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Privacy, openness and archives in the public domain

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PhD

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Privacy, openness and archives in the public domain

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Abstract

This research investigates the issues surrounding access to archives at non-national archives in England with a multi-stakeholder perspective. Using a combination of focus groups with non-managerial archivists, academic researchers, non-professional family and local historians and a series of semi-structured interviews with leading experts, it attempts to show the issues in the “real world” rather than an idealised one. The results suggest that archivists are working under severe pressure from external forces beyond their control. These include financial, managerial and political pressures, which in turn affect all aspects of archives from location within an organisation to the ethos of the archive, to detail in catalogues and opening hours. Archives typically hold legacy collections, and must balance the needs of a variety of stakeholders, including depositors, those mentioned in the records and users. Archivists cannot therefore allow the access they should theoretically be able to, but individuals often allow as much access as is practicable within these constraints. The users, however, interpreted this as preferential access. Indeed, both user groups felt strongly that archivists granted preferential access to academic researchers and those with whom they had built a relationship. The importance of personality (of archivists and researchers), trust and relationships in promoting access and building collections was demonstrated throughout. Indeed, these human aspects were shown to be as important as the legal framework and ethical codes in determining levels of access to records. Misunderstandings between users and archivists were evidenced repeatedly, many of which could possibly have been prevented by greater transparency and communication. This research is unique as it does not focus on only one type of user, but asked similar questions to archivists, family historians and academic researchers allowing these conclusions to be drawn. The scope is also unique as it focuses on ‘typical’ local authority and university archives rather than those of international standing or national level archives.

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Declaration

I declare that the work contained in this thesis has not been submitted for any other award and that it is all my own work. I also confirm that this work fully acknowledges opinions, ideas and contributions from the work of others.

Any ethical clearance for the research presented in this thesis has been approved. Approval has been sought and granted by the University Ethics Committee on 24 August 2016 and amended 15 November 2016.

I declare that the Word Count of this thesis is 76,073 words

Name: Genevieve Laura Silvanus

Signature:

Date:

Chapter 1 Introduction

'There must be a balance between the right to information and the right to privacy, between the right to redress injustices in the future (which of course can never be predicted) and the present concerns of individuals for privacy, between the legitimate need for temporary protection of personal information and the long-term need to understand our collective heritage' (Cook, 2002, p113)

Archives now have a high profile due to a number of recent scandals caused by inadequate record keeping. A lack of attention to a consistent and meaningful archives and records management strategy has negatively affected UK citizens' lives and livelihoods, highlighting the need for better record keeping. These include investigations into historic child abuse in care homes in Scotland (Shaw, 2007), abuse of unmarried mothers and their babies in Ireland (Mother and Baby Home Commission, n.d.) and the ongoing 'Independent Inquiry into Child Sexual Abuse (IICSA, n.d.) in the UK. Failings in the keeping of police records were highlighted by investigations into the Hillsborough disaster (Hillsborough Independent Panel, 2012), and records relating to British rule overseas (the displaced or migrated archives (Banton, 2017)) and their citizens who arrived in Britain after World War Two have also recently made media headlines (the Windrush generation (Walters, 2018)). Indeed, The Shaw Report contributed to the updating of the *Public Records (Scotland) Act 2011*, and James Jones, the former Bishop of Liverpool has repeatedly called for the *Public Records Act, 1958* to be updated to include police records (Jones, 2017). Jones (2017, p84) emphasises that it 'is a fundamental principle of accountability that public records are subject to proper rules relating to retention and inspection'.

These scandals and reports appear to promote openness and accountability of organisations. At the same time, however, there is heavy media coverage of intrusions into personal privacy (including Cliff Richard's privacy by the BBC (2018)) and the Right to be Forgotten (Rtbf). The need for explicit consent is included in The *General Data Protection Regulation* (GDPR) and the Supreme Court of Canada ordered that only case papers for the Indian Residential Schools Settlement Agreement where consent could be obtained may be kept (Supreme Court of Canada, 2017). Clearly, there is conflict between these ideas of keeping records for potential future accountability and protecting citizens' rights to privacy. An increased awareness of the profession and a new regulatory framework is potentially changing the archival landscape.

After 20 years of archives emphasising their role as a leisure pursuit, and archivists voicing concerns (for example Mortimer, 2002), it would appear that the importance of archives for accountability is once again becoming recognised. Although family history for enjoyment is still popular (the 15th series of the BBC television programme 'Who do You Think You Are?' aired in summer 2018), there is a shift towards the dual role of archives as a safe place for records of interest and accountability as well as pleasure. This demonstrates the necessity of good records management, thoughtful appraisal and correct interpretation of the law.

Public access to records varies considerably between different archives, even those which hold similar records and are subject to the same legal framework. This was recognised in the 1980s and the Association of County Archivists (ACA) set up a working party to attempt to standardise access, and 'after considerable discussion and consultation' in August 1988 a guidance document was produced (Sillitoe, 1995, p31). Personal experience as a practicing archivist has shown that variation between closure periods for school log books is as apparent now as in the report. Although some generalised standards for access to archives documents have since been produced with the aim of creating policies, such as the National Council on Archives : Public Services Quality Group (2008), fewer practical guides have been published. These tend to have a much more localised focus, for example the Greater Manchester Archives and Local Studies Partnership (2013), which is reproduced with permission in Appendix 2.

Archives are perhaps unusual in having a range of stakeholders with an interest in their preservation and accessibility. Stakeholders who must be considered include those who created the record, those mentioned in it, those who deposited it, those who own it and those who have catalogued it. All of these stakeholders may hold different opinions as to the sensitivity of these records, and in general, depositors may want privacy and archivists may favour access (Hodson, 2004, p197). Sillitoe (1998, p9) also suggests that 'the only judge of a sensitive record is the sensitive individual'.

Equality of access to all users is emphasised in law (for example the *Data Protection Act 2018* (DPA) and *Freedom of Information Act 2000* (FOI) apply equally to all), in codes of ethics (see ARA 2016, and the International Council of Archives, 1996) and also by archivists (e.g. Moran and Taylor, 2003 and Boyns,1999). There are clear examples, however, where some differential access must be allowed; adopted children have the right to know their birth parents, or those who have been abused the right to redress. Another area, perhaps, is whether some groups, such as paid researchers or academics, should have a right to greater access than others (Mortimer, 2002).

The postgraduate archive administration courses within the UK have provided professional training on all aspects of archive work since their introduction in 1947 (Shepherd, 2004). Inevitably, they must teach the theoretical and ideal; how an archivist appraises, catalogues and provides access in the perfect world. Having studied and worked in university and local authority archives in England for a decade, it was known that the reality is considerably different. This research aimed to evidence this reality by consulting practising, experienced but non-managerial archivists and 'typical' users. Surprisingly, this has not been qualitatively researched before; no one has published what different stakeholders actually know (rather than are expected to know) and understand about access and privacy in non-national archives in England. Similarly, a critical investigation into the pressures that affect archives in the 21st century is needed. Decreasing budgets and changes in how users access archives, the increased emphasis on online catalogues and digitisation are well recognised (Chiddicks, 2017; ARA, 2012), however there are impacts beyond reduction in opening hours. As archives' accountability is again acknowledged, the impact of these pressures along with inherited legacy records and buildings, political machinations and management concerns need exploring. It is this practical knowledge of the reality of archives in 2018 that is this research's key contribution to knowledge.

The research was undertaken in August 2015 to January 2016. Archives were in a state of transition at this time. FOI was under review, GDPR was beginning to be acknowledged but was not implemented until May 2018 (when the new *Data Protection Act 2018* was also created). Britain voted to leave the EU (Brexit) in June 2016, and the Conservative government's policy of Austerity reduced local government budgets still further (Amin Smith et al., 2016). Similarly, scandals such as Cambridge Analytica and Facebook harvesting and selling of data had not yet occurred, nor Windrush (Greenfield, 2018; Adams, 2018). It is impossible to predict what the impact on this research, and the discussion in the focus groups, would have been if this research had been undertaken two years later. In addition, professional discussion has moved on significantly in three years. The Archives and Records Association (ARA) Code of Ethics was dramatically improved between 2016 and 2018 editions, and noticeably uses the words 'fair' and 'equitable' rather than 'equal' repeatedly in the 2018 version (ARA, 2016; ARA 2018). This acknowledges that fair access is not necessarily equal access, and some users have a greater need than others.

Many phrases and words are commonly used without clear definitions, by both the general public and professionals. The 'public domain' is one such phrase. It was originally included in the research question to show that archives were available to researchers (not held in private archives or considered current records and therefore part of records management systems). The literature showed this was not strictly accurate and a working definition of

'information that is available to the public, whether for a cost or free, and reasonably accessible' was adopted. Similarly, the 'rule of law' is not simply the legal framework but an overarching concept that all should be able to access the law equally, and it should be transparent and fair. How archives operate, and allow access to records within these poorly defined, ethically directed concepts forms the key question of this research: **'what is the meaning of the public domain in an archival context, and how can this help archivists to ensure and justify effective, equitable access?'** As an overarching question it examines the poorly defined concept of the public domain and the effect on accessing closed records.

To fully explore issues of access and privacy these concepts were discussed with as wide a variety of stakeholders as possible, not concentrating only on archivists or one user group, nor on experts rather than ground-level practitioners. Focus groups encouraged discussion of these issues amongst stakeholders, allowing their views to be expressed and explained. The aim is therefore: **'to critically investigate the issues surrounding openness and privacy of archives in the public domain from a multi-stakeholder perspective'**.

The objectives unpick the issues which affect openness and closure at a closer, more detailed level. The first objective reflects on the relationship between archives and two broad and poorly defined areas, the rule of law and privacy: **'to examine the relationship between the rule of law, archives and the question of privacy'**. The second objective examines the issues which affect access to and closure of archival records from the theoretical view point, reflecting archival education: **'to explore access to and closure of archival records, and the theoretical issues that affect them'**. The third objective was designed to show the practical issues surrounding openness and privacy as perceived by users and archivists: **'to establish what different stakeholders (including users and archivists) consider are the practical issues which surround openness and privacy'**. It examines the reality of accessing archives due to the pressures of 21st century archives, although as the research progressed it also demonstrated how archivists and users react to the pressures in order to maximise access.

Local level archives are the poor relation to more glamorous and high profile national institutions. This was demonstrated by the decision to move the Elgar Archive from Worcestershire to the British Library in 2018 in order to 'promote' the composer, despite local protest (Explore the Past, 2018). As the 'luxury' of the 'scholar archivist' is largely a thing of the past due to budget constraints (Boyns, 1999, p67) and more researchers focus on larger, national level archives (which may also provide funding) it appears few choose to investigate issues of importance to other archives. Exceptions include community archives

(Flinn, 2007), and digital archives. National archives are distinct to local authority and university archives, and the bias exhibited consciously and unconsciously means that they cannot be usefully compared. Private archives (including business archives, family estates, school and museum archives) may or may not be open to the public and constitute another large group of archives, although again not as well represented in literature. These archives are all very different, however, with different users and remits, different numbers of qualified, professional staff and operating within different legal frameworks. Likewise, Scotland has a differing legal framework to England and Wales, which has created differing record sets as well as a different legislative framework (notably the recent *Public Records (Scotland) Act 2011*).

This research focused on local authority and university archives in England and Wales. These were chosen because little qualitative research has been conducted about them, they share the same legal framework and similar records sets (e.g. administrative records and private collections). Many are Places of Deposit (PODs), and therefore care for public records which are subject to the *Public Records Act 1958*, are subject to the same laws and employ professional archivists, usually with para-professional assistants on low wages. They also represent a significant number of archives, spread across the country; as of 2018, there are 534 local authority archives and 310 university archives in England and Wales (TNA, n.d.-c).

Overview of thesis

The theoretical issues around why records may be considered sensitive and need restrictions placed on access were first considered in a literature review (Chapter 2). A wide range of literature was consulted; from Britain and internationally; archival and non-archival; traditional journal articles and books and more temporary sources including social media and blogs. The key themes relevant to a study of privacy and access and the meaning of the public domain were identified and discussed. These included the legal framework and broader discussions about power and control, trust and privacy. The issue of equality of access, differential access (allowing different access according to who has requested the record, including an individual's own record) and preferential access (allowing certain people or groups greater access) were explored.

To establish the practical issues involved, a variety of stakeholders were consulted. These included practicing archivists, leading experts (representing educators, senior managers, and national level archives) and users. A series of six semi-structured interviews were held to help shape questions for three focus groups. These focus groups comprised information professionals (FG1), non-professional family historians and local historians (FG2), and academic researchers (FG3). A fuller discussion of the reasoning for these, plus theoretical framework is included in Chapter 3.

Chapter 4 provides a brief overview of the findings of the interviews and focus groups. It is intended to show the distinct character and discussion of each, and a very brief comparison; fuller discussion is included in Chapters 5 and 6. Chapter 5 discusses the theoretical issues surrounding access and privacy (Objective 2), it includes what makes a record sensitive, equality of access, how power, control, transparency and trust affect this. Chapter 6 focuses on the practical implications (Objective 3), and how the realities of working in non-national archives in the 21st century impact on archivists' decisions surrounding issues of access and privacy.

Chapter 7 draws together the findings, outlining limitations and possibilities for future research. It also highlights the contributions to knowledge which this research has made.

There is a level of assumed knowledge of archival sources and professional practice throughout, although a glossary of terms is provided. Local authority archives are referred to as LA archives and record offices, reflecting their commonly applied names. Similarly, family historians are also referred to as genealogists, and readers are called users and researchers interchangeably.

Chapter 2 Literature Review

'privacy concerns intersect with a wide range of ethical, legal, and administrative issues, all of which directly (and indirectly) affect archivists as communicators of society's documentary memory and as trustees of the records in their custody...their solutions require, rather, the collective participation and judgment of the archival profession.' (MacNeil, 1992, p194-5)

2.1 Introduction

It was necessary to consult a vast and wide-ranging literature to address the research question, aims and objectives. This chapter traverses across the English legal framework and ethics relevant to privacy of archives, including discussions of the public interest, public domain and the rule of law. Differing authors' opinions on what make records sensitive, and therefore when records should be made available and to whom, and whether different users may have different access rights are discussed. This chapter also examines the motivations for why people consult archives, professional archival concerns (such as cataloguing and appraisal), the rights to be forgotten and to be remembered. The long standing debate about the neutrality of archives, trust, and the impact of technology on privacy are reviewed. In addition the chapter discusses the relationships between archivists and other stakeholders, and how this impacts on access.

As comparatively little has been written about these issues (particularly from a British non-national perspective), the literature review has been extended. It therefore adopts an international angle, looking at issues relating to privacy and openness from a wide range of sectors. These include law, privacy and intellectual property theorists as well as archival and information professional perspectives. Similarly, a wide variety of sources were consulted, ranging from traditional books and journal articles, to newspapers, blogs and threads in professional list-servs and social media. This is partly because this is a developing area; during the course of this research (2015-2018), a new European wide data protection regulation (GDPR) was introduced and professional discussions have developed considerably.

2.2 Legal framework

Archives and records in the public sector within the UK are subject to a number of laws and regulations, some of which apply to all records and some to only specific record sets (see Appendix 1). There are also other factors which need to be taken into account, such as case law, international regulations, particularly through the European Union, and the Information Commissioner. Many of these complement (or provide distinct contrasts) to each other and create a further layer of complication. There is also a hierarchy within which laws must be applied (*Data Protection Act 1998* followed by *Freedom of Information Act 2000* then any relevant acts from the *Public Records Act 1958*, numerous Local Government Acts and the *Parochial Registers and Records Measure 1978*); requests under FOI, for example can be refused if they contravene the DPA. The Greater Manchester Archives and Local Studies Partnership created a useful Access Policy listing these in 2013 (see Section 2.4 and Appendix 2). To further complicate matters, two Acts, DPA and FOIA, were revised during this research.

The legal framework is complicated as several of the laws which regulate archives have conflicting ideals. FOI promotes openness and transparency, yet public records are closed as standard for 20 years under the *Constitutional Reform and Governance Act 2010* (CRAG Act) (although they may be opened individually under FOI). Data Protection means that some records need to be redacted or 'closed', and both the FOI and CRAG Acts acknowledge this. Interestingly, the 30 Year Rule Review which was made in advance of the CRAG Act, still advocated a time limit 'as a stimulus to force release' otherwise 'many documents might never be put in the public domain at all' (Dacre, 2009, p26). Some government departments, however, release more records than others, for example many records are withheld indefinitely by the Foreign and Commonwealth Office (Cobain, 2016).

Similarly, Data Protection emphasises privacy and closure rather than openness. Indeed, the whole premise of both the Data Protection Acts 1998 and 2018, which regulates the use of personal data of living people, sits uneasily with archives. This has led several, including MacNeil (1992) and Erdos (2011) to question the legality of holding the records and also cataloguing, as this could be construed as 'processing' the data. There are exemptions, which 'allow' archives to exist and be made available. These include Article 32(1) 'Journalism, literature and Art' and Article 33(2) and (3) 'research, history and statistics' (*Data Protection Act 1998*). Article 33(2) states that '[f]or the purposes of the second data protection principle, the further processing of personal data only for research purposes in compliance with the relevant conditions is not to be regarded as incompatible with the

purposes for which they were obtained' and Article 33(3) that information may be 'kept indefinitely' for research. Although these exemptions 'allow' archives to exist, the exemptions feel somewhat uneasy. The General Data Protection Regulation 2016 came into force in May 2018. This Regulation is legally enforceable in all jurisdictions however, and the Data Protection Act was revised in line with this (*Data Protection Act 2018*).

The *Re-use of Public Sector Information Regulations 2015* is intended to make information available for uses other than its primary purpose. It is the UK response to the EU's public sector information (PSI) directive, which came into force in 2015 (TNA, 2013). The regulations state that information from the 'public task' (the core business activity) should be freely available without copyright, presumably as public domain material (although this is not explicitly stated) . It expressly includes archives, museums and libraries but precludes any information that relates to 'products derived from public task activities for re-sale in the commercial market' (TNA, 2015, p13). As archives increasingly try to raise revenues through large scale digitisation projects, particularly in partnership with external agencies, copyright is an important issue.

The laws are not completely contradictory, however, and there are agreements. For example, both FOI and the 20 year rule are accused of 'furring up the arteries of government' (BBC News, 2012) and creating a 'chilling effect' in government' (House of Commons Justice Committee, 2012, pt 180). Although the 30 Year Rule Review suggests this may be true (Dacre, 2009), the Independent Commission on Freedom of Information Report (Cabinet Office, 2016) disagrees; both seem to imply that there is at least a perception that it has had an effect. There is also a fairly widespread belief that these regulations result in less records being created, and encourage a 'sofa style' of government to be adopted, although there is little evidence to link these to FOI (Worthy and Hazell, 2016, p9). In the 30 Year Rule Review, Dacre (2009, p24) stresses that 'some of the civil servants' believe that 'the result of the greater openness brought about by FOI (which would be further reinforced by a major reduction in the 30 year rule) has been paradoxical yet also predictable. As the demand for earlier disclosure of official records intensifies, with the intention that more may be known, and sooner, about how government operates, the detail and accuracy of that documentation can correspondingly diminish'. This is a fair point.

The legal framework is further complicated by different records being subject to different laws depending sometimes on the creating body and sometimes on the archive which holds it. The CRAG Act applies to government records and public records, but not local authority records which are subject to various Local Government Acts. Local government is, however, more transparent than central government; for example, Section 100 of the *Local*

Government (Access to Information) Act 1985 requires councils to publically display agendas and associated reports and minutes at council offices (now many are available on websites) for six years. Some central government departments also chose to release some datasets as part of a drive towards openness. These can be found on the National Network Infrastructure, along with some local authority datasets, <https://data.gov.uk/>, although these are not necessarily the most useful, easily understood or even accessible records.

Similarly, diocesan and parish records, which include baptism, marriage and burial registers for the Established Church (Church of England and Church in Wales) are held and made available under the *Parochial Registers and Records Measure 1978*. This does not include non-conformist records (e.g. Methodist, Quaker, Jewish or Roman Catholic), and these are not necessarily either deposited at local record offices or made available at the local place of worship. Indeed, in 2015 the Roman Catholic bishops at their synod announced that sacramental registers should be closed for 110 years, sparking concern from archivists (CAALG, n.d.), although as of September 2018 this has yet to be widely implemented by archives.

FOI is only applicable to public records, i.e. government records and certain publicly funded agencies such as hospitals, state schools and universities. Records which are held by record offices but are from private, business or family papers are not subject to FOI but may be available under *Environmental Information Regulations, 2004* (EIR) which include maps and plans.

The Independent Commission on Freedom of Information Report (Cabinet Office, 2016, p52-3) considered whether private companies who deliver outsourced public services should be included in the FOIA, but decided it was unable to offer a recommendation. This was a similar verdict to the Ministry of Justice report published three years earlier (House of Commons Justice Committee, 2012). The Hillsborough Independent Panel (2012), however, suggested that police records be included as they are not public records. Conversely, the new *PRS(A) 2011* means that any records created by police authorities or any private company which has delivered contracted public services are now considered to be public records.

It is also difficult to establish exactly which records are public records; the *Public Records Act 1958* (and subsequent amendments), merely list the creating bodies, rather than individual record types or series. Although this avoids obsolescence caused by changing technology or record keeping practices, after problems of child abuse found in IICSA and in Scottish care homes, however, this perhaps needs to be addressed. This point was made in

a Scottish context by the Shaw Report¹ (Shaw, 2007, chapter 5); the Scottish *Public Records Act 1937* 'is very limited in its scope and outdated... it doesn't define "public records", so it can be difficult to understand the distinction between public and private records'. The *PRS(A) 2011* includes examples of Public Records but does not include an exhaustive list. Section 3, pt 17, subsection (1)(c) provides that records which come into the possession of authorities or contractors in carrying out the authority's functions are also public records. These might include correspondence, reports, evidence or statistics that relate to the functions. The authority must ensure that these records are managed in accordance with its records management plan. This subsection also covers historical records of a predecessor authority (e.g. a former local authority's archive).

The Information Commissioner's Office (ICO) is responsible for overseeing FOI, EIR, Privacy and Electronic Form Regulations, spatial information and the Re-use of Public Sector Information Regulations (ICO, n.d.-a). It uses common law (tort law) to form a body of judgements (which it terms 'decision notices'). These are available on their website. The First Tier (Information Rights) Tribunal, where complaints about FOI are referred after the ICO, are also based on common law. The ICO also has the ability to issue fines for non-compliance. Decision notices of particular relevance to issues of access and privacy in local authority archives include Powys 2011 Decision Notice FS50314844 and East Riding of Yorkshire Council 2014 Decision Notice FS50536204 (relating to school records), and Northumberland Archives 2010 Decision Notice (relating to coroners records).

According to TNA's website, The Advisory Council on National Records and Archives 'advises the Secretary of State for Culture, Media and Sport on issues relating to access to public records and represents the public interest in deciding what records should be open or closed' (TNA, n.d.-b). In practice, however, it is predominantly concerned with central government departmental records; there is no mention of any Place of Deposit in any of the annual reports from 2010 to 2018 (see for example the 2016 report by The Right Honourable Lord Dyson (2016)) .

¹ The Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950 to 1995, commonly called the Shaw Report, was published in November 2007. Several recommendations were made regarding record keeping practices, including a review of legislation and records management training. It also pointed out that establishing who holds records can be difficult as private organisations were contracted to provide public services. Even when this can be established, records may be held in several locations and have varying terms of access. SHAW, T. 2007. Historical Abuse Systemic Review: Residential schools and Children's Homes in Scotland 1950-1995.

Legislation demands that the correct information should be collected and retained; it does not provide for *all* information to be kept. DPA, as well as records management schedules require some records to be destroyed. As Ketelaar (2002, p229) points out ‘according to both the criteria of the European Data Protection directive 32 and most professionally accepted criteria for archival appraisal’ ‘(m)any of the files created during and after the Second World War, that are now being used in the processes of restitution of and compensation for Holocaust assets, should have been destroyed’. There are derivations that allow records to be kept, however, including the public interest test.

Public Interest

Several components of the legal framework use the phrase ‘in the public interest’ (including FOI, DPA and The Advisory Council), however, this is deliberately not defined. Carter and Bouris (2006, 1.5-1.6) suggest this is so ‘decision- makers ... give significant consideration’ as the relevant principles will vary from case-to-case. Certainly, the use of tort law is significant and widespread in helping to qualify the use of the public interest (where individual cases are considered on their own merits and in relation to judgements made in previous cases). The ICO, in its advice on applying the public interest test in FOI, also makes clear that ‘[t]he public interest here means the public good, not what is of interest to the public’. Interestingly, the ARA (2018) Code of Ethics includes a section on ‘Professional Responsibility and the Public Interest’, although again it fails to define what this actually is, beyond a general accountability role.

The public interest test for FOI is comparatively rarely applied. In 2014 in central government departments, there were 34,623 resolvable FOI requests made, and only five per cent involved the public interest test (Cabinet Office, 2016, p13). Similar statistics are not currently kept for universities or local authorities, although the Independent Commission on Freedom of Information Report recommends this (Cabinet Office, 2016). In view of the fact that the majority of requests are made to local authorities, rather than central government (between 70 and 80% according to Worthy (2013), this seems a sensible suggestion. Özdemir (2009, p140) claims that TNA have a ‘consistently high’ number of FOI requests (partly due to the ease of having a direct link to make requests) although the Independent Commission on Freedom of Information Report (Cabinet Office, 2016) does not mention TNA.

Time is important when applying the public interest test; not only may sensitivities decrease over time, but applying the public interest test also extends the 20 working day time limit for FOI requests (Section 10, *Freedom of Information Act 2000*). As the body of decision notices for FOI shows, information professionals are becoming increasingly adept at applying the 'public interest test'. In the Independent Commission on Freedom of Information Report (Cabinet Office, 2016, p26) 'the IC upholds around 70% of public authority section 35 decisions that are appealed to him, and around 80% of these decisions are unchallenged' (Section 35 is the 'safe space' exemption).

The GDPR also uses the phrase 'in the public interest' to justify archival use. In Article 89 it states that the 'processing of personal data that is necessary for archiving purposes in the public interest' (*Regulation (EU) 2016/679*). Similarly, Section 41 in the *Data Protection Act 2018* allows processing of personal data: for archiving purposes in the public interest, for scientific or historical research purposes, and also for statistical purposes. Neither, however, actually define the public interest, again possibly this is deliberate.

2.2.1 The public domain

The public domain is typically seen entirely in intellectual property (mainly copyright) terms, and is often 'defined negatively as what is left over when all forms of intellectual property - protected information are taken into account' (Samuelson, 2006, p7). It seems to be an amorphous and shifting concept that is hard to define. Indeed Boyle (2003, p52) writes 'the public domain turns out to be a concept that is considerably more slippery than many of us realize ... the public domain nevertheless turns out to be useful, perhaps even necessary'. Within archival terms, it does not appear to be defined at all (the ICO, for example, use the phrase without defining or delineating); similarly, legal judgements use it, but do not attempt definitions or to 'map' it.

The Advisory Council on National Records and Archives, also emphasises that even if information is in the public domain, records may still be closed due to the level of detail included in the records, or may deliberately not be made public (such as criminal cases files) (TNA, 2008, pt.4).

The intellectual property theorists Hugenholtz and Guibault (2006) make no attempt at a definition of the public domain in their introduction to their book. They do, however, point out

that '[i]tems of information, which in the 'old' economy had little or no economic value, such as factual data, personal data, genetic information and pure ideas, have acquired independent economic value in the current information age, and consequently become the object of property rights making the information a tradable commodity': the 'so-called 'commodification of information'' (Hugenholtz and Guibault, 2006, p1). This is particularly relevant to archives and the use of commercial partners to digitise public domain information such as parish registers or the census. Hugenholtz and Guibault (2006, p2) also observes that '[i]ronically, an important cause of commodification of information may lie with the government whose very duty it should be to promote and safeguard a robust public domain', mainly due to 'budgetary restrictions and – often ill-conceived – privatization efforts'. Creative Commons licensing and Open Source are intended to protect the public domain (Hugenholtz and Guibault, 2006).

Boyle (2003, p37) is also concerned about this 'enclosure of the intangible commons of the mind' and things 'that were formerly thought of as either common property or uncommodifiable are being covered with new, or newly extended, property rights'. Boyle (2003, p39) finds '[m]ost troubling of all are the attempts to introduce intellectual property rights over mere compilations of facts'. Facts, if presented in tabulated form, are indeed subject to copyright legislation, but FOI permits the dissemination of these facts.

Samuelson (2006, p13) asserts that most definitions of the public domain amongst 'intellectual property professionals' involve 'information resources- both artifacts and component elements such as ideas and information- that are unencumbered by intellectual property rights'. After discussing various definitions, Samuelson (2006, p8) also attempts to map the public domain, in the belief that this will give a more comprehensive and therefore positive character to the term, using various theoretical models. Mapping will also allow it to become a refuge, and recognised and protected by the law in the public interest (Samuelson, 2006, p20). Samuelson came across various problems, however, not least the varying legal framework between countries, leading her to question whether each country needed its own map or a generic one. Samuelson (2006, p17) points out that the boundaries of the public domain are 'likely to shift over time', although this does not mean that we should not attempt to map it. Samuelson (2006, p24) further adds that ideas and information are 'nearly universal public domain resources', citing examples such as folk stories.

Birnhack (2006, p60) makes an interesting point that the public domain is 'not a graveyard, but a playground for speech-experiments'. He also asks whether the use of contracts with respect to the distribution of public domain information has an impact on the supply of information and the composition of the public domain. This could increase the amount of

information available to the public (such as the use of paid commercial sites including Ancestry), or withdraw elements which were previously freely available (Birnhack, 2006, p88). van Eechoue (2006, p288) issued a similar warning: 'the interest the private sector has in exclusiveness versus the public sectors' interest in wider access, data quality and continuity of supply', and if the issues cannot be resolved then the public sector is 'wise to keep production and dissemination in its own hands'.

