

## Freedom of Information Act 2000 (Section 48 (1))

### Practice Recommendation

Date 03 March 2009

**Public Authority:** Department of Health  
**Address:** Richmond House  
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Following an investigation into the Department of Health's (the 'Department') handling of an information request the Information Commissioner, in accordance with section 48(3), consulted the Chief Executive of The National Archives, in her capacity as Keeper of Public Records to determine the Department's conformity with the following Code of Practice issued by the Lord Chancellor in November 2002:

- Management of Records issued under section 46 (1) of the Freedom of Information Act 2000 (the 'Act').

As a result the Information Commissioner has concluded that the Department's procedures do not conform to the above Code, a full copy of which can be found at:

<http://www.foi.gov.uk/reference/impref/codemanrec.htm>

### Summary

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On 21 January 2008 the Commissioner served a Decision Notice (case reference [FS50083381](#)) upon the Department which, amongst other matters, recorded an admission that the authority could not account for the whereabouts of numerous documents filed between August 2003 and September 2004.

This and various other incidences of poor records management brought to the Commissioner's attention, suggested that the Department may be failing to conform to the provisions of the section 46 Code of Practice.

This led the Commissioner to formally request that the Chief Executive of The National Archives (referred to throughout this recommendation as TNA), in her capacity as the Keeper of Public Records, conduct a records management assessment of the Department on behalf of the Commissioner.

Practice Recommendations are issued pursuant to section 48(1) of the Freedom of Information Act 2000. Regulation 16(5) of the Environmental Information Regulations 2004 provides that section 48(1) applies to environmental information. The Commissioner acknowledges that some of the content of this Practice Recommendation is sourced directly from the report compiled by the Chief Executive of The National Archives, in her capacity as Keeper of Public Records following consultation under section 48(3).

The assessment concluded that the Department had failed to conform to the following provisions of the section 46 Code:

- Functional Responsibility
- Policy
- Human Resources
- Record Creation
- Record Keeping
- Disposal Arrangements
- Appraisal Planning and Documentation
- Management of electronic records

The assessment noted that whilst there are good central policies and guidance in place, the Department has devolved much of the responsibility for day-to-day management of records to local staff. This has led to the development of local practices, some of which are good and reflect a conscientious approach. However, there is a lack of consistency across the Department and it was noted that senior managers need to do more to ensure that good behaviours and practices are reinforced.

In reporting the context for the assessment, TNA explained that the Department works against a background of frequent change. In 2003 it significantly reduced its staffing levels, and there have been subsequent changes in organisation and structure. This led TNA to conclude that these changes had impacted on the Department's records management capability.

TNA acknowledged that the Department had a reputation across government for professionalism in the way it has approached the record and information management agenda. The assessment noted that record and information management is formally recognised and resourced with appropriate policies, systems, procedures and guidance in place.

Subsequent to the assessment, TNA was informed that a project designed to carry out a wider 'culture change' programme including the development of a more robust policy framework, stronger information management guidance, and knowledge management engagement will be taking place. This has the support of the Commissioner.

## **The Commissioner's Role**

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1. The Commissioner's duty is to promote observance of the Code of Practice under section 46 (1) as a means of encouraging good practice by public authorities in carrying out their obligations under the Act.
2. Section 48 (1) of the Act empowers the Commissioner to issue a practice recommendation, where it appears to him that the practice of a public authority does not conform to the Code. Such a recommendation will identify the provisions of the Code with which, in the

Commissioner's opinion, the authority's practice does not conform and will specify the steps which he considers are necessary to promote conformity.

3. Section 47 (2) of the Act allows for the Commissioner to disseminate, in such form and manner as he considers appropriate, information that appears expedient to him to provide to the public on:
  - the operation of the Act
  - good practice
  - other matters within the scope of his functions under this Act
4. The Commissioner's [FOI Enforcement Strategy](#) contains provision for intervention where it is recognised that they may be an educative and deterrent impact on other public authorities – either generally or within a particular sector.

