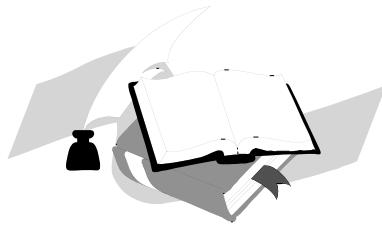


SCOTTISH EXECUTIVE



RECORDS MANAGEMENT MANUAL

2005 Version

Scottish Executive Records Management Manual

Contents

1 Why Records Management?

- 1.1 What is a record?
- 1.2 Why does Scottish Executive keep records?
- 1.3 Why is there a need to manage records?
- 1.4 Records management in SE
 - Paper files
 - Electronic documents: G and H drives, Public Folders and e-mail
 - eRDM (electronic record and document management)
- 1.5 What happens if we get it wrong?
- 1.6 What is my responsibility?

2 Central Co-ordination and Support for Records Management

- 2.1 Functions of central Records Management Team
- 2.2 What is NetIMPreS (Intranet access to corporate paper file management system)?
- 2.3 How do I request a new file?
- 2.4 What happens when a file changes location?
- 2.5 What happens if I want to close a file?
- 2.6 How do I send files to central store? PA & BF
- 2.7 How do I request a file from central store (PA)?
- 2.8 What happens if a file seems to be lost?
- 2.9 What is the standard system for organising your files?
- 2.10 How do I ensure I am complying with best practice?
- 2.11 What are the rules governing records of devolved matters?
- 2.12 What service is provided by the paperkeepers?

3 Filing

- 3.1 What are the principles for good filing practice?
- 3.2 What are the basic rules for good filing practice? Dos & Don'ts
- 3.3 How are Cabinet or Cabinet Ministerial Committee Minutes and Memoranda dealt with?
- 3.4 How are papers in Ministerial Private Offices dealt with?
- 3.5 How are protectively marked files stored?
- 3.6 Electronic – how are e-mail/G/H drive/Public Folder documents dealt with?

4 The Review and Disposal of Records

- 4.1 Organisation and responsibilities
- 4.2 When can a file be reviewed?

- 4.3 How are decisions made?**
- 4.4 Retention and disposal options**
- 4.5 Protectively marked files**
- 4.6 Closed files in the National Archives of Scotland (NAS)**

Appendices to Section 4

Appendix 1: Guidelines for selection of records for permanent preservation

Appendix 2: Records disposal schedule

Appendix 3: Guidance on reviewing old files held at NAS

Annex A – FOI: NAS Exemption Schedule

Annex B – FOI: NAS File Opening Schedule

Annex C – FOI: NAS Document Handling Guidance

Annex D – The Legislative Context for Records Management

Annex E – Guidance on the Agreement Between the Scottish Executive and the Scotland Office on Pre-Devolution Records of the Scottish Office

Annex F – Preparation for Electronic Record and Document Management (eRDM)

Annex G – Guidance on the Standard System for Organising your Files (Retheming)

Annex H – Retheming Table

Section 1 Why Records Management?

1.1 What is a record?

A record:

- can be a single piece of information or a collection of information that is evidence of an activity or decision.
- tells the story of how a business area went about an activity or why a particular decision was made.

1.2 Why does Scottish Executive (SE) keep records?

- To be publicly accountable for and able to justify its decisions and actions.
- To enable us to comply with the requirements of Public Records Act, 1958; Data Protection Act 1998 and Freedom of Information (Scotland) Act 2002.
- To preserve important decisions for future generations including historians, and records deemed to have historical interest must not be destroyed, but archived with National Archives of Scotland (NAS).

1.3 Why is there a need to manage records?

- SE deals with a wide range of subjects and produces a large number of records.
- An effective records management system is essential to ensure records are captured, managed and preserved or destroyed in an organised manner, maintaining their integrity and authenticity.
- Records have to be retrievable - easily and quickly. (*Requests for information under Data Protection or Freedom of Information legislation are governed by statutory response times which would be difficult to comply with if relevant information is not easily identified and retrieved quickly*).
- Saving of resources – staff time and effort hunting for lost documents.

1.4 Records Management in SE

- ***Existing Practice – Paper Files***

The paper file remains the official corporate record until implementation of electronic Record and Document Management (eRDM).

All material which makes up the story/audit trail of SE business activity and decisions should be contained within the paper file, and all file series registered with the central records management IMPReS database.

- ***Electronic documents: G and H Drives; Public Folders and e-mail:***

Any material held on G or H drives, in Public Folders or e-mails is not the official record, and all documents which are part of the story of the business activity/decision making, must be printed and filed. Section 3.6 provides guidance on handling e-mails.

- ***Electronic Record and Document Management (eRDM) system***

It is planned to roll-out a generic eRDM system to all SE offices during 2005/2006.

Your paper files remain the official corporate record until you have eRDM.

1.5 What happens if we get it wrong?

SE must be able to give full and timely responses to Parliamentary Questions or Ministerial Correspondence, as well as respond to requests from the public for information under Data Protection and Freedom of Information legislation. In recent years, major government departments have incurred public criticism because their record management has failed them.

- The BSE Inquiry was critical of Central Government Departments (including SE) because of difficulties encountered in assembling a full set of submissions which had been put up to and read by former Ministers and Permanent Secretaries on BSE and CJD related subjects.
- In 2002, the National Audit Office investigated the accounts for the building of the Millennium Dome, but missing records meant that they could not establish exactly how contracts had been managed and therefore whether or not any fraud had taken place. This made headline news.

1.6 What is my responsibility?

Every SE officer (irrespective of grade or position) has responsibility to ensure that all key documents are filed in an appropriate manner, and should be responsible for finding out:

- where the official records relating to the business of your team are stored
- how they are handled/disposed of
- whether they are registered with the central IMPReS database (and if not contact RM team to arrange for this to be carried out)
- how your records management awareness and skills can be improved (for details of seminars contact RM team)
- what electronic folder set up is used within your team for sharing of information; and how the information relevant to the official corporate record is identified, printed and added to the paper file.

Section 2 Central Co-ordination and Support for Records Management

2.1 Functions of central Records Management team

SE has one central RM team located in Saughton House and operating the corporate file management system. It is SE policy that all core Departments must have their records registered with and managed by the central system.

RM team provides the following services:

- Maintenance and updating of records held on central IMPReS tracking and retrieval database;
- opening new files on electronic/e-mailed request;
- keeping permanent records of file movements and provision of accurate information on location and status, etc on request;
- central storage of (PA - “put away”) files and dispatch of those requested as required;
- provision of BF (bring forward) service for files;
- implementation of “official searches” for missing files;
- provision of re-theming service for business areas seeking to modify their file series to the standard SE system;
- execution of the annual review and disposal of files;
- provision of induction and other training on record-keeping practice as required, and in conjunction with eRDM team, presentation of seminars on “Managing Records in 21st Century”;
- administration of programme of good practice visits to promote best RM practice

NB Records Management teams serving Executive Agencies are staffed and run by their own personnel.

2.2 What is NetIMPReS? (Intranet access to corporate file management system)

SE records are registered on an electronic tracking and retrieval system called IMPReS. **NetIMPReS** is the Intranet facility whereby branches (with SCOTS) can view file details – those which appear on the file cover, e.g. file reference number, title, location, protective marking, disposal, etc. All officially registered SE files may be viewed via NetIMPReS with the exception of the records of those branches which

have notified RM team of concerns about confidentiality. Access is read-only via InExec: Systems: Records Management. Further guidance is onscreen or via Guidance tab. NetIMPreS electronically enables all staff to:

- submit requests for new files/parts
- submit requests for files to be retrieved from central store – form includes an urgency box if required. **NB** requests received from business areas which do not “own” the files will be validated to determine whether they can be released.
- search database using keywords from file titles
- advise RM team of new holder
- close files which are to be retained in branch, where no new part is required

2.3 How do I request a new file?

Requests for new files/file parts may be submitted through:

- Intranet via NetIMPreS (Intranet access to central IMPReS database for all SCOTS users): Intranet: Systems: Records Management. NetIMPreS is used by the majority of branches.
- Submission of electronic form PD18 (Word template: New: General Templates: Miscellaneous: 5PD18.dot and 5PD18a.dot) to dedicated mailbox (Outlook address – RMBNUFIL). (This facility is used by a minority of branches with no access to SCOTS network or with sensitive records which are excluded from Intranet scrutiny).

NB Both facilities have on screen guidance, but contact RM team if you require help

RM team will process your request and issue labelled folder for new file/part. Red “File Closed” slips will be sent for insertion into the closed part. **NB** In accordance with the instructions given on the request forms, and to ensure that the details on the paper file cover match the IMPReS record, it is **essential** that you add the first/last paper dates and selected review disposal option to the front of the closed file cover.