Deazley (2006, p103) suggests that the public domain 'rarely receives' any attention from information property lawyers, and then is 'just an afterthought' prompted when intellectual properties expire or are abandoned. Deazley (2006, p102) credits Lange with the resurgence of interest in the public domain, with his 1981 paper on 'Recognizing the Public Domain'. Lange (1981, p177) does not attempt to define the public domain, however, but notes that it appears 'amorphous and vague' with 'little...of substance', giving an 'impression of insubstantiality that the courts must dispel first'. Lange (1981, p150) also points out that 'intellectual property theory must always accept something akin to a "no-man's land" at the boundaries'. Twenty years later Lange (2003, p463) amended this to 'elastic and inexact', and 'a definition can be but one of many definitions, each surely a function of perspective and agenda'. He also suggests seeing public domain as a status rather than a place, conferring 'entitlements, privileges and immunities' (Lange, 2003, p474).

The ICO gives detailed guidance for what is in the public domain for FOI and EIR, but it is not decisive by any means (ICO, n.d.-b). It states that information is in the public domain if it is realistically accessible to a member of the general public at the time of the request, in practice and not just in theory. The ICO (n.d.-b, pt. 7), however states that a 'public authority might consider that the existence of relevant information in the public domain means the information should not or need not be disclosed. On the other hand a requester could argue that this means it can and should be disclosed.' Essentially, it is possible to argue both ways. In general, however, if the information is already in the public domain, 'it will be difficult to justify withholding it' and '[d]isclosure is unlikely to cause additional harm, and there will always be some residual public interest in disclosure' (ICO, n.d.-b, p2). The ICO (n.d.-b, p2) makes clear, however, that 'care should always be taken to consider whether the disclosure might actually reveal anything new. For example, the information could be more detailed, could corroborate a previously unreliable source or leak, or could put the information in a new context.'

Time is significant, too. The information must be readily available in the public domain; the ICO (n.d.-b) define this as someone without specialist knowledge being able to access at the time of the request; not afterwards, nor necessarily before. Point 25 makes this clear: '[e]ven

if the information was at one time considered a matter of public record (e.g. by being revealed in open court) or was otherwise previously published or disseminated (e.g. in response to an earlier FOI request), this does not mean it is still available in practice at the time of the request.' Thus, as point 27, emphasises, '[i]f a member of the public can no longer access the information at the time of the request, the FOI or EIR disclosure would, in practice, be revealing 'new' information over and above what is currently public knowledge.'

The public domain therefore seems to include information which can be easily found, but is not protected by information property laws such as copyright. It includes records and aggregations of data.

2.2.2 The rule of law

The meaning of the rule of law is disputed and has changed over time. Originally Whitford (2000, p724) suggests that it meant 'that no individual should be "above" the law', but it is now a phrase which is used frequently without definition (Bingham, 2010). Indeed it has arguably now become 'a slogan used for many political purposes' (Whitford, 2000, p723). The literature on the rule of law generally shows that laws should be clear, written down and applied equally to all; all of these concepts transfer easily to privacy and archives. It seems to be an ethical rather than a strictly legal concept.

The respected former Law Lord Tom Bingham (2010) believed that the rule of law should have seven components. Firstly, it should be accessible and understandable; be written to avoid arbitrary decisions by judges; promote equality for all (except special cases such as children); be operated within exercise of power, minimum standard of fairness, discretion and spirit of the relevant Act; support human rights; have a clear method of dispute resolution; and allow a fair trial. O'Donnell (2004, p33) also emphasises that it must be written down and applied equally to all. Similarly, Whitford (2000) stresses the need for written laws, accountability and equality. These attributes point towards transparency (i.e. written down) and fairness, and thus the rule of law seems to form the foundation of a fair and just society.

The idea of fairness has clear links to many of the laws and ethical guidelines that relate to archives. GDPR, DPA and *Copyright, Designs and Patents Act 1988* all reference fairness directly, as does the ARA Code of Ethics (ARA, 2018). The DPA's first data protection

principle is that '[p]ersonal data shall be processed fairly and lawfully'. Similarly, the concept of fair use ('fair dealing') allows the limited copying of published works without the Copyright holder's permission for 'non commercial research and private study' (Intellectual Property Office, 2014). The ARA Code of Ethics (2018) also refers to fairness repeatedly, including in the context of allowing fair, equitable access to all, and treating depositors fairly. Archivists are therefore well used to this concept of fairness.

Many aspects of privacy are actually concerned with fairness and choice. Westin (2003, p431) suggests that people wish to know 'when such information will be obtained and what uses will be made of it by others', a view echoed by Nissenbaum (2009, p1-2). Similarly, MacNeil (1992, p12-13) considers control and choice are important aspects of privacy. This has strong resonations within the archival setting. The *Data Protection Act 1998* and *2018* both limit the processing of personal data. The Rtbf and deletion of links are also concerned with limiting the accessibility of information. Likewise, Laite (2015) believes that historians (and possibly, by implication and extension, archivists) have a responsibility not to promote those who wish to be forgotten. Using the example of a trafficked prostitute mentioned in police files and court records who later changed her name and returned to New Zealand, Laite (2015) argues that this woman clearly wished to distance herself from the past and to not be remembered.

The rule of law is also not a fixed concept, and develop over time (Bingham, 2010, p174). Although the form of words of Magna Carta, for example, have remained the same, their meaning and interpretation have changed radically over the last 800 years (Bingham, 2010, pp10-13, 27-28; Moss, 2011, p411). Clearly this has implications for archives, beyond those of getting 'caught in the crossfire' which Moss and Endicott-Popovsky (2015) point out. Laws affecting archives change for example the introduction of the PRA, DP Acts, and the criminality of offenses (e.g. the decriminalisation of homosexuality). Similarly, notions of privacy also change over time; our perceptions of what is socially acceptable and therefore unacceptable vary, and this affects how indiscretions are dealt with (Westin, 1967; Nissenbaum, 2009). Behrnd-Klodt and Wosh (2005, p7) demonstrate that privacy is 'based on a complex variety of historical, cultural, social, institutional, and personal factors'. Indeed, notions of privacy change across cultural boundaries (Iacovino and Todd, 2007). This concept of temporality is expanded further as archives' importance in accountability is demonstrated in cases such as Hillsborough and IICSA.

Bingham (2010, p94-5) observed that American Supreme court judges are appointed by politicians; in Britain the rule of law is strictly non-political. Although archivists strive for impartiality (ARA, 2018; Ketelaar, 2001, p131; Cook, 2011a, p607) and indeed Jenkinson

(1922, p231) insisted that ‘the good archivist is the most selfless devotee of truth the modern world produces’, this is strongly contested. Archivists have considerable control and power across all aspects of archives from collection to description to access and this is discussed in Section 2.7. Findlay (2013, p11) notes that appraisal cannot be objective as ‘outcomes are influenced by who is doing the appraising, who holds them to account’ and ‘their willingness to keep, destroy or reveal evidence of matters that do not cast themselves in a positive light’. This is an important point; archivists may strive for impartiality but they are ultimately employees too. There are examples of people choosing to save records for accountability (e.g. the Jewish archives which were buried to save them from the Nazis (Kassow, 2007) or the citizens’ who prevented the destruction of the Stasi archives after the fall of the Berlin Wall (Danielson, 2005)) or become whistle blowers. There are also examples, however, where no one saves the records, including records of the British Empire (Banton, 2017) and records of apartheid (Harris, 2002)). The historian Kassow (2007) suggests that as archives are the final resting place they should be as impartial as possible to allow the historian to decide what they think is important. Archivists need to remain impartial, like the British judge, or as impartial as possible with the emphasis on the rules and regulations, over discretion (appraisal).

The final component of the rule of law is that all are equal. Irrespective of social position, as long as they are consenting adults, O'Donnell (2004) and Bingham (2010) both agree that all should be treated equally. It can be argued, however, that the rule of law, at least for archives, should not be *equal* but *equitable*. Indeed, the updated ARA code notably calls for ‘open and equitable access to records’ rather than equal (2018, p2). By emphasising that access should be fair and impartial and applied to ‘individuals and groups without favouring one individual or group over another’ (ARA, 2018, p3), ARA also acknowledge ‘compatible with respect for other concerns such as the privacy of information subjects and their institutional context’ (ARA, 2018, p2). Some users will have greater rights to access records than others, most notably their own records, those of close relatives or connected to specified research (see Section 2.3.3), therefore equal access is not desirable.

2.3 Openness

2.3.1 Access

After records are transferred to the archives, a decision must be made on how, by whom and when they can be accessed. This will vary according to the archive type (e.g. private, business, university or local authority), individual ethos and issues of sensitivity surrounding the records (see Section 2.4). As Hodson (2004, p196) points out, when faced with 'difficult decisions about identifying sensitive materials', and with 'only general guidelines to follow', archivists have adopted a variety of policies to privacy and access. These policies vary from making available all manuscript material, regardless of content and whether living or dead, to routinely sealing all letters by living individuals (Hodson, 2004, p196).

Public records are typically held by national, university and local authority archives and form the basis of this research. Although, in theory, the FOI Act makes all public records which are not subject to data protection open, archivists may still need to balance ideas of privacy and sensitivity. Closure periods are often used by archives for 'administrative convenience' (Mulley, 2015). These may be partly determined by depositor agreements, time limitations or variations in terms of access according to who is requesting access (inequality of access). See also sections on 'when does the right to privacy end?' in 2.4 and 2.8.

Researchers have different reasons for accessing archives. Traditionally historians were the primary users of archives, however they are not the only users. Family and local historians now 'make up the majority of users in most local authority record offices' (Mortimer, 2002, p59), and there are many reasons why readers may choose to research. Etherton (2006, p227) shows that although 'Some people embarking on family history research may only be looking for a leisure activity...many others are compelled by a strong need to make sense of a disrupted life'. She gives clear examples of how archives (and archivists) may help, and the overlap with other 'professionals including those working in the fields of fostering, adoption and hospice care' (Etherton, 2006, p228). Mortimer (2002, p61) uses 'recreational historians' to distinguish between family and local historians with a purpose (e.g. for tracing genetic diseases or understanding within a wider social understanding) and those researching purely for interest. Other users may be one-off enquirers needing the records of their baptism for a marriage or proof of their schooling.

Mortimer (2002, p60) also prefers the term 'research officer' to 'academic researcher'. Thus he includes more than historians but also those with 'a designated remit to study written

evidence of the past, however recent, within an educational, administrative or similar professional framework, and whose research is likely to be protracted’.

2.3.2 Equality of access

Most archivists would instinctively agree that all researchers should have equal access to records. Boyns (1999, p65) writes ‘that all users should be treated equally, no matter what their area of research’, a position echoed through articles written by practicing archivists (e.g. Moran and Taylor, 2003; MacNeil, 1992; Collins, 2013). The 2016 ARA Code of Ethics, which borrows heavily from the 1996 ICA Code of Ethics, states that ‘[m]embers should promote the widest possible access to archival material and provide an impartial service to all users’ (ARA, 2016, pt. 8; International Council of Archives, 1996). Archivists should aim to be impartial, whilst not making judgments about the importance of different research, and use this as a basis for who can or cannot access records (MacNeil, 1992). This section examines variations in terms of access; who can access records, when and why.

The rule of law clearly supports the idea that everyone is equal before the law (Bingham, 2010) and the legal framework in Britain generally promotes equality between researchers. DPA applies to all living subjects, no matter how wealthy or influential. The 20 year rule will eventually make all public records that are over 20 years old available to all at TNA or at Places of Deposit (although this is being staggered until 2022), unless they have been closed for specific reasons (TNA, n.d.-a). The FOI Act also supports equality, and does not distinguish between journalists, historians or the general public (although vexatious requests can be refused under Section 14(1)). FOI ensures that everyone uses the same formal procedure (the request must be made in writing, answered within a 20 day time limit unless it needs a public interest test, and there is a maximum cost limit), regardless of who they are or their occupation.

Although FOI is generally seen in a positive light, and has made many files available that would be otherwise closed, it can be a time consuming and protracted process. Oliver (2009) explains that before 2005, a series of files could be potentially be quickly reviewed by a senior archivist, but FOI requires the same information to be subject to a formal FOI request. Similarly, the equality of FOI may prove a frustration to some highly respected researchers who had previously enjoyed greater access according to their status (Flinn and Jones, 2009a, p49). This access, in theory in place from the *Public Records Act 1958*, improved

from 1992, when the Lord Chancellor, William Waldegrave appeared on BBC Radio Four appealing for historians to request blocks of files that would be useful to be released. Between 1992 and 2000 approximately 100,000 documents were released to serious researchers (Flinn and Jones, 2009a, p38). In 2005 when the *Freedom of Information Act 2000* came into force this privileged access, in theory, became obsolete.

Equality of access is evident in archival literature from at least the 1980s, and archives 'increasingly recognized the fundamental right of all users to be treated equally' (Collins, 2013, 169). Moran and Taylor (2003, p62) term this 'equality of access' as the 'social duty of the archivist' and believe that 'favouritism would be inimical to the social duty of the archivist'. Collins (2013, p172) conducted a series of interviews with Irish archivists in 2009 and found that the 'attitude of the interviewees towards the different types of users appears to be rooted in a positive desire to treat all equally'.

Most archives now claim to make little if any distinction between different general users. MacNeil (1992, p144) believes that 'the application of an intellectual means test for access to records containing personal information is an elitist practice that is incompatible with the democratic spirit of archival principles'. This is supported by Moran and Taylor (2003) and Boyns (1999). Moran and Taylor (2003, p62) insist that '[t]here can be no favouring of the PhD researcher ... over the householder from the North Hull Estate anxious for access to the building control plan to see where his or her drains run! Such favouritism would be inimical to the social duty of the archivist.' Indeed, everyone pays taxes, a point all three also make (MacNeil, 1992; Moran and Taylor, 2003; Boyns, 1999).

2.3.3 Differential access

It is perhaps common sense that some people have a right to access information more than others. This is particularly obvious, perhaps, for an individual's own personal records, and indeed Subject Access Requests (SARs) are intended for just such a purpose. GDPR and DPA also allow subjects to correct information about themselves. Other groups may have a greater right to access records. Examples include police and legal teams, historians, and different demographic and social groups e.g. indigenous peoples (McKemmish et al., 2011; Cox et al., 2009).

An extension of this may be that an individual can not only view their own record but also copy and distribute as they wish. Victims of the Stasi 'paid substantially less than former

Stasi employees for photocopies' and were also able to distribute this information as they saw fit, and therefore 'much entered the public domain' after the collapse of the Berlin Wall (Danielson, 2005, p98).

Whether different access should be granted according to whether they inquire in person or remotely is another issue. Indeed, an embryonic discussion on this subject was attempted in June 2018 on the ARA list-serv, although it did not have many participants, possibly because it is a new idea. TNA, stated that '[t]he need to provide access to some digital content in a searchroom environment only and not online elsewhere is something that we were well aware of.... Whilst we have not yet had to find a practical solution for making some born-digital material available onsite only, we know that this will be necessary in the future. There will inevitably be open public records that we will not be able to publish online for legal or other reasons – chiefly to do with protecting the rights of people other than the archivist and the researcher. We also anticipate that this will affect some metadata, as well as the records themselves' (Janes, 2018).

Hodson (2004, p197) believes that differential access was more prevalent in the past and 'research libraries routinely implemented inequitable restrictions that had been requested, or insisted upon, by donors'. Some archives were more difficult to access for non-academic researchers, if they indeed were open at all. This is still true for some archives, including the American Friends Society Collection (AMFSC) where access is based on 'patron qualifications', and past and future publications (Yaco, 2010, p662). The AMFSC also insist on reviewing all research prior to publication; as its archives relate to educational segregation in the United States, and are politically very sensitive this could result in censorship. The National Archives and Records Administration (NARA) allows some researchers access to restricted records via its review committee, where research proposals are viewed first (although researchers must then abide by confidentiality rules, with penalties for disclosure) (MacNeil, 1992, p140). Similarly, access to the Royal Archives in the UK is strictly controlled and only available for the purposes of 'historical research' and after screening (Guardian Editorial View, 2015). Researchers must be researching the correct history, with the correct credentials; the historian Julia Baird (2016) was repeatedly refused on the grounds that she had not written a biography or royal history before, and was only granted access when a former governor general for Australia intervened. Danielson (2004, p186) suggests that an American historian would be denied access to a Hungarian dictatorship because the US 'does not have privacy legislation comparable to Hungary', but a German historian would be allowed (though not journalist).

Other archives may have stringent requirements for reader tickets. The Bodleian library, for example, requires applicants to fill in a form including a 'Statement of Research Need', which although does not preclude non-academic researchers does make it more difficult. Readers' tickets are also free for current members (including alumni) of Oxford University and other Higher Education and Further Education institutions, or people who are retired (Bodleian Library and Radcliffe Camera, 2018). Access to some collections varied historically according to which college the inquirer attended. As Yaco (2010, p662) points out these application processes will discourage the general public.

Mortimer, in his controversial 2002 article, suggested that there should be preferential treatment for academic researchers. He argued that they have deadlines, and a continuous run of records can be easily retrieved together rather than individually. Although this was dismissed by rebuttals in the archival literature (e.g. Moran and Taylor, 2003) there is some evidence in the literature that preferential treatment does occur. Boyns (1999, p66) survey of LA archives in England and Wales in 1997 found that some participants believed that 'while they themselves are impartial, there is some 'academic snobbery' to be found among archivists'. Flinn and Jones (2009a, p42) also believe that there is a 'widespread suspicion' that some senior historians continue to receive preferential access, although they did not believe this was actually true, suggesting there were general inconsistencies which created this impression. Possibly, however, it is practical considerations which give this impression rather than 'general inconsistencies', for example most finding aids and guides are typically aimed at family historians in an 'attempt to deal efficiently and economically with a large quantity of repetitive enquiries' (Boyns, 1999, p64). In turn, this means that more archivist time may need to be devoted to academic researchers, as it is more difficult to find relevant records for different areas of research (Boyns, 1999). Duff and Fox (2006, p134) found in their research with searchroom archivists that 'some of the participants' gave 'more in-depth orientation when the user was a new scholar or PhD student' so that 'he knows and understands the media that is available and how to use them', rather than simply showing how to use finding aids and microfilm machines. Similarly, Johnson and Duff (2005, p129) suggest that '[a]rchivists should also go out of their way to inform PhD students that specialists are available to help them, by chatting with the students and showing interest in their research' although they admit 'this will require significant resources, and archives will have to decide whether they will provide this amount of attention to a relatively small number of archives users'. Mortimer (2002, p64) recommends 'assigning a 'case officer' to welcome and guide the research officer in his/her first steps at the record office'; again only for this category of researchers, not all users.

Duff and Fox (2006, p145) found that '[s]ome of the archivists expressed a willingness to spend more time on questions that were of interest to them and to bend the time rules in order to accommodate these more interesting requests'. These records, however, are perhaps less likely to be catalogued in detail. Hobbs (2017, p31) discovered that his interviewees who researched using artist sketchbooks generally asked for 'advice and guidance' from archivists, rather than using catalogues, something which Hobbs describes as an 'efficient way of working'. He noted that his interviewees were artists and interested in different aspects than may typically be catalogued, demonstrating the difficulty of cataloguing and making descriptions useful for a variety of researchers.

Preferential access may be granted for family members. The Guinness archive will only allow direct family access to staff records of a 'very personal nature', and employee files containing medical details, even if the subject is dead; time is irrelevant (Benson, 2013, p139). In Irish LA archives confidentiality agreements are considered the 'most appropriate' means of access and only family members are allowed to access certain classes of information, although Benson (2013, p140) acknowledges the difficulties of establishing exactly who constitutes family. Similarly, service records from the Second World War can only be accessed by the data subject, next of kin or those with their consent if the service personnel is still alive, and the relationship needs to be declared on the form. Less information will be given to those who do not have a close relationship if the data subject has died within the last 25 years (United Kingdom Government, n.d.).

Some indigenous peoples have different access rights, and access to certain material is viewed as a privilege rather than a right. Cox et al. (2009) argue that non-natives can find it difficult to know which records are sensitive and therefore difficult to implement appropriate access. This can make it very difficult to implement access policies that respect all interested parties (depositors, researchers and those mentioned within the records). McKemmish et al. (2011, p288) also support this idea, arguing that although indigenous peoples have access rights to government records about them, 'there is no shared decision-making relating to ownership, custody, preservation and access'. Government archives, however, cannot include collective rights in records, which these authors argue are necessary. They must be transparent, fair and equal to all, and there are inherent difficulties in establishing exactly who may or may not have access.

Before the mid-twentieth century, much history was written by and about privileged white people, particularly men, although Fowler (2017) (amongst others) asserts that this is partly due to record survival. This has changed in the last 60 years, however, and a wide variety of grass-roots archives and museums have emerged. Originally many of these were created by

volunteers, and some have since become adopted into established repositories (e.g the Lesbian Archives Collective was established in London in 1984 and transferred to Glasgow Women's Library in 1995 and renamed The Lesbian Archive after their funding was withdrawn (Archives Hub, n.d.). Similarly, black history and working class history are all seeking to fill in gaps, or silences, in the archives.

Depositor influence

Schwartz (2005, p82) asserts that a desire to establish a favourable historical image can lead to the destruction of some records before they are deposited, or restrictions on access to what is deposited. She also suggests, *contra* the more common idea of an impartial archivist that archivists can shape history. She proposes that the use of privacy policies and finding aids can actively encourage donations of 'revealing materials', by letting researchers know what archives hold and 'help them write about once-taboo topics' (Schwartz, 2005, p83). In Hobbs' research into access to artist sketchbooks in UK archives, he also found that access restrictions may be put in place by depositors ('as reported by West Sussex Record Office') or need written request in advance with approval by 'the chief librarian or curator before access is granted' (including for the Leonardo notebooks held at the National Art Library) (Hobbs 2017, p34-5). Panofsky and Moir (2005) also show how Adele Wiseman's daughter caused problems by refusing access to her mother's archive at York University in Canada. The article also highlighted the importance of a good relationship with archivists; the archivist contacted the researcher to advise when the collection was finally available for research.

Blind Donors

Gaudette (2003, p21) uses the term 'blind donors' to describe 'individuals whose creations are contained within a collection without their consent regardless of their knowledge of that fact'. Put more simply, these are people who have not given consent for their records to be in an archive. This, of course, will include the majority of records, including for example correspondents or those mentioned in diaries, photographs or case papers as witnesses.

Hodson (2004, p196) terms these people 'third parties' and explains that they 'had no voice in deciding the fate of the papers, and are unlikely to have been consulted about any potential sensitivity in the collection'. Letters are, by definition, also private communications intended to only be read by the addressee (Hodson, 2004). Farley and Willey (2015) agree that archivists are trusted to not only protect the privacy of the girls who attended a reformatory school, for example, but also wider privacy for their family members, peers and communities where the girl resided.

This is not just an ethical issue. Legal implications include the Rtbf and the privacy clauses in the *Human Rights Act 1998* and *Data Protection Act 1998* and *2018*. Essentially, these clauses state that information should only be collected, used or disclosed for its primary or original purpose, and that its use and disclosure for secondary or other purposes is subject to strict limitations (although this includes archiving for historic interest). Indeed in the Windrush scandal, the Home Office claimed to have destroyed the disembarkment cards of citizens landing in Britain due to Data Protection concerns (Gentleman, 2018). In May 2018 it became apparent that some MPs have deleted emails due to incorrect GDPR advice (Cellan-Jones, 2018).

Iacovino and Todd (2007, p109) correctly assert that 'a prime responsibility of the archivist is to ensure that records are preserved for other purposes that may not be apparent to their primary immediate ones'. Possible solutions include closing records until after the death of anyone mentioned, although this would substantially limit research (MacNeil, 1992). Another option, suggested by Iacovino and Todd (2007, p109), is that the record subject's informed consent to the collection, use and disclosure of his/her personal information should be obtained by all recordkeeping participants. This, however, is clearly impractical. Benson (2013) takes a slightly different perspective, arguing that in the past the focus has been on defining information to be disclosed rather than participants understanding of implications of disclosure. Researchers are not seeking access to sources which have collected data, and so perhaps consent is no longer a reliable arbiter of privacy protection.

Access procedures

Many current access rules 'were born of the practicalities of dealing with large volumes of paper files', whereas now digital records and online systems, along with increased

accessibility have changed the playing field (Findlay, 2013, p17). Findlay (2013, p17) suggests that as technology has improved 'we have the tools now to effectively restrict access to sensitive personal information, while we renegotiate the boundaries of other kinds of secrecy – a task which is long overdue'. Technology, although rapidly changing, is perhaps not quite at this level yet. Findlay does however also points out that it now makes no difference to users where the archives are physically stored. This idea is also supported by Bastian (2002, p92): modern access methods mean that the physical location of the archives for the United States Virgin Islands is no longer as important as formerly. Similarly, the Hillsborough Archive is actually distributed physically across four archives, with a website allowing all to be accessed virtually (Hillsborough Independent Panel, 2012, pt 3.5).

Greene (1993, p38) proposes that archivists 'err on the side of access' in general, and, that depositors should impose access restrictions as they are best placed to know the sensitivities of the collection. This idea is also supported by others, including Sims (2003, p220) and TNA, where depositing departments catalogue their own records on transfer. It assumes, however, that depositors know the entire collection in great detail: many collections are transferred by family members or a new employee clearing the desk of their predecessor rather than as a well-planned records management system or creator. Greene (1993, p37) suggests that in order to implement 'donor imposed access' archivists must 'scrupulously' explain exactly what is meant by public access and explain exactly the restrictions which might be necessary for sensitive material (including potentially libellous material). This may prove a difficult position to defend in court. Where depositors cannot create a policy archivists must become 'arbiters of privacy' but should do so grudgingly and with clear institutional policy to 'minimise variation between different curators' (Greene, 1993, p37). This is a fair point; where legislation does not set limits, ethics can vary between archivists. Certainly, other commentators have mentioned the variation between different archivists: 'practices that seemed fine to one archivist on Monday morning might not go down well with their colleague in charge on Tuesday afternoon' (Tamboukou, 2016, p79).

The Wisconsin Historical Society has defined, advertised policies and procedures in place to help provide access for readers, while still protecting the privacy of individuals documented in the records (Farley and Willey, 2015). In order to gain access readers must talk to the archivist 'about the specific restrictions and explain his or her research intentions', write a letter of intent outlining the anticipated use of the collection and sign a consent form stating that they understand the terms of use, such as restricted photocopying, and consequences of using identifying information (Farley and Willey, 2015, p115). This appears reasonable and equitable; no judgement (appears) to be made about 'right' or 'wrong' research

intentions. Similarly, Hobbs' research into artists sketchbooks found two archives (Oriol Ynys Mon in Anglesey and the Hunterian, Glasgow University) that 'although they are accessible to anyone, they are generally handled by curatorial staff' (Hobbs, 2017, p34-5). Presumably these books are particularly fragile, although Hobbs does not offer an explanation.

Gaudette (2003, p21) points out that although there are laws addressing the copying and distribution of unpublished works, there are no statutes governing the question of access to such works for viewing or display and ethics therefore become important. The need to balance the desire of the historians, who 'understandably, want to have access to everything in order to be able to verify that the information they present has been thoroughly researched and is accurate as far as available sources allow' and the privacy needs of 'blind donors'. Gaudette (2003, p25) asserts that access implies dissemination, and once access is given, it can be assumed that dissemination will take place in one form or another; claiming it is 'almost impossible to control, the literary rights notwithstanding'. Copies are not necessarily made, and indeed some records are viewed in rooms where no photography is permitted. MPs, for example, were only allowed to read the leaked Brexit impact assessment in a supervised reading room, much like an archive search room, and no copies were permitted to be made (BBC News, 2018) .

Within a British context there are currently two detailed sets of guidelines (beyond the deliberately vague codes of ethics by ARA). The Scottish Council on Archives have produced a set of guidelines for use in Scotland (known as SCARRS), which reflects the distinct record sets and legal framework (Scottish Council on Archives, 2014). The Greater Manchester Archives and Local Studies Partnership have also created an Access Policy for the use of archives in their area, although this could be transferable to other archives working in LA in England (Greater Manchester Archives and Local Studies Partnership, 2013). The Greater Manchester Archives and Local Studies Partnership is a working party of local authority archive services in the North-West of England which was formed in 2012. It involves the local authority archive services within the Greater Manchester area² and 'provides an over-arching strategy and development plan for the area, bringing benefits in terms of collective collaboration on service improvement and future sustainability' (Bolton et al., 2016). In practical terms, the archives have worked together to raise standards across the archive services, with support from senior levels (Bolton, 2016b). It is the first formal

² Bolton Archives and Local Studies, Bury Archives and Local & Family History Service, Manchester Libraries, Information and Archives, Oldham Local Studies and Archives, Stockport Local Heritage Library, Tameside Local Studies and Archives, Trafford Local Studies, Rochdale Local Studies and Archives, Salford City Archives and Local History Library, Wigan Archives and Local Studies <https://www.trafford.gov.uk/residents/leisure-and-lifestyle/libraries/docs/local-studies-access-policy.pdf>)

partnership to have been created in the UK, and has been used as a case study by TNA (TNA, n.d.-d). In 2013 the Greater Manchester Partnership created and published an Access Policy (Appendix 2). The policy document outlines how 'customers' can access records at these different archive services, including restricted access and copying. It also has an appendix with a table of 'record types' found in these archives, closure periods applied and the reason why (including a legal basis). This is interesting from several points; it allows a standard approach by all the participating archives and also was the result of consultations between the archives. Previously there were inconsistencies across Greater Manchester and this was viewed as an opportunity to provide clarity (Bolton, 2016b). The appendix table also includes a column for 'archivists notes' which encourages archivists to use their judgement and clarifies what to be aware of, in terms of sensitive content and also variation (Greater Manchester Archives and Local Studies Partnership, 2013).

There was general consensus about most records series included in the policy document. School records, however, proved more controversial: 'some people wanted a blanket restriction on log books / admission register and then open them up if ok. We do it the other way round' (Bolton, 2016a). Therefore, if only one page of a book is sensitive, or it is a long run, then rather than closing the entire book, access is enabled by 'tying up pages' with archival tape. Bolton (2016b) clarified that 'an admissions register from the 1900-1950s, if someone is only interested in the 1910s we could tie it up' and produce it in the search room. The policy closes school records for 30 years as standard, although there are provisos that if it includes sensitive content then it should be closed for longer (96 years for primary and 89 for secondary). These dates were chosen because 100 years is the standard longest closure period used for sensitive data ('for historic reasons... we've always done that' (Bolton, 2016b)), and 'Because to go to school you have to be 4 and 11 respectively. The idea being we can open up a few more records than if we had a blanket 100 years'. This follows the same reasoning (and same conclusion) as was reached by the ACA in 1988 (Sillitoe, 1995).