## Chronology

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5. On 1 December 2006, and during his investigation of a section 50 (1) complaint, the Department advised the Commissioner that it was unable to provide two schedules pertinent to a complainant's request for information. The request related to a contract for the provision of an electronic recruitment service, agreed in 2003.
6. The Commissioner enquired as to the whereabouts of the schedules and on 5 December 2007, the Department advised that despite extensive searches the schedules could not be located. The Department explained that the schedules may have been amongst various paper files stored between August 2003 and September 2004, the whereabouts of which could no longer be accounted for.
7. On the 21 January 2008, the Commissioner concluded his investigation of the complaint and issued a Decision Notice ([FS50083381](#)).
8. Paragraphs 84 and 85 of this Decision Notice explain that the Department's inability to confirm the whereabouts of the schedules, and the apparent loss of various other documents filed between August 2003 and September 2004, suggested non-conformity with the section 46 Code of Practice.
9. On the 15 February 2008, the Department appealed Decision Notice [FS50083381](#) on the grounds that the Commissioner had erred in his consideration of sections 41, 43 (1) & (2) and 44 of the Act and their applicability to the requested information. The relevance of this appeal to the Department's conformity to the section 46 Code of Practice is explained in paragraph 17 of this recommendation.
10. Prior to submission of the appeal, and entirely separate to its consideration by the Information Tribunal, the Commissioner's Enforcement Team undertook an audit of section 50 (1) complaints. During this audit, the Enforcement Team collated various examples of

poor request handling which in the opinion of the Commissioner, demonstrated non-conformity with the section 45 Code of Practice.

11. [The section 45 Code](#) provides public authorities with guidance on the practice it would be desirable for them to follow when discharging their functions under Part I of the Act. If it appears to the Commissioner that the practice of a public authority fails to conform to the section 45 Code, he may issue that authority with a practice recommendation specifying the steps he considers necessary to promote conformity.
12. The Commissioner considered that steps to promote conformity were required and on the 31 March 2008, he issued the Department with a section 45 [practice recommendation](#). The recommendation reiterated that the Commissioner would be exploring the issue of the missing files arising from case [FS50083381](#), and records management more generally, under the provisions of section 48 (3) of the Act.
13. In order for TNA to carry out an assessment of conformity with the section 46 Code of Practice, the consent of the public authority in question is required. The Department provided such consent on the 21 April 2008.
14. Following preliminary discussions, the Commissioner formally requested that the Chief Executive of The National Archives carry out an assessment of the Department's conformity with the section 46 Code of Practice on 2 July 2008.
15. TNA commenced the assessment on the 22 September 2008 and produced a report detailing its findings. The assessment included consideration of written evidence, comprising various records management documents such as policies and procedures, as well as interviews with staff from the Department.
16. Whilst the assessment of the Department was taking place, the Information Tribunal considered the appeal submitted in relation to Decision Notice [FS50083381](#). This appeal was conducted separately and had no bearing upon the outcome of the assessment.
17. The Tribunal's [decision](#) was promulgated on 19 November 2008. This decision is relevant to the wider context of this practice recommendation as, despite earlier assertions that the schedules could not be located, the Department was able to provide the Tribunal with copies of both documents before the appeal was heard. In the Commissioner's opinion, this lent further credence to his concerns that the Department's approach to records management did not accord with expected standards.
18. TNA provided the Commissioner and the Department with a copy of its completed report on 1 December 2008.
19. As a matter of courtesy, TNA also provided a copy of the report to the Department's Permanent Secretary.

20. In response, the Permanent Secretary acknowledged that it was helpful to have an external authority take a structured view of the Department's approach to records management and explained that work was already underway to address many of the recommendations made.
21. This practice recommendation considers the relevant findings of that report in the context of the section 46 Code of Practice. The Commissioner believes that the adoption of these recommendations will help the Department conform to the section 46 Code and in so doing, comply with its duties under the Act.

