

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

CODE OF PRACTICE ON RECORDS MANAGEMENT

November 2003

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section 61(6) of the Freedom of Information (Scotland) Act 2002**

**Prepared in consultation with the Scottish Information Commissioner
and the Keeper of the Records of Scotland**

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FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

CODE OF PRACTICE ON RECORDS MANAGEMENT

Preface

General

(i) Part One of this Code of Practice (“the Code”) provides guidance to all Scottish public authorities (as defined in section 3(1) of the Freedom of Information (Scotland) Act 2002 (“the Act”)) as to the practice which it would, in the opinion of the Scottish Ministers, be desirable for them to follow in connection with the keeping, management and destruction of their records. Part Two of the Code describes the particular arrangements which apply to those authorities which transfer records to the Keeper of the Records of Scotland at the National Archives of Scotland (NAS) and Part Three describes the arrangements for those authorities which transfer records to public archives other than NAS.

(ii) The Code fulfils the duty of the Scottish Ministers under section 61 of the Freedom of Information (Scotland) Act 2002. The content of this Code has been prepared in consultation with the Scottish Information Commissioner and the Keeper of the Records of Scotland. A *Code of Practice on the Discharge of Functions by Public Authorities Under the Freedom of Information (Scotland) Act 2002* is also being produced, in accordance with section 60 of the Act.

(iii) Any freedom of information legislation is only as good as the quality of the records to which it provides a right of access. Such rights are of limited use if reliable records are not created in the first place, if they cannot be found when needed, or if the arrangements for their eventual archiving or destruction are inadequate. Consequently, all Scottish public authorities are expected to have regard to the guidance in this Code to ensure they are managing their records effectively. For many authorities this will mean a significant culture change for *all* of their staff - senior managers have a responsibility to lead and promote that change.

Status of the Code

(iv) This Code is required under section 61 of the Freedom of Information (Scotland) Act 2002. Accordingly, it is a supplement to the provisions in the Act and its adoption will help authorities to comply with their duties under that Act. It is not a substitute for legislation nor do its provisions have the force of law. However, part of the role of the Scottish Information Commissioner is to promote observance of the Code – see paragraphs (vi) to (viii) below. If an authority fails to have regard to the Code, they may be failing in their duty under the Act. Authorities should seek legal advice as appropriate on general issues relating to the implementation of the Act, or its application to individual cases.

Model Action Plans

(v) This Code is intended to provide high level strategic guidance. More detailed operational guidance, in the form of a generic Model Action Plan (MAP), has been drafted by the Records Management Sub-Group¹ of the Scottish Freedom of Information Implementation Group (SFOIIG), to assist authorities in complying with the Code and the Act. The generic MAP has been designed to be used as the basis of sector-specific MAPs (eg for local government, health, etc) developed by appropriate representative groups. The Report of the Sub-Group, which includes the draft generic MAP, is available on the Scottish Executive's website at: <http://www.scotland.gov.uk/about/FCSD/MCG-NW/00018022/report7.pdf>. Those without access to the Internet can obtain paper copies by phoning the Scottish Executive Freedom of Information Unit on 0131 244 5146 or 5537. At their meeting on 26 September 2003, the SFOIIG agreed that the final version of the generic MAP should be published by the Keeper of the Records of Scotland, as soon as possible after publication of this Code and that publication of the sector-specific MAPs should be a matter for the appropriate representative groups. The NAS and the Scottish Executive will be happy to provide advice to those developing the sector-specific MAPs.

Role of the Scottish Information Commissioner

(vi) The Scottish Information Commissioner will promote the observance of this Code by authorities, acting as appropriate under the terms prescribed in the Act, including, from time to time, consulting the Keeper of the Records of Scotland. If it appears to the Commissioner that the practice of an authority in the exercise of its functions under the Act does not conform with that set out in the Code, he/she may issue a practice recommendation as prescribed under section 44 of the Act. A practice recommendation must be in writing and must specify the provisions of the Code which have not been met and the steps which should, in the Commissioner's opinion, be taken to promote conformity with the Code. The Commissioner must consult the Keeper before issuing a practice recommendation relating to this Code.

(vii) If the Commissioner reasonably requires any information for the purpose of determining whether the practice of an authority in relation to the exercise of its functions under the Act conforms with that proposed in this Code, he/she may give the authority notice in writing (known as an information notice) under the provisions of section 50 of the Act. This requires the authority, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to conformity with the Code as is so specified.