2.4 What happens when a file changes location?

The central database needs to be updated to reflect when a file is sent outwith the business area. To achieve this, the file may either be routed via RM team, or the change in location may be notified via the specific facility on NetIMPreS. Arrangements with paperkeeping services to uplift large bundles of files can be made by contacting Help Central, Distribution Services.

2.5 What happens if I want to close a file?

A file must become closed when:

- 5 years have elapsed since the 1st paper
- its subject matter is no longer current
- papers have not been added for 6 months
- it has become too bulky (over 4 cms) and a new part is required.

If you wish to close a file and send to RM central storage, simply write “RMB-PA” on front of file cover, then identify, initial and date the appropriate disposal option (according to your branch’s Records Disposal Schedule – see Appendix 2 for standard schedule) on front cover and send via messengerial service to RM team in your building. The IMPReS database will be updated as the file is received into store.

If you wish to close a file, keep it in the branch for handy reference, and request a new file part, use the “New Part” form in NetIMPReS. RM team will process your request and issue labelled folder for new file/part. Red “File Closed” slips will be sent for insertion into the closed part. NB In accordance with the instructions given on the request forms, and to ensure that the details on the paper file cover match the IMPReS record, it is **essential** that you add the first/last paper dates and selected review disposal option to the front of the closed file cover.

If you wish to close a file and keep it in the branch for handy reference without opening a new part, use the “close, no new part” form in NetIMPReS, having first keyed in the file reference number in Search screen. RM team will process your request and issue red “File Closed” slip for insertion into the closed file. NB In accordance with the instructions given on the request forms, and to ensure that the details on the paper file cover match the IMPReS record, it is **essential** that you add the first/last paper dates and selected review disposal option to the front of the closed file cover

2.6 How do I send files to central store – “put away” (PA) or “bring forward” (B/F)?

Files to be Put Away (PA)

Where no foreseeable action is envisaged, files may be sent to central storage, even if they are still current. “RMB - PA” should be written in the markings column on the file cover and the file sent for store via internal messenger service. Sending to central storage implies the files will not be regularly accessed, and so this should be taken as an opportunity to consider whether closure would be appropriate. Disposal instructions according to the Branch Records Schedule (see Appendix 2 for standard schedule) must be allocated to files on closure and the file cover annotated accordingly. When files are received into store, IMPReS will be updated to reflect the new location as well as any change in status.

Files to be Brought Forward (BF)

Files not in current use but where there is expected future action, may be sent to central store for temporary retention in designated “bring forward” racking. “RMB – BF”, date for BF and name and location of requesting officer should be written in the markings column on the file cover and the file sent for store via internal messenger service. Files may be marked “bring forward” for any date within a year from the submission of the file to store.

2.7 How do I request a file from central store (PA)?

Files held in central storage will have current holder of RMS-PA on NetIMPreS. To recall:

- Select Search screen, type in file number and click on Submit button
- In Results screen, click on Select button to access "Request for file" form
- Click on Request button at foot of screen and check urgent box if applicable
- Your request will be transmitted to and actioned by RM team and you will receive the file within 24 hours.

NB You may also use this screen to request files with current holder of NAS or SRO (Scottish Records Office - former name of National Archives of Scotland). RM team will forward your request to NAS. Files take about 3-4 days to be returned from NAS.

2.8 What happens if a file seems to be lost?

If a file appears to be lost, the following steps should be taken:

- branch staff confirm the latest location marking with RM team;
- branch staff thoroughly search the local working area and, at the same time, RM team arranges to have the central storage area searched by paperkeeping staff.
- RM team issues a search list for circulation through all offices of the customer branch, to be signed by every officer confirming they have checked they do not have the file.
- If the file still cannot be located, an "official search" can be requested in writing by branch B1 officer to the Records Manager. This involves paperkeeping staff organising a thorough search of all files in storage as well as all cupboards, desks, cabinets, briefcases, etc on branch premises. This will be carried out during working hours if resources permit, but it may be necessary to be conducted outwith normal working hours. If the file is discovered on branch premises, the branch will be liable for overtime costs.

NB Many thousands of files are stored centrally, and such a time-consuming search should be undertaken only after all other possible solutions have been exhausted.

2.9 What is the standard system for organising your files?

Organising your files/changing your file series (retheming)

The aim is to bring the agreed standard procedures into effect throughout SE, where it is practicable to do so. Branches with files managed under the standard system enjoy considerable savings in storage space and staff time, as well as improved reviewing capacity. Branches interested in joining the standard system or streamlining an existing file series should consult Annex G for more information about the procedures involved.

2.10 How do I ensure I am complying with best practice?

The Records Management Good Practice Compliance Programme

RM team has a programme in place to ensure that best practice is followed throughout SE and all paper records are registered with central IMPReS database. Experienced records officers will visit branches to discuss current practices and offer solutions to any problems identified. The RM team will provide assistance to ensure that compliance with best practice is achieved. Please contact RM team if you would like to arrange a visit.

It is essential that all paper file series are in good order and properly managed in advance of implementation of eRDM (electronic Records and Document Management). Further information on preparation for eRDM may be found at Annex F.

2.11 What are the rules governing records of devolved matters?

Files containing papers relating to the period pre-1 July 1999 are the property of the UK government. Any requests for access to these papers received from Scotland Office or another Whitehall Department should be referred to RM team for advice. For further information please see Annex E.

2.12 What service is provided by the paperkeepers?

Paperkeeping services are provided in all SE buildings and fall within the remit of Facilities and Estates Services (FES) House teams. A warehouse in Leith Walk holds all of SE's older, less frequently accessed files, and is entirely staffed by paperkeepers.

Paperkeeping duties include:

- custody and storage of all files registered with the central IMPReS system which are not held in customer branches;
- extraction and replacement of files from and to central storage racks;
- delivery or collection of files to and from customer branches when the quantity is greater than can be sent by the standard normal messenger service (approximately 18 files);
- destruction of files as directed by RM Appraisal team/NAS inspectors;
- collection, storage and disposal of classified paper waste;
- disposal of computer diskettes and cassette-size tapes.

NB A full paperkeeping service is available only to branches within the official records management system, although the collection of classified paper waste is a service offered to all.

Section 3 Filing

3.1 What are the principles for good filing practice?

Files are the case histories which preserve correspondence and are the records of decisions reached (and why) and what action has been taken. Incorrect or slipshod filing or an inadequate record of policy developments or events, lead to mistakes, confusion and unnecessary work. It is essential that files are properly maintained and that the standard procedure for the filing of papers is followed by all staff. Correct filing helps to ensure that related documents are kept together or can readily be brought together and produced when required.

All officers should ensure that good filing practice is maintained, and while a special onus rests with team heads, each member of staff carries responsibility.

3.2 What are the basic rules for good filing practice?

DO:

- Ensure the structure of the file series is simple and easily understood by all staff using it.
- Ensure file titles accurately represent file contents, for easy identification of correct papers.
- Always file reply on same file part. The papers should be filed in order in which they were written.
- Try to file papers as soon as possible after receipt.
- File papers in reverse book order so latest document is seen on opening cover.
- File attachments below the document they relate to.
- File bulky documents in pouches inside file cover with brief description of contents.
- Ensure each stage of the legislative process of a Bill has its own file.
- File all papers on the right hand side of the file cover.
- Print and add to the file - all e-mails and G and H drive documents relevant to the ongoing story
- Close files 5 years after 1st paper date or when about 4 cms thick. If correspondence is still ongoing open up new part.
- Allocate review disposal to files on closure. This ensures files are not retained longer than necessary, identifies those for retention or archive and helps rationalise storage space.
- Regularly sift current files to weed out those which could become closed and stored centrally or destroyed.
- Encourage use of a tracking system. Advise RM team through NetIMPreS (Search screen: new holder button) if file is transferred to another officer.

DON'T:

- Use 'miscellaneous' or 'general' in file titles. This tells you nothing of the file contents
- Store protectively marked files in open cupboards. Restricted files must be kept in cupboards to be locked at night and when the office is unmanned. Files with higher protective marking must be kept in secure cabinets to be locked at all times.
- Remove papers from files. If absolutely necessary, then cross-refer on original file, or make copies for other files and replace the paper on the original file.
- Begin a file with a paper referring to another paper which is not on that file.
- Place Office Notices or circulars on registered files.
- File duplicate copies of the same paper, **unless** there are annotations which may be of future relevance.
- File spent drafts (general rule).
- Lock official papers in personal drawers.
- Keep folders which contain the originals or the only copies of papers in personal drawers.
- Guess at where a paper should be filed. Take time to read preceding correspondence to ensure you have the right one. If in doubt, ask the advice of senior/more experienced officers who should be encouraged to annotate appropriate reference numbers to correspondence passed over for filing.
- Keep correspondence on the same file as policy documents
- File different strands of the same subject on the same file – give them different files.