## **Nature of non-conformity**

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22. The Commissioner considers that the practice of the Department in relation to the exercise of its functions under the Act does not conform to the following provisions of the section 46 Code of Practice:

## **Part I: Records Management**

### ***Functional Responsibility***

23. The Information Management and Governance Team has specific responsibility for records management. The team is well organised, reasonably resourced in relation to its current activities and is considered both professional and supportive by colleagues elsewhere in the organisation. However, due to the devolved nature of corporate processes in the Department, it is not clear whether this team has the necessary levels of organisational support to be fully effective. Furthermore, the work of the Information Management and Governance Team is adversely affected by the prevailing culture which allows business units to choose alternatives to recommended corporate systems where they wish to.
24. Although they have worked hard to raise awareness of guidance, and seek to ensure adoption, the Information Management and Governance Team do not possess a formal mandate to monitor, police and enforce official policies.
25. Organisational and cultural changes have had an impact upon the wider or long-term business needs for information, and on how managers and operational officers perceive the relevance and importance of records management. TNA noted that this appeared to have contributed to:
  - a sense that adherence to centrally defined guidance on records management is discretionary and that some senior managers would not adopt or use the current systems;
  - incidences of systems being used in what appeared to be an idiosyncratic manner;

- the subversion of the Department's requirement that records be kept in structured manner so they can be easily retrieved;
  - gaps in the official record;
  - a loss of corporate knowledge on how to follow established policies and procedures for maintaining a full corporate record;
26. The situation may have been exacerbated further by a substantial increase in the engagement of contractors, many of whom have come from outside of the NHS and are unfamiliar with the procedures of the Department. A further complication is the relatively high turnover of staff and the significant reductions in the Departments workforce (36% reduction since 2003).

### ***Policy***

27. The Department's corporate records management policies are published internally on their intranet system, Delphi. Although the inclusion of these policies might imply some level of corporate endorsement, it is not explicitly stated that this has been obtained at the most senior level. In addition, reference is made to monitoring of compliance, but this does not cover all record keeping systems.

### ***Human Resources***

28. The Head of the Information Management and Governance Branch has operational responsibility for records management across the Department. Strategic responsibility at board level rests with the Director- General of Finance and Operations. However, some interviewees seemed unaware of this. In the Commissioner's opinion this suggests that the Department has failed to make this role known throughout the authority, further emphasising a lack of senior endorsement.
29. Staff within the Information Management and Governance Team have appropriate records management skills and knowledge. However, outside of this Team, the approach is less coherent, with key records management functions being devolved to local staff. A number of the local staff, particularly Local Records Co-ordinators, have neither specific reference to records management within their job descriptions or the skills and knowledge required to carry out even basic functions. During the assessment, TNA was advised that no competency framework exists to underpin the role of such staff.
30. Although a significant proportion of new permanent staff attended the Department's Knowledge and Information Management induction training over the financial year 2007-08, contract and agency staff were not present. It remains unclear whether contractors and agency workers receive any training on records management issues within the business units. More generally, this may be exacerbated by the relatively informal approach to training, attendance at which is often viewed as optional rather than essential.

31. Subsequent to the assessment, TNA was informed that a specialist competency on Knowledge, Information and Records Management (KIRM) is available to staff via the Department's intranet. This competency sits alongside other Professional Skills for Government frameworks, but is not widely used. It therefore appeared to TNA that whilst training and development are available, there are gaps in training analysis, induction and development for staff.
32. TNA noted that there was no question of the commitment of either the Information Management and Governance Team or the trainers in providing the required training, rather the commitment on the part of some managers and their staff was lacking.
33. The Department's principal electronic record management system is the Management of Electronic Documents Strategy (MEDS), an outline of which is provided in the 'record creation' section of this recommendation (below). Although there are MEDS administrators, not all appear to have attended the formal administrator training course. This would undermine their ability to assist colleagues in using the system.
34. Lead administrators from each business unit are invited to attend a MEDS Administrators Forum. However there is a lack of awareness of the existence of this forum and attendance is inconsistent, possibly because it is considered optional rather than mandatory. A further issue was a perception that some senior managers were hostile to MEDS and did not support the administrators in the discharge of their roles.