(viii) An information notice must contain a statement that the Commissioner regards the specified information as relevant for the purpose of deciding whether the practice of the authority conforms with the Code and of his/her reasons for regarding that information as relevant for that purpose. It must also contain particulars of the rights of appeal conferred by section 56 of the Act. In the event of an authority not complying with a notice issued by the Commissioner, the Commissioner may apply the sanctions set out in section 53 of the Act.

¹ The Sub-Group was made up of representatives of the health service; local government; higher education; police; the Scottish Parliament; the National Archives of Scotland; and the Scottish Executive.

Main features of the Freedom of Information (Scotland) Act 2002

(ix) The main features of the Act are:

- the establishment of a general right of access to recorded information of any age held by a wide range of bodies across the public sector in Scotland, subject to certain conditions and exemptions;
- in relation to most exempt information, the information must nonetheless be disclosed where the public interest in disclosure outweighs the public interest in maintaining the exemption;
- the creation of a new office of Scottish Information Commissioner, with wide powers to promote good practice and to enforce the rights created in the Act; and
- a duty on each Scottish public authority to adopt and maintain a publication scheme, approved by the Scottish Information Commissioner. Publication schemes must specify the classes and manner in which information is, or is intended to be, published; together with an indication of whether the information will be available free of charge or on payment;
- a duty on the Scottish Ministers to issue Codes of Practice containing guidance on specific issues (under sections 60 and 61 of the Act).

Training

(x) All requests for information (which comply with section 8 of the Act) submitted to Scottish public authorities, should be dealt with in accordance with the provisions of the Act. It is, therefore, essential that all relevant personnel are familiar with the provisions of the Act, the two Codes of Practice prepared under it, and any guidance on good practice issued by the Scottish Information Commissioner. Authorities should ensure that appropriate staff training is provided (see Section 5 of this Code).

Scottish public authorities subject to the Scottish Public Records Acts (or other legislation with record keeping provisions)

(xi) The guidance on records management and on the transfer of public records contained in this Code should be read in the context of existing legislation on record keeping which may apply to some or all of the authorities covered by the Freedom of Information (Scotland) Act 2002. In the main, this legislation is represented by the Public Records (Scotland) Act 1937 (as amended), the Public Registers and Records (Scotland) Act 1948, the Local Government (Access to Information) Act 1985 and the Local Government etc. (Scotland) Act 1994. The 1994 Act complements the objectives of this Code by requiring local authorities to:

- make proper arrangements for the preservation and management of their records;
- consult the Keeper of the Records of Scotland before putting any such arrangements into effect or making any material change to such arrangements; and

- have regard to any comments which the Keeper may make on their proposed arrangements or changes to such arrangements.

The 1994 Act also permits local authorities to make provision for persons to inspect or obtain copies of their records and for a local authority to carry out an activity with, or on behalf of, another local authority. It is, therefore, open to local authorities to enter into a mutually beneficial agreement concerning the storage, management or access arrangements for their records.

(xii) Authorities covered by the Acts mentioned above (and/or any other legislation with record keeping provisions) should note that if they are failing to comply with the Code, they may also be failing to comply with this legislation. Neither should it be assumed that compliance with the Code relieves an authority from any additional duties it may have, which are not included in the Code, under statutory provisions on record keeping contained elsewhere.

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

CODE OF PRACTICE ON RECORDS MANAGEMENT

Introduction

1. General

1.1 The Scottish Ministers, having consulted the Scottish Information Commissioner and the Keeper of the Records of Scotland, issue the following Code of Practice pursuant to section 61 of the Freedom of Information (Scotland) Act 2002.

2. Aims of the Code

2.1 The aims of the Code are to:

- set out practices which **Scottish public authorities** should follow in relation to the creation, keeping, management and final **disposition** of their **records** (Part One);
- describe the particular arrangements which apply to those authorities which transfer their **records** to the National Archives of Scotland (Part Two); and
- describe the arrangements which apply to those authorities which transfer their **records** to public archives other than the National Archives of Scotland (Part Three).

2.2. The guidance in this Code, except Section 10, applies to **records** in all formats. It does not necessarily require the installation of an IT system to implement it. Section 10 deals with additional issues which are peculiar to the management of electronic records.

2.3 In addition to this Code, more detailed guidance may be obtained from published standards on information and records management. Those which currently support the objectives of this Code most directly are listed in Annex A.