3.3 How are Cabinet or Cabinet Ministerial Committee Minutes and Memoranda dealt with?

Papers in this category (or extracts from them) are not to be placed on departmental files. They are returned promptly to the appropriate Private Secretary for safe-keeping. In many cases it may be useful for future reference to have a note placed on the departmental file showing the existence of the Cabinet document and its reference number. This is most important where Cabinet documents were originated by, or are of major concern to SE. A copy-brief may serve this purpose; otherwise a note is made on a minute sheet. When such references to Cabinet documents are incorporated in a file, the file cover is clearly marked "Contains references to Cabinet documents". This will assist in the identification of files for selection for permanent preservation and in the researches of historians.

3.4 How are Papers in Ministerial Private Offices dealt with?

It is the responsibility of Ministers' Private Secretaries to ensure that the top copies (or "blues") of all submissions and minutes to Ministers, and any "white copies" of papers which Ministers annotate with a comment of any substance, are returned to the signatory for placement on the relevant Departmental file when Ministerial action is complete. Decisions about which of these side copies are sent back will rely, to some extent, on the judgement of Private Office staff. As a rule of thumb, any comments which the Private Secretary would normally record in a minute to the Department are returned. Private Offices operate a "holding tray" system for such

documents, sending them to relevant Secretariats periodically for appropriate distribution within Departments. **It is the responsibility of divisions in receipt of such papers to ensure that they are placed on the relevant registered file.**

3.5 How are protectively-marked files stored?

In all SE buildings (except Victoria Quay [VQ]), protectively-marked files must be held in appropriate secure storage within branch premises. Details of appropriate secure storage according to level of confidentiality can be found in the Security Branch website. There is a central storage facility for protectively-marked files on the ground floor in VQ. This facility may be used only by business areas located in that building. Only restricted and confidential files may be stored, and anything with a higher level of confidentiality (Secret or Top Secret) must be securely retained locally. For further information on how to withdraw protectively-marked files from central secure storage in VQ, please contact RM team.

3.6 Electronic - How are e-mail/G/H Drive/Public Folder documents dealt with?

In common with other government departments and large businesses, SE is developing a system for the electronic storage and archiving of records – electronic Record and Document Management (eRDM). This is an emerging technology and it is planned to have a fully operational system in place by 2005/2006. **In the meantime, the paper file continues to be the corporate record**, and it is **vital** that any documents created on SCOTS (including E-mail messages, G and H drive and Public Folder documents) which would have been placed in a paper file had SCOTS not been available ***continue to be placed on the paper file.***

Although eRDM is not yet in operation within SE, there are steps which can be taken by all staff to ensure that e-mails comply with the requirements for good recordkeeping. These include:

- a. ensure that a meaningful subject line is included in all electronic messages and where possible, add the file reference number to the subject line.
The subject line should summarise the email document, or might be an action statement (eg “Please respond to draft business development policy by Friday”). Blank subject lines should be avoided;
- b. include detailed signature and salutation blocks.
Details should include name, title, organisational unit etc, which add valuable contextual information to the message;
- c. capture by print and file method (until eRDM implementation).

Section 4: The Review and Disposal of Records

4.1 Organisation and Responsibilities

An annual records review is undertaken by the Appraisal staff within the RM Team. However, branches are expected to indicate their disposal decisions on their own files at creation/closure stage, including those with protective markings.

4.2 When can a file be reviewed?

A file can be reviewed up to four times in its existence.

Creation Time

When it is clear from the branch records Disposal Schedule that a file-type may be destroyed a given number of years after the last action, this should be noted on the file cover of paper files.

At Closure

The long-term value of a file may not be clear until closure. The majority of records should not be destroyed earlier than five years after the date of the last document but records containing only invoices, circulars, or routine correspondence may be destroyed sooner – please see example records schedule at Appendix 2.

First Review

Where a decision is not obvious either at creation or at the time the file is closed, the file may be marked for re-examination five years after its closure date. A disposal decision should be possible at this point.

Second Review

Occasionally, a second review will be necessary and this is scheduled for up to 25 years after the date of the first document on the file.

4.3 How are decisions made?

All branches should base records disposition decisions on the standard Records Disposal Schedule (*see example Schedule at Appendix 2*).

A Branch Schedule refers specifically to branch files. Additions and deletions are made where necessary, and records management decisions which could be considered precedents, recorded on it.

The Records Schedule is used:

when a file is created,

- to ensure that it is assigned to the appropriate category-listing;
- to note disposal instructions where this is possible;

when a file is closed,

- to determine the retention or disposal action;

Many older files which do not fit into Schedule categories require examination. No decision is based solely on the file title.

4.4 Retention and Disposal Options

There are several options available and these are set out in a panel on the file cover and listed in the table below.

Creation	Closure	First review	Second Review
Forward Destroy	Destroy	Destroy	Destroy
Mark for future preservation in NAS (if possible, indicate where exemptions might apply under FOI)	Forward Destroy	Forward Destroy	Forward Destroy (rarely)
	Preserve in NAS (indicate where FOI exemptions apply)	Preserve in NAS (indicate where FOI exemptions apply)	Preserve in NAS (indicate where FOI exemptions apply)
	Retain (in Branch)	Retain (in Branch)	Retain (in branch) (and notify to CRM if 30 years old or more).
	1st Review (5 yrs after closure)	2nd Review (up to 25 yrs from 1 st doc)	

Destroy

The file should be destroyed immediately.

Forward Destroy

The file is to be destroyed at a future date, specified by the reviewer.

Preservation

The file is passed to the National Archives of Scotland (NAS) in the year indicated. Such files are made available to the public immediately, unless they have been marked as having an exemption applied to them under FOI. Branches are able to borrow back preservation files temporarily from NAS.

Retain

A file which has continuing and regular administrative use may be marked to be retained in the branch's own storage area. It must be reviewed every ten years thereafter to determine its status.

If a file is retained beyond 30 years after the date of the last document, it is notified by the SE's Corporate Records Manager to the Scottish Records Advisory Council (SRAC).

[The SRAC is a statutory body appointed by the Secretary of State to advise on the public records of Scotland. Reviewers may be asked by SRAC to justify retention decisions.]

Second Review

When a decision is not obvious at first review, the file is marked for a second review. The standard second review period has been set at a date no more than 25 years from the date of the first document on the file. The ideal date is around 15 years from the date of the first document.

Until second review, only originators or their successors may authorise declassification of protectively marked files.

At second review Local Security Officers (i.e. Branch Heads) may use their discretion as to continuing sensitivity and declassify if appropriate.

Second review is used only for those files whose continued use or value is genuinely in doubt.

4.5 Protectively marked files

Declassification of protectively marked files is compulsory before files are passed to RM team or to NAS. Further information on the protective marking used in SE is available from the Security Branch website.

Files not declassified at closure are:

- marked for review as appropriate and retained in the Branch;
- re-assessed at regular intervals to determine whether protective marking should be continued;
- marked for destruction or preservation on a given date, where this is possible;
- reported as retained to the CRM at the 30 year point

When declassifying:

- protectively marked documents received from other Departments are declassified only with the approval of the originating Department (or its successor) unless the file has reached Second Review (see above);
- each protectively marked paper is examined with a view to declassification and is marked accordingly;
- protective markings on the front cover of the file are struck out, signed and dated by the officer concerned.

Officers who are authorised to downgrade are:

SECRET	C1 or above;
CONFIDENTIAL	B2 or above;
RESTRICTED	B1 or above.

4.6 Closed files in NAS

Preserved files in NAS custody are automatically released to the public domain under the Freedom of Information (Scotland) Act 2002 unless an exemption allowed for by the Act has been indicated. However, NAS holds approximately 28,000 files still

closed under the 30-year closure rule which pre-dated FOI, all of which require to be reviewed for information which is exempt under the FOISA before they can be opened. NAS have agreed with the Scottish Information Commissioner a process of reviewing the “closed” files that, although proactive, will nevertheless take several years to complete. SE Departments are therefore encouraged to consider reviewing their files to accelerate the process of opening files, and reduce the possible burden of FOI requests (requests to see “closed” files at NAS are referred back to the originating Department for a decision on release). For guidance on how to review such files, please see Appendix 3.

Guidelines for Selection of Records for Permanent Preservation

The following basic guidelines are intended to assist RM appraisal team and branch reviewing officers in identifying records of permanent value for transfer to the National Archives of Scotland.

These guidelines cover most aspects of departmental and research criteria.

