

**Note of meeting between Lord Burns and
Jeff James, Chief Executive and Keeper of The National Archives (TNA)
Thursday 5 November 2015, 10am to 11am, 102 Petty France**

Also in attendance was Narinder Tamana (Secretariat) and Stuart Abraham (Information Policy: TNA)

1. Jeff James opened and provided a brief history of the role of The National Archives and the various places where public records were archived at a national and local level such as county record offices.
2. Other key points that were made by Jeff James and Stuart Abraham:
 - a. Records are transferred to The National Archives (TNA) and places of deposit under the Public Records Act 1958. The FOIA which came into operation on 1 January 2005 provided a new statutory framework for access to public records.

FOI and The National Archives

- b. Records are transferred to TNA as either 'open' records (immediately available for public scrutiny) which accounts for 95% of current transfers, or as 'closed' (which accounts for 5%), where some of the contents are subject to one or more FOI exemptions, mainly personal data. A third category is 'retained' documents which are particularly sensitive historic records which have been retained by the creating department for a special reason (e.g. national security).
- c. FOI requests tended in the main to be about historical records rather than TNA's corporate records. The type of information which is normally requested from TNA under the FOIA included for example: criminal and immigration case files.
- d. Jeff explained the process for releasing records under FOI. Closed records were still listed in the online catalogues which will highlight which records are not available. An FOI request can then be made for a particular record and TNA will consult with the relevant department on whether the information should be disclosed. Where departments want to keep historical records closed under certain exemptions, the [Advisory Council on National Records and Archives](#) (the Advisory Council) advises the Secretary of State for Culture, Media and Sport (previously the Lord Chancellor) on the public interest of disclosure or maintaining the exemption*.

The unique burden of FOIA on the archive sector

- e. FOIA has a unique burden on archives, given the need to consult the creating body.
- f. TNA in its archive sector leadership role notes that FOI already has a significant impact on archives which hold public records at a local level because:
 - The records they hold are often particularly sensitive i.e. local court, prison, health records
 - Local archives are often not sizeable operations and are without a dedicated FOI resource, so there is potentially limited capacity to handle the FOI regime
 - Resources for local archives are already under severe pressure
 - Local archives do not have the legislative protection afforded to TNA: TNA is able to charge [fees](#) for research under the Public Records Act, but a comparable system does not extend to local archives.

- g. Jeff therefore stated that any changes to the FOI regime should take account of the local archive sector and ensure that current challenges are not compounded.

The challenge of digital

- h. Jeff explained that TNA had been inputting into the review digital records management being led by Sir Alex Allan. Maintaining the current level of records open at transfer with digital records was a key concern, whilst protecting privacy and national security.

Closing points

- i. Jeff closed by providing that it is vital that TNA maintains the government lead for the section 46 Code of Practice. TNA has been acknowledged as the lead for the Code in the recent machinery of government changes.
- j. Jeff also recommended that there to be no changes to the 20-year rule in terms of removal of exemptions for historical records.

Secretariat

November 2015

* The Advisory Council on National Records and Archives is an independent body. It advises the Secretary of State for Culture, Media and Sport (previously the Lord Chancellor) on issues relating to access to historical and transferred public records and represents the public interest in deciding what records should be open or closed. It was established by the Public Records Act 1958 as an advisory non-departmental public body and is chaired by the Master of the Rolls, a senior judge, and has 16 members including historians, archivists, information management professionals, former civil servants and journalists. TNA provides the secretariat for the Advisory Council.