3. Interpretation

3.1 For the purposes of this Code:

- the word “records” refers to records in all formats, including paper, electronic, video, microfilm, etc. “Records” is used generically throughout the Code. The specific terms “current records”, “semi-current records”, and “archival records” (see below) are used only where it is necessary to clarify the stage(s) of use being referred to at a particular point;
- “current **records**” are **records** which are required for the day-to-day running of the authority and which are therefore in frequent use, regardless of their date

of creation. Such records are usually maintained in office space and equipment close to hand;

- “semi-current records” are records no longer in day-to-day use but which need to be accessed for a number of reasons, such as for reference in conducting current business, for appraisal and review, or for legal enquiries. Such records must therefore be kept in a useful state until their final disposition;
- “archival records” are records which have enduring historical, informational, evidential or other value. Traditionally, the term has been used to describe records no longer required for current use which have been selected for permanent preservation. Such records should be kept in special environmental conditions and managed by professional archivists. They are normally transferred to an archive office for this purpose;
- “disposition” of records is the point in their lifecycle when they are either transferred to an archive or destroyed;
- “metadata” is supplementary information about a record which adds value to it and aids records management, records preservation and information retrieval. This includes things like file titles & references; keywords; and review & disposal information. In relation to electronic systems, it also includes details about the nature of individual electronic documents (eg minute, letter, spreadsheet, etc) and technical information (eg software type and version).

3.2 Words and expressions used in this Code have the same meaning as the same words and expressions used in the Freedom of Information (Scotland) Act 2002.

3.3 Words and expressions which are listed in this section or defined in the Act are underlined wherever they appear in this Code.

Part One : Records Management

4. Responsibility for Records Management

4.1 Records management should be recognised as a specific corporate function within the authority and should receive the necessary levels of organisational support to ensure effectiveness. It should bring together responsibilities for **all records** held by the authority, throughout their life cycle, from planning and creation through to ultimate disposition. It should have clearly defined responsibilities and objectives, and the resources to achieve them. It is desirable that the person, or persons, responsible for the records management function should also have either direct responsibility for, or a formal working relationship with, the person(s) responsible for: freedom of information, data protection and other information management issues. Authorities should prepare a records management strategy to support and guide the function (see Section 6 of this Code).

5. Human Resources

5.1 A designated senior member of staff should have the lead management responsibility for records management within each authority. This lead role should be acknowledged formally and made known throughout the authority. It should also cover **all** of the records held by the authority.

5.2 Staff with operational responsibility for records management should have the appropriate skills and knowledge needed to achieve the aims of the records management strategy (see Section 6 below). Responsibility for all aspects of record keeping should be defined specifically and incorporated in job descriptions or similar documents.

5.3 The human resource policies and practices of authorities should, of course, already address the need to recruit and retain good quality staff. These should, accordingly, support the records management function in the following areas:

- the provision of appropriate resources to enable the records management function to be maintained across all of the authority's activities;
- the establishment and maintenance of a scheme, such as a competency framework, to identify the knowledge and skills required by records and information management staff;
- the regular review of selection criteria for records management posts to ensure they are up to date and comply with best practice;
- the establishment of a professional development programme for records management staff;
- the regular analysis of training needs and ongoing provision of appropriate training for all staff;

- the inclusion, in induction training programmes for all new staff, of an awareness of records management issues and practices.

Advice on training is available from the NAS, the Society of Archivists, the Records Management Society, local records managers and archivists, the further education sector, and commercial organisations².

6. Main Elements of a Records Management Strategy

6.1 An authority's records management strategy should contain the following elements for **all records**:

- a records management policy (see paragraphs 7.1 to 7.3 below);
- arrangements for registration and tracking of records (see paragraphs 8.3 and 8.5 to 8.7 below);
- guidelines on when records should be closed to further additions (see paragraphs 8.10 and 8.11 below);
- arrangements for appraising the authority's records and for deciding their long-term future (see paragraphs 9.1 to 9.4 below);
- a selection policy (see paragraphs 9.5 and 9.6 below) - this should state, in broad terms:
 - the functions from which records are likely to be selected for permanent preservation (see Annex B for more information); and
 - the periods for which other records should be retained;
- disposal schedules for each business area (see paragraph 9.7 below) - these should be based on selection policies and indicate the appropriate disposition action for each record including, where appropriate, destruction;
- a permanent record of any records destroyed (see paragraph 9.9 below), showing:
 - why they were destroyed,
 - when they were destroyed, and
 - on whose authority they were destroyed;
- adequate storage (see paragraphs 8.8 and 9.8 below) for current, semi-current and historical records (as defined in section 57 of the Act) following appropriate building, environmental and security standards – see Annex A for a list of current published standards; and
- a link to the authority's business continuity plan (see paragraph 8.9 below).

² <http://www.nas.gov.uk>; <http://www.archives.org.uk>; <http://www.rms-gb.org.uk>

It should be noted that although some of the elements listed above are described in the singular, eg records management policy or selection policy, in some authorities (particularly those which are unusually large, have complex organisational structures, or operate devolved management arrangements) it may be more appropriate for their records management strategy to have separate versions of some or all of these elements for different business areas of the authority. Accordingly, throughout this Code, references to these elements should be read as singular or plural according to the needs of the authority in question. However, to ensure an overall consistency of approach, no authority should have more than one records management strategy.