The following records should be preserved:

- Records relating to the origins and history of the Department; its organisation and procedures; functions and dissolution (office notices, organisation charts, and a standard set of all HQ guides and instructions to out-stations and regional offices, or bodies with which the Department is in regular contact, may be as important as files which relate to these matters);
- Copies of annual and other major Departmental reports (it is convenient to preserve a record set of published reports for use in conjunction with other Departmental records) ;
- Principal policy documents, including those relating to the preparation of legislation and statutory instructions (primarily Scottish), submissions to Ministers or senior officials and papers to the Cabinet or Cabinet Committees, together with all earlier drafts ;
- Records relating to the implementation and interpretation of policy and to changes in policy;
- Record sets of minutes and circulated papers of major Departmental bodies, eg Departmental committees, advisory bodies and working parties (in the case of inter-Departmental committees, the set of the Department providing the Secretariat should be identified as the record set for permanent preservation);
- Records relating to Departmental accomplishments, or to obsolete activities or investigations, or aborted schemes initiated by the Department;
- Documents cited in, or noted as having been consulted in, the preparation of official histories;
- Evidence of statutory rights or obligations, title to property, claims for compensation not subject to a time limit, and formal instruments such as awards, schemes, orders and sanctions;
- Records which must be permanently preserved by statute;

- Documents relating to well-known public or international events, persons or *causes célèbres*, or major events which give rise to interest or controversy at the national level, particularly where those records add significantly to what is already known;
- Records relating to trends or developments in political, social, economic or other fields, particularly where they contain unpublished statistical or financial data covering a long period of time or wide area;
- Documents relating to the more important aspects of scientific, technological or medical research and development, particularly where these had a wider application and affected the political, cultural, social, economic or other aspects of Scottish life;
- Records of significant regional or local interest on which it is unreasonable to expect that evidence or information will be available locally, or those comprising synopses of such information and covering the whole of Scotland or a wide area of the country;
- Statistical and quantitative research either sponsored by the Department or undertaken by outside bodies, where its findings affect Departmental decision-making and the research reflects on demographic, medical, social, cultural and economic history or historical geography.

NB: These guidelines should be used in conjunction with, and tempered by, the Records Schedule.

Records Schedule

Appendix 2

The notations used in the schedule have the following meanings:

- D - Destroy**
- 1R - First Review**
- P - Preserve**

Type of File	Instruction	Notes
1. Policy		
Files on subjects of interest to, but not the responsibility of, the branch (i.e. most documents in the file originate elsewhere).	D. 5 years after closure except as stated in notes.	1R only if subject likely still to be 'live' or where significant inter-branch discussion has taken place.
Policy records on main work of branch.	1R. When disposition decision is taken in consultation between originating Branch and Records Management Team.	Unless clearly of minor interest, when immediate decision to destroy in X years might be possible.
Departmental Working Group, when branch provides Secretariat/is lead branch. Papers, Minutes, Final Report.	P. (Indicate date when file can go to NAS).	Are the records candidates for early or extended closure? If so, inform NAS accordingly.
Consultation papers and responses.	P. (Indicate date when file can go to NAS).	Are the records candidates for early or extended closure? If so, inform NAS accordingly. (Not possible if respondents wish views to be confidential.)

2. Legislation

Primary legislation where branch has lead role (i.e. Bill team).

P. (Indicate date when file can go to NAS.)

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Primary legislation in which branch has interest:

- Records containing copies of documents originating elsewhere and/or branch contributions to briefing notes, notes on clauses etc.

D. 5 years after closure.

- records containing branch's own policy documents

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

- Secondary legislation where branch has lead role :

- amendment of primary legislation

P. (Indicate date when file can go to NAS.)

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

- routine updating of eg. fees

D. 5 years after closure.

- other

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

Other secondary legislation:

- records containing copies of documents originating elsewhere and/or minutes to lead branch

D. 5 years after closure.

- records containing branch's own policy documents

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

3. Correspondence

General correspondence documents.

D. 5 years after closure.

Specific case records.

D. 10 years after closure except as stated in notes.

IR if file contains precedent material.

Contact NAS for advice if specific case records might be worth sampling.

4. Monitoring of Agencies and NDPBs

Records on the setting up of an Agency, NDPB where branch is sponsor.

P. (Indicate when records can go to NAS.)

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Ministerial Directions.

P. (Indicate when records can go to NAS.)

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Monitoring Records.

D. 10 years after closure except as stated in notes.

IR if file contains controversial material in which ministers were actively involved.

Minutes of meetings etc. submitted by originating bodies.

D. 5 years after closure.

Unless branch is Secretariat

Minutes of meetings etc. between agency or NDPB and departmental sponsor.

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

5. Reports from Outside Bodies

Reports sent to Ministers for information.

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

[Some might be unpublished or interesting and otherwise unobtainable.]

Reports sent to Ministers for action, where branch has lead role.

P. (Indicate when file can go to NAS.)

Where report is commissioned, or Ministers involved in consideration. Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Where branch does not have lead role.

D. 5 years after closure.

Unless of continued administrative use.

6. EC Papers

Proposals considered on a Scottish (not a UK) basis where branch has lead role.

P. (Indicate when file can go to NAS.)

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Records containing mainly copies of documents originating elsewhere.

D. 5 years after closure.

Records containing branch comments to lead division.

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

7. Finance

PES records.

D. 10 years after closure.

Estimates records.

D. 10 years after closure.

Appropriation Account records.

D. 10 years after closure.

Payment records.

D. 7 years after closure.

8. Appointments

First round of appointments to new body, when branch has lead.

P. (Indicate when record can go to NAS.)

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Subsequent rounds.

D. After 15 years (or period appropriate to length of appointment and possible reappointments).

Unless record contains precedent material, strong Ministerial views, when IR might be appropriate.

9. Honours

Records containing procedure documents and branch contributions to Honour rounds.

D. 5 years after closure.

Case records.

IR. When interesting subject or possible precedent material. (When disposition decision is taken in consultation between originating Branch and Records Management Team) Otherwise D. 5 years after use.

10. Ministerial Meetings and Visits

Routine meeting and visit briefings

D. 5 years after closure.

Non-routine meeting and visit briefings

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

Records containing useful summaries of live issues for which branch is responsible.

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

11. Research

When commissioning branch.

P. If research otherwise unpublished. Indicate when file can go to NAS. Otherwise, D. 5 years after closure.

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Where not commissioning branch.

D. 5 years after closure.

Branch's consideration and use of, research.

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

12. Press Cuttings

D. 5 years after closure.

Unless part of Bill series where branch has lead.

13. Office Procedure

Management Planning, Manpower requirements, training, work plans, monitoring.

D. 5 years after closure.

Procedure Manuals.

P.

Are the records candidates for early or extended closure? If so, inform NAS accordingly.

Divisional/branch operating instructions.

IR. When disposition decision is taken in consultation between originating Branch and Records Management Team

Branch meetings.

D. 5 years after closure.

Minor procedural Instructions, Scottish Office trawls and general notices.

D. Once no longer in force.

FREEDOM OF INFORMATION: RECORDS HELD AT THE NATIONAL ARCHIVES OF SCOTLAND

GUIDANCE FOR SE DEPARTMENTS ON REVIEWING OLD FILES

Background

1. The National Archives of Scotland (NAS) is the main repository for the public and legal records of Scotland which have been identified as being worthy of permanent preservation. It also advises Scottish government departments, institutions, businesses and private individuals on the care of their records. Scottish Executive files which are chosen to be preserved are transferred to NAS's custody and held there on our behalf.

2. Many FOI requests will not be for information that is current, but for older records which have a long retention period, or have been selected for permanent preservation at NAS. Previously these records were automatically 'closed' to public viewing for a minimum of 30 years, however with the advent of FOI this '30-year rule' no longer applies. Unless they contain information subject to an exemption, they are now available to the public on request under the FOI (Scotland) Act (FOISA).

3. NAS holds approximately 28,000 files closed under the 30-year rule, all of which require to be reviewed for information which is exempt under the FOISA before they can be opened. 'Open' files held at NAS are exempt from FOI as they are already accessible to the public and can be viewed in the public search-rooms. NAS have agreed with the Scottish Information Commissioner a process of reviewing the 'closed' files that, although proactive, will nevertheless take several years to complete. SE Departments are therefore encouraged to consider reviewing their files to accelerate the process of opening files, and reduce the possible burden of FOI requests. Requests to see 'closed' files at NAS are referred back to the originating department for a decision on release.