Exemption forms

To enable access to records which would otherwise be closed, forms may be used where the user agrees to confidentiality. These are termed researcher agreements, academic exemption forms or user agreement forms. Iacovino and Todd (2007, p111) observe that '[i]n the archival sphere, third party archival researcher agreements place the onus of respecting

personal information on the researcher'. This is an important point; the archivist places the responsibility on the user to respect privacy. In some archives, this leads to restrictions on access as archivists or depositors attempt to control this, however there is also currently a debate on ethics of disclosure (and amplification) amongst historians (Laite, 2015).

Possibly exemption forms should become more widespread and universal. Benson (2013, p141) suggests that as a condition of gaining access to sensitive records researchers perhaps need to 'commit to a contract to respect the rights of private individuals', possibly with potentials to prosecute under privacy or archival legislation. This, although possibly not explicitly, is included in many access policies; certainly most archives have copyright disclaimers. At the Image Archive on the American Eugenics Movement created by the Dolan DNA Learning Center the user agreement form is purposely 'designed to educate the patron on ethical use of the collection's contents and again shifts responsibility away from the repository for misuse of the contents' (Farley and Willey, 2015, p118).

2.4 Privacy

Privacy, like the public domain, appears to be an amorphous and difficult to define concept. Many authors have offered definitions of what is meant by privacy. Indeed, MacNeil (1992) spends 20 pages giving different perspectives, and yet still more has been written in the 25 years since her book was published. Solove (2008, p1 and p5) believes that it is a 'concept in disarray' and 'nobody can articulate what it means', although many try and 'It seems as though everybody is talking about "privacy," but it is not clear exactly what they are talking about'. Also, as several commentators including Westin (1967) and Reiman explain, '[h]aving privacy is not the same thing as having a right to privacy'; the option is of major import (Reiman, 1995, p32).

Privacy concepts are also bound up with trust and accountability. Behrnd-Klodt and Wosh (2005, p8) describe a 'never-ending social discussion concerning privacy, confidentiality, security, access, and records'. Lack of trust in governments can result in demand for higher privacy for example the 2016 Australian census campaign was staged where citizens were encouraged not to include their names on the census (#census fail) (see Williams, 2016).

Privacy definition

Westin (1967), one of most influential figures in privacy in the 20th century, asserts that privacy is the claim of an individual to determine what information about himself or herself should be known to others. Forty years later Westin published an update which includes specifically 'when such information will be obtained and what uses will be made of it by others'; reflecting the increase in surveillance, claims 'to privacy by social groups and associations, and also a limited (largely temporary) right of privacy for government processes' (Westin, 2003, p431). Thus control and choice are important aspects of privacy, as MacNeil (1992) explains. Managing this tension among privacy, disclosure, and surveillance in a way that preserves civility and democracy, with 'changing social values, technologies, and economic conditions, is the central challenge of contemporary privacy definition and protection' (Westin, 1967). Westin suggests there may be a link between privacy and wealth; the rich can withdraw from society more than the poor, although the rich and famous may conversely have more intrusions. This idea was extended by the German Commissioner Marianne Birthler, who made a clear distinction between the privacy rights of public figures and ordinary citizens after the fall of the Berlin Wall. Birthler insisted that public figures should have greater scrutiny because of their public role, thereby protecting prominent politicians from unjust accusations and preventing fraud (Danielson, 2004, p182-3). Similarly, Hodson (2004, p202) agrees that 'American legal precedent, individuals frequently in the public eye surrender a certain degree of their privacy by virtue of being public figures'. She does, however, continue that 'Most of us would agree, however, that beyond a certain point, some categories of personal information about famous people are private and should be respected as such'.

Westin (1967) also suggests that if behaviour is considered socially acceptable, it is more likely to be accorded privacy and this can be linked to changes in society. This certainly has clear resonances in archives; illegitimate children were typically noted as such in Victorian baptism registers, and divorces announced in local newspapers in the 1960s. Now, both illegitimacy and divorce are considered more socially acceptable, neither is publicised.

The legal expert Julie Cohen (2012, p1911) emphasises that privacy cannot be 'distilled to an essential core' because it is linked to 'preexisting cultural and social matrices creating spaces for the play and the work of self-making'; privacy provides space to be able to operate within socially acceptable standards. Cohen (2012, p1906) proposes that '[p]rivacy is shorthand for breathing room to engage in the processes of boundary management that enable and constitute self-development' and is therefore 'fundamentally dynamic'. Cohen (2012, pp1907-08) believes that definitions grounded in core principles will inevitably not

work as 'real people' have varying expectations according to whom they share their information with. These points are made by others: Sillitoe (1998, p9) suggests that 'the only judge of a sensitive record is the sensitive individual'; and MacNeil (1992) that everyone's expectations are different.

Westin (2003) suggests that the major developments in the 1990-2002 period are mainly technological, although also mentions globalization of privacy issue especially problems of the EU and the EU Data Protection Directive. He also believes that people are worried about the amount of information being collected and privacy concerns, but still want personalised preferences for shopping for example; they want everything. This point is also made by Lord Neuberger (2015, pt 62) who proposes that the public care about privacy, even if they do little to protect it. Neuberger (2015, pt 23) emphasises that 'privacy is a nuanced and multi-faceted concept'.

Nissenbaum (2009, p1-2) states that many commentators believe 'protecting privacy means strictly limiting access to personal information or assuring people's right to control information about themselves'. He disagrees, explaining '[m]ost people care about not just *restricting* flow of information but ensuring that it flows *appropriately*' – a key tenant of GDPR. This has strong resonations within the archival setting: for example the Rtbf and deletion of links, and the Data Protection Act limiting the processing of personal data. Nissenbaum (2009, p3) also supports the idea that privacy is culturally effected and changes over time and believes 'context-relevant informational norms' develop. Alarm is caused when these norms are flouted by information technology. Solove (2006 p480) concurs, and states that the majority of privacy problems are 'knee-jerk reactions'.

Solove (2008, p9) believes that privacy consists of many 'different yet related things' and varies across cultures. Along with Westin and Cohen, he emphasises that privacy is dynamic and fluid. Solove also advocates the importance of society as a whole rather than the individual. This is, perhaps, where archival and non-archival notions of privacy differ. Indeed, Iacovino and Todd (2007, p110) suggest that '*Privacy regimes* focus on consent to the collection, use and disclosure of personal information in its immediate context, while *archival regimes* focus on preservation of authentic records for general public disclosure, which may include personal information once it has lost its sensitivity' (this researcher's emphasis). In 2002, Cook (2002, p95) voiced his concerns over the Canadian Personal Information Act, stating that the 'destruction of archival records to accommodate privacy concerns will imperil the rights of all Canadians to know one another, to understand themselves, and to embrace their place within Canadian society and history'. Cook (2002, p96 and p113) pointed out that if we allow privacy to take precedent, then we will effectively have 'a society that only

remembers those at the top or those with a self-conscious eye on history' and '[w]e must not allow those without a voice, even if they desire it at the time, to be silenced'. Indeed, this fear was brought to reality 16 years later when the Supreme Court of Canada ordered the destruction of the case papers for the 2006 Indian Residential Schools Settlement Agreement, prompting disappointment at the loss of the archival record (Adam, 2017).

Within explicitly archival literature, few archivists offer definitions of privacy. Behrnd-Klodt and Wosh (2005, p2) write that 'privacy itself remains a somewhat confusing notion' but 'most academics agree that privacy refers to people and to the purposes for which personal information is gathered, used and/or disclosed' and distinguish between privacy and related concepts such as confidentiality and access. In common with the general privacy theorists, Berndt-Klodt and Wosh (2005, p2) point out that '[n]one of these concepts exist in a social or historical vacuum', and privacy changes over time. Iacovino and Todd (2007) in their comparative study of privacy in Australia, US Canada and Europe, show how privacy is viewed and implemented differently in different jurisdictions. They also note that 'exemptions for historical records in the data protection regimes might be unlikely to have much impact if the fundamental right to privacy is invoked' (Iacovino and Todd, 2007, p121).

Behrnd-Klodt and Wosh (2005) also suggest that concepts of privacy may be affected by research trends: from the 1970s increased use of documents such as social work case files, church registers, patient medical histories has been noted. They believe that 'archivists recognized the research value of such materials, but also understood the confidentiality issues and practical problems that often prevented them from acquiring and accessioning such files' (Behrnd-Klodt and Wosh, 2005, p3). Cook (2002, p112) rightly asserts that 'no one can predict the future' and that we 'simply do not know which records will be of use in the future as evidence in courts of justice, to protect citizens' rights, or hold officials to account for abuse of power.... we must at least allow the eventual guardians of those records – archivists – to appraise them, and retain the small fragment they deem to have archival value'.

Iacovino and Todd (2007, p108) ask whether 'the fundamental right to privacy [is] wider than the data protection issue' and suggest that '[p]rivacy is recognised internationally as a human and a legal right and has a strong ethical basis'. Indeed, archivally, it is perhaps more of an ethical concern than a legal one. Iacovino and Todd (2007, p110) also suggest that '[t]he role of trusted third parties in protecting privacy is often overlooked in privacy legislation'. This is true for most archival exemptions e.g. in FOI and GDPR the exemptions are far more explicit for journalistic and literary/artistic than archival. GDPR, however, does

specifically mention archives in Section 19 'Processing for archiving, research and statistical purposes: safeguards', and DPA 2018 chapter 2, s 41. Iacovino and Todd (2007, p110) propose that public sector and private sector are treated differently, and 'the private sector personal data has yet to develop third party trusted mechanisms'. This is a good point; archives generally have greater protection in public archives than in private (see Section 2.7). In Sweden, however, Ostberg and Eriksson (2009, p121) explain that more records have survived in private hands, arguably due to an oral decision making culture to avoid FOI.

MacNeil (2005) believes that most privacy acts internationally focus on the collection of minimum data and maximum fairness in use. The implications for archives being they 'need to strike a balance between the individual's right to be forgotten, which is implicit in certain of those practices, and society's need for memory.' MacNeil (2005, p80) further qualifies this as 'archivists should advocate a humane standard for the collection, use and retention of records containing personal information but, at the same time, they must remain vigilant against overly rigid interpretations of fair information practices that could threaten the legitimate preservation of records possessing long-term value'.

Hodson (2004, p197) suggests that, in general, depositors want privacy and archivists favour access. This is clearly overly simplistic; many records are deposited voluntarily at archives with the intention that they will be preserved and seen. She does however emphasise that excepting 'certain legally protected categories of records... no guidance exists concerning sensitive or embarrassing documentation', meaning archivists must use 'discretion to determine which documents in an archive might reveal private information if opened for research'; thus it 'more often constitutes an ethical concern than a legal one' (Hodson, 2004, p200). Hodson (2004, p210) works with literary collections and suggests that many privacy concerns are because material is acquired during, rather than after, authors' lifetimes, and so time is also important in privacy. This view was also proposed by Iacovino and Todd (2007, p111) who believe that ' "lapse of time" ' is an 'archival notion' for desensitising personal information. Iacovino and Todd (2007, p111) suggest it is one of 'the major arguments supporting the eventual disclosure of personal information to third parties in archival regimes' but not supported by 'scientific researcher codes of conduct which adopt privacy principles'.

Benson (2013) provides a thorough and well-reasoned look at privacy in her 2013 book chapter. She asserts that the concepts of human rights and democracy go hand in hand and that privacy is a human right and individuals have expectations as to how private information is managed, citing the 1948 UN declaration on human rights and *Human Rights Act 1998*.

Benson (2013, p128) believes that 'at the heart of the legislation in Ireland and other European countries lies the desire to allow governments and private organisations to interact with citizens about whom they need information, but to balance this with the individual right to privacy'. Benson (2013, p129) suggests that 'even if stringent archival exemptions existed, the right to privacy might be wider than data protection' and that privacy can either be viewed as how people regulate themselves or the extent to which we are disturbed by information collection practices of others, and the manner in which data is disclosed.

When does the right to privacy end?

This is an important question, and has no clear answer. General access can only be allowed once the right to privacy elapses, although there are exceptions. It is related to the sensitivity of records, although there are notable differences such as when the information is in the public domain (see Section 2.2.1).

Hodson (2004, p196) points out that with 'only general guidelines to follow', archivists have adopted a variety of policies to privacy and access. These vary from making available all manuscript material, regardless of content and whether subjects are alive, to routinely sealing all letters by living individuals. This latter stance guarantees the privacy rights of all living persons represented in the collections but does hamper modern research and could be considered a 'travesty of historical knowledge' (Murphy, n.d., p100). Greene (1993, p37) likewise suggests that problems can be solved by waiting until all respondents can be reasonably assumed dead. Alternatively, he suggests, that America should spend time 'attempting to formulate concrete and realistic guidelines (or a broad and useful body of case studies) for determining what kind of information would represent an invasion of privacy if not opened to researchers while the creators were still living'. Hodson (2004, p211) proposes that '[a]rchivists should be fully informed about the issue of privacy and the options available, and they must behave conscientiously in handling sensitive materials', and that there are practical considerations such as 'the time that can be spent on processing collections and the level of detail' that can be devoted to examining individual items is important. This is where easy to use tools such as the Greater Manchester Access Policy become especially useful.

Within the United Kingdom, Data Protection is only applicable until the death of the

individual. Similarly, Hodson (2004, p196) writes 'Conventional wisdom suggests that the right of privacy ends at death, since the dead obviously can no longer be embarrassed by the revelation of personal information'. This, however, is simplistic, as Hodson (2004, p196) herself acknowledges: 'some or even all of his or her correspondents might still be alive and therefore still possess a right of privacy'. Family members may also try to protect the privacy of their families as a whole: James Joyce's grandson admitted to burning his mother and grandfather's correspondence (Hodson, 2004, p204). Records may also be destroyed before deposit due to privacy concerns of archivists, particularly case files (MacNeil, 1992, p116).

The historian Sangha (2018) believes 'that while the dead don't have rights, in almost all human societies the living consider themselves to have universal duties towards the dead'. She reasons that if these duties are universal 'then surely the passage of time doesn't diminish them' and historians should still be 'just as reflective about treating their subjects with respect and dignity, and only 'invading their privacy' for legitimate reasons, when there is proper justification', whether their interest is modern or medieval history. Sangha uses the example of early medical photographs that are then posted on Twitter; she reflects on how the person in the photograph, although long dead, would feel if they knew the photograph was widely seen and not by doctors but for entertainment purposes.

Privacy, and when it may end, also varies between cultures and countries. For example, In Canada, the right to privacy continues for between 10 and 30 years after death, varying according to individual states laws (MacNeil, 1992, p116). Similarly, in Australia, 'there is no sunset clause on certain classes of personal information, for example medical information about a deceased person' (Iacovino and Todd, 2007, p123). French archival law is 150 years (Iacovino and Todd, 2007), and a standard of 100 years is often applied in Britain.

MacNeil (1992, p79) suggests that 'rights to privacy do not diminish significantly over the lifetime of the individual to whom the information relates, and ... in some cases, these rights are not extinguished even with the death of that individual'. Although some records will remain sensitive (such as coroners' records), as previously stated, in the UK Data Protection is only applicable until death. Yaco (2010, p662-3) believes most records' sensitivity will decrease over time quoting the example of racist records in the Prince Edward County School collection from the 1960s when the 'County was rife with Ku Klux Klan activity', the effect 50 years on, however, 'is debateable', even though some politicians may be embarrassed.

The right to privacy in East Germany, however, appears to end with the collapse of the communist regime; remaining case files were opened to all victims who applied to see them (Danielson, 2004). British former colonial archives, however, have had a far less clear delineation to the right of privacy. These archives should have been given to the new regimes but many were destroyed, or brought to Britain where they formed the 'migrated archives' at the Foreign and Commonwealth Office (Banton, 2012a). A significant amount appear to have subsequently been lost or deemed sensitive and not released under the 30/20 year rules (Banton, 2012b).

Records which contain sensitive material are typically closed for a hundred years (CAALG, n.d.). These include census returns, coroners records and health records. This is commonly believed to be because people rarely live past a hundred years. There has been some debate recently about whether this is still the right length of time, as people are living longer. This was the apparent intention behind closing baptism, marriage and burial records by the Roman Catholic church (from open to closed for 110 years) (CAALG, n.d.). The decision has yet to be implemented by all record offices, however; Durham County Record Office, for example, still has these generally available.

Public records are currently released after 20 years in England and Wales (the 20 Year Rule). This timescale, however, has been long debated: some claiming it too short and some too long (Dacre, 2009). Public records became routinely disclosed on 1st January every year with *The Public Records Act 1958* introducing a 50 year rule. This was then reduced to 30 years in 1968, both with clauses for departments to withhold records (Vincent, 2009, p16). In theory, however, all records are available under FOI, unless they are subject to an absolute exemption and arguments for and against are the same for both Acts. Some argued that civil servants and ministers needed the protection of anonymous decision making until their retirement in order to make clear, and most importantly, written and transparent decisions that can be used by historians (and avoiding the 'empty archives' found in jurisdictions such as Sweden (Ostberg and Eriksson, 2009)). This, arguably, creates a useful buffer of time, which offers the best compromise for privacy and historical accountability, although 15 or 20 years, Dacre (2009) at least, concluded was long enough. Dacre, however, is a journalist and editor of *The Daily Mail*, which may affect his judgement.

Closure periods

There are a number of ways in which records can potentially be accessed if they are closed. The DPA allows for individuals to access their own records (a Subject Access Request), the general public may use an FOI request, and close family may access certain categories of records (e.g. Ministry of Defence pension records by next of kin). Intermediary bodies may be used to access adoption or health records, known in England as Caldicott Guardians. Typically, records are closed for a set period of time until sensitivities have passed and they may be made accessible. The Health in Archives Group state that 'archivists and records managers need a rule of thumb for when it is safe to make medical records available for on general access' when 'it can be safely assumed that none of the Freedom of Information Act exemptions or any of the Data Protection Act concerns no longer apply' (Gale and Redfern, 2004, p2).

MacNeil (1992, p115) suggests that 'closed periods are an essential means of ensuring that records of permanent value are eventually made publicly available for research'. She points out that in the absence of formally fixed restricted periods many classes might remain 'in limbo' indefinitely.

Census data in the UK is closed for 100 years, although TNA released the 1911 census three years early in digital format, in 2007. Certain sensitive categories, did, however remained closed until 2011, and entries were redacted. This followed an FOI request made to TNA of the occupants of an address in Leicestershire and subsequent decision notice by the ICO in December 2006. Although the commissioner made it clear that he believed that the information should only be released for this address, where the individuals were aged 10 and 43 at the time (and were therefore be unlikely to still be alive) and did not have any infirmities. TNA gave evidence repeatedly of the non-statutory 100 year closure rule, but the ICO still ruled in the enquirer's favour (Information Commissioner's Office, 2006, Decision Notice FS50101391). Gale and Webb (2008, p74), however, suggest that the ICO could have used different derogations, using the intention to publish in the future exemption and Public Interest Test.

Danielson (2004, p192) believes that 'in Europe there is a trend towards standardizing privacy rules towards 30 year closure for state records, with 75-80 years for records containing personal information', although she does not support with facts. Sillitoe (1998, p6) points out that 'changing attitudes in government have led to a standard access period of 30 years being applied to public records, whether they contain personal information or not. That

access period was derived mainly from reasons of administrative convenience'. A standard closure period, however, also makes things easier for researchers to understand. Although Sillitoe (1998, p11) makes a fair point 'where no other sensitivity or confidentiality issues are involved...Is there any reason why this record should not be totally open from day one?' He suggests 'that we must now strive to apply the same access principles to all record holdings, whether public, non-public, business, personal, or of any other type'. This would make access more understandable, and there are different legal requirements which could be used as minimum standards.

MacNeil (2006, p79) writes that there is a need for detailed analyses of the nature of privacy inherent in different types of records and it is 'urgently required to enable archivists to make more thoughtful and informed judgments about the varying degrees of sensitivity associated with specific records and the types of harm implicated in their disclosure'. Archivists need to be prepared to defend any limitations on access and publicise them for the benefit of users through formal statements of access policy and relevant finding aids. MacNeil, like Greene (1993), emphasises the need for consistency.

2.4.1 The right to be forgotten and the right to be remembered

The Rtbf is not an absolute right but a qualified one (Szekely, 2014, p37). Although it has been included in GDPR (recital 66), it already has a basis in British law: criminal records are wiped clean after a certain period of time, and DPA allows for the correction of mistakes. The right to be remembered, however, is equally important and will be discussed afterwards as it provides a serious tension.

The principle of Rtbf may not be new, but the rise of the internet has made information far more easily discoverable. The Google Spain Case was launched in 2010 by Mario Costeja González who discovered that a google search of his name showed an auction notice for his repossessed home from 1998 (Travis and Arthur, 2014). Although the information was factually accurate, the internet had made it significantly easier to find this information. In May 2013 European court judges ruled that under existing EU data protection laws, Google must erase links (Travis and Arthur, 2014). Significantly, it is the name of the person which must be used in this ruling; not any other identifying information, such as position, and only the

links can be deleted, not the information itself (Neuberger, 2015, pt 29). This signalled a widespread discussion on Rtbf, what this should entail and its inclusion in the GDPR.

The historian Laite (2015) extend this point to historians writing about people who wish to be forgotten. She believes that a name existing in a record in an archive is different to calling attention to it, particularly when that person apparently wishes to be forgotten. Although this idea is more typically associated with the study of modern history, she believes time is irrelevant as, in common with the historian Sangha (2018), we still treat the dead with respect in most societies.

The Rtbf has been challenged as being nostalgic 'for a previous media age' (Hoskins, 2014, p56) and not recognising the reality of 21st century living (Neuberger, 2015, pt 28). These criticisms, however, seem unfounded: the removal of internet links is possible, even if time consuming and unpopular with the internet companies. The right is gradually being extended: originally it was simply a country-wide ruling (i.e. links for individual country domain names), but Google agreed in February 2016 to delete all links on any version of its website (including Google.com) when accessed from the particular country using the browser's IP address to determine the users location (Gibbs, 2016). Although this will not currently affect searches conducted from outside Europe, this is still a developing area.

Beyond the Rtbf is perhaps a more concerning place for archives. Silences of the archives caused by poor record keeping, records management or data protection are well documented (e.g. Thomas et al., 2017) however, records of historical importance are now being destroyed under strict confidentiality agreements. In 2006 the Indian Residential Schools Settlement Agreement was made by the Canadian government to provide compensation to the survivors of government-run residential schools. Between the 1860s and 1990s, 150,000 indigenous children were required to attend these residential schools, and these records represent a forgotten part of Canada's history (Katz, 2017). In October 2017, the Supreme Court ordered that the 38,000 records created during these closed court hearings should be destroyed because the records had been created with the 'express terms provided that the IAP Documents would be treated as highly confidential, subject to the very limited prospect of disclosure during a retention period, and then be destroyed' (Supreme Court of Canada, 2017). Crucially, however, this is an opt-in scheme and not an opt-out; records relating to those who have already died or fail to opt-in will be destroyed (Adam, 2017). Traditionally archives would collect these records, with closure periods to protect individuals, and indeed this was argued by the Canadian Government (2017) Interestingly, it was actually 'some residential school survivors argued that they had only agreed to testify because they had been promised confidentiality' (Katz, 2017). This view is also now

becoming apparent in similar cases of abuse whilst in care Britain: 'some of the people I'm working with at the moment have a really strong desire to 'be forgotten' by organisation who wronged them as children' (twitter post by @VickyHoyle, 1st May 2018). Perhaps this demonstrates how different people view 'closure'; some need acknowledgment that it is wrong and public notice, others to receive compensation and apology and then to forget. The tension between what is best for an individual and society as a whole, however, is clearly demonstrated.

The right to be remembered is perhaps less obviously contentious, but is the *raison d'être* for archives. As Yeo (2017, p13) notes, archives provide the 'evidence of, and information about, the actions of their creators and the environment in which those actions occurred'. The right to be remembered has become increasingly important since the 'current quest for forgetfulness which has arisen with the online world' (Brighigni, 2014, p131). Brighigni (2014) describes an archive in Tuscany, Italy where 7,000 autobiographical writings are kept of ordinary people who simply wish to be remembered.

There have also been several high-profile examples of records being needed for reparations and being difficult (or impossible) to locate, including the Shaw Report and records of the 'war children'. Valderhaug (2011 and 2005) highlighted the case of the 10-12,000 'war children' who were born to Norwegian mothers and German Fathers between 1941 and 1946 but were subsequently stripped of their Norwegian nationality and mistreated. In 2006, the Norwegian parliament approved a special reparation system for the war children, and crucially 'the size of the compensation should be dependent on the documentation that each individual might bring forth- the better the documentation the larger the compensation' (Valderhaug, 2005, p2). It soon became apparent that 'only a small percentage of the war children have been able to produce the necessary evidence' (Valderhaug, 2011), as many of the records had been destroyed even if they had been created.

2.5 Technology

Changing technology has had a profound impact on archives varying from issues of privacy and access, to cataloguing and processing, preservation strategies and, increasingly, record format. Several theorists, including Westin (2003) and Warren (2002, p447) believe that most of the current interest in privacy is due to the increased growth of information

technology and 'widespread concern over the potential for computers to intrude into the lives of individuals'. Technology has also increased possibilities for access, including the creation of online archives such as Hillsborough (Hillsborough Independent Panel, 2012). Indeed, Cook (2002, p95), believes the idea of 'collective privacy, one of the most important tenets of democracy, is being steadily eroded in the face of new technology'

It is now possible to accumulate vast amounts of information on individuals and to link data (Behrnd-Klodt and Wosh, 2005, p3). However, as Cook (2002, p99) explains this is not new; it was possible before but only on a targeted scale. Photocopies enabled small scale distribution but scanning enables sharing and reuse of data on a much greater scale (Moore et al., 2016, p172). This reuse may or may not be appropriate; a series of historic posters for American Football Superbowl were digitised by Yale University archives and these were subsequently used to create a poster advertising a match in 2016. This led to accusations of racism and a formal apology by Yale University (twitter post by Anna St Onge, @deantiquate 9 October 2016).

Technology is also changing how users access archives, especially through the rise of commercial history sites. Tucker (2006, p141) points out that many genealogical researchers 'will likely never consider the provenance of the documents from which information-rich databases are created. Instead they will know only the name of the commercial vendor who sells the database', and that researchers 'will not be overly concerned about the name of the holders of the documents – archives and libraries'. Although Moore et al. (2016, p172) believe that this loss of historical and archival relational contexts is important, it may be of less consequence to family historians who, arguably, research differently. Duff and Johnson (2003, p94) noted that the genealogists in their 'study followed a number of different strategies to find information and when one strategy or source failed, the participants had no problem changing their strategy and following a different route'.

Many public archives now have online catalogues and online portals such as AIM25³ have grown enormously. AIM25 includes catalogues from 150 repositories, and in 2014 was receiving half a million hits a month (London Archives Partnership, 2014). The national Public Services Quality Group (PSQG) survey of archive users has been held every eighteen months since 2002, and since 2012 has had a counterpart for digital access (ARA, 2012), although the most recent available of both had over twice as many archives take part in the physical than digital. As Stevenson (2008, p91) pointed out users are increasingly remote but we still tend to measure success primarily in terms of personal visits. These

³ AIM25 is an online portal and 'an educational charity supporting the development of and public access to historical archives held in the London area' (<http://www.aim25.com/>)

surveys have shown a dramatic increase in the use of the web for archive research (in 2007 only 59% of respondents had used the archive's website, two years later this rose to 76% and has remained around this percentage) (ARA).

The rise of the Internet has created problems as well as opportunities. Combe (2009, p395) suggests it is 'unrealistic for users to expect unlimited advantages from online activities without incurring some cost in the form of compromised levels of privacy'. Yaco (2010, p664) explains that the internet amplifies the problem of disclosure, describing a eugenics website where the archivist was required 'to redact every name and every piece of personally identifiable information, a burdensome and unrealistic task for most archival repositories'. Similarly, Neuberger (2015, pt 24) suggests that 'public actions, events or appearances that are fleeting and visible to relatively few spectators are now not merely subject to publication in newspapers which would be seen by at most a few million people and are thrown away next day, but are now subject to "permanent capture" and global distribution to billions of people on the internet'. Iacovino and Todd (2007, p86) raise the possibility that if the internet 'becomes the first de facto information access point' then 'users may not find archival material at all, or make inaccurate assumptions about collection contents, relevance, context, provenance, or related records'. This has long been seen with family historians assuming they have found the correct ancestor because he is the only one with the right name listed in a specific finding aid or record set.

The impact of technology, although significant, does not however change all access and privacy concerns. Despite catalogues being available online, several authors have found that users continue to contact archivists. Pugh and Power (2015, p100) believe this is due to the 'complexity' caused by 'the different systems available in any one archive, let alone across archives' resulting in 'patrons of archives often hav[ing] to contact archives directly for assistance'. Both Johnson and Duff (2005) and Hobbs (2017) also found that some users continue contacting archivists as the 'format and content of finding aids have not changed significantly in the last fifty years though the types of users wanting access to archival records have changed dramatically during this time. Most archival systems do not meet the needs of users who want to know "where is the list with all the names of the people" (Subject 4)' (Duff and Johnson, 2003, p92). Although this has perhaps improved with the use of Ancestry, this was still a driver for the Mining Durham's Hidden Depths project in 2009, where volunteers indexed Durham Mining Association union records to allow researchers to search for named miners (Durham County Record Office, n.d.-b).

2.6 Trust

Like privacy and the public domain, there are many different definitions of trust, varying across disciplines. Indeed, it has been argued by Blomqvist (1997, p284) that this is partly due to the fact that trust is always situation specific (context is important) and 'no universal definition therefore seems possible', a position taken by others, including McKemmish et al. (2011) and Moss (2011). Integrity, authenticity and accountability are often included in discussions of trust. The literature for this subject is vast, and encompasses many disciplines including social sciences, marketing, politics, science and philosophy. This current literature review focuses on the literature that is most relevant to archives and archival records. Also beyond the scope of this research is a detailed examination of trustworthiness of electronic records as opposed to paper; this is only touched on in the broader sense of trust.

