



Will Storage consultation
Ministry of Justice
Civil Justice and Law Division,
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102 Petty France
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Will Storage Consultation response from Libraries Connected

Libraries Connected is the membership body for public libraries in England, Wales, Northern Ireland and the Crown Dependencies. We are an independent charity and funded by Arts Council England as the IPSO for the public libraries sector in England.

Family and local history is a popular area of research for public library users. Public libraries hold extensive local history collections, and also often manage major county record offices. They also often provide free access to digitized records on genealogy websites such as Find My Past and Ancestry. We are therefore aware that the wills held at the National Probate Records Centre are records with great historical and research value.

Whilst we welcome proposals to make the wills more easily accessible via digitization, we have serious concerns about the proposal to destroy the original documents after digitization.

Loss of evidence

Wills have important evidential and informational value, and this risks being lost or compromised by digitisation.

- Mass digitisation programmes are known to have inaccuracies in the creation of metadata (eg misspelling of names, mis-transcription of dates). Recourse to the original document is often needed to correct these mistakes, or the digitized record will be in effect inaccessible as it will not appear in searches.
- Digitised images do not always capture all details of the document – eg annotations and marginalia. Again, recourse to the original document may be necessary to study these.
- There is also evidence rested within the original document which cannot be captured within a digitised image. For example, the notorious “Hitler Diaries” were proved to be a forgery only after analysis of the paper on which they were written. This type of analysis is not possible if originals have been destroyed.



Problems with selection

The proposal to select wills of famous people for permanent preservation poses some serious questions about how these decisions will be made, and how selection will be future-proofed. There are endless examples of people, or whole categories of people, who only become famous or of historical interest after their death. This is particularly marked in relation to people from disadvantaged backgrounds or groups experiencing discrimination, as shown by the relatively recent burgeoning of women's history and Black history for example. If the Ministry of Justice has a commitment to equality, diversity and inclusion for current and future generations, it will have to develop a very carefully thought-out selection policy.

Costs

The primary driver for the programme appears to be cost saving. However, mass digitisation programmes can be very costly as the major costs lie not so much in the imaging processes but in the creation of the metadata to allow search and retrieval. Furthermore, there will need to be an ongoing cost commitment to ensure the preservation of the digital records and metadata, which will involve periodic migration to new systems which can be a very costly process that is far from risk-free.

There may be more cost-effective solutions to storing the paper record, and the Ministry could seek advice from The National Archives on the cost effective storage solutions it has developed in Cheshire.

Public Records Act and Place of Deposit responsibilities

We are very concerned that the consultation did not make meaningful reference to the Public Records Act and the Ministry's responsibilities towards the National Probate Records Centre which is a Place of Deposit.

The obligations relating to management of public records in a Place of Deposit are clearly set out by The National Archives: <https://www.nationalarchives.gov.uk/archives-sector/legislation/approved-places-of-deposit/>. Places of Deposit have responsibilities to preserve, make accessible and accrue the public records in their care. Furthermore, the guidance is very clear about the process necessary for destruction of records:

The destruction of public records that have been selected for permanent preservation and are held at a Place of Deposit under Section 4 (1) of the Public Records Act requires the approval of the Secretary of State and the Chief Executive and Keeper of The National Archives. Places of Deposit with enquiries about the disposal or de-accessioning of public records should contact us at asd@nationalarchives.gov.uk.

This process does not appear to have been followed. We are concerned that the Ministry of Justice is setting a very poor example to other areas of government about the importance of meeting the requirements of the Act in order to safeguard the public record, as a cornerstone of our democracy.



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We hope that our response will support a review and rethink of the proposals, and – crucially – that this will be in line with the responsibilities relating to the care of Public Records.

Yours faithfully,

Isobel Hunter MBE
Chief Executive