Retrieving files held at NAS

4. Files that have been transferred to NAS for permanent preservation as historical records can only be returned to the Executive on a temporary basis. **SE's Records Management Branch will track the location of returned files, and they must not be passed on to other areas without first advising Records Management Branch. The files must be handled with care, and not altered in any way (see Annex C).**

File-review programmes

5. If a department decides to implement a programme of reviewing 'closed' files held at NAS in order to identify exempt or releasable files (as recommended by Stephen Bruce's minute of January 2005 to all PS/departments) arrangements should be made with the Government Records Branch of NAS for carrying out the reviews (although files will be distributed and tracked by the SE's Records Management Branch).

6. Where large volumes of files are involved, departments will be encouraged to carry out reviews in situ at NAS where the files are stored (West Register House on Charlotte Square), in order to minimise the risk of files going astray and reduce the administrative burden of issuing files.

7. In some instances NAS may request that departments delay their reviewing programme in order to ‘stagger’ the reviewing work carried out by different departments, which will avoid NAS diverting resources away from other core work.

8. Where it is not possible for staff to visit West Register House, NAS will limit the numbers of files returned to the Executive at any one time to between 10-20, and the files will be issued for a maximum of one month. They have identified certain series of records which will be able to be reviewed quickly (because they are probably releasable, or contain obviously exempt information, such as those including personal information) and they will provide guidance to departments on establishing which series of files to prioritise. Reviewers will be encouraged to carry out a programme of review in a systematic way by looking at series of files rather than a random selection.

Reviewing old files

9. Files may contain a mixture of exempt and releasable information. For this reason file reviewers must look at the entire contents of the file, page by page, and not rely on a general ‘feel’ for the contents of a file. If a file contains any exempt information, however little, it will remain ‘closed’ – it is not possible to designate a file as partly open/partly closed.

Public interest test

10. Whereas the process of review is essentially the same as for considering the release of any information under FOI, the age of the files will affect application of the public interest test. What is in the public interest will change over time and circumstances, and it is for this reason that FOISA has not attempted to prescribe a definition of ‘public interest’.

11. It is likely there will be less public interest in withholding information as time passes - if the information relates to a previous administration for example, its sensitivity is likely to be far less than if it were to concern the current government. (In Ireland, cabinet papers are now released after 10 years.) On balance, the presumption should always be in favour of disclosure. Many exemptions cease to apply after 30 years (see table below); where these are conditional and reliant upon application of the public interest test, the closer the age of the record to the end-date of the exemption, the lesser (in all likelihood) of there being any sensitivities about release.

12. For guidance on applying the public interest test, see the FOI Practical Guidance Notes, available via the intranet on the FOI Unit’s webpages.

Exemptions falling away with time

13. Many of the exemptions cease to apply after a fixed period of time – at this point files held by NAS will be made automatically available to the public.

<i>FOISA Section</i>	<i>Exemption*</i>	<i>Duration of exemption</i>
S.28	Relations within the UK	30 years
S.29	Formulation of Scottish Administration policy	30 years
S.30	Prejudice to the effective conduct of public affairs	30 years
S.33(1)	Safeguarding national security	30 years
s.34(2)(b)	Investigations by Scottish public authorities	100 years
s.35	Law enforcement	100 years

S.36	Confidentiality	30 years
S.37	Court records	30 years
s.38(1)(c)	Personal census information	100 years
s.38(1)(d)	Deceased persons' health records	100 years
s.40	Audit functions	30 years
s.41(a)	Communications with the Royal Family	30 years
s.41(b)	Exercise of HM's prerogative of honour	60 years
* See exemptions guidance and Act for further detail		

For detailed guidance on applying each of the exemptions, see the FOI intranet pages.

Files containing personal information

14. File reviewers should be particularly aware that some files may contain personal information about living individuals, and so an exemption under s.38 of FOISA may apply. The interaction of FOI and Data Protection are particularly complex, and detailed guidance on the s.38 exemption is available on the FOI intranet pages. Broadly speaking, release of personal information must not contravene the Data Protection Principles (see guidance) or cause damage or distress to individuals. References to people operating in a professional capacity – for example their attendance at a meeting – does not constitute personal information. If there are personal references which are sensitive – for example about their health or sexuality – then an exemption under s.38 of FOISA may apply.

Recording the review decision

15. Once the review of a file has been completed, if an exemption has been applied the NAS Exemption schedule (see example in Annex A) must be completed, and two copies placed on the file. If the file can be opened, the File Open Schedule (see example in Annex B) must be completed, two copies put on file, and the file cover marked accordingly with the label provided by NAS.

16. The completed NAS Exemption Schedule must:

- identify the relevant information clearly (for example by the date and title of the document concerned)
- cite each relevant exemption with an explanation of why it applies; and
- identify a date at which release would be appropriate.

Files must then be returned to Records Management Branch at Saughton House who will pass them on to NAS.

Further information

NAS have compiled a list of Executive files held which remain 'closed' for 30 years (approximately 28,000 in total). For a copy of the list contact the FOI Unit on ext. 45146.

NAS also has an online catalogue providing descriptions of its records which can be searched using subject, date, reference, department etc. See <http://www.dswebhosting.info/NAS/>

Contact details for Records Management Branch; telephone the Records Appraisal Unit on ext. 44326.

Contact details for Government Records Branch at NAS; email governmentrecords@nas.gov.uk

Guidance on handling FOI requests and on each of the exemptions is available on the FOI Unit's intranet pages, at <http://intranet/content/departments/lps/cps/foi.htm>

Further information on Data Protection is available in the 'Guidance' section of the intranet.

NAS EXEMPTION SCHEDULE - example

Where it is found on review that a file held by NAS does contain exempt information and is not immediately releasable, the schedule should be completed and 2 copies placed on the file.

NAS EXEMPTION SCHEDULE	
FILE REF	<i>HH93/22</i>
FILE TITLE	<i>Appointment of membership of NBS from 1 April 1993</i>

	Exemption	Tick Appropriate
	Information otherwise accessible	
	Prohibitions on disclosure	
	Information intended for future publication	
	Information intended for future publication – research programmes	
	Relations within the United Kingdom	
	Formulation of Scottish Administration policy etc	
	Prejudice to effective conduct of public affairs	
	National security and defence	
	International relations	
	Commercial interests and the economy	
	Investigations by public authorities and proceedings arising out of such investigations	
	Law enforcement	
	Confidentiality – legal proceedings	
	Confidentiality	
	Court records etc	
	Personal information	✓
	Health, safety and the environment	
	Audit functions	
	Communications with Her Majesty etc and honours	

Information covered by exemption	<i>Personal details of S of S appointments to the ENB. (Names, d.o.b., addresses, ethnic origin etc)</i>
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Suggested date of release to the public	<i>2024</i>	Signed	<i>[signature]</i>
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FILE OPENING SCHEDULE

Where it is found on review that a file held by NAS can be 'opened' the schedule should be completed and 2 copies placed on the file.

FILE REFERENCE: _____ SEP 16/24

FILE TITLE: *Scottish Economic Council, Agenda and Minutes*

THIS FILE HAS BEEN EXAMINED BY: *N. Maclean*

ON: *18/1/05*

THE FILE CAN NOW BE OPENED TO MEMBERS OF THE PUBLIC, ON REQUEST.

SIGNED: *[signature]*

NAS Document Handling Guidance (TO BE REVISED)



INFORMATION AND REGULATIONS FOR RETRANSMITTED FILES

This leaflet provides guidance to Scottish Executive staff requesting departmental files to be retransmitted into their temporary keeping for business purposes.

The National Archives of Scotland (NAS) is the government agency entrusted with the preservation of the public records of Scotland and with making them accessible to the public. Many paper documents are already in fragile condition when they reach the NAS and further handling directly affects the life expectancy of such material and increases the aging process. We ask, therefore, that all files and documents temporarily retransmitted to you be handled as carefully as possible while they are in your keeping in order to help us preserve them for use by future generations.

In particular, please observe the following advice when consulting archive material –

- ✓ Make sure that your hands are clean
- ✓ Use only pencil when taking notes from a file
- ✓ Do not eat, drink or smoke near a file
- ✓ Use only acid free bookmarks (provided). Do not use post-it notes as markers
- ✓ Do not remove documents from the files
- ✓ Do not mark the documents in any way
- ✓ Never employ correction fluid on an original document
- ✓ Be careful and vigilant when making photocopies from files. Rough handling can cause documents to become loose and may lead to them becoming lost or misplaced
- ✓ Ensure that files are properly stored in a secure and risk free environment

NB: where data protection requires a redaction exercise to protect individuals named in a file which is to be made available for inspection, a photocopy must be used for this purpose. *The original document must not be marked or changed in any way.*

D.1 Public Records (Scotland) Act 1937

The primary legislation governing the care and preservation of Scottish public records is the Public Records (Scotland) Act 1937, together with its associated Statutory Instruments and Acts of Sederunt.

