

PUBLIC CONSULTATION ON TRANSFER OF HISTORIC SERVICE PERSONNEL RECORDS TO THE NATIONAL ARCHIVES JULY 2008

As part of its ongoing programme, the Ministry of Defence (MOD) is planning to transfer some historic Armed Forces personnel service records to The National Archive (TNA) over the next few years. It is seeking public views on the proposed policy and processes, which are outlined below, to facilitate this transfer. The aim is to develop an enduring approach that protects personal data appropriately whilst allowing researchers and historians the opportunity to make use of a valuable historical resource.

With the heightened public interest in government handling of personal data it is important that the measures put in place for transferring service records to TNA enjoy public support. The MOD would therefore like to hear your views on its plans, and in particular, whether you judge the measures proposed to protect personal data to be sufficient or if there is more than could reasonably be done. You can comment by using the link to the 'Contact us form' under Related Pages on the web page or writing to:

MOD Service Records Public Consultation
DG Information
Floor 6 Zone G
Ministry of Defence
Main Building
Whitehall
London SW1A 2HB

The consultation period will close on 30 September 2008.

Background

Under the Public Records Acts when government records reach thirty years of age they must be transferred to TNA, destroyed or permission sought from the Lord Chancellor for the records to be retained in the originating department for administrative or other purposes.

Although MOD transferred the records of Armed Forces personnel who served in the First World War to TNA in a rolling programme from 1996, it continues to hold a substantial number of service records which are over thirty years old under permission from the Lord Chancellor and MOD therefore needs to develop a policy and process to manage transfer of such records to TNA.

The Records

TNA has indicated its wish to take all service personnel files up to the end of National Service in 1963 at the appropriate time. The records of personnel who served during the First World War which have been transferred to TNA have proved a popular public resource, particularly for genealogists. TNA is

therefore keen to begin transferring other historic service records that MOD continues to hold.

Those collections that are in scope for early transfer to TNA include:

- a. Approximately 170,000 records for soldiers with dates of birth of 1895 or earlier who served beyond the end of the First World War.
- b. Approximately 45,000 records of airmen who enlisted in the Royal Air Force up to 1928.
- c. Approximately 4.5 million records of those that enlisted in the Home Guard during the Second World War.
- d. Approximately 60,000 cards detailing ratings who enlisted in the Royal Navy from 1924 up to the outbreak of the Second World War.

Risks and Mitigation

The service records outlined above potentially contain data which is subject to the provisions of the Data Protection Act 1998 (DPA98) and related legislation, including the Human Rights Act 1998 which incorporated the European Convention on Human Rights into English law. DPA98 applies to all living individuals and covers all personal data. But information about the deceased which is made publicly available can impact on living members of the deceased's family and might, if released, be in breach of Article 8 of the European Convention on Human Rights (right for respect of private and family life). Although not an exhaustive list, data which may fall into this latter category includes information about the deceased's physical or mental health, sexual activity and whether they have committed or been accused of committing an offence.

The challenge is for MOD to dispose of these records legally without infringing data protection legislation. Transfer to TNA does not, in itself, infringe such legislation; it is the access to the information once a record of service is opened at TNA that raises such issues.

Given the volumes of records involved, it is not possible to review each one separately to check for the presence of sensitive information without using a disproportionate amount of resource. It is therefore necessary to develop an approach which will allow the transfer of service records to TNA whilst reducing the data protection risks as far as possible. MOD therefore proposes to take the following steps in respect of transferring such records:

- a. For each set of records a dip sampling exercise would be undertaken to identify the nature of any personal and sensitive personal data. This would be used by MOD and TNA to help decide how and when the records might be made available to the public.

- b. TNA would arrange for the records to be scanned by one of its commercial partners and indexed in order to make them available on-line. This would ensure that individual records could be sifted by date of birth and held closed during the lifetime of the subject. Where date of death cannot be proved the record would remain closed for 100 years from date of birth (see below). All identifiable medical forms kept with the records would be removed during the scanning process to reduce the data protection risks outlined above.
- c. On transfer to TNA those records of servicemen whose date of birth was more than 100 years ago would be opened, with the remainder being closed until they reached 100 years from date of birth unless proof of death can be provided. The Lord Chancellor's Advisory Council on Public Records and Archives agreed in November 2004 that in the absence of proof of death, it is appropriate to assume a person is deceased once they pass their 100th birthday. If proof of death is made available, as supporting evidence to a Freedom of Information request, for example, then the record could be opened at that point.
- d. There is also likely to be some third party information contained in service records transferred to TNA, including data relating to individuals who were born after the subject of the record and who may therefore be alive when the record is opened at TNA. Records opened before 100 years because evidence of proof of death has been provided could be individually checked for third party sensitivities, but opening them at the end of the 100 year period and, as proposed, without further review, would result in some risks remaining. Unless the incidence and level of sensitivity was shown to be extensive in the dip sampling process, TNA and MOD would plan to accept this risk. If such problems were widespread, further mitigation measures, which might, for example, include keeping records closed for longer, could be put in place.