7. Policy

7.1 An authority should have in place an overall policy statement on how it manages its records. This policy should be endorsed by senior management, who should also ensure that it is followed by staff at all levels within the organisation.

7.2 The policy statement should provide a mandate for the performance of all records and information management functions. In particular, it should set out the authority's commitment to create, keep and manage records which document its principal activities. The policy should also:

- outline the role of records management and its relationship to the authority's overall strategy;
- define roles and responsibilities including:
 - the responsibility of individuals to document their actions and decisions in the authority's records as described in paragraph 8.2 of this Code;
 - and the responsibility of individuals to dispose of authority records, having regard to Section 9 of this Code;
- provide a framework for supporting standards, procedures and guidelines; and
- indicate the way in which compliance with the policy and its supporting standards, procedures and guidelines will be monitored.

7.3 The policy statement should be reviewed at frequent, regular intervals (**at least** once every three years) and, if appropriate, amended to maintain its relevance. If between reviews it becomes apparent that an amendment is required, an authority should not necessarily wait for the next scheduled review to make that amendment.

8. Active Records Management

Record Creation

8.1 Each business area of the authority should have in place adequate arrangements for documenting its activities. These arrangements should take into account the legislative and regulatory environments in which the authority operates.

8.2 Records of a business activity should be complete and accurate enough to allow current employees and their successors to fulfil their responsibilities to:

- facilitate an audit or examination of the business by anyone so authorised;
- protect the legal and other rights of the authority, its clients and any other person affected by its actions;
- provide proof of the authenticity of the records so that the evidence derived from them is shown to be credible and authoritative; and
- provide a true and accurate record of the principal policies and activities of the authority for ongoing public accountability and interest, as well as for the historical interest of future generations, including historians.

8.3 Records created by the authority should be arranged in a record keeping structure (or structures) that will enable it to obtain the maximum benefit from the quick and easy retrieval of information.

Information Survey

8.4 A prerequisite for achieving effective record keeping arrangements is the information survey (sometimes known as a record audit). This gives an objective view of the authority's records and their relationships to organisational functions, it helps to determine what is required to install and maintain a records management strategy (the main elements of which are set out in Section 6 of this Code), and promotes control of the records.

Record Keeping Arrangements

8.5 All record keeping arrangements should provide metadata to enable the arrangements and the records to be understood and to be operated efficiently, and to provide an administrative context for effective management of the records.

8.6 All record-keeping arrangements should include a set of rules for referencing, titling, indexing and security marking of records. These should be easily understood and should enable the efficient retrieval of information.

Record Maintenance

8.7 A tracking arrangement should be used to monitor the movement and location of records. This should be sufficient to ensure that:

- information can be easily retrieved from a record at any time;
- any outstanding issues can be dealt with; and

- there is an auditable trail of record transactions.

8.8 Storage accommodation for current records should be clean and tidy, and it should prevent damage to the records. Equipment used for current records should provide storage which is safe from unauthorised access, and which meets fire regulations and health & safety legislation, but which allows maximum accessibility to the information commensurate with its frequency of use. When records are no longer required for the conduct of current business, it is normally more economical and efficient to store them in a designated records centre rather than in offices. Procedures for handling records should take full account of the need to preserve important information.

8.9 It is essential to provide protection for records which are vital to the continued functioning of the authority, so authorities should put in place a business continuity plan which covers this matter.

Record Closure

8.10 Records must be closed as soon as they have ceased to be of active use other than for reference purposes. As a general rule, files should be closed after no more than five years and, if action continues, a further file should be opened – exceptions to this rule include individual medical and personnel files, and files relating to programmes of academic research. An indication that a file of paper records or folder of electronic records has been closed should be shown on the file/folder itself as well as noted in the index or database of the files/folders. Wherever possible, information on the intended final disposition of electronic records should be included in the metadata when the record is created.

8.11 The storage of closed records awaiting final disposition should follow published standards relating to environment, security and physical organisation (see Annex A).

9. Disposal Arrangements

9.1 It is particularly important under Freedom of Information that the disposal, or final disposition, of records is undertaken in accordance with clearly established policies which have been formally adopted by authorities and which are enforced by properly authorised staff. It is also important that disposition decisions and actions are documented.