## **Active Records Management**

### ***Record Creation***

35. The Department has a range of systems for the creation of records, but these are not always adequately or correctly utilised in practice. Lack of controls on some local systems potentially compromises their authenticity and auditability, and their longer term usability by successive staff.
36. The Department operates a number of parallel and overlapping record keeping systems. The retrievability of information held in these systems varies, but factors including devolved management, information silos and poor titling and indexing mean that it is often not easy or quick to retrieve information reliably, particularly across business unit boundaries.
37. MEDS is the principal record keeping system within the Department and has been designed to provide users with a secure location for the storage of emails and other electronic documents. The system allows users to capture and file emails, attachments, and other electronic objects such as MS word and MS Excel documents. However, custom and practice seems to favour filing non-email electronic documents onto shared drives.
38. MEDS provides for the concept of 'working folders'. Working folders are informal storage areas which can be used to store draft material whilst its final destination is determined. During the assessment, it was noted that in some cases, material remained within the

working folders instead of being sorted and re-located into MEDS files. Although working folders can be searched, the configuration of the system means that searching is often counter-intuitive, as in order to locate the required information effectively, users are required to know when a particular piece of business was transacted. Where such practice occurs, the effect is to create an information silo which cannot be readily searched by other staff.

39. More generally, the use of MEDS appears to be inhibited by a lack of training and ignorance of how the system works. A common complaint is that users cannot readily find records stored within the system. Many users do not use the advanced search options and their dependence on simple searches can be unsatisfying and frustrating.
40. There are inadequate metadata and rules for titling and indexing for these systems. This is exacerbated by the absence of agreed naming conventions for records held on shared drives.

### ***Record Keeping***

41. The Department works closely with NHS Choices and DH Legal Services. DH Legal Services and NHS Choices do not have access to the key electronic information management system, MEDS. The assessment suggests that a consequence of this is that the Department may be unaware that records of relevance to them exist.
42. In respect of NHS Choices, it was noted that there was a gap in the provision of service which undermines the ability of this unit to keep records in the form of emails. Although staff within this unit can save the contents of an email into a shared drive, it results in the creation of a text file and does not accommodate for any associated attachments, or include the relevant metadata. In practice, this leads to staff retaining emails in their personal mailboxes, which are routinely deleted when the account is closed.
43. In addition to MEDS and other systems, the Department retains information on shared drives. The Information Management and Governance Team consider that shared drives should primarily be used as an information sharing tool, and some useful protocols on use have been drawn up. However, the majority of staff interviewed considered the shared drive their primary area for the filing, storage and retrieval of information during day to day working. Shared drives are under the control of local teams, and the Information Management and Governance Team do not have routine access. The lack of central guidance means that practices in structuring and managing these files varies widely between business units, with some managers relying on administrators to carry out this task for them.
44. Key final drafts contained on shared drives were also duplicated on MEDS. Some material (for example linked tables or very large documents) cannot be filed in MEDS for technical reasons, and therefore have to be saved onto the shared drives. In some cases a folder structure mirroring MEDS is used, but in others, local folder structures and naming

conventions are adopted. This inconsistency can be compounded when staff leave as local naming conventions are often vague and are not easily understood.

45. Generally speaking, access to shared drives is limited to members of the owning team. This means that in practice, the drives function as discrete information silos, which can only be searched effectively with the assistance of the relevant team members.
46. The nature and quality of information contained on the shared drives is also a matter of concern. With the rare exception of checks initiated by Local Records Co-ordinators, there is no mechanism for monitoring usage or content. Unlike MEDS, there is no formal control for retention and disposal, which creates a clear risk that information, which could potentially include personal data, will be inappropriately retained or deleted.
47. If the record management function fails to obtain corporate recognition, there is a risk that staff will avoid using the collective systems and will rely on personal drives or mailboxes to hold information. Reliance on personal drives, mailboxes and shared drives can mitigate against ease of information retrieval as access controls and naming conventions often reflect personal approaches. Furthermore as information stored in this way is often routinely deleted when staff leave the Department, there is a risk that gaps in the corporate record will continue to develop.
48. At the time of the assessment, only certain systems were corporately visible, with a significant proportion of corporate records held on further systems (notably the shared drives), which are not readily auditable. The Commissioner understands that the Department has taken some preliminary steps to remedy this situation, including a pilot 'purge' of information contained on shared drives.
49. In addition to MEDS, Delphi and the shared drives, the Department operates a number of additional systems\* on which some corporate information can be found:
  - Contact Database – *used to manage Ministerial Correspondence, FOI requests and Parliamentary Questions*
  - Quickplace – *a collaborative working environment used to post papers for forthcoming meetings and for the development of policies etc*
  - Sametime – *an instant messaging system*

(\* This list is not intended to be exhaustive).
50. TNA was unable to form a view as to how consistently Quickplace was being used and there appeared to be no monitoring of its use. There is capacity to link information stored in Quickplace to MEDS, but interviewees seemed unaware of this functionality.
51. With Sametime, it appeared that some of the staff interviewed had not been trained in its use. There was the potential for information generated within this system to be lost if staff do not file relevant exchanges in MEDS.