The Act is permissive rather than mandatory, placing no statutory duty on a public body to keep records nor to make selections from them for preservation. The term 'public record' is not defined. Public records are described as "any records belonging to Her Majesty".

The purpose of the 1937 Act, is to "make better provision for the preservation, care and custody of the Public Records of Scotland" and relates to:

records of the High Court of Justiciary;

records of the Court of Session;

Sheriff Court Records;

records of any government department,
board of trustees or person having custody
records belonging to the crown and relating
primarily or mainly to Scotland;

records of the town council of any burgh or
any other local authority in Scotland.

The Scottish Records Advisory Council (SRAC) is established by the Act, with the remit to consider questions relating to the custody, preservation, indexing and cataloguing, access to and examination of, the public records of Scotland.

Records relating to a government department or belonging to a local authority may not be destroyed by the Keeper without the prior permission of the organisation concerned.

D.2 Public Records Acts 1958 and 1967

Although this is UK rather than Scottish legislation, in practice, several of the requirements of these Acts are applied in the Scottish public sector.

The 1958 Act describes public records as government records in any format i.e. paper records, machine readable, photographic material, film, video and samples

and models which have been made for the purpose of conveying and recording information.

The Act also places a duty on every person who is responsible for public records to make arrangements to select those which ought to be permanently preserved for safekeeping.

The 1967 Act introduced the rule that government papers should normally be released to the public after 30 years.

D.3 National Heritage (Scotland) Act 1985

Under section 19 of the Act, records dated 1707 or earlier, may not be destroyed.

D.4 Data Protection Act 1998

The Act is concerned with information held by an organisation and relating to living, identifiable individuals. Organisations which hold such information are required to comply with the eight data protection principles listed in the Act (see below).

A data subject (i.e. the person about whom information is held) has the right of access to the information held about him/her and the right to correct errors in the information.

The Act requires organisations holding personal information to notify the UK Information Commissioner about the type(s) of information held, the reasons for holding it and the uses to which it will be put. The organisation or a member of its staff is to be nominated as Data Controller for the information stocks.

D.4.1 Data Protection Principles

The principles require that information collected by an organisation, enterprise or agency is:

fairly and lawfully processed;

processed for limited purposes;
adequate, relevant and not excessive;

accurate;

kept for no longer than is necessary;

processed in line with the individual's rights;

secure; and,

not transferred to other countries without adequate protection.

In some cases, information may be kept for historical research purposes and in these cases, such information is to be transferred to the National Archives of Scotland for permanent preservation.

D.5 The Transfer of Property etc (Scottish Ministers) Order 1999 of the Scotland Act 1998

The Order transfers custody, right of access to, and use of administrative and departmental records to Scottish Ministers. Provision is also made for any Minister of the Crown to have access to and use of, any administrative and departmental records created before 1 July 1999 and now held by Scottish Ministers.

In practice, when the UK Government wishes to exercise its right of access to pre-1 July 1999 records, only those papers relating to the period before 1 July 1999 should be released. If a file contains papers dated before and after 1 July 1999, it should be split before the older papers are sent to Scotland Office.

When a branch is asked to split a file in this way, the RM Team should be notified of the action taken and of the destination of the pre-1 July 1999 papers. A new file should be opened for the post -1 July 1999 papers in the normal way.

When the borrowed papers are returned by the UK Minister, the original file is closed and the holding branch asked to decide on its disposal.

D.6 Freedom of Information (Scotland) Act 2002

The Freedom of Information (Scotland) Act provides a statutory right of access to all types of recorded information, of any age, produced and held by Scottish public authorities. The Act is retrospective.

As part of the move towards more open government, all public authorities are required to produce and submit to the Scottish Information Commissioner for approval, publication schemes outlining the types of information which they intend to publish, how these will be published and whether the information will be made available free of charge.

The Act is weighted towards providing rather than withholding information and in cases where an authority judges information to fall into the category of an 'exemption', the reasons for that decision are to be supplied to the information-seeker. In such cases, the applicant is free to appeal the decision to withhold information and to take their appeal to the Scottish Information Commissioner if they disagree with the justification supplied by the public authority.

D.6.1 Points to Note

- Those requesting information from the SE do not have to quote the Act but should submit their information request in writing or in some other permanent format which can be used for future reference.

- The Act allows 20 days for an organisation to respond to an FOI request, timed from the day on which the request arrives in the organisation rather than with the person who will handle it.
- The terms of the Act mean that the traditional system of closing files to public access will change.

More detailed guidance on compliance with the terms of the Freedom of Information Act is available in the two Codes of Practice¹ issued by Scottish Ministers and the Model Action Plan² produced by the National Archives of Scotland. All three documents are available from the Scottish Executive website (<http://www.scotland.gov.uk/about/FCSD/MCG-NW/00018022/Codes.aspx>)

D.7 The Disposal of Records (Scotland) Amendment Regulations 2003

The Public Records (Scotland) Act was updated in 1940, 1992 and 2003 by Regulations relating to the disposal and destruction of non-court records, considered by the Keeper to be unsuitable for preservation.

The Regulations provide for the disposal of the records of the Scottish administration and the Scottish Parliament, requiring the Keeper to seek consent from the Scottish Records Advisory Council, Scottish Ministers and the Scottish Parliamentary Corporate Body, local authority, board of heritors or other relevant organisation before records are destroyed or transferred to another officer or organisation.

Legislation Consulted

Data Protection Act 1998 available at URL <http://www.hmso.gov.uk/acts/acts1998/19980029.htm>

Freedom of Information (Scotland) Act 2002 At URL <http://www.hmso.gov.uk/legislation/scotland/acts2002/20020013.htm>

National Heritage (Scotland) Act 1985 available in SE Library in paper format only.

Public Records (Scotland) Act 1937 available in SE Library in paper format only.

Public Records Act 1958 (*This Act does not extend to Scotland – although some provisions are applied administratively in Scotland*) available in SE Library in paper format only.

Statutory Instrument 1992 No. 3247 (S. 262) The Disposal of Records (Scotland) Regulations 1992 available at URL http://www.hmso.gov.uk/si/si1992/Uksi_19923247_en_1.htm

Statutory Instrument 1999 No. 1104 The Transfer of Property etc. (Scottish Ministers) Order 1999 At URL <http://www.hmso.gov.uk/si/si1999/19991104.htm>

¹ Scottish Ministers *Code of Practice on the Discharge of Functions by Public Authorities under the Freedom of Information Act 2002 (Section 60(5))* and *Freedom of Information Act (2002) Code of Practice on Records Management (Section 61(6))*

² *Model Action Plan for developing records management arrangements compliant with the Code of Practice on Records Management*

Scottish Statutory Instrument 2003 No. 522 The Disposal of Records (Scotland) Amendment Regulations 2003 At URL <http://www.hmso.gov.uk/legislation/scotland/ssi2003/20030522.htm>

Guidance on the Agreement Between the Scottish Executive and the Scotland Office on Pre-Devolution Records of the Scottish Office

E.1 Purpose of Guidance

This note provides guidance for Scottish Executive staff on how to operate the arrangements set out in the Agreement between the Scottish Executive and the Scotland Office on pre-devolution (ie before 1 July 1999) records of The Scottish Office. **This is only guidance – for the detailed requirements, please refer to the Agreement itself or the relevant legislation.**

The purpose of the Agreement is to:

summarise the legal position regarding ownership and possession of pre-devolution Scottish Office records (*see paragraphs B.2 below*);

explain how this affects the application to those records of:

the Freedom of Information (Scotland) Act 2002,
the Freedom of Information Act 2000 (*see B.3 below*), and

the Data Protection Act 1998 (*see B.4 below*); and

set out the practical arrangements agreed between the Scottish Executive and the Scotland Office for managing those records (*see B.5 below*).

The Agreement is not intended to alter the effect of any of the legislation it refers to – it only sets out our joint understanding of how that legislation applies.

E.2 Ownership and possession

This section is only for background information to put the rest of the guidance into context. You should never need to worry about the ownership or possession of pre-devolution Scottish Office records. In the unlikely event that any questions are raised on this issue, you should refer them to the Public Records Policy Branch of the FOI Unit (see B.7 below) as soon as possible.

UK Ministers retain ownership of all pre-devolution Scottish Office records, under the terms of article 10(1) of the Transfer of Property etc. (Scottish Ministers) Order 1999 (S.I. 1999/1104). In practice, however, all former Scottish Office records are held and managed by the Scottish Executive (see B.5 below).