Appraisal Planning and Documentation

9.2 In order to make their disposal arrangements work effectively to provide the information required under the Freedom of Information (Scotland) Act 2002, authorities need to have arrangements for managing appraisal and for recording the final disposition decisions made. An assessment of the following will provide information to support the authority's resource planning and workflow arrangements:

- the volume and nature of records due for final disposition;
- the time taken to appraise records; and

- the risks associated with destruction or delay in appraisal.

9.3 An appraisal documentation procedure will ensure consistency in records appraisal and final disposition. It must show:

- what records are designated for destruction;
- the reason for their destruction;
- by whose authority destruction has been approved;
- when they are to be destroyed;
- what records are selected for permanent preservation; and
- when they are to be transferred to an archival institution for preservation.

It should also provide background information on the records, such as legislative provisions, functional context and physical arrangement. This information will provide valuable data for placing records selected for preservation into context and will enable future records managers to provide evidence of the operation of their selection policies. In a larger authority each function may require an individual appraisal documentation procedure.

9.4 The appraisal documentation will normally consist of:

- a record selection policy (see paragraphs 9.5 and 9.6 below);
- record disposal schedules (see paragraph 9.7 below); and
- a method of recording the destruction of records (see paragraph 9.9 below).

Record Selection Policy

9.5 The disposal, or final disposition, of records must be undertaken in accordance with a clearly established selection policy which:

- has been drawn up with advice from the authority's own professional archives/records management staff or following advice from the Keeper of the Records of Scotland;
- has been formally adopted by the authority; and
- is enforced by properly authorised staff.

9.6 Each authority should establish and maintain such a selection policy, stating in broad terms:

- the functions from which records are likely to be selected for permanent preservation; and
- the periods for which other records should be retained.

Annex B lists some of the key considerations for deciding how long records should be retained. Authorities may also consult the Keeper if they need advice or guidance when preparing their selection policy.

Disposal Schedules

9.7 The selection policy should be supported by, or linked to, disposal schedules. These should be drawn up for each business area within an authority and should cover **all** records created within that area. The schedules should be arranged on the basis of series or collection and should indicate the appropriate disposition action for **all** records (e.g. review after x years; destroy after y years; archive after z years).

Final Disposition of Records

9.8 Records selected for permanent preservation and no longer in regular use by the authority should be transferred as soon as possible to an archival institution that has adequate storage and public access arrangements (see Part Two for the arrangements for those authorities which transfer their records to the National Archives of Scotland and Part Three for those authorities which transfer their records to public archives other than NAS).

9.9 Records which are not selected for permanent preservation and which have reached the end of their administrative life should be destroyed in as secure a manner as is necessary for the level of confidentiality or security markings they bear. A record of the destruction of records, showing their reference, description, reason for destruction, and date of destruction, should be maintained and preserved by the records manager. Disposal schedules would constitute the basis of such a record.

9.10 Authorities must have in place adequate arrangements to ensure that, before a record is destroyed, they establish whether or not it is the subject of a request for access under the Freedom of Information (Scotland) Act 2002. Under section 1(5) of the Act, if a record due for destruction is known to be the subject of a request for information under the Act, destruction should be delayed until disclosure has taken place or, if the authority has decided not to disclose the information, until the review and appeal provisions of the Act have been exhausted.

10. Management of Electronic Records

10.1 The principal issues for the management of electronic records are the same as those for the management of any record. They include, for example, the creation of authentic records, the tracking of records and final disposition arrangements. However, the means by which these issues are addressed in the electronic environment will be different.

10.2 Effective electronic record keeping requires:

- a clear understanding of the nature of electronic records;
- the creation of records and metadata necessary to document business processes - this should be part of the systems which hold the records;

- the maintenance of a structure (or structures) of folders to reflect logical groupings of records;
- the secure maintenance of the integrity of electronic records;
- the accessibility and use of electronic records for as long as required (which may include their migration across systems);
- the application of appropriate disposal procedures, including procedures for archiving; and
- the ability to cross reference electronic records to their paper counterparts in a mixed environment.

10.3 Generic functional requirements for electronic records management systems (ERMS) are set out in 3 documents published by The National Archives (formerly the Public Record Office (PRO)) in 2002:

- *Functional Requirements for ERMS*, which sets out the required system functionality;
- *Metadata Standard*, which sets out the implications for records management metadata in compliant systems. It has been agreed with the Office of the e-Envoy that this document will form the basis for an XML schema to support the exchange of records metadata and promote interoperability between ERMS and between ERMS and other systems; and
- *Reference Document*, which explains the basic concepts, including entities, glossary, access control model, requirements and metadata mapping.