Onorah O'Neil's 2002 Reith lectures are arguably 'the most important single contribution' to trust in Britain in the last 15 years (Seldon, 2011). She discusses accountability and the 'crisis of trust' which appeared to be occurring at the time, although she cautioned against whether this was a reality. O'Neill (2002) suggests that the generally agreed solution to it was to make 'Government, institutions and professionals' more accountable and increase transparency; increasing the amount of data freely available and documenting everything (which she pointed out was not helpful; continually pulling up trees to check on their roots would not help them to grow). O'Neill also points out that it is not necessary to understand everything in order to trust; trust is often given without total honesty and disclosure (such as in family relationships).

Several authors including Seldon (2011), Moss (2011) and Flinn and Shepherd (2011) have noted that the timing of O'Neill's lectures are significant. These lectures were given immediately after 9/11, but before the War on Terror, and since 2002 trust has actually been eroded still further. These authors list a series of scandals where information was 'falsified, withheld or unverifiable' (Flinn and Shepherd, 2011, p171) including the war in Iraq (and subsequent Chilcot Inquiry), the MPs' expenses scandal, Wikileaks, the banking crisis, phone tapping by the News of the World, and the Baby Peter and Victoria Climbié scandals amongst others (Seldon, 2011). Flinn and Shepherd (2011, p173) suggest that these developments have 'contributed to a growing sense of public distrust and mistrust of authority and official sources of information with consequences for all involved in the management of records and information'. Indeed, Seldon (2011) believes it is not a short-term trust issue but a longer term, and more deeply rooted 'trust malaise'. Further scandals

including Hillsborough (Hillsborough Independent Panel, 2012), IICSA (ongoing) and the destruction of the Windrush landing cards in 2010 (Walters, 2018) have further eroded trust in the years since these were published.

Blomqvist (1997) makes several useful points, including that trusting a person and an organization are different, and that trust has a strong temporal aspect to it. Trust is usually seen as the outcome of a process, i.e. trust relationships develop gradually. Similarly, in medical case files, Craig (2005, p246) explains that trust is grown between patients and medical practitioners by 'assumptions, built over time and nurtured by experience'. Blomqvist (1997) also suggests that the process of trust-building is seen as a self-enforcing process; trust creates trust and distrust creates distrust. Indeed trust can be seen as fragile; it is difficult to start, slow to grow and always easy to break, and once betrayed, trust is difficult to mend (O'Neill, 2002; Seldon, 2011).

Moss (2011, p411) believes that many of the terms used in information sciences, including trust, authenticity, veracity, culture, heritage and the rule of law 'are slippery and in no sense absolutes', their meaning and interpretation changing over time. He proposes that information professionals 'interpret "a question of trust" narcissistically as 'trust in the archives' rather than the place of the archive and documentation in the burgeoning discourse on "trust" and that 'much of the argument we advance for the recordkeeping imperative hinges around notions of accountability and audit' (Moss, 2011, p415).

Benson (2013, p131) states that if information is given in confidence then it should not be disclosed or it would damage the 'foundation of trust in society'. Certainly, records were destroyed in the Canadian Indian Residential School Settlement Agreement because of assurances that records would be confidential (Supreme Court of Canada, 2017). Similarly, MacNeil's 1992 book is entitled 'Without Consent', asserting that we need consent to keep archives, otherwise we are breaking trust with depositors. As Cook (2002, p110) points out 'informed consent is impossible to achieve' in an archival context.

One of the arguments advanced for introducing the Freedom of Information Act was to improve trust in government. Birchall (2014, p77) described FOI as an 'apparently simple solution to complex problems—such as how to fight corruption, promote trust in government, support corporate social responsibility, and foster state accountability'. Worthy and Hazell (2016, p7) suggest however, that although FOI has achieved its 'core objectives' of greater transparency and accountability, it has not increased trust in 'central government or in Parliament; and the evidence in local government was not much stronger'. Flinn and Jones (2009a, p38) have gone further and proposed that trust was actually higher before FOI

because of the 30 year rule. They explain that as many Departmental Record Officers (DROs) and staff at TNA were trained historians (important in relatively small, academic circles), and ministers and civil servants knew they had 30 years before disclosure, they felt confident in creating records. Whether these are misplaced trusts (fewer than 5 per cent of records created by government are deposited at TNA and it is unclear if historians are aware of this) is perhaps less pertinent.

Jenkinson (1922, p38) has also encouraged generations of archivists to believe that the key to complete, trustworthy archives is to insist that 'the chain of custody remain unbroken'. He believed that 'pruning' (appraisal) should be done before documents reached the archive in order to maintain integrity. As MacNeil (1992, p178) points out 'principles of archival arrangement were based on the assumption that keeping the records of a given records creator together and in their original order were the best means to preserve the trustworthiness that attached to records through the circumstances of their creation, maintenance and custody'. This, however, is perhaps less true in the 21st century, as post-modern archivists such as Findlay (2013) clearly demonstrate.

Findlay (2013, p18) believes that although there will always be a need for trusted, persistent archives these do not necessarily need to be physical places or repositories. This idea is also supported by Bastian (2002, p92) and the Hillsborough Archive (Hillsborough Independent Panel, 2012, Part 3). Findlay (2013, p15) suggests that even uncertain provenance does not necessarily mean untrustworthy: '[w]ith Cablegate⁴, there was little to no questioning of the authenticity of the records, because everyone could see the US Government's reaction to their release'. Indeed, 'authenticity is revealed through human and organisational behaviour (Findlay, 2013, p26-7).

Trust may also be bound up with the idea of permanence: there is a confidence that the archives will survive (Findlay, 2013). These are often government archives, where there may be a statutory duty, and there is a guarantee of continued funding (to some degree at least). This can lead to a 'skewing of the historical record in favour of' governments, 'simply by virtue of their establishment by statute, longevity and assumed continued resourcing' (Findlay, 2013, p16). Findlay (2013, p16) asks 'if we adopted new indicators for trust, which moved away from these things' then '[p]erhaps we could give the same weighting to non-official archives for official records as the traditional holders of these records'. There has certainly been an increase in community archives, particularly digital ones, in the UK in

⁴ Cablegate was when a series of classified cables were leaked by Wikileaks from November 2010.

recent years, although there is a long history of interest and collecting local or specialist group histories, beginning with antiquarians in the 17th century (Flinn, 2007). Long-term preservation due to funding and staffing may be an issue. This in turn allows the 'skewing' in favour of governments and, as Valderhaug (2011) points out, these officials decide which records to keep or destroy.

MacNeil (2011) also believes that trust and accountability are bound together. She discusses at length the historical reasons why we consider that trustworthiness needs to be part of an unbroken chain of custody but, like Findlay (2013), points out that '[n]ew information and communication technologies and changing intellectual currents inside and outside the field of archives are prodding archivists and archival institutions to reconsider the dominant archival narrative of trusted custodianship and to recognize the legitimacy and value of alternative and, sometimes, oppositional narratives' (MacNeil, 2011, p190).

Archivists must also trust users not to deface or steal records and respect their contents. They can employ user agreements or forms to make users aware of the sensitive nature of some records (Farley and Willey, 2015, p122). Users do not necessarily respect these, however, and can choose to become whistle blowers. For example, Peter Irons signed a confidentiality agreement that his research was for 'private research purpose' at NARA and went on to publish oral court proceedings in the 1990s, although primarily for his students as legal case studies (Cox et al., 2009). Similarly, there needs to be trust between employer and employee, as shown by the whistle blower Edward Snowden who released confidential records from his employer via the website Wikileaks (Clark, 2018).

2.7 Power

As Schwartz and Cook (2002, p1) observe in a double issue of *Archival Science* dedicated to Power in Archives that '[u]ntil very recently' archivists extolled 'their own professional myth of impartiality, neutrality and objectivity'. Schwartz and Cook (2002, p14) also point out that even professional terms used before and after the records come to the archive 'such as "evidence," "management," "administration," "reliability," "authenticity," "control," etc. – are designed to portray a natural, organic process, and reinforce a professional objectivity and neutrality'. This traditional view of the impartial archivist has been largely replaced by an acknowledgement, to various extents, that archivists are 'both the custodian of memory, and

the creator of his(story), regulating and choosing the documentary heritage that will function as a representation of his/her culture' (Doran, 2013, p22). However, within user groups, Moore et al. (2016, p160) point out that archivists are portrayed either as neutral and objective figures or as 'grey controlling figures'. This may therefore have an impact on users ability to access records as well as which records are retained.

Archives also exhibit power through their existence and records may be used to oppress and then to rectify past injustices (Ketelaar, 2005). Cataloguing, appraisal and indeed all aspects of processing of records therefore also reflect control.

Gatekeeper

Jenkinson (1922, p44-45) made clear in his manual of archival administration that an archivist's first duty was 'towards the Archives themselves; the second (to be considered only when the first have been satisfactorily discharged)' was to provide access. This 'moral defence' included the supervision of records, writing of publications and creating finding aids to help other researchers. Jenkinson's work has had a profound impact on generations of archivists and researchers, and the concept of neutral custodians or gatekeepers are frequently mentioned (e.g. Greene, 1993; Ketelaar 2001; Findlay 2013), albeit it not always positively. Indeed, some archivists are still called Keepers (e.g. at TNA, National Record of Scotland and Durham University), reflecting this.

Greene (1993, p32) believes, however, that from the 1920s to the 1980s archivists moved away from being 'jealous guardians of the access gate who scrutinized each supplicant researcher' and instead became 'mediators' between the societal value of records and creators and property and privacy rights. Although the trend was towards greater openness in general, he believed that by the early 1990s every incoming letter was 'seen as a threat to privacy' and archivists were urged to impose greater restrictions than depositors wanted.

Users also see archivists as grey controlling figures and gatekeepers. This may be because users cannot simply help themselves to records as in a library but must request documents and archivists retrieve them. It is also because archivists 'control access to the knowledge stored in their heads' through cataloguing (Johnson and Duff, 2005, p121). The PhD students interviewed by Johnson and Duff (2005, p120) believed that improving relationships with archivists improved access and one stated that "he knows so much ...He's the big gatekeeper, so you always have to talk to him." Although the student interpreted this as

control, it is more likely a practicality: this archivist may have catalogued this collection, and not all information can be included in brief catalogue descriptions, or it may yet to be listed. Similarly, although (Ketelaar, 2002, p234) identifies the controlling nature of archives including the panopticon-like searchrooms and restrictions on number of documents etc, and believes these are actually 'to a large extent rationalizations of appropriation and power', it seems more likely that they are indeed 'in the interest of the security and integrity of the archival documents'.

Although the Public Records Act and CRAG Act routinely make records available after 20 years, they are still closed for this time, and thus archivists do act as custodians. The Australian Findlay (2013, p19), however, believes that the role 'of the contemporary archives' is 'not to serve as a gatekeeper waiting for decades before making the raw materials of history available to us in piecemeal form, but rather as the trusted guardian and provider of timely, useable evidence, the use of which will allow us to steer an honest course for our society'. This is a key difference, and one of the justifications for proactive publishing by government (see the National Network Infrastructure <https://data.gov.uk/>) although these are not necessarily the most useful, easily understood or even accessible records.

Neutrality of archives

Traditionally, archives portray themselves as 'repositories of historical sources and the archivist as a neutral custodian' (Ketelaar, 2001, abstract), and 'the archivist is viewed by historians as a kind of honest broker, or informed tour guide, between the original creators of the record and its later use by researchers' (Cook, 2011a, p607). Indeed, archivists from Jenkinson in the 1920s have supported this idea of neutrality, and as Cook (2011a, p614) points out, it is 'still espoused explicitly by a few archivists, and absorbed by many more as a kind of unquestioned professional ethos, archivists do not interpret, or mediate, or construct social memory'. Similarly, Jimerson (2009, p18) writes that 'archivists often think of themselves as neutral and passive, lacking power'. Jenkinson (1980, p231) believed that 'the good archivist is the most selfless devotee of truth the modern world produces' and insisted that it is an archivist's role to conserve a collection intact, without prejudice or after-thought (or appraisal). Many archive users appear to accept this professional self-image without question (Schwartz and Cook, 2002, p5). This idea is also supported by the historian Kassow (2007): as archives are the final resting place, they should be impartial and the

historian should decide what they think is important, but not the archivist. Clearly, this idea of neutrality is important to both archivists and historians.

Post-modernist scholarship has questioned this neutrality. Schwartz and Cook (2002) suggest that archives have always been concerned with maintaining power since Ancient Greece. Archives choose what to record and what to preserve and 'when power is denied, overlooked, or unchallenged, it is misleading at best and dangerous at worst' and that we need to recognise it so that it 'can be questioned, made accountable, and opened to transparent dialogue and enriched understanding' (Schwartz and Cook, 2002, p2). They also point out that this power is not stable, but affected by a variety of factors 'including changes in the nature of the record and its capacity for storing and communicating information, and changes in the nature of record keeping as a practice enabled by technology, molded by organizational culture' and society as a whole (Schwartz and Cook, 2002, p13). This is an important point; control is context, culture and therefore also time dependent.

Power is reflected in all aspects of archival processing: 'archives do not just happen but are consciously shaped and sometimes distorted by archivists, the creators of records and other individuals and institutions' (Cox, 2004, p12). Schwartz and Cook (2002, p18) suggest that 'Users of archives (historians and others) and shapers of archives (records creators, records managers, and archivists) add layers of meaning'. Indeed, Jimerson (2009, p188) believes that one reason that groups decide to create their own archives is to maintain control over their own documentation, presentation and interpretation and terms of access. Similarly, Johnson (2017, p149) suggests users can take 'back the power' by creating their own archives. These points are also made by Flinn (2007, p160), who adds that community archives allow them to remember and communicate, and choose which stories are told as opposed to the 'traces' often found in formal archives which 'often reducing individuals to statistics, appearing as problems, occupations, rigid ethnic or faith-based identities'.

Cook (2011a, p613) points out, 'that a major act of determining historical meaning...occurs not when the historian opens the box, but when the archivist fills the box, and, by implication, through the process of archival appraisal, destroys the other 98 or 99 percent of records'. He suggests that archivists must be wary of 'trying to mirror in selection criteria the latest subject trends in historiography' (Cook, 2011a, p617). On a smaller scale, Findlay (2013, p11) believes that the 'key difference lies in who is doing the appraising and their willingness to keep, destroy or reveal evidence of matters that do not cast themselves in a positive light'. However, Cobain (2016, p139), suggests that large amounts of records are deliberately destroyed if considered to be potentially embarrassing and those which are released are

done so selectively to enable only the sanitised version of history to be written and reputations maintained, particularly with regard to dictatorships or colonial history. Indeed, the South African archivist Harris (2002, p64) maintains that with regard to records of apartheid that '[t]he archival record is but a sliver of social memory. It is also but a sliver of the documentary record' because of 'a large-scale and systematic sanitisation of official memory' which destroyed 'huge volumes of public records' between 1990 and 1994. See also Section 2.6.

Cook (2011a) describes archival description as adding a further layer of power, with archivists deciding which relationships to highlight. Indeed, archivists decide what to catalogue and the appropriate level of detail to catalogue to, as Henshaw (2014, p21) shows. Rawson (2017, p18) points out that choosing to add information, particularly tags or indexing for photographs, can have implications. Rawson (2017, p18) suggests that not knowing how a person identified themselves makes this tagging problematic, and asks 'how do we resist and transform normative archival description practices without recreating newer but still equally damaging or silencing practices?' Language changes over time, and is particularly evident by changing words for disabilities, medical terms and race. This would make updating thesauri important, but also less practical. Catalogues may already use the words included in records with their current accepted version and a disclaimer.

However, as McKemmish et al. (2011, p229) observe, '[c]lassification systems, thesauri and other metadata encoding schemes that are developed within one worldview may not include the concepts and terms needed to classify and name entities within another'. This does not only relate to international standards, but even on a more localised and cultural level e.g. words used may be different for different ethnic or social groups.

Archivists can also choose whether to catalogue all items in a collection. Schwartz (2005) describes how the Whipple-Scandrett Papers at the Minnesota Historical Society were originally listed as having nine boxes in finding aids. A whistle-blower in the 1970s sent an anonymous letter pointing out a tenth box existed which contained lesbian love letters (which may have been considered embarrassing) and this was subsequently listed.

Archivists may shape history by encouraging deposits and choosing to highlight aspects of collections and can potentially support dissident academics (Stanley, 2016). Schwartz (2005, p83) also proposes that the use of privacy policies and finding aids can actively encourage donations of 'revealing materials', by letting researchers know what archives hold and 'help them write about once-taboo topics'. Other archives may be so politically sensitive that

ownership is debated. Banton (2017, p47) describes the long history of accepting responsibility for the migrated archive. This was clearly shown by the case of records relating to Cyprus: 'in 1972 a FCO official stated categorically that the records belonged to Cyprus' and they were just looking after them until their sensitivities diminished and they could be returned, although PRO staff thought they *were* public records, '[b]y 1982 PRO decided they weren't after all...and the FCO that they were'.

Depositors may also destroy records before they reach archives and choose which information they tell the archivists. Schwartz (2005, p82) asserts that a desire to establish a favourable historical image can lead to the destruction of some records before they are deposited, or restrictions on access to what is deposited. As already stated, James Joyce's grandson admitted to burning his mother and grandfather's correspondence to protect their privacy (Hodson, 2004). Similarly, Queen Victoria's journals were heavily censored over the course of thirty years by her daughter Princess Beatrice, to remove anything likely to cause offense (Ward, 2013). Depositors may also impose restrictions on access or publication, as previously discussed.

2.8 Relationships

Archivists do not work entirely in isolation, but are 'enmeshed in a complex web of practical, professional, and ethical relationships' (Cox, 2010, p6-7). These relationships are with the creators, depositors and users but also with colleagues in other departments and with other archivists. On another level, users also form relationships with the people mentioned in the records and can be affected by sensitive content. Although legislation regulates some of these relationships (for example data protection), others are clearly more flexible and are affected by the personalities of the different parties, financial constraints and the culture of the organisations (e.g. acceptable level of risk). Despite several commentators around the millennium lamenting that little had been written on this subject from the user perspective, there is still a paucity of literature, except for a general understanding. This is demonstrated by Flinn and Jones (2009b, p4), who in the introduction to their book, observe that 'almost all the chapters here emphasise the importance of cultivating good relations with records officers and archivists'. In July 2018, a misjudged article by Alice Dreger (2018) on 'The Delicate Art of Dealing with Your Archivist' however shows both the strength of user

perception on this subject and also the outrage from the archivist community on Twitter and resulted in a quick retraction and apology.

Archivists' relationships with users

Wendy Duff co-authored a short series of articles with Johnson and Fox written from the academic, genealogist and archivists' perspectives of relationships within archives. The most relevant of these to this work is their 2005 article 'Chatting up the Archivist: Social Capital of the Archivist'. In this, Johnson and Duff (2005, p114) suggest 'that historical researchers are aware of the advantages to be gained from establishing a relationship with an archivist and that they take deliberate steps to foster such relationships'. This article was written 13 years ago, however, and the authors suggested that 'the increasing use of the World Wide Web to access archival collections will mean even less opportunity for historians to establish personal relationships with archivists, and this strategy may no longer be possible' (Johnson and Duff, 2005, p128-129). It seems however that this may not have happened. Certainly, Hobbs (2017) found that his interviewees were still contacting archivists directly to gain access to sketchbooks, and Tamboukou (2016, p79) points out that 'a researcher's relationship with archivists may continue well after the researcher leaves the archive in question' as 'we may need to contact for additional or missing information, or if more photocopies are needed, for instance. It is these archivists who will also facilitate permission to reproduce and for other copyright processes when the stage of publishing research outputs is reached'. It is therefore sensible to be polite. Indeed, engaging users through catalogues by allowing tagging, commenting or remote cataloguing for example, is possibly one way in which archives are now encouraging relationships via the Web (Lomas, 2016).

It is not only academic researchers who are aware of the advantages gained by establishing a relationship. Etherton (2006, p238) recounts how a user 'visited several times a week for several months, each time striking up a conversation with the archivist before he finally admitted that he actually wanted to find his sister who had been evacuated and subsequently adopted'. Once he had traced his sister, he 'thanked the staff for their help and never returned to the reading room again'. Etherton correctly identifies the emotions which prevented him from making his real enquiry to begin with, however, she fails to point out that he needed to build up a relationship with the archivist in order to feel comfortable asking for help over so personal a question. As Johnson and Duff (2005, p125) emphasise, '[o]ne of the key issues for beginning researchers is their lack of confidence in approaching the archivist for help'; this user clearly felt the same.

Johnson and Duff (2005, p119) observe that academics value the archivists' knowledge of their collections and 'of records that were not yet described in the published finding aids or held by other institutions'. Archivists could also 'explain...how the archival system works' and 'knew of other researchers working in similar fields with whom they were able to put the respondents in contact' (p119). The authors emphasised that 'they are able to direct historians to sources that they would not have thought of on their own' including consulting 'the papers of the wife of the deputy minister because, as the archivist explained, "She is the one who collected the material. Don't look at her husband[s], he was too lazy to put things in order." (IS5)'. Archivists may also advise on 'gaining access to records that had not yet been declassified' (p121) and even giving 'everything he had and that includes things he sent me afterward by mail from XXXX, which he thought of after I had left and photocopied for me.' (IS3)'. Developing a good relationship may also result in archivists contacting researchers when new collections that they may be interested in become available for research (Panofsky and Moir, 2005).

Johnson and Duff (2005, p121) believe that '[a]rchivists not only control access to the knowledge stored in their heads, they also control access to the records stored in the archives.' The PhD students who they questioned 'felt that a less-than-good relationship with them might affect their ability to get access to some archival materials' (Johnson and Duff, 2005, p121). Indeed, one student believed that '[h]is ability to finish his dissertation ... was based on the archivist's "good will," and without it he was "out in the cold, basically, and in serious trouble"' (Johnson and Duff, 2005, p122). Although the authors note that 'this is only the PhD student's impression and may not have been true in fact, he went out of his way to develop a strategy to gain the archivist's good will'. Similarly, Sinn (2010, p130) observed that if researching controversial or unusual research then 'knowing the subject-matter experts among the archivists is invaluable'.

Mortimer (2002, p63) refers to relationships in his work on preferential access, and appears to perceive it as a negative, allowing access to 'drift into the foggy arena of personal discretion'. He states that some preferential access is granted by archivists 'especially where the researcher is known to them' and 'some repositories do so on an informal, *ad hoc* basis, favouring familiar faces over more distant strangers', which he believes is unfair.

Archivists' relationships with depositors and colleagues

Little has been written about relationships between groups other than users. Brichford (1971, p173), however, explained 40 years ago that '[t]he archivist is concerned about his relationships with faculty because academic staff members are both important sources and users of archival materials'. Later articles seem to focus on outreach to form relationships and encourage use (e.g. Chute, 2000). Chute (2000, p33) emphasises that archivists 'must generate positive relationships with administration, staff, faculty, and students to insure continued financial and professional support from that community' and that archivists should seek a relationship with 'faculty members' and remind them of their existence.

Sims (2003) stresses the importance of encouraging a good relationship between archivists and depositors from the archivist's point of view. He reminds us that in the early years of local authority archives at least, many 'relied heavily on their social contacts when negotiating the deposit of privately held archives' and recounts the story of the 'negotiating technique of the legendary County Archivist Colonel William le Hardy, MC' who took potential depositors to lunch at his club and 'enjoyed very good relations with his depositors and doubtless they with him' (Sims, 2003, p216). Although this may not be typical, Sims (2003, p217) believes 'the accessions registers of most early repositories ... testify, they enjoyed considerable success', and negotiation is still required for deposits today. This was also found by Collett-White (2013) and Shepherd (2004).

Many records held in archives are deposited on long term loan, rather than owned. Archives therefore bear the cost of long-term storage and cataloguing, and unscrupulous owners may then choose to withdraw and sell the collection (Sims, 2003). Alternatively, families may choose to gift in lieu of inheritance tax, as happened with the Londonderry Estates collection which was deposited in the 1960s and ownership transferred to Durham County Record Office in 2016 (Arts Council England, 2017). Sims (2003, p220) points out that many depositors know the records and are 'willing to share their knowledge of the people and events to which the papers refer'. He suggests a series of ways to improve relationships, including informing them when their collection is used in exhibitions, for example, or holding special 'depositor evenings'.

The importance of cultivating, and continuing to cultivate relationships is also demonstrated by the Hillsborough Report (2012, pt 3.28) which mentioned a 2003 survey which 'found that only approximately one-third of police forces had archiving policies. Most indicated that contact with a local record office or archive was rare'. The Hillsborough Report continues that this 'has led to wide variations in the preservation and availability of historic records in

local record offices or national and local museums' (Hillsborough Independent Panel, 2012, pt 3.28). This has clear implications for accountability and trust.

2.9 Summary of Literature Review

The literature review has shown that most literature on privacy and archives is either from outside of the UK or very specialised and narrowly focused. Of that written about English archives, most is produced with a national-level outlook, either consciously or without acknowledgment (discussion of FOI is particularly focused on a national level). Similarly, there is more focus on academic use of archives and community archives rather than local authority archives. There is also a lack of qualitative analysis between archivists and typical users (i.e. not academics or professional genealogists); although useful, the PSQG survey is limited by its purpose. Discussion of local and family historians is limited, except for outreach or footfall.

The legal framework is extensive, and complemented by codes of ethics, many of which were being updated during the course of this research (including DPA, FOI and the ARA Code of Ethics). Guidelines are available (notably the Greater Manchester Access Plan), and the ICO and TNA have produced guides on important topics. ICO, TNA, The Advisory Council and ARA (and subsidiaries) are also important bodies for support. There have been a number of scandals and reports in recent years (including Hillsborough, The Shaw Report, IICSA, Windrush, war children and various colonial and first peoples) and these have not just emphasised the importance of archives and accountability but also are beginning to impact the legislation, as demonstrated by the *Public Records (Scotland) Act 2011*.

Similarly, who is allowed to access records and when is important. This includes closing sensitive records using closure periods (whether they are defined by law or by ethical guidelines) and allowing equal or differential access. Although archivists typically believe 'that all users should be treated equally' (Boyns, 1999, p65), there is a strong argument for differential access. This includes for individual's own records, family records and clear research purposes. Preferential treatment is also evidenced in the literature and seems to be either seen as positive (e.g. Mortimer, 2002) or negative (e.g. Moran and Taylor, 2003), with no grey area.

Trust, transparency and power (and the notion of gatekeepers) were shown to be important concepts which affect privacy and openness of archives. Similarly, archivists are 'enmeshed in a complex web of practical, professional, and ethical relationships' (Cox, 2010, p6-7) and

these can improve access. The importance of depositor influence was also demonstrated. In addition 'blind donors', or those who are included in records but did not give their consent, must be considered.

The literature also showed the lack of single clear definitions surrounding the concepts of privacy, public domain, public interest and sensitivity. These, and even trust and the Rtbf are contested concepts. They are socially, culturally and time dependent; suggesting that perhaps single definitions are actually less useful than continuing discussions. A working definition of the public domain for the purposes of this research is information that is available to the public, whether for a cost or free, and that is reasonably, not just theoretically, available.

Chapter 3 Methodology

Focus groups as a 'method is particularly useful for exploring people's knowledge and experiences and can be used to examine not only what people think but how they think and why they think that way' (Kitzinger, 1995, p299)

3.1 Introduction

This research aimed to understand the issues surrounding archives, access and privacy as they are perceived by a variety of stakeholders. The research question, aim and objectives were designed with this purpose, as was the research design. Using a combination of semi-structured interviews and focus groups, these issues are explored at a greater depth than would have been possible from quantitative methods such as surveying.

The interviews were with experts, whom it was anticipated would have a greater understanding of the issues. Researcher bias as an archivist who has worked within the sector is openly acknowledged (Creswell, 2009). Similarly, a series of assumptions are made, including that academic researchers and family/local-historians research differently, the latter using a greater number of archives and record sets, the former being far more specialised in the information they require.

3.2 Research paradigm

Although most disciplines have typical research traditions which are then interpreted by individual researchers (Barbour, 2008, p20), there has been limited discussion within an archival setting. It is only recently that one has been actively encouraged (Gilliland and McKemmish, 2004; and Bunn, 2011). Brothman (1999, p69) suggests that the profession has a 'longstanding indifference, if not aversion, to philosophy' and Craven (2008, p25) that the profession generally focuses 'on practice and process- it is pragmatic and long has been'. Indeed there are very few explicitly archival (or even information studies) research texts written, notable exceptions being by Kirsty Williamson and Graeme Johnson (Williamson, 2002b; Williamson and Johnson, 2017).

This research is set within an interpretivist research paradigm. Interpretivism encourages the researcher to 'use your own interests and understandings to help interpret the expressed views' (Thomas 2013, p109). This was the most appropriate paradigm, having worked in non-national archives in England for nine years, including two of the archives which were discussed in the focus groups. Also, as interpretivists are 'interested in people and the way that they interrelate - what they think and how they form ideas about the world' (Thomas, 2013, p108) this complements the overall research aim and third objective to investigate what different stakeholders consider are the important issues surrounding openness and privacy in archives. McKemmish and Gilliland (2013, p91) give a useful, explicitly archival take on interpretivism: 'interpretivist researchers focus on the contingent nature of records, the diverse and changing contexts in which they are created, managed and used, and the formative role played by recordkeepers and archivists.' Archives, by their nature, reflect the sensibilities of both the time they were created and also, potentially, when they were selected for preservation and catalogued.

Several authors argue that the boundaries between paradigms are becoming increasingly blurred (Gilliland and McKemmish, 2004; Barbour, 2008; and Della Porta Keating, 2008), or as Thomas (2013, p113) frames it, 'in the real world we use all kinds of reasoning to come to our conclusions... It is not a question of one *or* the other'. Thus whilst this research sits within a broadly interpretivist paradigm, it overlaps with several theories including critical realism, where knowledge is 'often socially conditioned and subject to challenge and reinterpretation' (Della Porta and Keating, 2008, p24) and inductive theory building, where knowledge develops incrementally, by a process of continuous discovery (Ludwig, 2013, p96).