52. Subsequent to the assessment, TNA was advised that guidance on using each of the systems is available via the Department's intranet and that managers are expected to ensure that staff with access to Quickplace adhere to this guidance.
53. A significant number of staff interviewed by TNA for the purpose of the assessment were unable to say where they might find information over two years old, and implied that when responding to requests for information, that they would confine searches to current working records. The consequences of such an approach are already making themselves known, as there has been a number of incorrect 'no information held' returns to the Department's central FOI team. In the Commissioner's opinion, incorrect returns of this nature may frustrate the Department's ability to demonstrate conformity to the section 46 Code and will undermine its capability to provide full and accurate responses to requests for information in accordance with section 1 (1) of the Act.
54. Procedures for handling records do not always take account of the need to preserve important information notably in situations where there is high staff turnover.
55. Although MEDS is designed to provide the primary system secure location for the storage of emails and other electronic documents, several interviewees reported that staff did not save emails into the system in a consistent manner. In some cases, emails were not saved into the system at all. This results in a parallel filing system of shared or personal inboxes, the latter of which is not accessible or visible to other staff.

### ***Record Maintenance***

56. There is no central control of the physical location of unregistered paper records, something which appears to be a significant issue in some business units.
57. There is no comprehensive listing of the physical locations of the various local file stores. A number of business units reported using locked cupboards or cabinets for storage of registered files, but were unable to confirm or verify practice.
58. In some parts of the Department, there are substantial amounts of unregistered paper filing. For example, one business unit reported that over 300 cupboards of unregistered material had recently been reviewed and either destroyed or moved into registered files. It was suggested that similar backlogs of unregistered material existed in other business areas.
59. These unregistered papers present a number of potential risks to the organisation, as there is no central record of their content or even their existence. The information they contain cannot be readily accessed to support current business or statutory obligations, including responses to information requests made under the Freedom of Information Act or subject access requests made under the Data Protection Act 1998.

60. Unregistered papers may also present security risks as there is no way of knowing whether files have been improperly accessed or disposed of, and there is no proper mechanism by which proper closure and disposal procedures may be implemented.
61. TNA was informed by several interviewees that they had inherited files from previous structures that had not been reviewed or sent to storage. In a more extreme example, information had been left in an empty office after the occupants had moved out. In one incidence, a file containing sensitive personal information was found in a locked desk in an empty building. It appeared to TNA that in some incidences, there had been no clear mandate that individuals ensure that their own personal workspaces are cleared following office relocation.
62. In other service areas, there had been uncontrolled growth in unregistered paper files, and an absence of management instructions to tackle the problem.
63. Departmental policy is that, where a paper file exists, Local Records Co-ordinators should create or use an existing MEDS file, in which details of the location of the physical documents can be entered. This should facilitate the closure, review or destruction of paper files in the same way as the electronic information contained on MEDS. It is thought that up to 40% of MEDS files may cover wholly, or partly physical documents. Local Records Co-ordinators are expected to maintain paper-filing systems in their business area, and align these to the digital material held in MEDS.
64. The Department has advised TNA that that it plans to initiate an audit to improve the level of control of unregistered paper filing and the use of personal drives.
65. Particular legal issues arise in connection with projects carried out by the Department for the NHS using NHS funding and a mixture of NHS staff and private sector contractors. There are questions about the ownership of material created in the course of such projects, especially on the contractor's part of the shared drive. For instance, there are doubts as to whether they are regarded as part of the Department's record of the project. In the Commissioner's opinion, this may frustrate attempts to determine whether information is held for the purposes of section 1 (1) of the Act.
66. In some cases, staff of companies working on contract for the Department have access to the authority's systems. TNA noted one instance of a current contractor having access to records stored by a previous contractor on a shared drive. Whilst this particular instance was not thought to raise a problem, more generally there is a wider risk that the Department may be inappropriately giving companies access to each others intellectual property. Furthermore it is not always clear who owns copyright in material which originates from contractors, staff employed by NHS Trusts, or other NHS bodies.
67. There were clear differences in the knowledge and participation of staff in business continuity planning at the Department. Those based in London were aware that there was business continuity planning. However, there was no evidence of business continuity and emergency planning procedure knowledge at one of the Department's other sites in Leeds.