Authorities are encouraged to have regard to these requirements when developing their specifications for such systems. The National Archives has also issued a *List of Approved Systems*, identifying commercially available systems which have demonstrated the capability of meeting the 2002 *Functional Requirements for ERMS*. (A full copy of the 3 functional requirements documents and the list of approved systems can be obtained from The National Archives or from their website at <http://www.pro.gov.uk/recordsmanagement/erecords/2002reqs/default.htm>).

10.4 Audit trails should be provided for all electronic information and documents. They should be kept securely and should be available for inspection by authorised personnel. The BSI document, *Principles of Good Practice for Information Management* (PD0010), recommends audits at predetermined intervals for particular aspects of electronic records management.

10.5 Authorities should seek to conform to the provisions of BSI DISC PD0008 - *A Code of Practice for Legal Admissibility and Evidential Weight of Information Stored Electronically (2nd edn)* – especially for those records likely to be required as evidence.

Part Two: Review and Transfer of Public Records to the National Archives of Scotland

11. Application of Part Two

11.1 This part of the Code applies to those Scottish public authorities which transfer records to the Keeper of the Records of Scotland at the National Archives of Scotland (NAS) under the Public Records (Scotland) Act 1937 and the Public Registers and Records (Scotland) Act 1948 (“the Scottish Public Records Acts”). The general purpose of Part Two is to facilitate the performance of their functions under the Freedom of Information (Scotland) Act 2002 by NAS and the authorities concerned.

11.2 Under the Scottish Public Records Acts, certain authorities are either required or permitted to transfer records selected for preservation into the custody of the Keeper. This part of the Code applies to all such transfers.

11.3 The arrangements in paragraphs 12.1 to 13.5 below should be established and operated in close liaison with NAS.

11.4 Existing agreed transfer arrangements between a public authority and NAS are unaffected, provided these comply with this Code and remain acceptable to the Keeper.

12. Review of Records

12.1 Authorities which transfer records to NAS should establish procedures for regularly reviewing their records to ensure that they become available to the public at the earliest possible time in accordance with the Freedom of Information (Scotland) Act 2002.

12.2 In carrying out their review, authorities should observe the following points:

- transfer to the NAS should normally take place by the time the records are 30 years old. By agreement with NAS, transfer may take place before records reach 30 years old;
- review - for selection and transfer to NAS - should therefore occur before the records in question are 30 years old; and
- for electronic records, transfer to NAS must take place well before the records are 30 years old – authorities should seek advice on this from NAS at the time the records are created. The review of electronic records should therefore occur before the records reach the age at which it is agreed they should transfer to NAS.

12.3 The purpose of the review of records is to:

- identify those records which should, on transfer to NAS, be placed on public access, because no exemptions under the Freedom of Information (Scotland) Act 2002 apply; and
- identify those records which, on transfer to NAS, should not be placed on public access, because they contain information which is presently exempt under the terms of the Act.

13. Exempt records

13.1 If the review results in the identification of information which an authority considers is covered by an exemption under the terms of the Freedom of Information (Scotland) Act 2002, it should prepare a schedule:

- identifying this information clearly;
- citing each relevant exemption and explaining why it applies; and
- identifying a date at which release would be appropriate (because of the falling away of an exemption at 30 years or some later juncture – see section 58 of the Act). Alternatively, where an exemption does not fall away at a specified juncture, the authority should, in conjunction with NAS, identify a date at which consideration might be given to whether the record remains exempt.

13.2 In preparing a schedule, the authority should consider whether parts of records might be released if it is possible to withhold the sensitive information in some way. Any method of blanking out information should not, however, damage the document and should be fully reversible.

13.3 If circumstances, or the passage of time, change the content of a schedule, the authority should submit the revised schedule to the Keeper highlighting the adjustments.

13.4 Authorities should liaise with the Keeper in the preparation of the schedule described in paragraph 13.1 and submit the schedule to NAS at the time the record is transferred. NAS will use the schedules received from transferring authorities to identify those records which are covered by section 22 of the Freedom of Information (Scotland) Act 2002. Under this section, where the Keeper of the Records of Scotland receives a request for information in an exempt record transferred to him from a Scottish public authority, he will seek a decision from that authority on:

- whether an exemption still applies, and
- if an exemption does apply and it is not an absolute exemption, whether the record should, nonetheless, be disclosed in the public interest (under the terms of section 2 of the Act).

13.5 When, under section 58 of the Act, an exemption ceases to apply, the record in question will automatically become available to the public.

Part Three: Review and Transfer of Public Records to Public Archives other than the National Archives of Scotland

14. Application of Part Three

14.1 This part of the Code applies to those Scottish public authorities which transfer records to a public archive other than the National Archives of Scotland (NAS), a common example being the transfer of records to a public archive service operated by the same authority or by another Scottish public authority. The general purpose of Part Three is to facilitate the performance of their functions under the Freedom of Information (Scotland) Act 2002 by the transferring authority.