The Transfer of Property Order gives the Scottish Ministers rights to possess, access, use and deal with, records which immediately before devolution (ie before 1 July 1999) were held or used wholly or mainly in connection with the exercise of devolved functions. UK Ministers have a right to access, use and deal with these records but not to possess them. **In the Agreement and this guidance note, these records are referred to as *devolved functions records*.**

The Scottish Ministers' rights of possession, access, etc do not extend to the small number of records which immediately before devolution were held or used wholly or mainly in connection with the exercise of reserved functions, for example:

- constitutional change,
- nuclear bases,
- offshore installations and pipelines,
- power stations.

In the Agreement and this guidance note, these records are referred to as *reserved functions records*.

It is important to remember that a record held or used in connection with a devolved function, eg planning, but which contains information on a reserved matter, eg nuclear energy, is covered by the Scottish Ministers' rights of possession, etc. In other words, it should be treated as a *devolved functions record*.

Devolved functions are any function of a UK Minister which was transferred to the Scottish Ministers by virtue of section 53, 63 or 89 of the Scotland Act 1998. Reserved functions are any function of a UK Minister which was not transferred under these sections – these are listed in Schedule 5 to the Scotland Act.

E.3 Freedom of Information

Devolved functions records

Information held in *devolved functions records* (see B.2 above) is covered by the Freedom of Information (Scotland) Act 2002 and any requests for access to that information must be dealt with in accordance with that Act. There are, however, 2 important points to remember:

- firstly, there is one exception – where the information is “held in confidence”, it is subject to the UK FOI Act instead (see paragraph 9.1 below);
- secondly, where you are considering the application of the public interest test or the harm test in relation to an exemption under the Scottish FOI Act, the Scotland Office should be consulted (see B.3 below).

Information held in confidence

Where information which has been supplied by a UK Minister or government department is held in confidence by the Executive, any request for access to that information must be referred to the Scotland

Office, who will deal with the request under the UK Freedom of Information Act. Information “held in confidence” will be identified by the Executive on a case by case basis as requests for access are submitted. While there will inevitably be some such information on devolved functions records, it should be relatively rare. The Agreement lists the following categories of information which it has been agreed will be regarded as “held in confidence”:

- UK Cabinet papers – any such papers held in pre-devolution Scottish Office records should have been handed back to the Cabinet Office following devolution. They are listed in the Agreement only in case any have been overlooked. If you find any UK Cabinet papers in Scottish Executive or former Scottish Office records, they must be returned to the Cabinet Office as soon as possible;
- minutes to or from UK Ministers;
- papers relating to defence or national security;
- papers with a protective marking, eg restricted, confidential – even where a paper has been declassified, it should still be regarded as held in confidence;
- papers containing legal advice;
- papers which include a note, or are attached to a covering paper, which asks for the information not to be disclosed.

This list is not exhaustive, it is intended to give only the main examples.

It should generally be clear whether a particular paper should be regarded as “held in confidence”. The Agreement provides that any decision as to whether information is “held in confidence” must be referred to a member of staff of appropriate seniority and experience, ie at least Branch head level. In any case where you are in any doubt, you should contact the Public Records Policy Branch (PRPB) of the FOI Unit for advice (see B.7 below). If necessary, the PRPB will then consult the Scotland Office as agreed in paragraph 9 of the Agreement.

Application of public interest and harm tests

The categories of exempt information in the Scottish and UK FOI Acts are similar so, generally, there should be few occasions when under the Scottish Act the Scottish Executive will have to consider releasing information on a reserved matter which the UK government would not be required to release under the UK Act. However, to minimise the potential for any conflict between the two FOI regimes, the Agreement contains provision for the Scotland Office to be consulted in the circumstances described below. This consultation is not a statutory requirement – it is an administrative arrangement so, while you should give proper consideration to the views of the Scotland Office, ultimately your decision must comply with the terms of the Scottish FOI Act.

Some of the exemptions are subject to a ‘public interest test’ or a ‘harm test’. Guidance on the exemptions and application of these tests is available on the Intranet at:

<http://intranet/content/corporate/guidance/information/openness/index.asp>. One of the main differences between the Scottish and UK FOI Acts is that the harm test under the Scottish Act is on the basis of “substantial prejudice”, compared with plain “prejudice” under the UK Act. Therefore, where this test applies, in Scotland there is a greater presumption that the information will be released than there is in England and Wales. The public interest test is the same under both Acts. **Where you are considering the application of either the harm test or the public interest test in relation to a request for access to information on a reserved matter which is contained in a devolved functions record, you should consult the Scotland Office at the earliest opportunity.** To do this you should copy the request to Melissa Macken, The Scotland Office, Briefing Services Division, Room 1/2, 1 Melville Crescent, Edinburgh, EH3 7HW (tel 0131 244 9009), explaining which exemption(s) and test(s) apply. The Scotland Office will respond in time for you to meet the deadline for responding to the request (ie 20 working days from the date the request was received).

Under section 58 of the Scottish FOI Act, some exemptions fall away after a period of time, ie 30, 60 or 100 years after creation of the record. Clearly, the public interest and harm tests no longer apply when an exemption has fallen away and in such cases the Scottish Executive is not required to consult the Scotland Office.

Detailed guidance on Freedom of Information, including advice on handling requests, is available on the Intranet at:

<http://intranet/content/corporate/guidance/information/openness/index.asp>.

Reserved functions records

The situation with *reserved functions records* (see B.2 above) is more complicated and is explained in the following table:

Type of reserved functions record	Application of FOI Acts
Reserved functions records held by the Scottish Executive, its agencies or associated departments (other than the National Archives of Scotland – see below).	For the purposes of the Scottish and UK FOI Acts, these records are held “on behalf of” the UK Government and subject to the UK FOI Act, so when a person requests access to information held on such a record, they must be referred to the Scotland Office as soon as possible.
Any reserved functions records which are held by the Keeper of the Records of Scotland at the National Archives of Scotland (NAS) and have been designated as ‘open’ for the purposes of the Scottish FOI Act.	These records are subject to the Scottish FOI Act. The NAS makes them available for inspection and (where practicable) copying by the public – so under section 25(2)(b)(ii) of the Scottish FOI Act they are exempt from the access provisions of that Act.

<p>Reserved functions records which were transferred to the NAS before 1 July 1999 and have <u>not</u> been designated as 'open' for the purposes of the Scottish FOI Act.</p>	<p>These records are subject to the Scottish FOI Act. Requests for access to information on these records will be dealt with as described in paragraph 9 above for devolved functions records. If the request is received by the NAS, they will copy it to the appropriate Division/Branch within the Scottish Executive. The Division/Branch will be responsible for deciding whether the information requested is exempt and must inform the NAS of their decision in time for the NAS to meet the deadline for responding to the request (ie 30 working days from the date the request was received).</p>
<p>Reserved functions records transferred to the NAS on or after 1 July 1999 and which have <u>not</u> been designated as 'open' for the purposes of the Scottish FOI Act.</p>	<p>These records are subject to the UK FOI Act. The NAS will refer any requests for access to information held on these records to the Scotland Office as soon as possible.</p>

In practice, the number of reserved functions records which are subject to the UK FOI Act will be a small proportion of the total number of pre-devolution Scottish Office records.

E.4 Data Protection

Devolved functions records

Under the terms of the Data Protection Act 1998 (the DPA), the Scottish Executive is the data controller for devolved functions records (see B.2 above). **This means that the Executive will deal with all requests for access to personal data held in these records.**

Reserved functions records

Under the terms of the DPA, the Scottish Executive and the Scotland Office are joint data controllers for reserved functions records (see B.2 above). **Under the Agreement it has been agreed that, in practice, the Executive will deal with all requests for access to personal data held in these records. It has also been agreed that the Executive will consult the Scotland Office before granting access to personal data held in a reserved functions record, and the Scotland Office will respond in time for the Executive to comply with the request within the time specified in the DPA.** If the Executive intends to refuse a request for access to personal data, it is not necessary to consult the Scotland Office.

Explanatory guidance on the DPA is available on the Intranet at:
<http://intranet/content/corporate/guidance/information/openness/dataprotection/dpr-00.asp>.

E.5 Records management

Under the Agreement, it has been agreed that the Scottish Executive will undertake all records management functions in relation to all pre-devolution Scottish Office files. This means that they will be managed in exactly the same way as the Executive's own files.

E.6 Dispute resolution

It should usually be possible to resolve any questions arising in relation to the Agreement by discussion between Scotland Office and Scottish Executive officials, with assistance from the Public Records Policy Branch (see B.7 below). In some instances, it may be necessary to refer the matter to Ministers. The Agreement provides that where it is not possible to resolve an issue in this way, it will be referred to the Joint Ministerial Committee (JMC) Secretariat in accordance with the Memorandum of Understanding and JMC agreement. The MOU and JMC agreement can be found on the Intranet at:

<http://www.scotland.gov.uk/library2/memorandum/#MoU>.