As more services are relocated from London to Leeds, this obviously leaves the Department increasingly vulnerable.

68. Information risks have moved up the Departmental agenda over the last 12 months, and form one of the top sixteen risks identified by the Departmental Board. However, the focus of this is very much upon information security. Wider information risks, such as;

- uncontrolled disposal,
- the inability to locate information,
- the lack of knowledge about the extent of information held,
- and the lack of understanding of business continuity plans,

do not appear to be incorporated into risk registers.

### ***Record Closure***

69. The assessment suggested that not all registered paper files have been assessed for final destruction or deletion in the appropriate way. The impact of relocations, organisational and structural changes, time pressures, shortage of staff and poor working practices were cited as possible reasons for this. There was also evidence to suggest that some registered paper files were defaulted to be reviewed in 25 years as a means of circumventing the need to make a decision on the content and future value of the information they contain.

70. In relation to files contained in MEDS, part of the administrator's function is to routinely close files which are more than two years old or which have reached a pre-set limit on size. It was not clear to TNA whether this approach is being applied consistently, and some interviewees indicated that they had not had experience of closing or reviewing files.

71. The Information Management and Governance Team has advised that it aims to provide training on file closure and archiving as appropriate.

### ***Appraisal Planning and Documentation***

72. Although MEDS can provide administrators with reports and statistics on filing, closure and review these do not appear to reach all local records administrators. Although one off audits are carried out, the Information Management and Governance Team does not routinely monitor MEDS in detail.

73. In the case of other systems, there does not appear to be an equivalent level of management information available, and with the exception of a few local initiatives, individual staff are expected to manage their own work areas. This makes it difficult for the Department to assess the extent of compliance with records management and retention and disposal policies and procedures, and to take corrective action where necessary. The Information Management and Governance Team's Shared Drives Project aims to address these issues.

## **Record Disposal**

74. The Department has arrangements for the closure of formal records, including those held in database systems. Common classes of records are covered by published disposal schedules.
75. However, in some cases these arrangements are not properly implemented, particularly where disposal is not covered by a schedule and is locally determined. Furthermore, many departmental systems fall outside of the scope of these arrangements and, although guidance advises that such material should be transferred to a managed record-keeping environment, these records are often subject to uncontrolled and undocumented disposal, particularly when staff leave the organisation. In the Commissioner's opinion, such an approach is likely to have contributed in part to the Department's failure to account for the whereabouts of numerous documents filed between August 2003 and September 2004.
76. In respect of emails, the removal of material from shared and personal inboxes is prompted by capacity. Two years ago, the size of inboxes was reduced to 300 megabytes, in the face of much user resistance. Some users are permitted to have larger inboxes, and a few interviewees commented that it was still too easy to obtain increases on the new limits.
77. One consequence of a size limit is that it is possible for emails to remain in personal inboxes indefinitely, whilst other material is deleted to compensate. One interviewee explained that, following the departure of a staff member, 500 megabytes of data was transferred from their personal account as an emergency measure, to avoid the loss of potentially important information on the closure of the account.

## **Action Recommended**

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78. Since the assessment was conducted, the Department has committed to a draft improvement plan to tackle some of the issues identified. The Commissioner is encouraged by this development, and alongside TNA, offers his support and assistance to the Department in this regard.
79. Notwithstanding any steps already taken or planned by the Department, the Commissioner recommends the following action be taken in order to conform to the section 46 Code:

## **Part I: Records Management**

### ***Functional Responsibility***

80. Whilst the Information Management and Governance Team is well organised, reasonably resourced and considered professional and helpful, it is not clear whether the team has the necessary levels of corporate support to be fully effective. The Department should consider raising the profile of this team, and strengthening their mandate for action where records management difficulties are identified.

