

30 Year Rule Review

written evidence

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Personal Background

I have been a habitu  of TNA/PRO since the early 1970s. Currently I am an Official Historian, contracted to the Cabinet Office, working within the 30 year rule under the Official Secrets Act.

I have served on the Lord Chancellor's Advisory Committee (1999-2005) and on a number of TNA committees concerned with the selection of records and the dissemination of their contents.

This evidence represents my own professional views, not those of the Cabinet Office

Summary

- A distinction needs to be made between the treatment of paper and electronic records.
- Unless properly funded, the release of paper records *en masse* poses a danger to historical knowledge and understanding
- Current legislation offers an ideal mix. The Public Record Act provides for the comprehensive release of documents at a given date (necessary for balanced historical research) and the Freedom of Information Act provides the opportunity for the informed analysis of the more recent past
- A radical and imaginative Report would realise the potential within the current system. Given necessarily restricted funding this would include:
- The fuller funding of the Information Commissioner's Office and the work of departmental record officers
- The expansion of the Cabinet Office's Official History Programme as a potent mix of former officials and academics to provide both expert analysis of the recent past and a reservoir of expertise upon which departmental record and FOI officers might call
- A determined attempt, led by TNA, to identify and preserve records, generated by taxpayers' money, which currently evade 'capture'. These include the papers of special advisers; the Whips Office; agencies which move in and out of the public sector (whose records risk being 'orphaned'); and private agencies in receipt of public money and increasingly essential for policy delivery. To capture such records would be an historic achievement equivalent to the establishment in 1958 of private office papers as public records

Elucidation

1. The review and preservation of paper records

Paper records (covering the period up to 2006) present a different challenge to electronic records. Systems have been designed to review and select the latter as they are generated.

Reviewers are already faced with formidable problems in selecting typically 1% of paper records for preservation. Their task is to select records which adequately represent the policy-making process *and* provide often unequalled evidence about civil society. This task is made the more difficult by the declining standards of record-keeping throughout the period.

Should the 30 Year Rule be modified and paper records become liable to release *en masse*, the only 'rational' strategy departmental record officers can adopt – given limited funding – is to identify and preserve the 'key' records of the 'lead' department in any given area. This does anything but ensure the preservation of evidence on a 'rational' basis for either current analysts or historians. Policy-making is more complex than that. Critical evidence of civil society is recorded more incidentally.

It is essential that the Review should consider problems of policy delivery before recommending any relaxation of the 30 Year Rule.

2. The ideal nature of current legislation

Under the Public Record Act, Britain established international best practice for the comprehensive release of documentation at a given date.

Comprehensiveness is what balanced historical analysis above all requires. The Freedom of Information Act provides clear guidelines by which documentation for the more recent past can be obtained. This is a precondition for its informed analysis.

A priority of the Review should be to ensure the potential of current legislation is fully realised, not least through adequate funding. This should take priority over any new initiative.

3. Bold, historic initiatives

Two cost-effective yet historic initiatives are nevertheless within the Review's grasp.

The first is the expansion of the Cabinet Office's Official History Programme. This, currently in embryo, provides a constructive mix of former officials and academics (vetted to the necessary level) who can both publish informed analysis of the recent past and provide a reservoir of expertise to assist the selection of records for permanent preservation. This is a cost-effective way

in which to both improve ‘collective memory’ within Government and improve public understanding of governance.

The second is a sustained effort, possibly led by TNA, to define and capture a full range of ‘public’ records. In 1958, the Public Record Act achieved an historic advance by establishing that the papers of ministers’ private offices were ‘public’ records. It seems incredible today that they should have been viewed as anything else. The Review can similarly make history by establishing as public records such papers as those of special advisers; the Whips Office; hived-off agencies; and private agencies financed by taxpayers’ money to deliver policy. All such records are generated at public expense and so *prima facie* are ‘public’ documents. ‘Capture’ of these records would reflect the ‘hollowing out of the state’ and so promote both a better understanding and a more penetrating analysis of the increasing complexity of British governance.

The greatest opportunity for the Review to achieve a historic change, given the necessary restriction on funding, lies in organisational and conceptual innovation.

4. Reduction in the 30 Year Rule

Should adequate funding become available, there should be no *political* objection (given the range of investigative journalism and memoirs) to a reduction to, say, 25 or 20 years. There has been a lengthy debate over whether, in relation to policy-making, there are *administrative* objections. Advice proffered by officials early in their careers would be made public while they may still be in post – and possibly high-profile post. Neither historians nor other analysts are noted for appreciating the full context in which, to meet the given wishes of a particular minister or Government, such advice may have been given. Public records are not, although they are frequently confused as being, the secret confessions of civil servants. On balance, however, the earlier release of documents (and their public scrutiny) should encourage officials to ‘speak truth unto power’ and thereby contribute to better government.

The main constraint on reducing the 30 Year Rule is the anticipated lack of adequate funding and the consequent danger that it may be – and will be increasingly seen in retrospect as – counterproductive.