3.3 Theoretical framework

The theoretical underpinning for this research is essentially that technology has fundamentally changed the world around us. It has not simply increased the speed of communication, but has also had an impact on how we think (Weinberger, 2011) and potentially also on ideas of trust, transparency and openness (O'Neill, 2002). To what extent this relates to archives is currently uncertain; a record may still be a record, but it may need to be catalogued and promoted differently. Although it is acknowledged that many archivists prefer to emphasise the continuity of ethical concerns, particularly across paper and digital

records, this takes an overly simplistic view. Similarly, separating digital and paper records is not considered helpful (MacNeil and Eastwood, 2017).

O'Neill (2002) raises interesting points in her 2002 Reith Lectures, which have a strong influence on the overall theoretical underpinning and were discussed in the literature review (Section 2.6). She argues that trust and accountability are not only different, but that increasing accountability can lead to increasing mistrust and can be damaging (e.g. continually pulling up a tree by the roots to check it is growing will not help it grow). O'Neill believes that intelligent accountability is needed, which she equates with good governance. She also points out that 'Rights' are prized over 'Duties' (e.g. Human Rights), which are idealistic and flimsy; duties imply that someone has a duty to perform something and are ethically justified.

Archives are kept for two main reasons: accountability and interest. They must be kept safe and catalogued appropriately to make them accessible (subject to data protection or other restraints). These underpin core archival values, implicit in most archival literature. Although the idea of the impartial archivist is now generally viewed as impossible (see for example Findlay, 2013 or MacNeil and Eastwood, 2017) most practising archivists attempt to be as unbiased as possible. Archivists *aim* for impartiality, interest and accountability, although this may not actually happen in practice. Power, control and the support of relationships and networks are all acknowledged.

Both time and context are considered important in respect of privacy and openness. The sensitivity of records will, usually, diminish with time, particularly when the subject has died (Data Protection). Accountability also usually diminishes with time, although this is more variable; dictatorship records for example are both accountable and of 'interest'. The overlapping of temporalities, whereby the boundaries of the past and present are no longer so clearly defined (for example the reopening of historic child abuse cases, re-sharing of posts on social media) is important. Archives have, arguably, always had a semi-current nature (e.g. proof of legal entitlement to land ownership), however, this has become more pronounced in recent years. Similarly, repurposing and sharing of information is an important consideration.

Time is also subjective: a long time ('in perpetuity') in an archive is generally considered to be 'forever' (or at least 100 years); whereas within scientific circles this may actually be five or 10 years for a specific dataset, with only the laboratory books and published papers kept for longer (Cambridge Big Data Conference, 2016). Similarly, people living in different areas may have different views: a town with a transient population may well have a much shorter

community memory than a very stable rural setting, and therefore some records can be released earlier or later accordingly (O'Brien, 2016).

It is also accepted in this thesis that the context of a record is not simply the provenance and unbroken chain of custody as Jenkinson (1922) advocated. Context also includes when the record was created, by whom and where it is kept (Findlay, 2013). Post-custodialism and the idea that physical archives can be stored anywhere (and collections split across multiple physical locations) due to digitisation is acknowledged but not influential in this research (see Findlay (2013, p18)). The effect of the digital is considered only in passing, not as a major theme as this is discussed elsewhere in literature at length.

Therefore privacy and openness are affected by technology, temporality, context and accountability. How we perceive things (e.g. O'Neill's 'culture of suspicion' (O'Neill, 2002)), how rapidly information is disseminated (trust and discoverability) and how we use information (technological mediation) all have considerable impact. Privacy and openness are therefore accepted by the author as affected by time, context and rapidly developing technology on more than a superficial level. How we perceive things, how rapidly information is disseminated, how we use information, and any further ethics required will all have a greater impact than is generally acknowledged in the literature or by archivists. Although some archivists are concerned with these issues, most practitioners are still concerned with the practicalities of born-digital records and obsolescence (Moss and Gollins, 2017, p1).

3.4 Research design

The research began with a comprehensive literature review. This provided background information for Objectives 2 and 3 (to explore access to and closure of archival records and the theoretical issues which affect them, and to establish what different stakeholders consider are the practical issues which surround openness and privacy respectively) and addressed Objective 1 (to examine the relationship between the rule of law, archives and the question of privacy).

The literature review revealed large gaps for both non-national archives in England and Wales, and privacy issues generally within the UK. Having worked in archives for a decade, it was anticipated that awareness amongst practicing archivists would be greater than was shown in the literature. It was therefore considered prudent to hold a series of semi-structured interviews in order to inform the focus groups questions. These interviews were

with a series of leading experts in the field, all of whom had significant experience of working with local authority or university archives. The format was designed to be very open, with only three open questions which the interviewees could, and did, take in different directions according to their own views on access and privacy (Appendix 3).

The focus groups were used to investigate the second and third objectives. Three focus groups were held in the north of England in winter 2016/17. Separate focus groups were held for information professionals, family and local historians, and academic researchers. This was primarily to allow discussion to flow freely, without anyone feeling inferior or superior, and appropriate language to be employed (Kitzinger, 1995, p300). Although creators and depositors are also important stakeholders in archives they were not deliberately included in the focus groups. This was largely for ethical and practical reasons: it would be unethical to approach potential depositors or creators, although members of the focus groups may have been depositors this was not specifically asked.

The literature was revisited after the focus groups as they discussed points that had not been explored previously, mostly about control and preferential access. Time was set aside for further literature review in line with Williamson et al. (2002) and the interpretivist design.

Several other methods of data collection were considered, including questionnaires, interviews and a Delphi study, but were discounted. The main advantage of focus groups is that they 'collect qualitative data regarding perceptions, feelings and opinions, in participants' own terms and frameworks of understanding'(Williamson, 2002c, p252), particularly important with a multi-stakeholder perspective. Although interviews and case studies would also allow a depth of discussion these would be only in isolation and may be affected by interviewer's language. Negatives for focus groups are that they can be affected by group dynamics: individuals may express different opinions within a group setting rather than when asked in interview due to group influence (Barbour and Kitzinger, 1999, p6). Similarly, some participants may be dominated by others within a group (Williamson, 2002c, p260). Focus groups, however, also encourage participants to talk to each other, discuss *why* they hold their views and stimulate more points for discussion (Barbour and Kitzinger, 1999, p4-5). In addition, focus groups 'result in large and rich amounts of data in the respondents own words' (Williamson, 2002c, p257). This is particularly pertinent for this study as vocabulary varies considerably between professionals and users and also according to archive type (e.g. the use of the term 'privileged access' is predominantly used in large national level governmental archives). The ability to seek clarification for any ambiguous comments, which is not possible in questionnaires, is also important. Barbour and Kitzinger (1999, p5) suggest that focus groups are useful for exploring how points of views are constructed and

expressed, rather than simply stated. In addition, focus groups are closer to more natural, emic data than many research methods, although moderator bias is a possibility (Stewart and Shamdasani, 1990).

3.5 Ethics

Ethics approval was gained from Northumbria University before the study began in accordance with the University's Research Ethics Policy. Information about the study and consent forms for participants were sent in advance via email (Appendices 4, 5 and 6). All participants signed the relevant form on the day of data collection and the forms were kept securely according to the University's requirements.

Participants were assured of anonymity and where participants requested information was 'off the record' this was respected. All sound recordings were downloaded onto the University's secure server as soon as practicable, before being wiped and equipment returned. Notes were kept in a special notebook, with no identifying names of participants. The recordings and notes were transcribed by the author, and anonymised immediately with the code kept in a separate document on the secure university network.

To ensure anonymity, each interview and focus group was assigned a prefix Int or FG and each individual a letter according to the order in which they spoke e.g. FG1,E . Where an interview was with a single person (1, 2 and 5) it was just identified by the number and prefix e.g. Int1. This allowed quotes to be easily identifiable to anonymised individuals and the context more readily understood. Similarly, any identifying information has been redacted and limited as appropriate by inserting words or asterisks.

3.6 Literature review

The literature review was very wide ranging as comparatively little has been written about this specific subject (i.e. privacy in the context of non-national archives), thus emphasising the importance of this knowledge gap (Williamson, 2002a, p62). This included literature written by lawyers, intellectual property scholars, privacy scholars, archivists and historians

as well as civil servants in the form of ICO judgements. No qualitative research has been conducted previously on what archivists consider are the important issues and very little on typical users (exceptions being academic users and professional genealogists (e.g. Johnson and Duff, 2005; and Duff and Johnson, 2003) or heavily focused on TNA (e.g. Pugh and Power, 2015) .

A thorough discussion of literature was used to explore the relationship between the rule of law, archives and the question of privacy (Objective 1). This was the primary method that was used to address this objective. The literature was also used for background information for the second and third objectives, and to inform the semi-structured interviews and focus groups.

Over-arching themes were identified to investigate each objective, as well as the overall research question, and the literature organised accordingly (Williamson, 2002b, p63). There was some overlap, however, as the themes for Objectives 1 and 2 overlap, e.g. laws, privacy and the Rtbf, with a slightly different perspective or nuance. This subject also has a strong temporal aspect to it; although many issues are discussed in academic journals and books, others are changing rapidly. For example, at the beginning of researching this thesis, Rtbf, FOI and surveillance were important issues, but they were subsequently overshadowed by GDPR, Brexit and accountability and the right to be remembered. Consequently, newspapers, The London Review of Books, blogs, Twitter and discussions on the ARA professional list-serv were also consulted. These showed where current interests lay, and also helped identify and recruit participants for focus groups.

The literature review also included more traditional database searches (Thomas, 2013). These included LISA and Web of Science for information science books and articles, and Lexis Library for case law and legislation. Westlaw UK and NORA were consulted for legal articles and cases. Legal texts were necessary for most of the discussion about the public domain and public interest. Although the phrase is used in other contexts, it is rarely defined but has been widely discussed since the millennium in copyright circles. The literature also included speeches by the ICO Commissioner and members of the judiciary, official guidance (both the Information Commissioners Office and Intellectual Property Office are included) and TNA website. The TNA website has guidance and reports, although these are not updated regularly.

Bibliographies and footnotes of useful publications were consulted, and a forward citation using Web of Science and Google scholar to find other publications citing these works (Thomas, 2013). Known authors of useful material were used to find other works, e.g.

Heather McNeil. ETHOS was searched for relevant theses. Search terms included 'privacy', 'public domain' and 'archive' (although the latter included mainly history theses).

3.7 Interviews

3.7.1 Design, participants and questions

The first five semi-structured interviews were held in London in late summer 2016, and the sixth in Edinburgh in autumn 2016. The interviewees were selected because of their knowledge and interest in the field, including publications and membership of relevant groups. They were:

Int1: one archivist who had extensive knowledge of FOI and EIR and had been involved with many different archives over many years.

Int2: one university archivist with a strong interest in local authority archives and involved in various archival committees

Int3: two academics who have written about FOI in a local government context

Int4: four professionals, all from a national level archive, including DP and FOI experts

Int5: one university archivist, with an interest in family historians

Int6: two experienced archivists and two information para-professionals, all worked at a national level archive with significant experience of local authority archives in Scotland

All of the interviews were recorded using a tape recorder and notes, except for Int1 which was held in a busy café and only notes were taken. At the beginning of each interview the participants were asked to say their name, for ease of transcription (Barbour and Kitzinger, 1999, p15). Initially, the interviews were then transcribed as detailed notes, with timings to enable quotations to be made. They were not transcribed *verbatim* because these interviews were designed to inform the focus groups rather than as a form of data collection. When the

focus groups had been coded and begun to be analysed, the value of the interviews became apparent, and they were then transcribed fully and coded.

The interviews all began with a general question about the tensions between privacy and openness in archives ('what do you consider are the tensions between privacy and openness?'), thus allowing the interviewees to shape the interview. The subsequent two questions asked in each interview were specifically targeted to their particular expertise and research interests. The questions were also shaped by discussion with previous interviewees, meaning that the questions evolved. Int1-4 and 6 were asked about the differences or the role between TNA and non-national archives (see Appendix 3). The interview length varied between 20 minutes and an hour, depending on the interviewees other commitments (e.g. Ints4 and 5 both ended due to other meetings) and responses. Some appeared more interested in the subject than others, the participants in Int6 appeared particularly interested and were the most open and relaxed.

3.7.2 Impact of interviews on focus group design

After the interviews, the question about differences between TNA and other archives was removed from the focus groups. The literature review appeared to suggest that this was an important area, especially in terms of why there is variation, however, the interviewees unanimously disagreed. The interviewees all believed that TNA's remit, transfer of records, level of permitted risk and legal framework were too different for comparison with the local level. Indeed, as both participants in Int3 pointed out, there is enough variation between non-national archives for discussion. Consequently, the question was changed to 'have you noticed any differences between different archives? And why do you think this is?' This was the last question asked in the focus groups.

Int3,A believed that community archives "just don't care" about risk and "the community archive will bung stuff up on line there and you know, you may not be thinking about copyright, you may not be thinking about Data Protection, you may not be thinking about all those types of things, but actually what you're interested in is access and sharing". This led to a question in FG2 about their sharing practices.

Digital records, catalogues and the internet were mentioned in all interviews except for Int1. Ints2, 3, 4 and 6 were concerned that online material was machine trawlable, and had greater discoverability. Int6 pointed out that archivists want their records to be found, but

there are consequences. Int3 felt that when information was put online (either by an archive or by a researcher) that the archive lost control of it, a view supported by Ints2 and 6 (who described it as a “ticking time bomb” (Int6, G)). As the interviewees raised such a variety of impacts of the digital and most of the interviewees had views, it was included as a question to all three focus groups.

There was some evidence in the Interviews of avoidance tactics (especially by Int2): if archivists do not fully understand the implications, they simply do not put records online, digitise, catalogue or even collect them. Similarly, if records are not yet open, they are not included in digitisation projects (Int2). When this was mentioned in Int6, they expressed surprise, and consequently this question was also posed to the archivists in FG1 (not in the user focus groups, however).

Int6 suggested that one of the problems of being part of a spun-out service (trusts in Scotland) is that archive and records management functions can become separated and the records managers can see the archivists as being about exhibitions and producing records - a heritage vs governance split. The question ‘Where does your archive sit within your organisation?’ was therefore added and an archivist from a spun-out archive recruited for FG1. Unfortunately, this archivist was unable to attend at the last moment, and so the discussion was not as focused in FG1 as hoped.

3.8 Focus Groups

3.8.1 Design

Focus Group 1 was for information professionals. The participants were all archivists of a similar level of professional experience, all around 10 years except for one (who was considerably more experienced). This was to ensure that no participants felt that they were inferior to senior managers (Kitzinger, 1995, p300). It also allowed conversation to flow more easily as they shared a common professional vocabulary and respect. The researchers formed two user groups, with varying levels of research experience but they all had a common interest in archives. The users were split according to their primary reason for using archives: the academic researchers (FG3) all had, or were working towards, doctorates, and primarily accessed archives for scholarly research; FG2 were all users who were interested

in family and or local history for their personal interest, and may or may not publish their findings. As 'cultural norms' can be shown in the group discussion through humour and group interactions, these may be interrupted if some of the group are perceived as being of a different status (Kitzinger, 1995, p300). Many family historians feel that archivists and academic researchers believe their research is less important (Int5) and since both are important user groups, with differing needs and expectations, it was decided to conduct separate focus groups for each; separate groups for different communities (Krueger and Casey, 2000, p10).

An information sheet was sent out in advance to all participants with questions to consider, and some participants had clearly looked at this (Appendix 8). The focus groups were recorded using two tape recorders, placed at either end of the table, and paper notes. These were then written up as a broad overview and transcribed quickly by the author so that as much information was retained as possible. Also as Morgan and Krueger (1998, p10) point out, each group has its own dynamics and it was anticipated that the discussion would vary quite considerably between each. This proved to be the case and was deliberately drawn out in the results section as recommended by Kitzinger (1995, p301-302).

3.8.2 Composition and location of focus groups

The literature varies as to the optimum number of participants for focus groups. Stewart and Shamdasani (1990, p10) recommend eight to twelve, (Krueger, 1994), seven to ten, and Liamputtong (2011, p3) recommends six to eight. Williamson (2013, p364) however, believes that smaller groups of four or five 'work very well if your participants are well informed on the topic'. With anticipation that some participants would be unable to attend at the last moment, it was planned to invite eight participants for each focus group, so that six would actually participate on the day (Stewart and Shamdasani, 1990).

Participants for all three focus groups were identified over the course of a year, and approached formally by email in the autumn and winter 2016. Recruitment included using contacts to find suitable participants (Williamson, 2002b, p252). Friends and previous colleagues were approached, and two participants were recruited by recommendations from other participants or contacts. Four local history groups and one archive friends' organisation were approached, and contacts met through two research seminars at Northumbria University. Requests for participants were sent out via Twitter and in emailed newsletters.

The history PhD co-ordinator at Northumbria University and other contacts suggested by supervisors were also approached.

It proved difficult to find users in particular, although this was described as typical by several of the archivists in FG1 who had conducted user surveys and by the archivists in Ints2 and 4. Several participants were unable to attend at the last moment (three archivists cancelled in the week preceding FG1, and one family historian), although all of the focus groups had at least five participants. Two participants in the user focus groups had to leave early for other commitments. Most of the users in FG2 and FG3 did not know each other, as recommended by Krueger (1998), although this was impossible for FG1 as there are a limited number of archivists working in the North of England. This may have impacted on the discussion and they were therefore more at ease, although they may also have simply had immediate professional respect (Kitzinger, 1995, p300).

Each group was intended to last around 1.5 hours, however, they actually varied between 1 hour 20 and 2 hour 40 minutes. The consent forms were completed before the focus groups started. Tea and coffee were provided at all three focus groups and cake at the two held at Northumbria University, although not all participants chose to partake. At FG3, which was the quietest and most restrained, only two accepted any refreshment. The archivist focus group, which lasted 2 hour 40 minutes, were the only group to have second cups and all except one had two slices of cake; they appeared to enjoy themselves.

Focus Groups 1 and 3 were held in a small room at Northumbria University with a table in the centre which was ideal. Focus Group 2 was held in a larger council committee room at a local government building. Two tape recorders were placed at either end of tables, to enable all conversations to be heard, especially by more quietly spoken members.

Focus Group 1: Archivists

Nine archivists were invited, eight of whom were definitely available at the time, place and date but unfortunately only five people actually took part. Four of these archivists were from Local Authority archives and one from a university, all from well-established archives within traditional set ups; the archivist from a 'spun out' archive cancelled a few days before. All had at least 10 years' experience in the archive which they were currently at (or recently retired from), although not necessarily in the same role.

Focus Group 2: Users (family and local historians)

The group included six archives users, two of whom were of working age and four were retired. One had self-published books on her research (about her family and about local soldiers), another had written an article for a local history journal. Three were very active members of local history groups and one of these was also part of a Friends group where another participant was the chair. The fifth participant was involved in a military history forum. The sixth participant was much younger and had only been tracing their family tree for a few years. Unfortunately, the participant who had researched primarily using internet search engines (and only visited one archive) was unable to attend. All participants had visited at least four different archives over several years and contacted many more remotely.

Focus Group 3: Users (academics)

The group was made up of five archive users. It included PhD students researching modern university accounts, 20th century medical records, and grief after industrial disasters and war; one lecturer with an interest in modern feminist records and one academic researching 20th century military records. Three were older, and two were in their mid-20s. Most did not know each other, although the two youngest participants were friends and one of them had researched at the museum that another participant had formerly run. The group took it in turns to speak, and there was very little talking over each other (unlike other groups). Afterwards the two youngest participants said that they were afraid to speak in case they said something wrong, and they noted that everyone was watching and waiting for other people to finish speaking. This was not seen in the other groups, even with large age differences (e.g. one member of FG2 was the youngest by at least 25 years), possibly due to differences in personality or qualifications already gained. This was mentioned as a possibility by Kitzinger (1995, p300), and one of the reasons separate user groups were held was to avoid this. The three doctoral students continued to talk on the subject as they put on their coats after the group had finished, and so the tape was switched back on.

3.8.3 Questions for Focus Groups

The focus groups were semi-structured with open questions, as the aim was to stimulate discussion (Morgan, 1997, p13). The questions were generally phrased as open questions, rather than leading questions in order to encourage useful, open discussion. Each group had slightly different questions, phrased with appropriate vocabulary for the participants. Six questions were asked, across three or four themes in order to allow time for the group to discuss in detail and this worked well (Appendices 7 and 8). The opening question in each focus group was designed to encourage all participants to be able to answer in turn, thus acting as an ice-breaker and also stimulus for discussion. For the users (FG2 and FG3) this question was about how many archives they had researched at (and would also allow for level of experience to be judged for analysis), and for the archivists (FG1) it was about a closure period for a common record series they would hold.

All were asked what their understanding of the legal framework was, and what they thought were the main issues surrounding privacy and openness. This fitted with the third objective 'to establish what different stakeholders consider are the practical issues which surround openness and privacy'. As the interviews had suggested a wide variety of reasons for variation between archives, the groups were all asked for their opinion.

3.8.4 Pilot

The pilot focus group was held on 18th November 2016 with one university and two local authority archivists to test the questions and provide experience of focus group moderation. The questions were reworded afterwards and the openness and privacy question removed, as it appeared to confuse the group and did not promote discussion unlike in the interviews. In the pilot the tape recorder ran out of batteries, and consequently two tape recorders were used and continually checked throughout FG1-3. The time for the questions was appropriate.

The participants were chosen as they were local friends and two were not suitable for the actual focus group as they had limited recent experience in search rooms. One, despite having worked in local authority archives for six years, was employed on specific projects (mostly cataloguing) and had limited knowledge of searchroom practices and records. This was demonstrated as she was unsure of closure periods for school log books or even what

information they might contain: “I know we have log books but not sure how much they refer to people by name. Just don’t know”. Another had greater knowledge of FOI than many archivists as her archive had assumed responsibility for council wide FOI requests. Two of the group knew each other from university, although the third member was unknown to the others.

The conversation was actually very different between the pilot and focus group. One archivist was present in both (two archivists were invited from his archive and he was the one chosen to attend), and he took a much greater role in the pilot. Possibly this was due to the turn that the conversations took; he had less to say about the subjects which FG1 discussed (particularly as he was the only university archivist present although at least one other archivist had worked in a higher education setting previously).

3.9 Limitations and strengths

A limitation with the interviews was the lack of interview with any practising local authority archivists. Although Ints1, 2, 3 and 5 all had interests in the local government field (which is why they were chosen), their answers have not reflected this. Int6 all had experience of working with local authority archives, however this was largely within a Scottish context. This has, however allowed some interesting comparisons between the Anglo-Welsh and Scottish approaches to be made. As FG1 was overwhelmingly local authority based, the presence of two university archivists, particularly as their interviews were quite similar, has proved useful for balance and to improve the reliability of the findings.

Strengths of the focus groups included the openness of the discussion at all groups and that all members participated, albeit some participants spoke considerably more than others (FG2,J and FG1,D were the most quiet). No one person dominated or skewed the discussion and the discussion flowed freely in FG1 and FG2, although was more reserved in FG3.

Another strength was that FG2 did not include any professional genealogists, but those who researched for interest as their primary motivation. Possibly they are not typical archive users, who would be unlikely to attend focus groups in any case (Stewart and Shamdasani, 1990). They are perhaps more knowledgeable than many more casual users, and are more typical than any of the qualitative literature currently published.

The main limitation in the focus groups was the participants' backgrounds. Although it was intended to include an archivist from a spun out service, more university archivists, and a user who researched predominantly with online resources these participants had to withdraw at the last moment. Also, the groups were slightly smaller than was desirable, although all members were involved in the discussion which may not have happened in a large group (Williamson, 2013, p364). Similarly, the location for FG2 was less desirable due to the configuration of the tables, the room being a fairly imposing council chamber and that a public archive is housed in the same building. The building and room was therefore, despite best efforts to be neutral, 'actually heavily laden with expressed desires and values' and this may have impacted the users particularly (Cook and Schwartz, 2002, p180). The participants were also aware that the researcher had previously worked in the building and referred to it several times. FG2 mentioned power, control and finding archives and assistants "scared" far more than other groups, although this is found amongst family historians in the literature too. It was the most practical building, however, due to free parking, proximity to public transport and convenience for where the participants lived (Williamson, 2002c, p253).

3.10 Transcribing, coding and analysis

The focus group and interview audio recordings and transcripts were imported into Nvivo 11 software for ease of coding and analysis. All of the transcription was written out fully and included hesitations, repetitions and, where possible, participants talking over each other. An example of transcription is given in Appendix 9. The transcription was cleaned for inclusion in the discussion chapters for clarity. Quotes have been tidied using '....' to remove repetitions and 'ers' etc, except when hesitation is suggested.

The transcripts were coded as recommended in 'steps in the coding process' in Gray's *Research in the Real World* 'consistently and with care' (Gray, 2013, p604-5) and using constant comparative analysis (Pickard, 2007). Creswell (2009, p186) was also influential with common-sense suggestions such as reading the transcripts carefully. A 'line-by-line examination of the data' was used to identify categories ('open coding'), followed by 'axial coding' to establish links between these (Pickard, 2007, p270). The majority of the codes were derived directly from the data and reflect the language used (e.g. 'school records')

(Barbour, 2007, p210). The three focus groups varied considerably in their conversations as was suggested by Morgan and Krueger (1998, p10) and so this was shown in the results section, as recommended by Kitzinger (1995, p301-02).

Some codes used the language found in the focus groups such as the phrase 'human nature' (used repeatedly by FG2,I), most however involved interpretation of what was meant (including 'serendipity' and 'dichotomous', and the coding of 'human nature' in FG3).

Although this is open to allegations of bias and control (which this research has aimed to avoid as much as possible by using a very open semi-structured approach to collection of data and coding), it means that themes across the three focus groups have emerged clearly.

After initially coding each focus group, the themes and codes were reviewed and each focus group analysed separately (the open coding recommended by Strauss (1987)). Constant comparative analysis was employed where these codes were continually compared with each other and each data set (Pickard, 2007). It was necessary to revise codes for previous focus groups after each additional group had been coded for example more codes were added to FG2 after FG3 was coded. Axial coding was then used to allow connections to be shown through these codes and themes to be shown (Gray, 2013, p614). After the focus groups the interviews were transcribed and coded. Although the focus group codes were used as a guide, some were not used and more were added. The complete list of codes used are included in Appendix 10, and the coding frequency of the interviews (Appendix 11) and focus groups (Appendix 12).

Nvivo 11 software allowed references from all the sources in individual nodes (codes) to be seen simultaneously (for example all references to 'FOI' across the interviews and focus groups). This functionality assisted in drawing comparisons. Nvivo also shows the frequency of references in each node, and how many focus groups mentioned each node, and therefore an idea of relevant importance to each group or overall. This allowed themes or categories for further discussion to be identified (Creswell, 2009, p189). These are discussed in Section 4.3.

3.11 Trustworthiness of the data

An audit trail was kept throughout this research in order to improve dependability (Bryman, 2016, p384). This included lists of codes, full transcripts, allowing participants to check

before submission (seven participants asked for copies, and one provided feedback) and keeping all versions of draft chapters. A sample of the coding used is included in Appendix 9.

The advice to ensure reliability and validity provided in Creswell (2009, pp190-192) and Bryman (2016, pp384- 388) formed the basis for attempting to ensure trustworthy data. Although researcher bias is openly acknowledged (Creswell, 2009, p192), it is also held that the researcher 'has not overtly allowed personal values or theoretical inclinations to sway the conduct of the research' (confirmability) (Bryman, 2016, p386). Focus group participants were offered the opportunity to read chapters referring to them before submission (member checking (Creswell, 2009, p191)) or member validation (Boeije, 2010, p177) to improve credibility. Seven participants expressed an interest and read a draft, including at least one participant from each group. One participant requested amendments to be made and this was completed. Where information was given in confidence, it was completely anonymised or not used at all, depending on the participants' wishes.

Barbour (2007, p46) believes that focus groups and interviews produce equally 'authentic' and 'trustworthy findings', and should be treated as 'producing parallel datasets'. This allows the researcher to focus on the 'comparative potential of various datasets' rather than be 'caught up in attempts to establish a hierarchy of evidence'. As differing views could be shown in the more private interviews and more public focus groups, the researcher sought to understand these. The literature, all interviews and all focus groups were all used to support (or highlight the uniqueness) of the findings.

This research has also aimed to be reliable. Transcripts were undertaken and checked, and the codes were continually revisited to ensure that they remained consistent (as recommended by Gibbs (2007, p190)). The themes selected for inclusion in the discussion chapters were because they were important to the participants, and this can be seen by the coding hierarchy and frequency of codes (Appendices 10, 11 and 12 and see Section 4.3). Rich, thick descriptions were used for illustrating points in the discussion to provide context (Creswell, 2009, p191) and also allow the research to be transferable (Bryman, 2016, p384). Likewise, isolated quotes were re-read in context to ensure they were 'true' to the 'data' and examples of the 'talk between participants' have been used to illustrate points and show interactions (Kitzinger 1995, p301).

Chapter 4 Findings

“My customers aren’t exclusively the people who are in the research room asking the questions, my customers include the people who deposited the record, the people who are in the record, the people who are going to want to look at them in 50 years’ time!” (FG1,A)

4.1 Interviews

The six interviews all began with the same question: ‘what do you consider are the main tensions between access and privacy?’ This allowed the interviewees to direct the conversation, resulting in very different interviews. Interestingly the two university interviewees had a similar discussion, focussing mainly on depositor relations, technology and risk. Several themes emerged consistently across the interviews, particularly with regard to risk management and the impact of the digital. There was also some divergence of opinion as to what was actually important. A brief overview of each interview is given, followed by a more comprehensive examination of similarities.

Int1 was with a legal expert. It largely focused on the legal framework and the archives position within it. The importance of the duty of confidentiality and following due process were emphasised. It was suggested that only one generation is generally afforded protection for privacy, although the Human Rights Act could protect children. How sensitivities change over time, including due to changes in the law, was also discussed.

Int2 was held with a senior university archivist. Int2 described in detail how archives in 21st century England could be very different to the ideal, and the need for archivists to be practical. He emphasised the lack of time and resources and subsequent need to make decisions which might not otherwise be made. Cataloguing and risk were discussed, as was the impact of technology. The sheer volume of digital records and the possibilities (and problems) of sharing were mentioned. Int2 also suggested that archivists hide their ignorance by not placing records online, digitising, cataloguing or collecting records. Similarly, if records are not yet open, they are not included in digitisation projects. Int2 emphasised the importance of relationships with depositors, and attending conferences to network and share experience and knowledge with other archivists.