81. The role of Information Services and the Information Management and Governance branch should be re-emphasised to all managers and it should be made clear that heads of business units are accountable for adherence to guidance unless an appropriate delegation has been agreed and documented.
82. The Department should reaffirm to the workforce its commitment to maintaining a full official record and should re-establish the importance of applying centrally derived standards, policies and guidance.
83. Good records management should be embedded into the culture of the Department, and organisational changes should take account of the need to ensure continuity in this respect.

### ***Policy***

84. The Department should ensure that policy statements receive explicit corporate endorsement at the most senior level. This should assist the Department in promoting its commitments in this regard, and in improving the level of buy-in from managers and other staff.

### ***Human Resources***

85. The Department should emphasise the role of the Director-General of Finance and Operations as the lead on records and information management, including information risk at Departmental Management Board level. This role should be publicised throughout the Department.
86. Job descriptions should incorporate the duties expected of staff in relation to records management where appropriate.
87. Role responsibilities should be developed for staff with specific record management functions.
88. The Department should review training needs and existing packages to ensure that they remain relevant. It should also identify the required audience for each training event and make attendance mandatory, including for managers. Those who fail to attend should be required to explain their reasons and rearrange the training.
89. The Department should keep records of the training provided, to include the names of staff who attended, and when.
90. The Department should require the head of each business unit to identify a business lead at an appropriately senior level to support, enable and enforce corporate record keeping within that unit and to provide an authoritative liaison point for the Information Management and Governance Team.

91. The Department should require all staff to be appropriately trained on MEDS, irrespective of their seniority or length of service.
92. An exercise should be undertaken to benchmark both the MEDS end user and the MEDS administrator training courses to confirm that they provide the intended audiences with the information and knowledge they actually require to use MEDS appropriately.
93. The training record for each MEDS administrator should be checked and where necessary appropriate training or re-training should be provided.
94. The Department should seek to develop and maintain a complete and up-to-date list of MEDS administrators and identify who are the current lead administrators and who are fulfilling the support roles.
95. Consideration should be given to re-launching MEDS guidance in the form of intuitive Frequently Asked Questions (FAQs)
96. The Department should require each business unit to send a MEDS administrator to each Forum meeting.

## **Active Records Management**

### ***Record Creation***

97. The Department should reaffirm the importance of MEDS to the business and require managers to support the MEDS administrator role to ensure compliance in use within their area of the business.
98. The approach to metadata and the rules for titling and indexing information contained on shared systems should be tightened in order to improve the ease and reliability of information retrieval. The Department should adopt agreed naming conventions when creating new records held on shared drives.

### ***Record Keeping***

99. Regular information audits should be carried out to assess the degree to which business units are complying with agreed policies and procedures and support them in remedial action. Specific incidences of extensive or continuing non-conformity should be notified to the Departmental Management Board as heightening the risk to effective information governance.
100. The Department should either implement MEDS in areas where it is not available and train the staff to use it, or if that is not appropriate, develop an alternative, technical solution to enable users to store emails in shared areas located and controlled in a business classification scheme.

101. The existing proposal to secure improved management of shared drives should be taken forward as a matter of urgency in parallel to planned enhancements of MEDS.
102. Improved management information should be utilised to ensure that shared drives are used for the sharing or drafting of documents, and that key records are saved in MEDS as a matter of corporate policy. While a parallel filing system exists, it is unlikely that the problems noted in the assessment will be completely resolved, and over the longer term, the Department should examine the options for replacing shared drives with alternative records management systems. The Department's plans to implement an enterprise content management strategy should be developed in this respect.
103. All staff who can access Quickplace and Sametime should be reminded regularly of the guidance on its use. The guidance should set out clearly the need to consider filing in MEDS or on a shared drive material that should form part of the corporate record and explain how to do this.
104. Use of Quickplace should be monitored to ensure that it does not become another system for storing material that should form part of the corporate record.
105. The Department should ensure full co-operation with the Information Management and Governance Team when collating information in response to requests for information. Steps should be taken to reduce the likelihood of incorrect 'no information held' responses wherever possible.
106. Where an alternative system to MEDS is proposed for the storage of emails it must be possible to open them without loss of information, including all associated or embedded content such as attachments.