14.2 For the purposes of Part Three, “public archive” means an archive service which holds records of, or on behalf of, a Scottish public authority (as defined in section 3(1) of the Freedom of Information (Scotland) Act 2002), regardless of whether the service is operated by a Scottish public authority or by another person, eg a private company. NAS is not a public archive for the purposes of this Part.

14.3 Many Scottish public authorities operate their own public archive service and so the transferring authority and the public archive are part of the same authority. In such circumstances, unless the context requires otherwise, the references in this Part to “transferring authority” should be read as meaning the part of the authority from which the records originated or which has responsibility for the subject matter of the records.

15. Transfer of records

15.1 The transferring authority and the public archive should agree the timing and frequency of the transfer of records as they consider appropriate – having regard to any local guidance, policies, or arrangements which may apply. Existing agreed transfer arrangements between a public authority and a public archive are unaffected, provided these comply with this Code and remain acceptable to both parties.

16. Access to records held in a public archive

16.1 Under section 3(2)(b) of the Freedom of Information (Scotland) Act 2002, records held by “a person other than the authority, on behalf of the authority”, are still held by the authority for the purposes of the Act. This means that where an authority transfers records to a public archive other than NAS, the transferring authority would have to deal with requests under the Act for access to that information. Similarly, where the public archive is part of, or operated by, the transferring authority, that authority would have to deal with access requests under the Act.

16.2 However, if:

- the public archive makes the information in those records available to members of the public on request, whether free of charge or on payment;
- that information is made available in accordance with the authority's publication scheme (under section 23 of the Act); and
- any payment required is specified in, or determined in accordance with, the publication scheme;

the information may be regarded as “reasonably obtainable” under section 25 of the Act and so be exempt from the access requirements of the Act.

16.3 Before including in their publication scheme records which are held in a public archive, a transferring authority should ensure that the public archive will provide reasonable access to the information in those records for members of the public. It is, therefore, important that the transferring authority liaises with the public archive and agrees a strategy for providing public access to such records or the information they contain. The strategy should also detail the method for handling requests for access to exempt information held on behalf of the transferring authority, ie which is not made accessible to members of the public. This should have regard to the time which section 10 of the Act allows for the transferring authority to comply with an access request (see paragraph 18.4 below).

17. Review of Records

17.1 Authorities which transfer records to a public archive should establish an arrangement for regularly reviewing their records to ensure that they become available to the public at the earliest possible time in accordance with the Freedom of Information (Scotland) Act 2002. The review should occur before the records in question are transferred to the public archive. Authorities should, where possible, consult the public archive before conducting the review and take account of any advice they are able to provide.

17.2 The purpose of the review of records is to:

- identify those records which should, on transfer to the public archive, be accessible to members of the public, because no exemptions under the Freedom of Information (Scotland) Act 2002 apply (other than section 25); and
- identify those records which, on transfer to the public archive, should not be accessible to members of the public, because they contain information which is presently exempt under the terms of the Act (other than section 25).

17.3 The transferring authority should ensure that, where the review identifies records which should be accessible to members of the public, those records are covered by the authority's publication scheme. Unless they are covered by the publication scheme, the authority will be required to make that information available themselves in response to requests under the Act.

18. Exempt records

18.1 If the review results in the identification of information which the transferring authority considers is covered by an exemption under the terms of the Freedom of Information (Scotland) Act 2002 (other than section 25), it should prepare a schedule:

- identifying this information clearly;
- citing each relevant exemption and explaining why it applies; and
- identifying a date at which release would be appropriate (because of the falling away of an exemption at 30 years or some later juncture – see section 58 of the Act). Alternatively, where an exemption does not fall away at a specified juncture, the authority should identify a date at which consideration might be given to whether the record remains exempt.

18.2 In preparing a schedule, the transferring authority should consider whether parts of records might be released if it is possible to withhold the sensitive information in some way. Any method of blanking out information should not, however, damage the document and should be fully reversible.

18.3 If circumstances, or the passage of time, change the content of a schedule, the transferring authority should submit a revised schedule to the public archive, highlighting the adjustments. They should also update their publication scheme as appropriate, where additional information is to be made accessible to the public.