E.7 Further advice

If you need any further advice on any of the issues covered in this guidance note or the Agreement, contact the Public Records Policy Branch, Freedom of Information Unit, G-A(North), Victoria Quay, ext 45537. Alternatively, you will find detailed guidance on Freedom of Information on the Intranet at:

<http://intranet/content/corporate/guidance/information/openness/index.asp>.

ANNEX F

Preparation for Electronic Record and Document Management (eRDM)

F.1 Purpose of Guidance

It has become increasingly evident that business areas throughout SE are looking to organise their records in advance of roll-out of eRDM. Information Management Unit (IMU) and the eRDM team have produced the following guidance to try to help identify what needs to be done, and help ensure that best practice is carried out office-wide.

F.2 Paper Files pre-eRDM

Your paper files remain the official corporate record until you have eRDM. The paper file should contain all material which makes up the story/audit trail of business activity and decisions in your area.

Under section 3.6 of this manual, it is therefore vital that “any documents created on SCOTS (including e-mail) that would have been placed on a paper file had SCOTS not been available, should continue to be placed on the paper file”.

G Drive & Public Folder

G Drive and Public Folder are useful places to store information to be shared electronically. However, G Drive and Public Folder material is not the official record. If documents are needed for the record, they must be printed and filed. (This is also the case for H Drive documents).

E-mail

E-mail is an important source of information, and much of our business is carried out through this medium. E-mails which are part of the story of the business activity/decision making must be printed and filed. Any e-mail or attached document which, if received or sent in paper form, would normally have been placed on a registered paper file, should be printed and filed accordingly. Avoid printing out and filing documents that were sent solely to provide information and only file on paper important documents you have initiated or received. A rule of thumb is that the creator of the e-mail should ensure it is filed accordingly.

F.3 What you can do now to prepare for eRDM

Over the forthcoming months, there will be updates about eRDM and opportunities to attend seminars on information and records management. It is important that all staff are aware of the Information Management Principles, and have opportunities to think about and discuss what they mean for everyone in their particular jobs.

Awareness/Skills

- Continue to improve your record and document management skills (attend seminars/training)
- Seek to improve your ICT skills, familiarise yourself with the SCOTS3 Good Practice Guidance
- Look out for eRDM developments, including FAQ and briX notes, SEN and eRDM team Intranet site
- Work with Records Management Staff (IMU) and eRDM Communications team – continue to ask questions.

Paper Files

- Ask Records Management Staff (IMU) to retrieve your current files from store – for closure consideration in accordance with your records disposal schedule.
- Rationalise the current files held on branch premises with a view to closure and central storage with Records Management (if appropriate).
- Ensure all your files are registered with the central IMPReS tracking and retrieval system.
- Re-consider your (or the standard) Records Disposal Schedule (appendix 2 of this manual) to ensure it is appropriate for your files.
- Ask Records Management team for help if you are unsure of how to do any of the above.

G Drive

There is no requirement for branches to re-organise their G Drive in any specific way prior to roll-out of eRDM. If they do require reorganising urgently, then useful approaches would be:

- Develop a set of folder names which reflect the subject/topics dealt with and use these to organise the folders rather than organising folders by organisational structures.
- Use the structure provided by your local Records Schedule for paper files – or the standard schedule (appendix 2 of this manual) if this is appropriate. **NB** If you do not have a Records Schedule for paper files, please e-mail Ian Taylor or Ann McBay in IMU – Records Management who will advise on how to develop one.

F.4 eSearch

eSearch, the Executive's search engine, helps staff search more easily across different "stores" of information, including G Drives and Public Folders. This facility is gradually being rolled out across the office on a phased basis and will require input from business areas and support from ISUs. Specific details will be made available locally as each Department is integrated. Business areas will be asked to think about the information stored in G Drive and Public Folders and consider:

- whether the information is still valid and current;
- whether the information should be indexed or not; and
- who should have access to it (eg branch, division, group, Department, all of SE).

This exercise will also be a useful preparation for eRDM and it is recommended that consideration should be given to both G Drive and Public Folder content, currency and access issues, rather than spending time on re-organisation of the folders.

**Information Management Unit: Records Management Team
January 2004**

Contacts for further information:

Records Management: Ken Glasgow ext 45285 or Ann McBay ext 46921 **eRDM:**
mailto:erdm communications team

ANNEX G

Guidance on the Standard System for Organising Your Files (Retheming)

For branches preparing to join the standard system or streamline an existing file series, the procedures are as follows:

- If appropriate, RM team will arrange to visit to discuss requirements. A 3 character cipher (e.g. 2AB) or unique identifying branch code for the new file series is selected and reserved. The master cipher list is maintained centrally, and RM team must be consulted to ensure any cipher chosen has not already been allocated.
- Before planning a new file series, the branch must review its current files with a view to identifying those for closure, disposal and/or central storage. Yearly files which are not the current year, files which are rarely used and those which are thicker than 4 cms should also be closed and given a disposal decision.
- Only current parts of files and those less than 5 years old are rethemed – i.e. if a file has 4 parts, only part 4 will be rethemed.
- Once the current files have been sifted and those for closure identified, the remainder will form the core of the new series, and a branch decision will be required as to how these should be allocated themes and subthemes.
- Letters from A-Z may be added to the 3-character cipher to signify the theme (general subject matter) e.g. 2ABA. This is followed by a numerical suffix to denote the subtheme (more specific subject matter) e.g. 2ABA 001, a second numeric suffix represents the file title e.g. 2ABA 001/001. The following example illustrates:

File number 2ABA 001/001 part 1

2AB:	Cipher (unique branch identifier)
2ABA to Z	ID + Theme (eg Administration, etc)
2ABA 001 to 999	ID + Theme + Sub-Theme (Staff Matters, Accommodation etc)
2ABA 001/001	ID + Theme + Sub-Theme + Specific Title (Training, Leave, etc)

- New file series are created using leading zeros so that reports produced from the database list in strict numeric order.
- The new files will be listed on table (see Annex H for example), and then sent to RM team for consideration and addition of new files to the central IMPReS database. Labelled file covers will be issued and all appropriate cross-

referencing to former file series will be carried out where appropriate. A permanent computer record is created on the central database for each file, including file number, title, opening and closing dates, disposal instructions, movements, review year and classification if applicable.

- In order to maintain continuity, some business areas may opt to transfer papers from current parts of the old file series into the new. Transfer of papers is branch responsibility, but if circumstances and resources permit, RM team may be able to assist. A demonstration of NetIMPreS will be provided on completion of the exercise.
- Documents held on Treasury tags in old files, will be transferred to new file covers in the same tags, to minimise time and effort required. This will apply even where mediclips are the preferred option to hold papers in the new series. All new files and all subsequent parts of the new series may contain mediclips if desired.

Contact RM team for further guidance on setting up/revising a file series, and for a copy of the standard retheming table – see Annex H.

Organisation/Theming of files – Hints on best practice

- * Avoid using descriptors of “general” or “miscellaneous”. A thematic grouping with this heading gives no clue as to its content.
- * Correspondence must kept separately from policy documents.
- * Smaller, more specifically themed files are preferable to bulky, all-embracing files.
- * File titles must reflect clearly and specifically the subject matter of the papers within the file.
- * Different strands of the same subject should be given different files.
- * Each stage of the legislative process of a Bill must have its own file.
- * Theming should be considered by all members of a branch. This will promote familiarity with the structure of the new file series for all branch members, irrespective of grade.

RETHEMING TABLE

NAME _____ DEPT:DIV:BRANCH _____

ROOM/BUILDING _____

PHONE _____ TREASURY TAGS MEDICLIPS (Please Tick)

NEW CIPHER _____ OLD CIPHER _____ ALL FILES UNDER OLD CIPHER CLOSED? Yes/No/NA

The following table provides an example of the information required before R.M.B can create your new file series. Please complete the attached blank table with details to your file series and return to RMB, J Spur, Saughton House. Alternatively e-mail to: RMB NUFIL.

Example

NEW CIPHER	THEME	SUB-THEME	TITLE	If Year file please indicate which year	THEME	SUB THEME	TITLE	Previous ref for Cross referencing on new/old covers, & database	LATEST OPEN PART	Classification
2AB	A	001	001		MANAGEMENT ISSUES	STAFF	MR JOHN KNOX	CBA 1/1	1	UC
		001	002				MISS MINNIE MOUSE	CBA 42/3	5	UC
		002	001			FINANCE	EXPENDITURE	DOD 1/1	3	R
	B	001	001	1998-99	ANNUAL STATISTICS	EXPENDITURE	SAVINGS	DOC/3/9	4	CO

CLASSIFICATION

CO	Confidential
UC	Unclassified
R	Restricted
S	Secret
TS	Top Secret