### ***Record Maintenance***

107. An audit of unregistered files across the organisation should be undertaken, giving priority to business areas of particular volume or risk. Unregistered files should be registered or destroyed as appropriate.
108. The Department should ensure that ownership and other copyright issues affecting records and information are considered when projects such as NHS Choices are being set up and that the Information Management and Governance Team are consulted at this stage to ensure that any organisational and technical issues regarding responsibility for and management of records created by the project are addressed.
109. The Department should create standard protocols to ensure that use of the authority's facilities by contractors, including any necessary access permissions, is documented.
110. The Department should review its current arrangements and plans for business continuity for all the Department's services in London and Leeds. In tandem with this, an exercise

should be launched to ensure that all business areas have a nominated officer with responsibility for identifying vital records within their business area.

111. The scope of information risk in formal departmental risk management processes should be expanded to cover risks from records management overall, as well as information security.

### ***Record Closure***

112. Registered paper files should be assessed for final destruction or deletion in accordance with Departmental procedure.
113. The Department should reiterate and reinforce to all record managers and staff that the 25 year review period is not a default position but to be used in specific circumstances only, and that a decision on how long information should be kept for should usually be made at the point of creation of the file or, if that is not possible, around the time of file closure.

### ***Appraisal Planning and Documentation***

114. The Department should ensure that managers receive regular relevant information about the volume of filing in MEDS by members of staff within their business units, as well as about closure, archiving and review. It should examine the possibility of providing similar information about the use of other systems such as shared drives.
115. Business Unit Managers should be provided with guidance and support on the interpretation and use of management information relating to record systems.

### ***Record Disposal***

116. The Department should undertake a check on whether closure and review is being undertaken consistently and refresher training should be provided for administrators in business units where lapses have been found.
117. Revised guidance for the management of paper records should be issued, to ensure that such files are reviewed and disposed of in a structured way and that informal records are disposed of or transferred to registered files promptly.
118. Consideration should be given to limiting email retention outside MEDS by date in order to avoid email folders developing into a parallel filing system.
119. Corporate procedures should be put in place to certify that when staff leave and accounts are closed, line managers ensure that business critical emails are identified and captured in MEDS, if this has not already been done.

## Failure to comply

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120. A practice recommendation cannot be directly enforced by the Commissioner. However, a failure to comply with a practice recommendation may lead to a failure to comply with the Act which in turn may result in the issuing of an Enforcement Notice. Further, a failure to take account of a practice recommendation may lead in some circumstances to an adverse comment in a report to Parliament by the Commissioner under section 49 (1) or (2) of the Act.

## Other matters

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121. Although they do not form part of this practice recommendation, the Commissioner wishes to highlight the following matters:
122. In June 2008, The National Archives began a consultation on a review and revision of the records management Code of Practice. The consultation concluded in September 2008. For the avoidance of doubt, it should be noted that the recommendations made here are based upon the Code of Practice issued by the Lord Chancellor in November 2002 and do not take into account any subsequent or planned revisions.
123. There was some delay in the ICO receiving TNA's report due to the extension of deadlines requested by the Department. The Commissioner has experienced similar delays when investigating complaints made to him under part 50 (2) of the Act. The Commissioner hopes that this practice recommendation, and the previous recommendation made under the section 45 Code will assist the Department in improving its response times in these matters.
122. In issuing this recommendation, the Commissioner has taken into account his wider duty to disseminate information on good practice (section 47 (2)). The Commissioner considers the Department to be pivotal in the wider health information management agenda. For example the Department provides advice and guidance to other NHS bodies by way of the [Records Management: NHS Code of Practice](#). The Commissioner anticipates that the Department is therefore, under considerable expectation to lead by example in this area. He hopes that issuing this recommendation will not only assist the Department in improving its approach, but that it will provide a wider educative tool to other NHS bodies.

## Acknowledgements

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124. The Commissioner would like to thank all staff from TNA involved in the records management assessment of the Department for their contributions to researching and compiling the report. He is aware that such work requires a significant investment of resources and greatly appreciates the expertise brought by this team.

125. The Commissioner would also like to echo TNA's thanks to staff from the Department, whose input made this recommendation possible.

Dated the 03 March 2009

Signed.....

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