18.4 The public archive will use the schedules received from the transferring authority to identify those records which are covered by exemptions under the Act (other than section 25) and are not to be accessible to members of the public. Therefore, when the public archive receives a request for access to this information they should:

- **if the public archive and the transferring authority are part of the same Scottish public authority**, forward the request as soon as possible to the transferring authority (see paragraph 14.3 above). (Authorities should note that the time within which they must comply with the request will start from the day on which it was received by the public archive, because this is the day when it was first received by the authority.); or
- **if the public archive and the transferring authority are not part of the same Scottish public authority**, inform the applicant that they are unable to provide the information sought, explain why and direct the applicant to the transferring authority.

It will then be for the transferring authority to decide:

- whether an exemption still applies; and
- if an exemption does apply and it is not an absolute exemption, whether the record should, nonetheless, be disclosed in the public interest (under the terms of section 2 of the Act).

Detailed advice on transferring a request for information is given in the *Scottish Ministers Code of Practice as to Discharge of Functions by Public Authorities Under the Freedom of Information (Scotland) Act 2002*.

18.5 When, under section 58 of the Act, an exemption ceases to apply, the record in question will automatically become available to the public, provided that it is covered by the transferring authority's publication scheme. Otherwise, the transferring authority will be required to make that information available themselves in response to requests under the Act.

19. Records of a public archive

19.1 Where a public archive, which is a Scottish public authority as defined in section 3(1) of the Act, holds records in its own right (ie other than on behalf of another Scottish public authority under section 3(2)(b) of the Act), those records are subject to the provisions of the Act in the same way as those of any other Scottish public authority. It is, of course, open to the public archive to consider making such records available in accordance with its own publication schemes on the lines discussed in this Part of the Code.

Information and Records Management Standards & SpecificationsBritish and International Standards

BS ISO 15489-1:2001	Information and documentation. Records management. General.
PD ISO/TR 15489-2:2001	Information and documentation. Records management. Guidelines.
BSI DISC PD 0025-1:2002	Effective records management. A management guide to the value of BS ISO 15489-1.
BSI DISC PD 0025-2:2002	Effective records management. Practical implementation of BS ISO 15489-1.
BS 4783	Storage, transportation and maintenance of media for use in data processing and information storage.
BS 7799	Information security management. Code of practice for information security management.
BS 7799-2:2002	Information security management. Specification with guidance for use.
BS ISO/IEC 17799:2000, BS 7799-1:2000	Information technology. Code of practice for information security management.
BSI DISC PD 0008:1999	Code of practice for legal admissibility and evidential weight of information stored electronically.
BSI DISC PD 0010:1997	Principles of good practice for information management.
BSI DISC PD 0012	Guide to the practical implementation of the Data Protection Act 1998.
BSI DISC PD 5000:2002	International Code of Practice for electronic documents and e-business transactions as legally admissible evidence.
BSI DISC PD 0018:2001	Information management systems. Building systems fit for audit.

The National Archives Standards for the Management of Public Records

The National Archives (formerly the Public Record Office (PRO)) publishes standards, guidance and toolkits on the management of public records in all formats. These standards reflect the legislative and administrative arrangements which apply to UK public records. However, in so far as they are applicable to Scotland, they contain helpful, practical advice which is commended to Scottish public authorities. They are available from The National Archives and on their website at: <http://www.pro.gov.uk/recordsmanagement>.

The National Archives' "E-government Policy Framework for Electronic Records Management", published in July 2001, is available on the website for the Office of the e-Envoy at: <http://www.e-envoy.gov.uk/assetRoot/04/00/39/76/04003976.pdf>.

European Communities Specifications

MoReq

Model Requirements for the Management of Electronic Records, 2001.
An alternative to the Public Record Office's functional requirements for electronic records management systems in UK government. Currently available from: <http://www.cornwell.co.uk/moreq>.

Retention of Records

Retention Periods

Public authorities should consider the following questions when deciding how long to retain a record before final disposition:

- Is the record still required for the day-to-day running of the authority?
- Is it required for legal purposes (e.g. contracts)?
- Does any legislation or official regulation govern how long it must be kept?
- Is it likely to be of ongoing or recurrent public interest?
- Is there current guidance on record retention in your sector?

Retaining Records for Permanent Preservation

Records are designated as “archival” for many reasons, the main ones being that:

- they are still essential to the authority (e.g. title deeds which, although only very occasionally required, provide proof of land ownership); and
- they document the authority’s policies, structures and processes so that its activities may be accountable to the present generation and understood by future generations.

In general, this means keeping records which provide evidence of the following matters:

- top-level decision making and policy formulation within the authority;
- policy making within the major functions of the authority;
- important or high profile aspects of the interactions between the authority and individuals, businesses, civic institutions, and the environment;
- principal administrative processes of the authority;
- structure and remit of the authority, and any major changes to these;

and which demonstrate adherence to:

- the authority's statutory obligations in respect of permanent record preservation.