



2002-2003 was a momentous year for archives, with the announcement in Parliament of the creation of a new National Archives service from April 2003, and linked to this the planned creation of a new body to advise the Lord Chancellor on all issues of concern to those interested in records and archives.

Next year I expect to be reporting to you on behalf of your new Advisory Council on National Records and Archives. Its report will include the annual report of your Advisory Council on Public Records, so this will be the final report in this form.

Forty-fourth report of the Lord Chancellor's Advisory Council on Public Records

**To the Right Honourable the
Lord Falconer of Thoroton, Lord
High Chancellor of Great Britain
and Secretary of State for
Constitutional Affairs**

While considering the planning for these changes, the Council has maintained a close interest in records management, especially in the electronic environment, the selection of and access to public records, and the services provided to users of the Public Record Office. We were especially pleased to be able to congratulate the Keeper on the successful re-launch of the 1901 Census website, following extensive reworking after the failure of the service in the face of huge demand early in 2002.

The National Archives

The Advisory Council was excited to learn of the Government's plan to create a new National Archives service, by bringing together the Public Record Office and the Royal Commission on Historical Manuscripts. It can see major advantages in a co-ordinated approach to archival policy for the United Kingdom and in particular in England and Wales, and the consolidation, over time, of the services provided to the



archival community and the public by the PRO and HMC. We have been impressed by the evident care taken to reassure those who might have felt that public services would suffer, especially historians and the owners of private papers.

In common with other commentators, we were very pleased to see that this is not to be merely a cost-cutting exercise, and we look forward to studying evidence of the expansion of public services by the use of resources gained from the efficiency savings which will accrue.

Advisory Council on National Records and Archives

With advice from the Keeper we gave much thought to the Lord Chancellor's need for advice on all matters relating to archives, records and manuscripts, following your predecessor's assump-

tion of ministerial responsibility for them. Our Secretary assisted the Keeper in putting the resulting proposals to your predecessor, which he accepted. The "Russian doll" arrangement, of this Council and a new Advisory Council on Historical Manuscripts within an umbrella Advisory Council on National Records and Archives, appears clumsy but is (we believe) the solution best calculated to serve your needs while recognising our continuing statutory functions. I was very pleased to receive Lord Irvine's invitation to me to become, as Master of the Rolls, the chairman of the new bodies.

In anticipation of the creation of the new structure, our meeting in February was held jointly with the commissioners of the HMC and we were introduced to some of the issues which are of concern to them. We look forward to working with our new colleagues,

to learning about the needs of private owners of papers and the problems associated with non-public records, and to introducing them to the challenge of seeking to look after the public interest in access to and the efficient management of public records.

Archival legislation

The Keeper has kept us informed about the progress of work on new archival legislation. We can see considerable benefits from providing a statutory foundation for archival services of all kinds. Legislation would also of course provide the opportunity to formalise the creation of The National Archives and permit the establishment of a single independent advisory body. We have been pleased to see the care with which this important question is continuing to be addressed.

We have until now been forced to limit our attention in this area to public records issues, as I acknowledged in our report last year. The wider remit of the new Advisory Council on National Records and Archives will enable us, with our new colleagues from the HMC, to look at the benefits new legislation would bring to the whole of the archival and records field.

Extended closure and retention of public records

We have continued to give close attention to applications from departments for the extended closure and retention of public records. It is clear from the lists of documents for which your predecessor approved accelerated opening that departments are

continuing to release material for which closure or retention are no longer justified. Even so, there continue to be items for which applications are made where we are not persuaded that the public should be denied access.

We continue to be grateful to the staff in departments for responding to our concerns constructively, and I have pleasure in reporting that several files have been released which would otherwise have been withheld. These included material on nuclear testing, the award of honours, Rhine transport policy and the late Bobby Moore, formerly the captain of the England football team. We were grateful too to officers of the Scottish Administration for consenting to the release of papers concerning the succession of Dr Ewan Forbes-Semphill to the Craigievar baronetcy, following the death of his widow Lady Forbes of Craigievar.

Files containing sensitive personal papers are the subjects of a significant proportion of applications for closure.

We reported last year on the Home Office's helpful treatment of personal files on applicants for naturalisation as British citizens (known at the time as "aliens") since the 1930s. We have agreed to a further batch of these being closed for 100 years after the birth of the individual, but again the Home Office has expressed itself willing to consider applications from researchers for the release of particular files and, where necessary and possible, to blank out sensitive material from a file so that the remainder may be released.

The personnel files of the wartime Special Operations Executive are all closed for 85 years from the end of the last War (on the basis that some locally recruited agents could have been as young as 15 at the time). Again exceptions may be made, for files relating to individuals about whom the PRO has received conclusive evidence of their death.

The government has been considering the release of papers concerning the abdication crisis in 1936, in line with the guidance on the release of records relating to the Royal Family. We have kept a close eye on this process in the belief that the bulk of such material should be made available to the public, and we were delighted when the withheld files on the subject were released at the end of January.

We understand that the approach of the date in 2005 when the access provisions of the Freedom of Information Act 2000 will come into force is giving some urgency to government consideration of the many statutory bars on access to particular series of records. Some of these bars offer no prospect of release. We share the PRO's view that "never" is a very long time, and look forward to being involved in the review of such bars that has begun.

Records management

We share the concerns of the Keeper and other archivists about the problems posed by electronic records. We have been given some very useful briefing by the PRO on the issues that need to be addressed, in particular on the

Appeals

I reported last year that we were considering an appeal from Mr Reg Hargrave for our assistance to secure the release of a Metropolitan Police file on the unsolved murder of a friend of his in 1954. In the event we concurred with the Commissioner's view that release could hinder any future prosecution, but we were pleased that the period of extended closure of this file was greatly reduced.

