their lives. Increasingly, people have an expectation that they will be able to see, read, analyse and consider information within timeframes that suit their leisure and business needs, and have delivery of information in ways which suit them. This almost certainly means that people will expect to have access at as early an opportunity as possible.

6. Freedom of information legislation has had the effect of opening large numbers of records that have previously been closed, and codifying why records should be legitimately closed after 30 years. It seems anomalous to us that information about current events can be made available under freedom of information requests, but that information for similar events that happened 20 or 25 years ago remains closed.
7. The information age is digital. As a consequence of the online revolution, people want information quickly - at their workplace, homes and in communication on the move. More information than ever before is available to the public about government and the way it works through departmental websites. The National Archives has done much good work to deliver the services it provides in new ways to meet new demands. The modernisation of the 30-year rule is part of this process of putting the customer first, and orienting services to people's needs.
8. The way records are created, used, stored, accessed and shared in digital systems has created a culture and discipline of records and information management that was unimaginable at the time the 30-year rule was established. This means that the concept of the traditional life-cycle of a public record, (creation, current use, semi-current use, review then archive or destruction) that held true for paper records, is now no longer valid. Digital systems challenge the way in which we think about information flow and sharing. Digital records need to be identified and preserved at creation, to ensure that mechanisms are in place to ensure their long term preservation. The concept of a rigid 30-year rule is no longer appropriate in a digital environment, where the potential risk of data loss is very real.
9. Given these considerations, MLA would support the principle of implementing a greatly reduced general access period, which should take into account the needs of managing both paper and digital record-keeping systems. Any reduction in the access period needs to balance the requirement to retain a period of time in which to take a historical perspective on decisions about records worthy of permanent preservation, with the practical considerations of the workload that falls on government departments and The National Archives to manage and review records and transfer them to the national archival collection.
10. It is our view that a reduction of the 30-year rule could be implemented using existing legislative provisions without the need to draft new legislation. We would consider that a fair period for reduction of the 30-year rule at the current time is to reduce it to **15 years**, together with the issue of clearer guidance on the regime for releasing government information. In order to manage digital information effectively, this should be accompanied by the development of appraisal systems for digital records that allow for the managed release of information without the need

for a rigid review period. We believe that this would meet both the administrative and statutory obligations of government departments, and the requirements of the public for access to government information.

Benefits and risks of reducing the 30-year rule to 15 years

11. The museums, libraries and archives sector is united through its collections. To make sense of museum objects requires archives to put them into context; conversely museum collections can bring to life the written record. A reduction in the 30-year rule could, by bringing more government information into the public domain, offer new opportunities to bring together museum, library and archive collections, exhibitions and outreach activities, (both online and physically), for personal, leisure, and educational use, to widen participation with our shared cultures.
12. There is some concern that a reduction of the 30-year rule will lead to a reduction in the recording of the decisions and actions of government by officials and elected members - for fear that this information may be released early and cause embarrassment or distress. It is our opinion that for all those employed in the public service there should be an expectation that information about actions carried out in the course of official business should normally be made available to the public at some date. Indeed, under Freedom of Information, the assumption that records will be closed for 30 years has been abolished, and the obligations imposed by the legislation on public authorities and individuals are part of today's culture of openness, which should now be accepted as the norm within public life.
13. There will of course always be an occasional need to restrict access to government information, predominantly in the interests of national or personal security. These are clearly defined in the Freedom of Information exemption categories. There is a clear need to maintain in place the appropriate checks and balances to ensure that closure of records beyond 30 years (or 15, as we propose) is applied appropriately. We would suggest that in the interests of transparency, awareness of the work of the Lord Chancellor's Advisory Council is raised.

New arrangements: resource considerations

14. Any reduction in the 30-year rule will require investment to successfully implement. We would urge the Review to consider the resource implications that any change in the process would bring on The National Archives and the government departments and agencies that transfer their records to The National Archives. As part of implementation, we would support a phased approach, where categories of information are prioritised for release.

15. In addition there may be resource burdens on other public and non-public institutions and organisations holding information relating to government activities, where they may need to make arrangements to release information, if a corresponding or related public record is made publicly available. We would urge the Review to seek the views of local authority archive services on the impact such a change might have on them.

Conclusion

16. MLA supports the early release of government information where possible within the framework of a system of checks and balances. It is our view that it is essential that Government bodies subject to the provisions of the Public Records and FOI Acts have in place clear and effective systems to manage key information and information of long-term archival significance in all formats. We favour a reduction of the 30 rule to a period of **15 years**.

This conclusion is based upon:

- a. Our support of the broad concept of fair and open access to government information by citizens;
- b. Our conclusion that with Freedom of Information legislation the way in which government transacts its business and works in the 21st century means that the period of 30 years is now no longer a useful means of determining access to government information;
- c. Our conclusion that the digital information age means that the current 30-year rule regime is outdated and needs to be modernised;
- d. A belief that greater openness would create new opportunities for museums, libraries and archives to work together to bring their knowledge and collections to a wide audience, for example through re-interpretation of collections.

17. MLA would be pleased to offer the 30-year Rule Review any further assistance it may require in the course of its deliberations.

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