Int3 was a group interview with two academics. Int3 emphasised the “wide variation” and “enormous amount of localised decision making or *non*-decision making” between archives

(Int3,B). They believed that strong office cultures and “custom and practice” (Int3,B), are often more important than guidelines, which are “only advisory” (Int3,A). Public records in PODs were discussed at length. Int3 discussed the use of risk aversion as a “tactic” (A) and a “useful strategic approach” (B) as it both encouraged archivists to think through decisions but also to be able to work with time restraints and widely varying collections. Int3,A believed that community archives “just don’t care” about laws and risk; whereas being part of a larger organisation would affect this. Int3 also discussed the problems of losing control of digital copies and policing the boundaries. Int3 emphasised that closure periods were for administrative convenience, not for users benefit, and questioned the desirability of standardising closure periods.

Int4 was a group interview with four participants at a national level archive in London. This interview also focused on the legal framework and mentioned the importance of privacy as a tort and breach of confidence. Int4,C and Int4,D suggested that archives are “cautious” because of the possibility of fines from the ICO which would be “devastating”. However, Int4,C also pointed out that complaints are more likely to occur when information is withheld, rather than when too much is provided. The issue of consent was discussed, as archives receive “information second hand without consent” (Int4,D). As a group they emphasised that their own archives are equally open to all and that there is no longer any privileged access. Archivists’ duty to future generations, the “long game” (Int4,D), and accountability were all considered important. Int4 also discussed the impact of technology and how many challenges were not “a legal challenge but a pragmatic challenge” (Int4,D) in how to implement redactions rather than closing full files for example.

Int5 was with a senior university archivist. Int5 emphasised the users’ perspective more than any other interview. He drew attention to users wanting consistency and security, and users had noticed differences in closure periods and archivists attitude between archives. Int5 discussed the importance of depositors, desirability of maintaining a good relationship, and their impact on access. Discussion also included the impact of technology, the need for privacy and DPA and the responsibility of archivists. He also suggested that a pendulum approach to closure periods (see below). Int5 felt that if unequal access is seen to be fair and justified and people can understand why, then it is acceptable. He suggested that intermediary agencies should be used to administer access as it was unfair on archivists to have to shoulder the responsibility.

Int6 was a group interview with four participants at a national level archive in Scotland. It was the most open, positive and longest interview. The group felt that although archivists had the knowledge necessary for their jobs (and issues of privacy and openness) but needed to

improve their confidence through communication and training. The impact of the new PRSA on archives and records management was discussed. Int6 suggested that all archives are different, with different budgets, remits and organisations. They pointed out that the political situation was important for archives: whether your “boss” thinks of you as information management or heritage, at the correct time, in order to maximise potential funding streams. The implications of spun out trusts were discussed, including on relationships with colleagues in different parts of a council which had not been spun out, particularly with social workers.

4.1.2 Similarities and differences between Interviews

Several interviewees believed that most archives took a risk managed approach to privacy (Ints2, 3 and 4). The reasons given for this were largely practical (including time to assess records and limited knowledge of the issues and legal framework) but also the idea that it is better to err on the side of caution and close records as the ICO will reprimand an archive rather than fine it (Ints3 and 4). Archivists are “low down in the food chain” (Int2) and have several “bosses” (Int2) to answer to, including senior management with potentially little understanding of the issues, and so a risk managed approach was seen as sensible. Ints2 and 3 asked where the harm was in keeping records closed, and as Int3,B commented, a risk management approach was not necessarily a bad approach, even if it resulted in closure, as it encouraged archivists to think through their decisions. Similarly, Int2 suggested that employing a risk averse stance hid ignorance of the issues, especially where online archives were concerned.

Closure periods were discussed in all interviews except Int,1. The change of the 30 year rule to 20 years was also seen as a negative rather than positive in Ints3, 4 and 5. This was because it had provided a useful and easily understood (by both archivists and researchers) cut-off date and thirty years was regarded as giving sufficient privacy protection whilst also making records available promptly. Int4 emphasised that previously when records such as court records were transferred to the archives at 30 years they were automatically opened, “now you don’t really have that half-way house, its either, you know, its life time protection or really it’s not” (Int4,D). Many records would prove logistically difficult to redact and so are closed for the lifetime of the youngest assumed person (Int4,D). In Scotland, the PRSA has reduced this to a 15 year closure for public records. As Int6,G said “it does feel uncomfortably soon” and Int6, H it “turns up the gas”.

Int3 suggested that before FOI and data protection there were three general closure periods, 30 years, 50 years and longer and these were useful and easily understood. Int5 proposed the idea of a swingometer for access, with privacy and 100 year closure at one end and openness at the other. Records that were highly sensitive would swing towards the longer closure periods; records with no personal details would be at the other end and open, which would be easily understood. Int5 worried that blanket closure periods, whilst useful, tended to be too long in practice. He suggested that the 75 years used for the First World War soldiers' records was more sensible than 100 years, which is now used by the Ministry of Defence. Int5 was also the only interviewee who felt that most archives erred more towards data protection than FOI, this was *contra* Int3 and 4. The problem of being too simplistic in applying general rules of thumbs was raised by Int4 and 5. Int4 suggested treating all records as giant FOI requests, and going beyond the idea that records are open or closed.

The need for positive relationships with depositors and their families was cited as important by both university archivists (Ints2 and 5). They believed that long term relationships were of greater concern than privacy or copyright per se. There was also a feeling that university archives were generally more open than local authority archives; they wanted records to be open for research (Int5). This could also be linked to the type of records that they are more likely to hold; they are mostly collecting archives rather than recipients of public records. However, as Ints1 and 3 pointed out, there has been a general shift towards openness with FOI. Int2 believes that the public are more aware of issues now, and also which records exist and how to access them, especially with rise of internet catalogues and digital copies- Ints2 and 5.

Both university archivists (Ints2 and 5) would suggest other (public) archives to potential depositors if they felt that records would be closed for a lengthy time period or had complications attached, rather than accept them and close them. They were also concerned about depositor agreements, which none of the other interviews mentioned. Again, this may be linked to their role as collecting, research focused archives rather than the stronger accountability of local government.

One of the questions asked (to Ints1, 2,3, 4 and 6) was about differences between TNA and non-national archives; however, as Int3 pointed out, universities and local authorities are very different from each other too with strong localised culture. All agreed that TNA is different and offered reasons why. These included that TNA operated within a simpler legal framework (Int3) and far greater volume of records (Ints3 and 4); differing record sets, and different levels of acceptable risk (Int4). Int4 suggested that sensitive records were like a needle in a haystack, and that the government needed to remove all of the needles as it had

a much lower acceptance of risk. Int2 suggested the TNA's dual role as advocates and the governments' archive also has an impact, and that they are civil servants.

The notion of passage of time was considered important. Both Int1 and Int4 commented on how privacy may alter over time, becoming either more or less important and both cited Anti-Social Behaviour Orders (ASBOs) as an example. Int6 used the example of court documents which changed in status. Similarly, Int1 pointed out that public knowledge is transitory; even if knowledge is in the public domain at one point, it may fall out of the public domain, and the status of crimes may change and public understanding of them, for example infanticide. There was also a feeling in Ints2, 4 and 5 that archivists need to play the long game and "our duty is not just to this generation, it's to future generations" (Int4,D); this was more important than short term access. Int6 pointed out that a decision made 20 years ago, which although reasonable at the time, may need reviewing.

Int2 outlined in detail the problems of "the real world", emphasising the lack of time and resources and subsequent need to make "snap judgements". Although all of the interviews mentioned this, it was in more general terms about making "pragmatic" decisions (Int4,D).

Digital records, catalogues and the internet were mentioned in all interviews. Ints2, 3, 4 and 6 were concerned that online material was machine trawlable, and had greater discoverability – as Int6 said, although archivists want their records to be found, there are consequences. Int3 felt that when information was put online (either by an archive or by a researcher) that the archive lost control of it, a view supported by Ints2 and 6. Int5 pointed out that depositors need to be aware of issues too, and there must be takedown policies. Issues of surrogates rather than born digital were raised (Int2) big data (Ints4 and 6), open data (Int5), linked data (Ints2 and 5) and potential for fraud (Int4). Ints1 and 5 emphasised that digitisation encouraged researchers to develop a very narrow focus, although Int2 suggested it may be "excited and piqued". The impact of the internet on the footfall of researchers into physical archives was raised in all six interviews.

One of the problems of privacy was that people want privacy but also access to information, and these may be the same people (Int5). This was also discussed by Ints1 and 3. Int2 suggested that lack of understanding of how computers and the internet work contributed to these fears.

4.2. Focus Groups

Conversation varied considerably between the focus groups, despite a standard set of questions as a base (with additions) (Appendices 7 and 8). This had been anticipated as the groups all had different experiences although the FG3 (academic user) conversation was particularly different as this group talked mainly about preferential access. FG2 (family and local historians) conversation was the most emotional and personal of all of the discussions, something which both the archivists (FG1) and the interviews had mentioned was typical behaviour. FG1 perhaps shows an idealised version of how archivists like to think they behave; although it still demonstrated the realities and pressures of working in 21st century archives, it is not necessarily an accurate reflection of reactions and responses. The user focus groups certainly showed a very different perspective, thereby validating holding separate user and archivist focus groups rather than mixed groups. Issues raised, such as cataloguing, were also notably developed far more deeply in FG1. This was possibly due to a much greater knowledge of the subject, but possibly because the group felt very comfortable despite not knowing each other particularly well. All were also professional archivists of similar experience and therefore had immediate professional respect (Kitzinger, 1995, p300).

4.2.1 FG1 (Archivists)

Professional concerns were a recurrent theme throughout this focus group. They also discussed different stakeholders and their relationships, legacy records, and support available. The unique position of archives was discussed: archives combine several purposes (including a business role, accountability and leisure interest) and also have a variety of stakeholders. As FG1,A said “my customers aren’t exclusively the people who are in the research room asking the questions, my customers include the people who deposited the record, the people who are in the record, the people who are going to want to look at them in 50 years’ time!” This strong sense of wanting to do what is right and professional for all stakeholders, not just the user, was expressed by all five of the archivists throughout the discussion. There was also a sense of continuity and longevity, as if the archivists felt they are part of a chain- the Jenkinson (1922, p11) idea of ‘unblemished line of custodians’. The group mentioned the public domain and also talked about cataloguing and professional activities in depth. This also justifies the separate focus groups, enabling free conversation

of technical terms without the need to explain and clarify. The group also discussed ease of access as being important and its impact on privacy.

FG1 mentioned several times that records, particularly in a local authority context, can be semi-current and returned to departments or depositors (e.g. school log books being returned to their schools (E) and child case files and school records being sent to legal teams or external solicitors (A)). The group also discussed how records were subject to restructures due to boundary changes and political ideas, particularly which department the archives were in and whether they were viewed as necessary for accountability or mainly for leisure and interest.

The group was aware that many users misunderstand archives: what individual records contain, what is available and also how they are organised by creators and bound for preservation. For example, C explained that her council committee minutes have “Part A’s that are accessible to everyone, anyone can look them up and the Part B’s that are confidential. And they’re all filed in together. So you’ve got no way of separating the two!”. The group also discussed the television programme ‘Who Do You Think You Are?’ (WDYTYA?) several times, which was airing on television at the time. This may have influenced the discussion, particularly as two of the participants were keen viewers. Again, there is also a possibility of the group exhibiting a slightly idealised version of how archivists behave, although there was a strong sense of time pressures and political upheaval. FG1, A believed how her school log books could probably be opened earlier but there was not enough time to read all of them, so it was more expedient to keep the blanket 100 year closure across all.

A variety of relationships and their importance were discussed by the archivists at various times. This is perhaps not surprising, as the archivist is the professional who liaises between users, depositors, creators and other interested parties (e.g. police and legal team). As A commented “We are much more likely to be the person who can have a face to face conversation with a customer because they have come in and asked to speak to us than they would get somebody in the depths of county hall. So maybe we are a little more.... able to... understand their research and to understand, even if it is just to suggest alternative ways”. Archivists also work with other professionals within their council too, although these can be affected by changes in staffing and restructuring, to the extent that A’s archive no

longer consulted Caldicott Guardians⁵ for people to access health records: “we’ve had so many trust changes that it’s a bit confusing trying to figure out who is the person responsible for it, so I’m not sure if they are making the decision within council rather than going through to the to the trust, but I mean generally the decision is it’s not available anyway”.

The archivists mentioned several times that they consulted with other archivists. This was on both a formal and informal level “all the archives in Yorkshire meet as Archives for Yorkshire on a regular basis” (A), and “if I’m stuck I phone a variety of other archivists I know and ask for help” (A). This included when challenged over access arrangements: “they don’t seem to realise we talk to each other!” (A) “I phone around ‘on what grounds’ preferably not in the presence of the person making the enquiry” (E). D mentioned talking to “colleagues” about closure periods, C conferred with the county archivist, and contacting TNA for advice was mentioned by both A and E.

Variation in closure periods and access procedures was discussed and lots of examples given of variation in *practice*, and also the effect, but less discussion of *why*. Indeed, it was more a sense of confusion as to why there was a difference, when using the same laws. As A said: “we have such differing interpretations of presumably the same pieces of legislation. Why have we got such widely differing opinions on identical sets of records?”.

FG1 talked for considerably longer than either of the other focus groups (over two and a half hours) but, as A commented “often in large groups of archivists talking, people will tend to discuss things that they don’t necessarily feel they can discuss with other people”. The group seemed to enjoy their time discussing the issues, and were offered the opportunity to leave several times.

⁵ A Caldicott Guardian is a ‘senior person within a health or social care organisation who makes sure that the personal information about those who use its services is used legally, ethically and appropriately, and that confidentiality is maintained’ p3 They have been a legal requirement for NHS organisations since 1998 and social care since 2002.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/581213/cgmanual.pdf

4.2.2 FG2 (Users, family and local historians)

The main themes which emerged from this group's discussion were preferential and differential access, the power wielded by archivists, changing sensibilities and guidelines. There were quite a few misunderstandings, some of which the group talked about. This was also the most emotionally engaged discussion of the three groups.

FG2 showed a strong level of detail on some matters, but were very vague on others. For example, they were able to explain exactly what they were researching (and where), but were less certain on the record sets used (G and H especially demonstrated this). This may reflect how these users conducted their research: they follow paths which interest them rather than because they are researching for a particular essay or article, and do not necessarily note, or remember, where the information was found. The educational level was not asked of participants, but two referred to Masters degrees during the discussion and one was currently studying for a degree, so this may be erroneous assumption. Alternatively, it may be because there are a variety of ways to find the information they need; for example a death may be recorded in newspaper and trade directory obituaries, a burial register, insurance certificate or in trade union membership records as well as a death certificate). These historians are more interested in the information itself, not in which source it was found. Similarly, the participants' own backgrounds affected their knowledge considerably: FG2, I worked in the health service before retirement (she was aware of this and referred several times as "coming from a health background"), which made her considerably more aware of many issues and able to offer informed views on who decides on closure periods and content varying between records. K had formerly worked for a county council and was now involved in a county record office's friends' organisation which meant he had a far better understanding of how the council worked than several others in the group.

The group did not appear to have a clear understanding of the different types of archive repositories. Despite being continually reminded that the research was primarily focused on local authority and university archives the conversation included several museums, private archives (including military and freemasonry) and two national archives. H particularly appeared to consider she had a right to access all, and did not appreciate that some archives were private, some were university and some were local authority and therefore subject to different funding and legal obligations. K attempted at one point to explain the difference, but not entirely accurately: "I know you mentioned [county archive] but the military ones I was thinking of you might be in a in a different sort of situation altogether there. Er they're a kind of specialist archive as opposed to a general archive". Similarly, the group

made little distinction between civil registration records, census and parish or other records held in local archives (although they clearly understood how to access them). The group also discussed the possible implications for fraud of civil registration, the ease with which family history research is portrayed on WDTYA? and Ancestry and Nectar Cards⁶.

A very personal, and emotional, angle was demonstrated throughout (especially by G and H who became quite animated during the discussion). There were a wide variety of issues which were important to different members of the group, particularly being quiet in the searchroom and copyright. Several participants had published their work through history groups and private publishing and this subject was discussed by the group several times. The group were vague about all other aspects of the legal framework for archives, although if they were refused access they could potentially be very determined. FG2,I insisted that she would “just smile sweetly and I would go off and I would Google every single thing I could find out about how I would then say, well actually I’m coming back again [all laugh], and this is what you’re going to have to do for me”. H went through a series of steps in order to include an omitted soldier on the Commonwealth War Graves Commission website. Most of the group felt that they had been arbitrarily refused access at some point with limited explanation of why.

FG2 expressed a desire for minimum standards of closure, which they believed would allow them to know whether they were likely to gain access or needed to look for alternative sources. The group strongly felt that these standards should be published and all users made aware: K particularly felt that if only archivists know then it would be “totally wrong”. Indeed, transparency and openness were shown repeatedly through the conversation; phrases such as “honesty” and “decent reason” were used. Possibly, however, the users were distrustful of government and local authorities in general, rather than the archivists themselves.

The group generally discovered that records were closed by asking archivists; it was not shown in catalogues. They also believed that access was greater depending on who you were (and qualifications held) and whether the archivist was too busy. Some understanding of financial pressures was shown, but it was limited. Instead, the group believed that as the archive was funded by them they had a right to see it (“And if you’re thinking about county record offices, we all own them at the end of the day” (I)) and the group discussed charges for copies of records, particularly the variation and high cost at some archives. H, for

⁶ Nectar Cards are loyalty cards which can be used to earn points from a variety of companies, including Sainsburys supermarkets and BP petrol stations. Data is kept in order to tailor vouchers towards individuals’ preferences.

example, believed archives are “a bit *greedy* over some things that they charge you for, you know”, G expanded this saying “I think most people who do research understand that it has to be funded coz if it’s not funded then we can’t get access and ultimately you know, but there is a fine line where you think they’re just over stepping the mark a little bit here, they’re taking the mickey here”. The group also questioned why some records were kept if they were not allowed to see them, and did not differentiate between whether it was physically too fragile or its content too sensitive. A more transparent attitude by the archivists refusing access may have helped.

FG2 only discussed cataloguing in passing, despite all being experienced researchers, and the majority from before online search engines were available. H mentioned that she did not like the new catalogue at one local authority archive (“they used to have a lot of little drawers with index cards ... Now it’s totally different and a lot of the information isn’t there anymore... obviously somebody didn’t deem that important enough to put into the new system or what not but I found it really difficult to find things that I had found in the past”). Possibly this is because the users were so accustomed to existing ways or used to cataloguing and indexing that they just accepted it and did not question it. They also relied heavily on archivists to help.

The group was also competitive as to how good a researcher they were, mentioning where they had researched and published. H had also published her book under her maiden name to keep the relevance to the family she researched; she felt this was important.

4.2.3 (FG3: Users, academic researchers)

The discussion in FG3 was mostly about preferential access. All of the group freely admitted that they had used their doctorates and/or connections to gain access. Two researchers had academic exemption forms created for them (M and N), and all had used the fact that they were academic researchers (or had worked briefly at an archive) to gain access to archives or collections, which they believed they could not have otherwise researched at. The group believed it was their academic qualifications that afforded them extra privileges such as retrieving records from strongrooms (mentioned by M and N) or being allowed to work with boxes of records rather than only request three documents at a time (M). M had previously worked as a project assistant on the collection which she was now studying, and when

asked if she believed this was why she had been granted access, she said “I’m not sure it did actually. I think they might have granted academic use anyway. They seemed to be quite keen to have the records used”.

The group had fewer opinions on most subjects than the other focus groups, although this may have been the atmosphere within the group. The participants chose to sit further away from each other and not all had refreshments. Each person was very much focused on their own project and less concerned about anything else. They did not have clear ideas about why there was variation (or indeed interest as they would just attempt to use academic exemptions); they were simply users accessing archives.

Different types of archive repositories were discussed including local authority, museum, private, national and library archives within the UK, US and Ireland. P discussed using a particular archive in a named library, which she questioned whether she would have been allowed access to if she were not affiliated with a university. P did not mention that it was an archive which is now held within a university; these are generally open to the public and, indeed the specific archive website clearly indicates this. This shows a similar disregard for type of archive as with the other user focus group, although more tempered.

A lack of transparency was also reported: O and L had both been refused access but were not told why. L questioned whether archivists knew their legal obligations and interpreted laws differently, although this may have been because she failed to understand the nature of archival records and thought she was entitled to more service than she was (e.g. she wanted a record to be sent via interlibrary loan).

The group discussed the impact that closure and redaction had on their research, and how their needs were not considered as important as other factors, despite consultation. For example, M was granted access to a complete collection of 20th century medical records. The information redacted was actually changed half way through the digitisation project (from only the name and first line of address, to also including birthdate and all of the address), resulting in M needing to see the non-redacted copies. M was particularly upset as she had warned them that this would make the redacted records less useful.

The importance of being polite was emphasised, particularly by L, who believed she received much better service after sending thank you letter: “so I started sending them emails as thank you letters and erm a couple of times I got emails back from the bursars saying, we’ve never been thanked for responding to an FOI enquiry before and I would just say there is a wealth of politeness and courtesy in public life”. She felt that “sort of

relationship building and a little bit of politeness and courtesy went down really, really well.”

Noise in searchrooms, by readers and archivists, was mentioned as a problem too. At a local authority archive M said “I despise the experience every time!” and that “the searchroom is loud, it’s noisy and they don’t tell people to be quiet even when it’s a public searchroom. They take 40 minutes, I’ve waited 50 minutes for, over an hour for items to be brought out of their strongroom”. N said “When family historians sit and scream their findings across the searchroom on a Wednesday morning! And I’m just like shut up! Just go over! Come on! Stand up! Go on!”. N described it as a “social club” and “so lovely but also if you are trying to properly concentrate it is the most distracting thing in the world.” M believed, however, that it was not only family historians who were noisy: “the odd academic set of users maybe who’ll come in and two of them to do some research and they’ll have a discussion between themselves and the regulars get huffy!”.

Variation in access, and cost, was also discussed. Although the group gave examples, they were not sure why, except for archivists’ whim. L dominated the discussion on this although all joined in. L said “I don’t claim to be an expert on what the law says, I just know I’ve had a range of responses all of which seem to be grounded in disparate understandings of what they think the law is”; “and I’ve had everything from super helpful ‘here you go! Here it is’ scanned by return email through to erm ‘you’ll have to come visit us’ through to erm ‘we need to charge’”. She observed that “the estimates that have come back for doing that have ranged between um you know 10 to 15 pounds, well that’s fine, for something that will take half an hour of someone’s time, that’s okay, to £280 for exactly the same documents” (L). She did not appreciate that the records may vary in size or location where stored.

4.2.4 Similarities and differences between Focus Groups

The conversation varied between the three groups. Unsurprisingly, the archivists knew far more about the mechanics of archives, depositors and users, and discussed all the issues raised with far greater depth. The academics had a better knowledge of these issues generally than the family/local historians; whether this was because they had experience of working within archives as paid employees, whether they formed different relationships with

the professionals or were just more aware generally is unclear. FG2, however, made educated, well-reasoned suggestions and could discuss the subjects, although they were noticeably more informed on some areas than others, and H particularly was very distrustful of archivists.

Interestingly, there were strong overlaps in knowledge and themes between two of the three focus groups, but less between all three. Some themes were raised in FG1 and FG2, some in both user groups and some between FG1 and FG3. For example, academic exemptions were discussed in FG1 and FG3; preferential treatment (including access) for academics was discussed in FG2 and FG3; and WDYTYA? and Ancestry discussed in FG1 and FG2.

There were strong similarities between the two user groups' conversation. Both user groups discussed the cost of copies. Although acknowledged as necessary, several (especially L in FG3 and F, G and H in FG2) felt that there was too much variation in cost and the archives were "greedy" (FG2,H). FG3,L said of one university's charges "They shot me down via economic means which I thought was really quite erm disappointing". Similarly, neither of the user groups appeared to fully understand the nature of archives e.g. why they are kept in strongrooms with restricted access. FG3,L did not understand why the accounts she wanted to consult could not be sent via the interlibrary loan system and that she had to go to the archive in person. Both user groups also appeared to think that archivists arbitrarily decided on closure and who could access the records. They were unclear on the distinctions between different types of archive, and mentioned private, national and museum archives (which can be Local Authority, university, national or private). The academics generally seemed more aware of the differences, as did FG2,K although they discussed all archives.

FG3 generally had a better grasp of the workings of archives than FG2, for example they were aware of different deposit agreements. P mentioned a discussion held at an archive over whether men could access a feminist archive; and O about the Catholic Church keeping hold of records ("but I don't know whether or not Catholic records in Liverpool are still owned by the church or would they be passed over to Liverpool City Council. Because knowing in [county] they remain the property of the churches, don't they?").

The users in FG3 had, in general, researched at far fewer archives than FG2, except for L as approaching all universities in the UK was part of her methodology. This was also anticipated as FG2 traced ancestors between areas or local history across several archives in the area, rather than specific records relating to one area of interest.

FG2 and FG3 appeared to have different perspectives on closed records. Although the academics would ask for academic exemptions, if these failed then FG3,M said "I just have

to cross that that particular collection off my list and move on". The non-academic users, however, would either look for alternative sources of information or "checked on my rights" (H). Possibly this is due to the nature of the information different users are seeking: there may be a variety of sources to find out where someone lived or worked, for example, and they are less concerned about the source of this information.

Academic exemptions were mentioned only by FG1 (where A said they were no longer accepted by her council) and FG3 (repeatedly); it is unclear whether the family and local historians were aware that they existed. FG2 did, however, believe that differential access was fair: F "So if kind of one person asks for one thing and then a second person asks for that same thing but the second person couldn't prove it was for a viable research reason (K yeah) the second person wouldn't get it (K yeah) that's, yeah, that's better I think (G mmm [quiet agreement])." FG2 did not seem to think their research was any less valid, but H, F and G in particular felt that having a doctorate would mean they were granted increased access.

FG1 were aware of the emotional angle from users: "for some members of the public, it's a very emotional thing they are asking for that being refused it... can be very difficult because it's something that is *very* important to them" (FG1,C). This was also demonstrated in FG2, particularly by H (who spoke about looking for records of her deceased child and crying in the searchroom) and to a lesser extent G (tracing her family history). FG3, particularly O and P, were far more detached as a group, despite having similarly strong connections to their research.

Risk was mentioned frequently by the archivists, but only twice in FG2 (by I, who had previously worked in health, and K in a context of security) and not at all in FG3. Similarly, the archivists were far more aware of external pressures, including managers, "external data controllers" (FG1,E) and depositors.

Power and control were mentioned by all of the groups. As FG1,D said, "most members of the public, it's the one off enquiry in their life, they're never going to do it again and they have very little information, it's really an imbalance of power". Both user groups emphasised how much control the archivists had, and felt that they had been arbitrarily refused access ("It was obvious that they didn't want to be bothered" (FG2,H)) or were unclear why; they were just refused. This was also reflected in comments about transparency.

All focus groups mentioned wanting greater transparency. Both user groups wanted any standards or guidelines made available to users as well as archivists. As FG2,K said "why should the people who administer control, retain the records, know what that framework is but the public shouldn't? That that would be totally wrong as far as I'm concerned. Totally

wrong.” The archivists did not mention who should see any guidelines. A desire for greater honesty about why records were closed was expressed by both user groups and they would appreciate being told if there was a problem with production e.g. due to staffing levels. Indeed, just before the group began, FG1,E mentioned a recent small fire at her archive, and the group had joked about it affecting production times. However, the archive had decided not to tell the public in the searchroom, presumably in case the archives was seen as unprofessional and unable to properly care for the records.

All three groups mentioned different rules applying for their own, or close relatives, records (although in FG3 it was only mentioned by M). This included both being able to consult records and also amend them if incorrect. FG1 discussed vicars and church wardens wanting to amend records; FG2,H wanted to add an omitted First World War casualty to the Commonwealth War Graves website and needed to apply via a relation of the deceased.

Possibly the most striking difference which appeared across the three focus groups was between how the archivists see themselves and how the users see them. For example, FG2,H appeared to believe that archives are kept as a leisure pursuit; archivists were very much focused on accountability, although they also spoke at length about family historians. This difference in perception of *why* we keep records is an important point. The archivists also saw themselves as professionals, and mentioned ethics and guidelines several times, whereas FG2 did not appear to realise this- instead they emphasised how scary, “horrible” and “stuffy” archives could be (FG2,G) and archivists who “can’t be bothered” (FG2,F). FG2 also described how they were refused access, that closure periods could be used by archivists to limit access, archivists were too busy to help, would not intervene with disruptive researchers, and gave preferential access to some.

4.3 Themes selected for discussion

The choice of themes for discussion and analysis is based on their frequency of discussion across all the interviews and focus groups (Figures 1 and 2).