We dealt with two further appeals during the year. Mr Charles Beral sought the release of retained papers from the file on the naturalisation of his late father, and discussions about this are continuing.

We were very pleased to be able to secure a positive outcome to an appeal from a constituent of Mr Andrew Lansley MP for access to a hospital register containing an entry relating to his great aunt who died in 1900. Although the entry was over 100 years old, the whole register remained closed because it contained more recent entries. We are grateful to the Department of Health for issuing a blanket authorisation to archivists holding National Health Service records to permit access to personal material over 100 years old so long as the security of more recent material is not compromised.

problems surrounding the authenticity and integrity of e-records which I mentioned in my report last year. We were pleased to learn of the attention which was being paid to these matters by the PRO and others, and we look forward to giving further consideration to them.

Backlogs of reviewing in government departments are an issue which we take very seriously, as you will appreciate from the attention which I have paid them in our earlier reports.

The Customs and Excise is responding positively following receipt of the letter which I asked Lord Irvine to send last year. We were relieved to be told that those records which were at the greatest risk of damage or even destruction had been moved to more suitable accommodation. The initial discoveries of locally accumulated material appear to have prompted C&E to look more carefully, and further quantities of material of considerable historical interest relating to local commerce around the country have been found during this year. We have been impressed, nevertheless, by the determination of C&E to abide by its undertaking to complete work on the appraisal of all of the backlog by the end of the calendar year 2003, so that I hope to have the pleasure of reporting next year that historians will be able to consult a large quantity of valuable records hitherto unknown to them.

I am pleased to be able to tell you that the Forestry Commission continued to respond positively to the concerns which we brought to the attention of your predecessor,

and its backlog had been cleared by the time we met in June. Unfortunately though, while one problem was dealt with another appeared, this time at the Civil Aviation Authority as a result of the privatisation of National Air Traffic Services which had previously done the work. We were concerned to be told that this backlog would take four years to clear, and so we shall be keeping a close eye on progress in the hope that the task can be completed rather faster.

Government Communications Headquarters

In 1998, Lord Irvine agreed to a request from the Home Secretary that he might invite my predecessor Lord Woolf to ask the Council to undertake a review of the criteria used to select records of the Security Service for permanent preservation. After publicising the review, visiting the Security Service and receiving public submissions, the Council published its recommendations and they have since formed the basis of the PRO's operational selection policy for the Security Service.

We were delighted to learn in February that the precedent set by the Security Service had inspired the head of Information Services at GCHQ to seek a similar review for the records of his service. He therefore requested that, on the Lord Chancellor's behalf, the Keeper invite me to ask the Council to undertake the work. A small group of members of the Council has kindly agreed to form a sub-committee to prepare recommendations, and I shall report on the outcome next year.

Freedom of Information

The Council is an authority under the Freedom of Information Act 2000, and so will be required to make its non-exempt records available to enquirers when the access provisions come into force in 2005. In the meantime it is required to publish a Publication Scheme, and thereafter to publish information which is identified in the scheme. The Council's scheme was approved by the Information Commissioner then published at the end of November.

Membership

I have great pleasure in reporting that two members of the Council were made Commanders of the Order of the British Empire during the year, Ted Rowlands in the Birthday Honours for services to the History of Parliament Trust and Andreas Whittam Smith in the New Year Honours for services to the film industry during his term as president of the British Board of Film Classification.

The membership of the Council remained unchanged during the year, and consisted of:

Professor David Cannadine, Director of the Institute of Historical Research, University of London

Sir Charles Chadwyck-Healey Bt, retired, formerly academic publisher

Sir John Chilcot GCB, retired, formerly Permanent Under Secretary of State, Northern Ireland Office

Mr Ian Coulson, teacher, schools inspector in Kent

Mr Peter Fox, Librarian, Cambridge University Library

Mrs Anne Hanford, film librarian and consultant in the management of media collections

Mrs Gillian Hughes, professional researcher and record agent

Professor Angela John, Professor of History, University of Greenwich

Dr Dorothy Johnston, Keeper of Manuscripts and Special Collections, Hallward Library, University of Nottingham

Professor Rodney Lowe, Professor of Contemporary History, University of Bristol

Professor Lord Renfrew, Disney Professor of Archaeology, University of Cambridge and representative of the Conservative Party

Mr Ted Rowlands CBE, formerly MP for Merthyr Tydfil; representative of the Labour Party

Professor the Earl Russell, Emeritus Professor of Modern History, Kings College London and representative of the Liberal Democrats

Mrs Shahwar Sadeque, educational and information technology consultant

Miss Elizabeth Shepherd, Lecturer in Archives and Records Management, University College, London

Mr Andreas Whittam Smith CBE, journalist, First Church Estates Commissioner; formerly editor of *The Independent*, chairman of the Sir Winston Churchill Archive Trust and president of the British Board of Film Classification

All meetings were attended by Mrs Sarah Tyacke, the Keeper of Public Records. Meetings were also variously attended by officers of the Public Record Office: Dr Duncan Simpson, until his retirement director of Government and Archival Services; Dr David Thomas, Dr Simpson's successor; Dr Elizabeth Hallam Smith, director of Public Services; Miss Elizabeth Honer, head of Records Management until her departure to the House of Commons; Ms Meg Sweet, Miss Honer's successor; and Mr Stephen Twigg of Records Management Department. Miss Jeanette Martin and Mrs Gabrielle Firestone of the Lord Chancellor's Department each attended one meeting to observe our work. The Secretary is Mr Tim Padfield.

On behalf of the members,

**Rt Hon Lord Phillips
Master of the Rolls
Chairman**