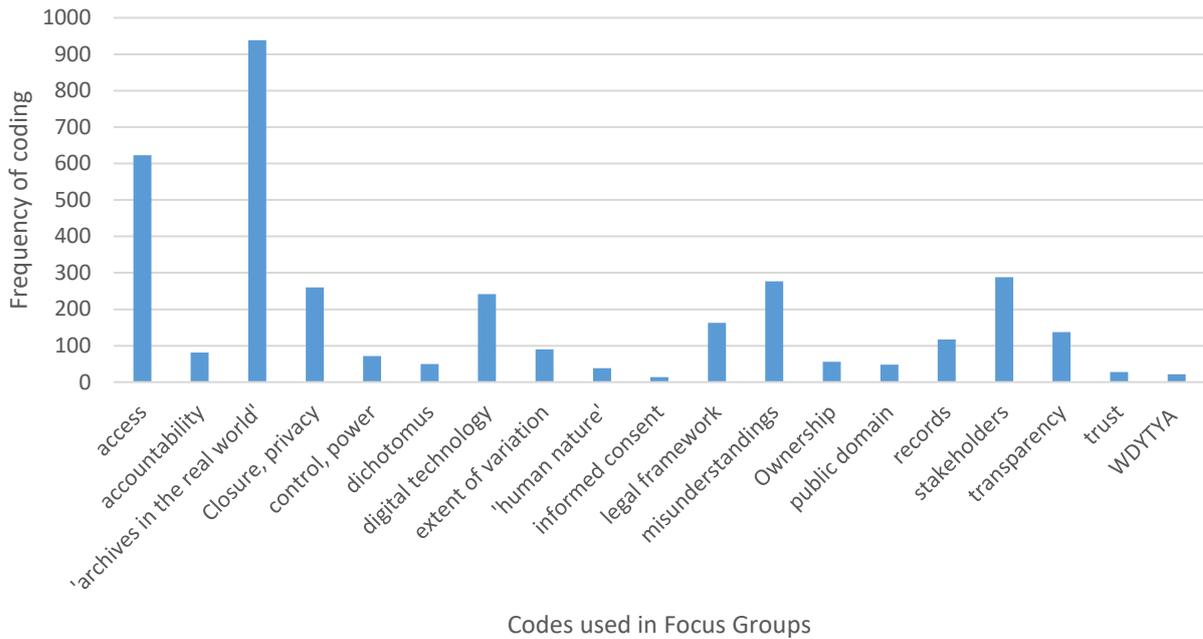


Figure 1. Relative importance of codes in Focus Groups (top level only)

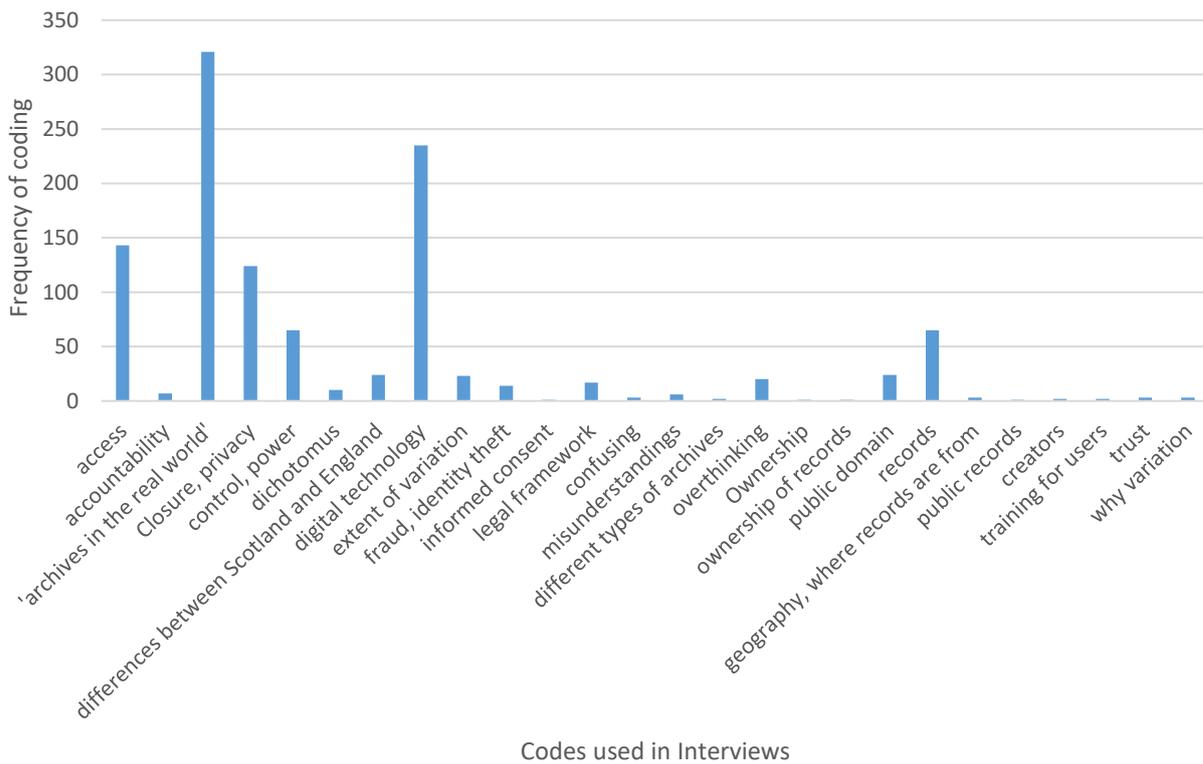


Figure 2. Relative importance of codes in Interviews (top level only)

The themes were all discussed repeatedly in all of the focus groups (Figures 1 and 3) and interviews (Figures 2 and 4) and relate to the second objective (to explore access to and closure of archival records, and the issues that affect them) and third objective (to establish

what different stakeholders (including users and archivists) consider are the practical issues which surround openness and privacy). 'Misunderstandings' and 'digital technology' were not included in discussion as separate themes but are included throughout as they relate to the other themes (particularly legal framework and the management of archives in 'archives in the real world'). Similarly, 'records' was mainly used as a code for ease of analysis. Four overarching themes were selected: access and closure; the legal framework; control and power; and archives in the real world.



Figure 3. Number of Focus Groups which included discussion of codes (top level)

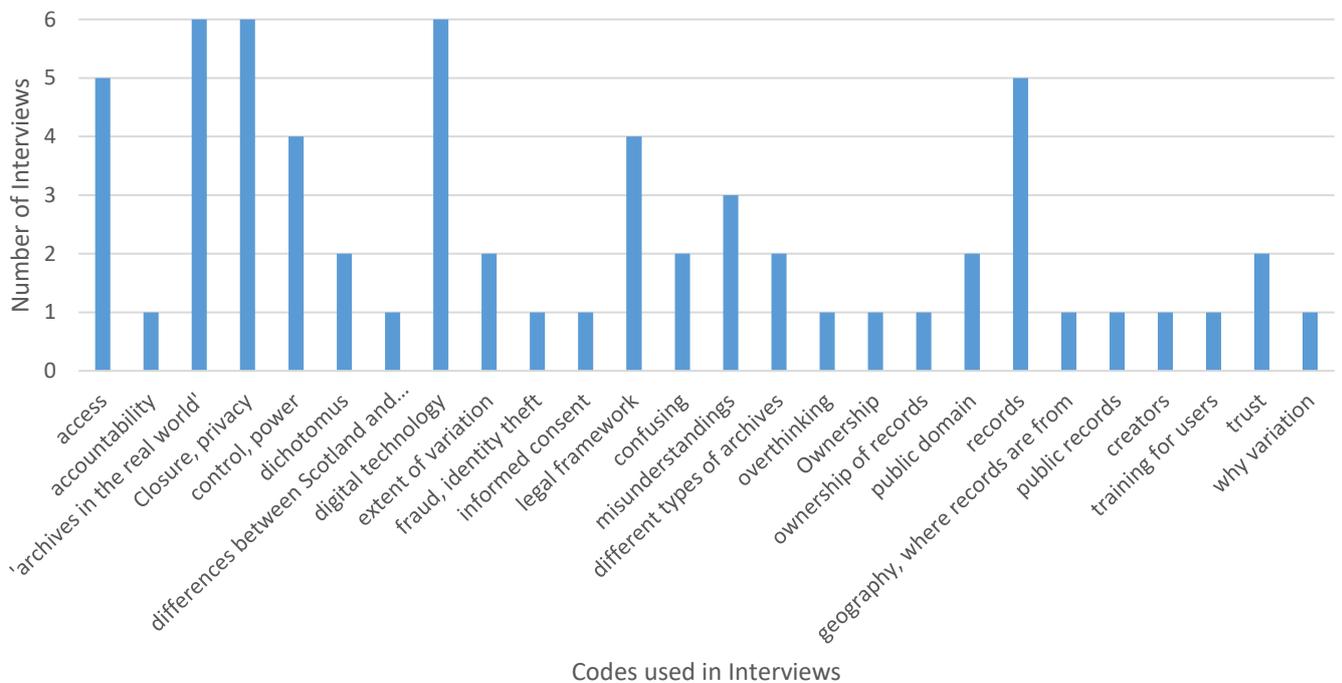


Figure 4. Number of Interviews which included discussion of codes (top level)

Access and closure is the first theme and includes preferential and differential access (which was very important to the two user groups in particular), catalogues, why records are closed and for how long. It also includes how records may be accessed. It is discussed in Chapter 5.

The legal framework is important as the majority of the users (particularly in FG2) have very limited understanding apart from copyright. Archives are surrounded by several layers of interweaving legislation and guidance, as demonstrated by the literature review and Appendix 1. The understanding of this by the participants in the focus groups was interesting mainly because of its lack; the majority of participants only knew what they needed to and very little beyond this. This will also be discussed in Chapter 5.

Another theme which emerged strongly, but was unexpected, was control and power. Although this was coded less frequently than other themes, it does link with many of the others including transparency, accountability, trust and personality. The users in particular appeared to feel that the archivists were in control; the idea of the gatekeeper is still apparent and the perception that archivists grant access on a whim or work in archives with limited researchers. This is discussed in Chapter 5.

“Archives in the real world”, a quote from Int2, was the most frequently used code (over 900 times in the three focus groups). FG1 appeared to give a rather idealised view of how they would like to behave and give access, and contrasted this with the reality. It is an umbrella theme covering the reality of archivists working in 21st century archives in England, including political motivations, professional ethics, records (legacy records, appraisal, cataloguing etc), the management of the service and the variation between archives. Although mainly found in FG1, all three focus groups have contributed to this theme. This relates to the third research objective and the practical issues and is discussed in Chapter 6.

Chapter 5 Discussion of the issues of access and closure within archives

“It might be interesting to historians but [you have] that balancing act between what’s interesting to historians and researchers and what you think you ought to be releasing to keep people’s sensibilities” (Int2)

5.1 Introduction

This chapter addresses the second objective (to explore the theoretical issues surrounding access and closure of records and the issues which affect them), using the literature and data from the interviews and focus groups. Again, it is worth reiterating that this research is focussing on the perceptions and realities of archives from a practitioner level, not a senior or educator level.

The issues which affect access to and closure of archives are discussed, including what makes a record sensitive and how long it should be closed, commonly called a closure period. How these closure periods are applied, and who may be exempted from them, proved particularly contentious in both user focus groups. Indeed, throughout this chapter, the issues which concern relationships and personality of archivists, control, power, transparency and trust are evident. The wide gap between archivists and users was also demonstrated through repeated misunderstandings and the very different conversations in FG1 to the user groups. Much of the theoretical views are also tempered by the realities and practicalities of ‘archives in the real world’, and are thus discussed further in Chapter 6.

5.2 Access and closure

There is no general right of access to archives. The PRA allows discretionary access to public records and private records may or may not be open, according to the preference of their creating body (*Public Records Act, 1958*). These are typically business and family archives which are not deposited in public archives but retained by their creators. The terms of access may also differ between these archives, although this research shows that

awareness of this also varies amongst the users. Even where an archive is open to the public, each record must be assessed for sensitive content, itself a contentious issue, so that it may be marked as open or closed.

The literature review showed that once a record has been catalogued as sensitive it will usually be closed for a specified period of time. It may still be possible to access records which are closed for clearly specified reasons, such as a patient's own hospital record, or if needed by the police or legal team for an inquiry or investigation. Similarly, researchers may request access for specified research projects, typically, but not always, academic researchers (Mortimer, 2002). Differential and preferential access were particularly controversial in both of the user focus groups and were discussed at length.

The research also suggested that access is improved by forming relationships with the archivists. The archivists overwhelmingly appeared to believe that they gave equal and balanced access to all, both in the focus group and in several of the interviews. In reality, they provided differential access, although this was not necessarily preferential; the archivists treated all similar users equally but recognised that some have a greater right to access. Both user focus groups, Int3,A, Int5 and some literature (e.g. Flinn and Jones, 2009a) questioned this equality and gave supporting evidence of witnessing preferential treatment, and partially justifying it. It appears that establishing relationships and building trust appear to increase access.

5.2.1 Sensitivity of records

Who decides what is sensitive

Some records are closed by law, including under DPA and the PRA (Appendix 1). For most records, however, the 'archivist is left to his or her own, or the repository's, discretion to determine which documents in an archive might reveal private information if opened for research' (Hodson, 2004, p200). This unfortunately allows access to 'drift into the foggy arena of personal discretion' (Mortimer, 2002, p63). Certainly, ethics and experience are important, as is support from networks of professionals. When asked who they turned to for advice, the archivists in FG1 named a variety of sources including more senior archivists, colleagues, legal teams and TNA. FG1 and Int6 also consult with depositors, although they

may not actually be aware of any sensitivities, as was emphasised repeatedly by the participants. Furthermore, different stakeholders will have their own views and this can become difficult if they insist on closing records to protect their family or business reputation. Similarly, those mentioned in records, Gaudette (2003)'s blind donors, may deem something as sensitive which others may not. The users were unsure of who decided on closure, and were ultimately guessing, although FG2 talked around this issue and gave a sensible and reasoned discussion, including the impact of legal teams, councillors and county archivists.

Potentially upsetting records may need to be appraised and catalogued by archivists, rather than paraprofessionals. Certainly the archivists in FG1 felt that review of sensitive records should be undertaken by an archivist: "it can't be anyone less than an archivist" (E); "I think there's also an issue of whether you would want, potentially, to ask an assistant member of staff to do some of these enquiries" (A). This was because the content was felt to be particularly upsetting or required a more senior level of paygrade to assess. Likewise, some archivists, both in England (FG1,A) and in Scotland (Int6), suspected that social workers felt that "the only people who are qualified to look at social work records are the social workers" (Int6,H). This protectionist feeling over archives where certain stakeholders believe that they are best placed to make decisions and feel a strong "ownership" (FG1,A) (and emotional attachment) over records was also evident in FG1 and FG2. Some stakeholders believed that they had more of a right to records than others, including vicars and churchwardens 'owning' their parish records, or family. FG1,A pointed out that, "people feel they have a very strong ownership over records because they still have a connection to the organisation or to the area". She expanded that "it is surprising the number that get quite funny about the fact ... you need a written approval for this thing to leave us and people just turn up and say 'oh no, no no I'm the church warden, I don't need it" . This was also noted by McKemmish et al. (2011, p228): [m]any Indigenous people view all records that relate to them as their own records, yet many institutions that house and control these records view them very differently'. Similarly, the users insisted that because they paid taxes that "if you're thinking about county record offices, we all own them at the end of the day, although legally they are owned by the county council" (FG2,K), also observed by Moran and Taylor (2003).

In addition, who actually owns the records may be different to perceived ownership. This was shown by FG1's discussion of maternity records and illegitimacy in court records and the problems caused when the children wished to see them (see 5.2.3). Many records held in archives are also not actually owned by the organisation, but held on long term loan, a point the archivists in FG1 made repeatedly (see 5.3.4). Depositors may choose to deposit records on long term loan so that they can then be gifted in lieu of inheritance tax or the

cultural gift scheme at a later date (Arts Council England, 2017), or to retain control (for example of copyright or access). Other records, including court records, are public records which are held in PODs, after inspection by TNA.

Users can also develop an emotional attachment to certain records and “being refused ... can be very difficult because it's something that is very important to them” (FG1,C). Sometimes this is because individuals ‘need to make sense of a disrupted life’ (Etherton, 2006, p227), sometimes because “if you spend a lot of time researching individuals, they may be dead but I think people, particularly maybe with family history there is a strong sense ... of ownership” (FG1,A). This can lead to erroneous assumptions: a user “was utterly convinced that their ancestor was er wrongly imprisoned in an asylum because he'd seen a photograph of him and he looked exactly like him” (FG1,A). FG1 believed that programmes such as “Who Do You Think You Are? kind of encourages people to take that kind of emotional response to their family history” (FG1,C) “as it makes for better telly” (FG1,A).

Public domain

Whether information is already in the public domain may also affect the sensitivity of the record. The interviewees and FG1 considered that because so much is already in the public domain that “if you can find people's inside leg measurements by typing it into Google ... what is it we can possibly say, that can really add very much to that?” (Int2). FG1,B similarly felt that “there is so much stuff that you can Google and find out tips the balance on the records”, especially for people in the public eye. This however is not strictly accurate. The rule of law applies equally to all, irrespective of celebrity (Bingham, 2010; Whitford, 2000; and O'Donnell, 2004). In addition, the ICO (n.d.-b, p2) states that although it is difficult to justify not releasing information which is already in the public domain, ‘care should always be taken to consider whether the disclosure might actually reveal anything new’. Similarly, the Advisory Council on National Records and Archives emphasises that even if information is in the public domain, records may still be closed due to the level of detail included in the records, or are deliberately not made public (such as criminal cases files) (TNA, 2008, pt 4). Possibly, however, “how much was in the public domain” might be important, as extra details may be presented as well as being from a trusted source (FG1,E).

FG1 discussed whether Calendars of Prisoners, which list prisoners held in jail whilst awaiting trial, were open or closed. These are, as FG1,A noted, published records and “ours are all open and I suddenly found out that at [neighbouring county archive] they got advice

from TNA and were told to close the ones that named victims or perpetrators of sexual crimes". The content of these calendars may vary; FG1,A had used Assize records which included crime as well as name, which may affect which ones need to be closed. FG1 agreed that possibly because the information was all in one place they should be closed due to ease of access, a view also supported by Int3 and Int6. Certainly, this was a driver behind the Google Spain case and Rtbf; it was the ease of finding his bankruptcy which Gonzalez objected to, not that it was reported (Travis and Arthur, 2014).

A good relationship with depositors is also possibly more important than whether information is in the public domain. The archive where FG1,A worked chose to close particular records in order to maintain a good relationship with the depositor. "There is a coroner's verdict on this, it was in the papers at the time, it is in the public domain, and the family do not want the papers around that to be made available because they still don't believe it happened" (FG1,A). The archive had chosen to remain silent when questioned by journalists in order to preserve this relationship; they neither confirmed nor denied, but rather deflected attention as much as possible. Similarly, the less popular past Christmas window displays which a prominent local business were embarrassed by were deliberately not included in stock-photographs given to journalists by the archive where FG1,E worked. Sims (2003) points out that archivists need a good relationship with depositors to acquire an archive collection in the first instance, and then maintain this to prevent unscrupulous owners using archives as free storage facilities.

In the case of the Stasi files, the German Commissioner Marianne Birthler believed that that there was a clear distinction between the privacy rights of public figures and ordinary citizens; public figures should have greater scrutiny because of their public role (Danielson, 2004, p182-3). This allowed prominent politicians to not have unjust accusations made against them, or pretend to be clean (Danielson, 2004, p178). Although the British view is generally that all people should have the same level of protection for privacy unless it is in the public interest this was not actually reflected in the findings. For example, FG1,B included a closed nursing training record in an exhibition because "you could find so much about her online because she'd happened to marry somebody who was quite well known in [her home country] and in this country that I thought well you know, there's no point in keeping this secret". Archives may also suggest that researchers use newspapers where court or coroners inquests are closed or unavailable as this information is in the public domain (Durham County Record Office, n.d.-a). As FG1,A also pointed out "some of the most disturbing things you could come across may well be in the newspapers" and these are

freely available.

Whether the record subject is living

Hodson (2004, p196) argues that 'conventional wisdom suggests that the right of privacy ends at death, since the dead obviously can no longer be embarrassed by the revelation of personal information'. The basis of the DPA is whether a person is alive, and indeed FG1,D joked that "the fact that people die can be very liberating!". As both Int4 and MacNeil (1992) point out, however, this varies according to different jurisdictions: in some countries the dead are afforded more privacy "on the grounds that the dead can't defend themselves" (Int4,C). FG1,D believed that "by the time I inherited the archive I'm responsible for now, um most of the sensitive issues had passed because the people had died". Similarly, Hodson (2004, p210) describes how the author Kingsley Amis wanted letters between himself and the poet Philip Larkin closed until after his death because he knew 'that the letters contained frank comments about mutual friends still living, and he did not want those people to know what had been written about them until after his own death... Had his papers been placed in a repository after his death, this kind of material would not have appeared sensitive'. Hodson (2004, p196) explains that '[e]ven when the creator of a manuscript collection is no longer living, some or even all of his or her correspondents might still be alive and therefore still possess a right of privacy'.

Likewise, family members may still be embarrassed by the content of a record. FG3, O mentioned a widow who had enquired about her late husband's army career but O discovered that he "had been cashiered for theft and had been thrown out of the regiment! So... I took it upon myself, for right or wrong, not to tell her that.... I didn't want to embarrass her. I didn't want to upset her. It was pointless". Farley and Willey (2015) also suggest that archivists are trusted to not only to protect the privacy of the children who went to reformatory schools but also wider privacy for their family members, peers and communities where the inmate resided. However, as the historian Sangha (2018) points out, there is still a duty to treat all with respect and dignity, irrespective of passage of time.

Content and context of a record

The sensitivity of a record is affected by the exact content of a record. FG1,C discussed how her archive closed school log books for 30 years until “it came to light that there were several cases in the ‘60s and ‘70s of head teachers recording things that really shouldn’t be released ... to the public” and so the closure period was increased to 100 years as standard.

Similarly, FG1,E mentioned magistrate court records which were “unusually precise” and she was unsure whether they should be open: there was “quite a long string that you can track before they decided to send it up to the high courts’. Int6,H explained that a set of records were open because “it was assumed that everything that was in the record happened in open court, and that turned out not to be the case”, and were subsequently closed. Archives, by their nature, are unique and therefore they do vary, although this makes it difficult to apply blanket closure periods. As Int3 identified, closure periods are an administrative convenience rather than a user driven approach, although they are considered ‘essential’ by MacNeil (1992, p115).

The context of a record may affect its sensitivities, especially knowing who created a record and the history surrounding it. FG1,A raised this point and the group discussed a notebook which her archive held of a school camping trip by a teacher who was later found guilty of abuse. She explained the notebook was “utterly innocuous... until you find out its really not innocuous! And that is evidence of quite a lot of things as it turns out in that, there’s no reason to close that, because he doesn’t name the boys...well he uses nicknames for them and initials”. The archive, however, decided to close the notebook for 100 years, as the “people would be identifiable to other people who were here”. Although FG1,D pointed out that closing the notebook implied a judgement by the archive, FG1,A defended the decision as the school was a reformatory school and therefore all boys were convicted of a crime and it was considered a safer option. She did, however, explain that the decision “was taken ... way before my time”, which may be interpreted as deflecting blame.

Time dependent

Sensitivity of personal information will generally decrease with the passage of time (Sillitoe, 1998, p12). Indeed Iacovino and Todd (2007, p111) argue that the ‘archival notion of “lapse of time” on desensitising personal information has been one of the major arguments

supporting the eventual disclosure of personal information to third parties in archival regimes’.

Some records, such as those which list people who were part of political movements or extremist groups, may continue to be sensitive; ‘stringent restrictions...are understandable when people’s lives are at stake’ (Yaco, 2010, p662). It may also lead to these records not being deposited; FG3,O pointed out that “security based archives” are not being deposited (see 6.4.2). Some may claim allegiance falsely to the winning side: pensions were awarded by the Irish Government to IRA supporters if they could “prove that they’d actually served, because the number of people who claimed pensions, the IRA would have been about a million people!” (FG3,O). Similarly the Stasi records ended the career of Wolfgang Schnur, a leading Christian Democratic candidate who had claimed to be innocent. (Danielson, 2004, p178).

Attitudes, sensibilities and language have also changed over time. FG2 felt that although there is “a perceived openness” (FG2,I) and “we are a lot less sensitive ... to some things but we’ve got a lot more sensitive in some respects” (FG2,G). FG2,I used the example of divorce proceedings, which were regularly reported in local newspapers in the 1960s. Although it was still possible to find this information “if you wanted to, but aren’t quite so public. I mean as a society we’ve changed an awful lot of the ways, but is that because the newspapers have stopped happening?” She interpreted “the demise of the Consett Guardian, the Stanley News, the the various [local] newspapers” as being partly responsible for the changing attitudes, rather than a general sense of privacy. The literature on privacy, however, suggests culturally acceptable actions are afforded more privacy, and any behaviour which is not, is exposed (Westin, 1967). Information such as relationships are now generally considered to be of personal rather than of general public interest, unless relating to celebrities. Again, this may also be because privacy as a *society* and privacy as an *individual* is different.

Similarly, attitudes may vary between generations. Both FG1 and FG2 discussed this, particularly with regard to suicide, asylums and terminology used (‘bastardy bonds’). As Berndt-Klodt & Wosh (2005, p2) emphasise, we are not in ‘a social or historical vacuum’; privacy changes over time.

Impact of technology

Technology has changed sensitivities profoundly, as was shown in the literature review e.g. Warren, 2002. Several interviewees commented on the impact of technology, especially digitisation and the ability to link records more easily. The possibility of records which had been previously open but were subsequently closed, and users had taken photocopies which they then scanned and placed online was discussed by Int6,H (court records) and FG3,O (Roman Catholic parish registers). Also Int2 pointed out that “often its due to them lacking understanding about how the internet works and information works, and you have to say I’m sorry I can’t destroy a record that’s on Google, you know. We don’t have that power. So they don’t understand that when something enters the public domain it is very difficult to put it back”.

Loss of control was a major concern (see 5.3), and whether there is a difference between accessing records remotely or in person (see 5.2.3). Records may also be repurposed and potentially linked, with data subsequently mined (Ints4 and 2). This is discussed in Chapter 6.

5.2.2 Equality of access

Equality of access to archives is clearly supported by both the law and ethical guidelines. FOI can be used by any citizen, DPA applies to all living persons and the PRA requires records to be released after a set period (working towards 20 years, unless exemptions are applied). Indeed, the ARA Code of Ethics (2016, pt 8) states that ‘[m]embers should promote the widest possible access to archival material and provide an impartial service to all users’. It is also evident in archival literature from at least the 1980s which ‘increasingly recognized the fundamental right of all users to be treated equally’ (Collins, 2013 p169), and in turn is reflected in professional courses and therefore understood by many of the archivists now working. Moran and Taylor (2003, p62) stress ‘equality of access’ is the ‘social duty of the archivist’ and ‘favouritism would be inimical to the social duty of the archivist’.

The archivists in FG1 appeared to believe that they promoted equal access to all, as did the archivists from the national level archives who were interviewed (Ints4 and 6). When questioned more closely, however, differential access and preferential access were evident, albeit for specified reasons. The users, almost unanimously, agreed that preferential

treatment was a major issue. Notably, however, preferential treatment was viewed as a method of gaining increased access, unless unable to personally benefit in which case the users claimed it was unfair.

5.2.3 Differential access

Some people may have a right to access information more than others. This includes an individual's own personal records, as discussed at length in Etherton (2006), but can also be applied to certain groups, such as academics, legal teams or particular demographic and social groups. The participants in this research also discussed whether differential access should be applied according to the final result of the research (e.g. published in a journal or put online) and whether it was conducted remotely or in person at an archive. Likewise, depositors (or creating departments) recalling their own records have increased rights, and Int4 pointed out this was one way that researchers could access closed records. Indeed, when Kingsley Amis' biographer was refused access to his papers at the Bodleian Library in the 1990s, the author requested copies of his papers and gave them to the biographer (Hodson, 2004, p196-7).

Both the DPA and the *Human Rights Act, 1998* give individuals the right to access their own records. Many archives will extend this to allow access for close family, although this may vary between archives (Int1; Benson, 2013). Indeed, how close a kinship is considered family also diverges. FG2,G for example, was granted access to her father-in-law's school punishment records at one record office by proving her relationship using birth and marriage certificates. More typically, spouses or children would need to apply, as Int1 noted. Certainly FG1,C emphasised the need to be a "direct ancestor", and at the Guinness archive only direct family can access staff records and employee files which contain medical details (Benson, 2013, p139). Using civil registration certificates, however, is problematic as Int5 explained: "how do you ensure that that death certificate is real and it does apply to that individual?". FG2 also pointed out that anyone can request a civil registration certificate, and K said that he had never been refused a certificate, no matter what he had claimed as relationship to the deceased. An element of trust is required from the archivist. More cynically, however, the archive may now believe that the researcher is liable for any consequences; certainly, this was the reasoning behind use of copyright forms and displays in searchrooms mentioned in Int6. Indeed, The Image Archive on the American Eugenics Movement's user agreement form is purposely 'designed to educate the patron ... and again

shifts responsibility away from the repository for misuse of the contents' (Farley and Willey, 2015, p118).

Similarly, FG3, P mentioned a conversation at a volunteer run feminist archive about whether men should be allowed to access the archive: was it "unfaithful to the spirit of the, the original publications? ... because it was run by feminist volunteers who were there in that movement in the '70s in particular I think there was a sort of an ethical thing for them about making these things public". Although the voluntary group did decide to open the collection to all, it is an interesting point which is also evidenced in the literature. Jimerson (2009, p188) believes that 'one reason many groups have created own archives is to maintain control over own documentation, presentation and interpretation and over the very terms of access'.

Members of particular groups or populations may have an increased right to see records. The archive where FG1,D works has the only known photograph of a ruler of a particular country which is freely available in the searchroom. The photograph, however, is actually of the deceased body laid out and he pointed out that:

"when the publication requests come in I'm much, much more wary about it but at the same time I'm anticipating that someone in [his country] will publish it, ... and you know probably they have quite the right to do so, it is one of their national figures and they can make what use of it that they want so it kind of trumps other considerations."

Colonial and Indigenous records have similar ethical considerations attached, although these can be difficult to implement or indeed understand for non-natives (Cox et al., 2009).

The final product of the research by the user may also have an impact, as commented on by Ints4 and 5 and FG1,D. Whether users intend to "slap...it all over the internet" (Int4,C) or publish it (FG1,D and FG2,H) may affect access, or certainly the ability to take copies. Indeed, as Int3 discussed:

A: "So if you were talking 20 years ago about an historian, recognised historian, accessing something that you think 'we-ll, I don't know if you should access, but only that historians really going to look at it'

B: "yeah, they are going to sit there, take notes, no photocopy but take notes, certainly no digital representation and they're going to go away and write a book. So you're talking about the risk to the archive of letting that one person have privileged access is low "

This "loss of control" (Int6,H) provided by digitisation and the internet had meant this route for differential access was less attractive, if at all possible. Moore et al. (2016, p172) also

point out that although photocopies could be shared, the potential scale of sharing had increased greatly in the digital world.

Similarly, an increased right of access is expected, if not guaranteed, for legal teams, solicitors and police. These, and requests from courts, were discussed repeatedly by FG1. FG1,A mentioned records which were requested for civil claims brought against councils and organisations whose records were held by her archive.

Some records, however, cannot be accessed by those who consider they have a right to know. These include records which have been destroyed (including through records management) or never created. Records such as maternity records which “legally are the mother’s records but try and explain that to the child who can’t see why they can’t see the record of their birth” (FG1,E) and “cases of illegitimacy [which] have gone through um the magistrates court and you’ve got the child [asking] but of course you can’t release ... what they really want, which is the parent’s names” (FG1,C). This can cause frustration and distress to both users and archivists. As Etherton (2006, p227) wrote, some ‘are compelled by a strong need to make sense of a disrupted life’ and refusal can cause serious distress. FG2,H was almost certainly ‘searching for closure’, although she claimed that it was merely “curiosity” over her deceased child, and was very distressed at not finding the burial records (see Section 5.4). FG1 discussed both a project aimed to help archivists in these situations (and also deal with cataloguing distressing material) and the reality of being the archivist in charge who was “dealing with a woman who had been in care and whose record hadn’t been kept because they had sampled the files, and she turned round and she said to her well they didn’t think I was worth anything and you’ve just told me you didn’t think it was worth keeping a file of paper on me.” (FG1,A).

Differences between accessing records remotely and in person

Access to archives is increasingly remote, and the rise of online commercial family history sites has had a major impact on physical footfall (see Chapter 6.3.2). This is reflected in the national PSQG survey of archive users and its replacement the ARA National Surveys Group, which has been held every eighteen months since 2002, and has had a counterpart for digital access since 2012. Although the most recent available of both surveys had over twice as many archives take part in the physical than digital survey (114 as opposed to 51) (CIPFA, 2017; CIPFA, 2018).

The issue of whether remote and onsite access is different is becoming apparent. As Int4,E commented: “at the moment we think there is a difference between having it available as a paper file here, and someone has to come here and find the information and then they take a photograph and put that online on their website or something so we’re just trying to make people aware that they are responsible for doing that”. This view was also expressed in FG1, and in a Scottish context in Int6. The archive where Int6 was held has two public catalogues, and the one accessible in the searchrooms “is fuller than the public one which you can see on line” because “if you come in through our doors we can make you sign Data Protection undertakings so you can therefore be trusted to see you know lots of names in court cases and so on” (Int6,G). In American literature, Yaco (2010, p654) agrees that “[a]dapting the on-site access policy for off-site patrons will be difficult’ as a ‘nondisclosure agreement’ is also used in its searchroom. Int6 as a group, however, felt that this idea is “quite questionable... but you know it’s an institutional, it’s a corporate decision” (Int6,G). This may either be interpreted as an ability to build a relationship, no matter how brief, which may improve levels of trust, or that this makes the researcher liable, rather than the archive.

Remote access can also result in losing control of images (and who shares what with whom), but also *how* images are used and whether the enquirer is who they claim to be. Int6,H discussed how “we have things in the archive which were closed but somebody had scanned something they got years ago and put it on the internet so anybody could see it”, which proved difficult to take down (See Section 6.4.1). Digitised records may also be repurposed. This was demonstrated by scanned images of historic American football posters being used to create a poster advertising a football match in 2016, leading to accusations of racism and a formal apology by Yale University (twitter post by Anna St Onge, @deantiquate 9 October 2016).

FG1,D pointed out that “you can imagine the impact of that if someone as you say gets that in their email box at home..., but on the other hand, anything is legitimate study for an academic so you can’t decide”, which suggests that a valid research reason may be enough to waive his concerns. Other archivists in FG1, however, suggested that they would ask researchers if possible to come in. As FG1,E said “if somebody wanted to look at that in the searchroom, I think you’d have to say that was open. Because it’s not very nice but ...in that context you can warn someone, you can have a flag - this is disturbing, at your own risk. Yeah, online is more difficult”. FG3,M, however, had to view her digital records in a separate office rather than a searchroom as they were closed records. Access to digital records in searchrooms (or in attached, supervised, rooms) is now perhaps becoming an issue. In June 2018 an attempt was made to encourage a discussion on this on the professional Archives-

NRA list serv, although only three people joined, suggesting that it is still too new (or controversial) an idea for archivists to be willing to be seen to hold an opinion on.

Interestingly, the users in FG2 questioned whether improved access was granted by physically attending an archive: “easy to say no to an electronic machine, isn’t it?” (FG2,I). FG2,F suggested that “there would be a little bit more flexibility” if you were there in person. “I think they’d be a bit more lenient if you were in person and you could kind of physically show this was your [relative]”. FG2,K had overheard conversations in the searchroom where “people have obviously asked for records that were deemed to be closed and they’ve gone to get the county archivist to come and discuss it with them and erm she has I assume established to her satisfaction whether there is a genuine need for that person to have that access. And I have heard a more positive response as a result of a conversation like that”. Possibly, this could have been done by email exchange, however, face-to-face contact would certainly increase the speed. Similarly, this may be about creating a relationship, something FG1 suggested. FG1,C also pointed out that there is “a difference between sending it out to someone you’ve had contact with and making it available online”, whether that contact is face-to-face or via email. Although literature from around the millennium had predicted that the rise in the internet might prevent relationships from forming (e.g. Johnson and Duff, 2005, p128-9), it has possibly shifted them online rather than direct contact; users email questions rather than physically visit searchrooms.

5.2.4 Preferential access

Preferential access, where one user (or group of users) is allowed access and another is not, was a particularly recurrent theme in FG2 and all of the participants claimed to have witnessed it. This includes research question, research output (e.g. journal article or family history blog or family tree), academic qualifications and also whether you belong to the ‘correct’ group (“you have to know someone who knows someone in order to get access” FG1,D). Creating a relationship with archivists was demonstrated by the users and was particularly useful in order to gain improved access. This could be because users were trusted more, possibly because the archivist was aware that help is needed.

Academic Access

The archivist focus group did not mention academic *qualifications* at all, although they discussed research questions and intended result of the research. In the interviews, Int4 gave very strong assurances that preferential treatment was in the past: “it did exist in the Public Records Act prior to FOI which removed it...there is no such thing as privileged access” and “if an academic researcher turned up [and] asked, no” (Int4,D). The only interviewee who mentioned it as current practice was Int5, who had strong links with family history groups. These findings are supported by Collins (2013, p172) research with Irish archivists in 2009. She also found that the ‘attitudes of the interviewees towards family historians were resoundingly positive’ and ‘rooted in a positive desire to treat all equally’. Similarly, Boyns (1999, p66) showed that some participants believed that ‘while they themselves are impartial, there is some `academic snobbery’ to be found among archivists’.

The two user focus groups both insisted that preferential treatment towards academics was still very much evident in archives and discussed it repeatedly. As Flinn and Jones (2009c, p42), noted, there is a ‘widespread suspicion’ that some senior historians receive preferential access, although they did not believe this was actually true, suggesting there were general inconsistencies which created this impression. Perhaps not surprisingly, the academic focus group used this to their advantage or simply accepted it. FG3,O insisted that “the word doctor was put in front of my name” on his British Library ticket and FG3,P commented that “because we do get some special dispensation, don’t we?”. Int5 also pointed out that “sometimes you have to provide ... a letter or credentials that you are a bona fide researcher like the B[ritish] L[ibrary] collections for example”. A ‘significant number of the British Library’s manuscripts and archives are very valuable and/or fragile’ and require ‘a letter of introduction (or recommendation)’, although facsimile copies are available for ‘many of the items’ (British Library, n.d.). Similarly, the literature showed that this access for academics, especially those researching the ‘correct’ history, was still occurring (Yaco, 2010; Baird 2016). Noticeably the archives which implemented these policies are either private archives, national or university; not local authority. Much of the literature which promoted equality was actually written by archivists who worked in LA archives e.g. Moran and Taylor (2003) and Boyns (1999). The balance of the focus groups was also overwhelmingly local authority, possibly biasing this.

The users who acknowledged preferential access for academics in the non-academic focus group saw this process as entirely unfair. FG2,G said she had researched with a friend who had a doctorate and the archivists’ had refused:

G: “and she’ll walk up and she will go ‘oh Hello, I’m Dr. **’, would it be possible?’ ‘Oh Dr? Yes certainly!’ There was [a] definite air of importance... you know, I mean [friend’s name], bless her, I mean she makes an entrance anyway, but... you can definitely see people’s attitude change because she has ‘doctor’ at the front of her name”.

This raises the possibility, however, of whether it was the woman’s personality rather than the fact she held academic qualifications that improved access. The group as a whole, however, strongly felt that it was her qualifications and were very animated in their discussion over this subject. Interestingly, however, it was only the four women who discussed it, and the men remained silent; possibly they did not agree but were unwilling to voice a different opinion against this strongly vocal group. FG2 were not sure why academics received preferential access (they considered their own research questions as valid) but simply stated that “there’s a lot of prejudice out there” (FG2,H). Int5 supported this view and was very defensive of non-academic researchers: “it is very unfair to try and single out certain groups because many of the long-standing genealogists that I know, indeed local historians, military historians have done huge amounts of research time and have very credible outputs whereas they tend to be denigrated as ‘oh they’re just part time based history researchers and no credibility”. This was noted by Little (2007, p93) in Victorian Scotland where ‘genealogists were often criticized for their self-interested quest for money and prestige, and for their poor historical methods’, and possibly only the increase in post-modern thinking has changed perceptions.

Many of the instances of preferential treatment which FG3 mentioned may have simply been practical solutions to their differing needs as researchers (see 6.4.4). Some, however, do show an increased level of trust, such as being allowed to access material themselves from strongrooms (FG3,M, N and O) or being entrusted with entire boxes of records rather than three items at a time (FG3,M and N). Whether this is because they are academic researchers, as FG3 believed, or because they had built up a sufficient relationship to be trusted was not clear from the research. Johnson and Duff (2005, p124) believe that the respect of the archivist has to be earned and that the relationship is based on trust. One of their PhD student interviewees pointed out that ‘they start to trust you as a researcher. I mean they don’t think you are some naïve student who thinks that in a week they are going to go through 300 boxes, or 300 legal case files. (IS7)’.

It seems that academic status may confer an “added legitimacy” (FG3, L). When asked whether they used their status as an academic to gain extra access, FG3,P said “No! it’s just the fact you’re an academic and you have to show your card and say where you’re affiliated to erm, and you know, they can check that up, so you’re allowed in there because you’re an

academic researcher". L believed that because she was part of a wider project which included a section on her university website this gave her "an additional legitimacy" which she has "milked that like crazy". She said that "a lot... [of institutions she had applied to] did check me out and I did get better responses coz sometimes they would refer to we checked you out and will send it to your institute address". Certainly, there were examples of the correct type of researchers shown in the literature and that past publications were taken into account (e.g. Yaco, 2010, p662; Danielsen 2004, p186; Baird, 2016).

Some collections may be closed generally but open to academics or those with a valid research question. This can vary between single collections to the linking of datasets as part of a project to entire archives. FG3,M's research involved a closed collection of modern medical records, which had been digitised by a large research charity and required permission from the Caldicott Guardians in order to access. Large linked datasets were mentioned in Ints2, 5 and 6 and FG1. Int4,D said "I think you have to separate out what is the access for the world at large, which is how we operate under FOI, and the potential data sharing side". Int5 also expressed this sentiment: "you can almost have a category of research that would require access you would have to get special dispensation. That again is where the needs of H[igher]E[ducation] often are seen as more important than the needs of the individual".

FG3 also discussed archives where only academics were allowed, although sometimes erroneously. For example, FG3,P believed that she could only access one collection kept at a British university because she was an academic; this archive is open to any member of the public. Access to two archives which the group also discussed as being only open to academic researchers are, however, considerably more difficult for non-academics as they require filling out relevant forms about the research to be conducted, including professional referees at one. As Yaco (2010, p662) pointed out this will discourage the general public, even if they are allowed access. Also, the Bodleian (university) library does not charge students or its own alumni for their readers' tickets, which clearly is preferential access (Bodleian Library and Radcliffe Camera, 2018). FG2,F believed that "quite a lot of archives...ask you what your research question" and "if you ask for something outside of that topic they question it", and then refuse access. This, may, however, have been for statistical purposes or to prevent researchers from wasting their time by looking at irrelevant records.

Being an academic, however, may not necessarily improve access. Int2 explained that although individuals may purchase access to datasets, many projects which could link datasets would be impossible due to licensing restrictions. This suggests the need to change

licensing agreements. FG1,A said that her archive had recently stopped using academic exemption forms and could no longer give preferential access to academics. FG3,M acknowledged that preferential access occurred but also “I’ve seen it happen but then as an academic I’ve been into [a LA archive] and I’ve said ‘I’m doing this as part of my PhD research, can you?’ and I had no different treatment to anyone - I still waited 45 minutes for a document”. FG3,N said that “I’ve seen at the British Library, hostile academics don’t get preferential treatment but if you’re a polite academic then...”. See section below on relationships.

FG3,M also believed that attitudes towards academics “depends on the archivist” because she has “seen archivists who will bend over backwards when an academic walks in... I’ve seen academics come in and er not said what they’re doing, just sat down as a member of the public” and only if they “asked for a bit of help...[and] because the research has been quite sort of niche that people have found out that they’re academics”. FG3,M believed that “certain archivists are worse than others”, which was also noted by Boyns (1999, p66). This again links into personality and control. It highlights that “a bit of help might be given” (FG3,M), although this may be because finding aids and guides are usually aimed at more typical enquiries concerning family and local history so it is more difficult to find relevant records for different areas of research (Boyns, 1999). Duff and Fox (2006, p145) also found that ‘Some of the archivists expressed a willingness to spend more time on questions that were of interest to them and to bend the time rules in order to accommodate these more interesting requests’. Similarly, ‘some of the participants suggested that they provided an even more in-depth orientation when the user was a new scholar or PhD student’ (Duff and Fox, 2006, p134). This suggests that the archivists felt the academic researchers needed to understand the systems more than family historians.

Valid Research Question

The research suggested that a valid research question was more important than academic qualifications in gaining access. FG2 did not consider their own research as less important than academic researchers, but they did see it as more important than some other researchers. FG2, K said “I think they’re obviously want[ing] to avoid anybody just flippantly looking at something that might be out of pure curiosity” and “In my case, the record office staff know what research I’m involved in at the moment”. As Mortimer (2002, p61) points out: ‘[t]he purpose of the research is the key here, not the ‘type’ of history being carried out’.

FG2,F believed that if two people requested the same record “but the second person couldn’t prove it was for a viable research reason, the second person wouldn’t get it...that’s better I think”, to which the rest of the user focus group agreed. Similarly, FG1 discussed needing a “serious reason” (FG1,D) to view the originals of records which “are available as a facsimile all over the place... you have to justify ...see[ing] it” (FG1,E). This idea was also observed in FG2, where family historians were not allowed to see original parish registers but used microfilm facsimiles instead. Indeed, even serious researchers may be questioned: the poet Clayton Eskeman visited the Lascaux caves in France several times but was questioned by a scientist as to why he needed to visit. Collis (2008, p175) queries whether Eskeman’s work would ‘have been considered ‘serious and necessary’.

FG2,H displayed a negative reaction to researchers who did not have a valid research question: “people like that who were just time wasters really, ...They’re going in there because it’s nice and warm and it’s a good way to spend a day”. However, as Collis (2008, p185) asks, ‘can we really talk of a ‘casual’ visitor to an archives?... surely all visitors to archives are serious researchers?’ Archive users have a clear reason for visiting and know in advance what they wish to see, whether that record is actually held at the archive is another matter.

FG2,F believed that “quite a lot of archives when you sign up to use their services they ask you what your research question is or your research topic and if you ask for something outside of that topic they question it”. One reason for this may simply be for collecting statistics on research themes to support annual statistics and justify the service. It may also be so that archivists could suggest alternate sources to the researcher, rather than as a control mechanism, which FG2 appeared to believe. The university archivist in FG1 also pointed out that “anything is legitimate study for an academic so you can’t decide”. Indeed, ‘if archivists were to evaluate research projects on grounds of either the academic background or institutional affiliation of the research officer, it would inevitably lead to dissatisfaction with the service on the part of those whom we did not judge worthy of the highest degree of assistance’ (Moran and Taylor, 2003, p59).

“Who you are, not what you are”

FG3,L believed that “sometimes it’s who you are, not what you are that matters”, and

throughout both user focus groups “human nature” (FG2,I) and personality were emphasised. FG1,D discussed how at one national archive his archive held complementary records with “you have to know someone who knows someone in order to get access”. Similarly, whilst FG2,K was conducting research in an archive where he regularly volunteered, “there were certain things that I picked out of the catalogue that I would liked to have looked at but was told that they were closed. But at the same time I was told that arrangements could probably be made”. Although FG2,K’s research was probably of interest to this archive, this was clearly preferential access. Indeed, some volunteers may expect preferential access (or quicker document retrieval) for their own research if they help the archive with their labour (Clark, 2018). This appears to be evidence of social capital theory on an individual level in archives. Put simply, social capital is an ‘*investment in social relations with expected returns*’ (Lin, 2017, p30). In this instance the users are providing labour and knowledge to improve access, which Lin (2017, p32) suggests is an example at a relational level, where ‘investments can be made by individuals with expected return, some benefit or profit, to the individual’.

Two of the participants in FG3 had, unknown before the focus group, previously worked as cataloguing and searchroom assistants. They both strongly believed that this gave them preferential access:

FG3,N: “a lot of my stuff doesn’t appear in online catalogues, so I normally have to directly email the archive and I was getting fairly poor responses when I was just saying I’m researching this. Now I’ve started doing a ridiculous horrible long email which I do hate myself for, saying you know my doctorial research focuses on uh duh duh duh, I know that this doesn’t appear on online catalogues because I had to catalogue it all at the British Library for them over the summer blah blah. And the responses I’ve gotten are so much better because of it, and I am disgusted at myself but I am using it to gain access!”

Although this improved response could be because she is claiming a relationship as an archivist, it could also be simply because she has explained why she knows that the records she is interested in are likely to be uncatalogued, rather than laziness at using online catalogues. Similarly, Hobbs (2017, p31) also found this with respect to artists’ sketch books, although he attributed it to being a more ‘efficient way of researching’.

FG3,M used her connection to her previous employment because she continued to “share an office with another project archivist, and if I want something I go and get it out of the strongroom!”

FG3, M: “If I hadn’t worked for ... the archives first I would be like any other academic researcher. I’d be sitting in the searchroom day in day out. Well actually no, they would have had to give me some form of access to the images as a researcher... these images are there so the originals aren’t used then I’d have been needed to be

given some access. I suppose that's partly why I am back of house."

It is therefore unclear whether part of the reason that she continued to use her desk was because she was not allowed to view these closed records in the public searchroom. However, FG3,M was allowed to access the archive outside of normal opening hours (the archive is open to the public four days a week) and also retrieve her own records. This is preferential access but enabled by trust and a good relationship.

Relationship between archivist and researcher

The importance of creating a relationship between the user and the archivist was discussed in the literature and also appears in both user focus groups. It was not, however, discussed in FG1 or the interviews, which focussed on relationships with other professionals and depositors. This may be an oversight, however, as FG1 discussed "regulars" (E) and volunteers in the context of needing to take publicity photographs, so clearly they had good relationships with some users.

The users in both focus groups unanimously agreed that creating a relationship improved access. FG3,O commented that "if you make that personal link with an archivist, I've found on several occasions an archivist will then suggest other sources that possibly I haven't thought about which is very useful". Advising users on alternative records that they might be interested in and helping to explain records is part of most archivist's job; users just need to ask (ARA, 2018). However, many users may feel shy about approaching the desk until they have built up a relationship. As FG1,A said "We are much more likely to be the person who can have a face to face conversation with a customer because they have come in and asked to speak to us", a point also made by Etherton (2006). Similarly, Johnson and Duff (2005, p125) found that users 'abilities to gain access to archivists differed' and 'One of the key issues for beginning researchers is their lack of confidence in approaching the archivist for help'. The archivists in FG1 are probably unaware of this, and believe they are giving equal access; as Johnson and Duff (2005, p126) emphasise it is user perception and a sense of entitlement that are perhaps more evidenced.

FG3 felt that they needed to build a relationship with the archivist because "you get the material that you would in no way otherwise... because mine isn't catalogued, if they kind of feel that they don't want to go and help me look for it then that, that's it, I just have to cross that that particular collection off my list and move on" (FG3,N). Again, this reflects Johnson

and Duff (2005, p119) findings where an historian was told to 'consult the papers of the wife of the deputy minister because, .. "She is the one who collected the material. Don't look at her husband['s], he was too lazy to put things in order." (IS5)' . FG3,M also commented that she is "in quite a difficult position because .. I am there at the grace of the archives so I don't like to step on feet" (see Section 5.3).

A 'researcher's relationship with archivists may continue well after the researcher leaves the archive in question' as they can provide additional information or photocopies (Tamboukou, 2016, p79) . FG3,L strongly believed that "sort of relationship building and a little bit of politeness and courtesy went down really, really well" as she had sent "thank you letters" after a pilot study. When she later emailed the archives "I sort of prefaced it with a you know you and I traded emails over the summer, and can I now have '92 and '89 please. Of course! We remember you, here you go! ... I just felt they're moving Heaven and Earth for me and I was just so thankful and wrote polite thank you letters". FG3,N replied to this anecdote with "I think that you're right, though, you do find particularly maybe in some really tiny archives that someone who is willing to kind of go that extra mile you do develop this wonderful relationship where you get the material that you would in no way otherwise". This again, reflects the findings made by Johnson and Duff (2005).

The non-academic users believed that creating a relationship increased access because the archivist trusted them more:

FG2,F: "they get to know you and I think they start to trust you, the more you go there they're like we know who you are, we know what you're doing, we're more willing to be a bit more kind of adaptable and flexible with you which sometimes if you're only there, like if you're going all the way down to Oxford or Cambridge or Gravesend for one day, you're not going to get that sort of rapport with them are you?"

There was general agreement to this by the rest of FG2. Although the users appeared to see forming a relationship as a way of gaining increased access, it inevitably means less access at unfamiliar archives. Mortimer (2002, p63) points out that preferential access is granted 'especially where the researcher is known to them' and therefore 'favouring familiar faces over more distant strangers'.

This overt relationship building supports Johnson and Duff (2005)'s suggestion that social capital is evident within archives. They observe that those 'with better access to these resources, that is better social capital, have a greater ability to achieve desired goals' and that '[p]eople deliberately build social networks by undertaking strategies to establish relationships with those who have the resources they seek' (Johnson and Duff, 2005, p114). The users in this research believed that academic researchers are afforded greater social

standing; this may be evidence of using social capital at a group level to improve access as a community (Lin, 2017, p32). As Bourdieu (2011, p87) observes, 'each member of the group' acts as a 'custodian of the limits of the group' to maintain its limits. Although Bourdieu is primarily interested in familial relationships this could arguably be translated to academic researchers or even Friends organisations (as FG2,K was told arrangements could be made for him to see closed records).

Thus, it seems that increased access (including to closed records) is available if there is a valid reason. This includes personal and familial records. Research question and academic credentials may allow improved access, although building a relationship with the archivist will improve this more. Being "extra polite with people" (FG2,K), and taking the time to 'chat... up the archivist' helps (Johnson and Duff, 2005). This research, in common with Johnson and Duff's (2005) work was 'not originally designed to examine social networks, we did not specifically ask the respondents questions that would measure [this but] ... it became clear during the interviews' that social capital theory and social networking are of major importance in gaining access'. Perhaps being more transparent about why access is refused or granted will prevent some misunderstandings occurring.

5.2.5 Closure periods

Although, FOI makes all public records which are not subject to data protection open, standard closure periods are typically used by archivists (Mulley, 2015). Closure periods are "a very easy and sensible way of administering those questions of access" (Int3,A) and are "simple" and "something that people understand" (Int2). MacNeil (1992, p115) even calls them an 'essential means of ensuring that records of permanent value are eventually made publicly available for research'. Both Ints2 and 3 emphasised that closure periods were mainly for the "archivists' benefit" (Int3,B) and convenience, rather than the user but used due to time constraints (see Chapter 6). Indeed, FG1,A's school log books were closed for 100 years, and were therefore closed for the centenary of World War 1: "it's pity when you know there is nothing in there that is actually likely to cause a problem but it's the time commitment, and we just don't necessarily have the ability to sit there and go through them". The Health in Archives Group point out that 'archivists and records managers need a rule of thumb for when it is safe to make medical records available for on general access' (Gale and Redfern, 2004, p2).

The users in FG2 also seemed to be aware of this administrative ease approach to closure

periods. FG2,I suggested that 100 year closure periods were “often just a throw away statement to get you to go away” and K described them as “a blunt instrument approach and just say anything that has anybody’s name or personal details in erm has to be a hundred years old or more”. This obviously can lead to frustration, particularly when “it’s often unclear to the users why ... something’s closed” (Int3,A). Indeed, participants in both user focus groups had been refused access and either did not fully understand why (“basically because it sort of came under like social services so and they said no, they wouldn’t allow me to look at that.... They said it was covered, you know, because you know confidentiality it would be closed for a hundred years” (FG2,G)) or were just told they were unavailable (FG3,N and O).

There are certain set closure periods which have traditionally used in many archives and users are familiar with them. From the late 1960s, when the 30 year rule was introduced, there were three standard extended closure periods applied in British archives (50, 75 and 100 years) (Mulley, 2015). Although these applied to public archives, in practice “you used to very often have a kind of blanket across the whole authority’s records” “So you know that collection, it’s a local labour party collection, its closed for 30 years” (Int3,A). This helps to reinforce further the accepted closure periods, further making them easy for users to understand, which Sillitoe (1998) also recommended. Gale and Webb (2008, p71) suggested that the introduction of FOI for health archivists meant that they no longer had the ‘reassurance of a blanket hundred-year rule, or a refer-it-to-someone-else-for-them-to-make-the-decision rule’.

Although national level archives may review records every ten years, local authority archives typically do not. FG1,E, however, mentioned that her police files were “catalogued with birth dates where known so ... we know when we can make it available”, which shows at least a level of willingness to improve accessibility. This accessibility may actually be when individual cases are brought to archivist’s attention, rather than the blanket reviews available to much larger, better funded archives. Certainly FG1,D said that legacy decisions had been made in the past which he’d “do well” to review.

Closure periods are implemented by archives, and although some are linked to legal obligations (coroners records are closed for 30 years, for example), many are decided by individual archives. This can lead to a variety of closure periods being applied for the same record sets (see Chapter 6), a phenomena that has been recognised since at least the 1980s (Sillitoe, 1998). Depositors may also have an influence as FG1,E explained: “you still get people, depositors asking for 30 year closure as standard”. FG2,K was also aware of this: “you may well get whoever has deposited the records imposing closure on it for a period

that they think is suitable which may be completely different to anything else that might be operated as a standard”.

Although some archives allow depositors to apply closure periods (typically national level government archives in the UK), this is less common in university and local authority archives although they may be guided by wishes. There are various reasons why depositors may wish to impose closures, including ‘an eagerness to perpetuate or sanitize the good reputation of the creator’ (Hodson, 2004, p197). FG1,E discussed a set of religious records which were closed, due to depositor influence, but had actually been placed online by the same church. Although frustrating for archivists, they may at least tell researchers where they can access the information. This particular religious group also aimed to keep control of who was accessing the information of other records deposited within this collection, and users had to apply for permission to consult the records.

Protecting family reputations is also important, and was evidenced repeatedly in FG1. Int2 pointed out that he did not want to “damage” the relationship with his “depositor over the long term”. See Sections 5.3.1 and 5.3.4.

When asked who decided the length of time for closure periods, the users in FG2 looked confused and came up with several different answers:

G: “[Pause] erm, I’ve got no idea but I guess I would have said the head archivist? But...”

H: the county archivist?

G: the county archivist? No?

I: neugh! I think if you’ve come, if its county I wouldn’t be at all surprised if there was something that went through full council and there would be a load of people who didn’t know what they were doing and suggesting it

K: I’d be surprised in that instance if it wasn’t left entirely to the erm archives staff, that er you know to say the head archivist pins it down to just one individual whatever, but whatever, erm arrangements they have for operating their service. I would have thought it would it would have been down to the staff to deter’

G: the department

I : [at same time], maybe the staff maybe the staff of the department discuss it with the cabinet member with portfolio who still has their [all laugh] 5 penneth

K: well, [I laugh] I’d be extremely surprised if a cabinet member here had any idea of how the archives operate [G laugh]

When asked whether they thought the legal service might have an interest, they again looked surprised. K “(pause) I’d be extremely surprised if the legal service”, but the group discussed it and decided that this could result in longer closure periods “as long as possible so we don’t have any extra work to do!”(I). The example of increased closure periods for school records raised in FG1 was discussed – FG2,I suggested that “they probably had one

or two cases that they've, that the legal team have had to do an awful lot of work around and so they are defaulting to the longest possible time. It happens a lot in health." K was surprised, again, and commented "so that means that the legal interpretation could vary from one authority to the other?" This was obviously a new idea to several members of the group, that laws were not necessarily applied uniformly.

5.2.6 Right to privacy

The right to privacy was implied throughout the research and supported by both the literature and laws. The focus groups were all aware of this, for example, FG2 discussed civil registration and the potential for fraud, and also the amount of information that was freely given and collected by Nectar cards. FG1 spoke about protecting all stakeholders, and making people aware why records are closed so they know is not just arbitrary (FG1,D). The literature also emphasised that control and choice are important in privacy (MacNeil, 1992; Westin, 1967).

Int2 pointed out that "you have this conflict between people's demand for privacy as individuals" and desire for greater access. He believed that this was "often" due to a lack of "understanding about how the internet works and information works". This was also shown in FG1, where users were refusing to give postcodes in the most recent user survey and another "who had an email address but didn't want me to have it because if I emailed him something that might mean his bank would try and defraud him or something!" (FG1,A). As FG1,C commented, "there is definitely a growing awareness of the need to be careful with the information that you give to people... even among sort of the older generation erm they are becoming aware ...and very wary of giving over their information". Privacy literacy has suggested that the rise in interest in privacy was prompted by technology (Westin, 2003).

The conflict between demand for privacy of individuals and desire for generally greater access was also suggested by Int5. It seems to be peculiar to archives; certainly the privacy literature showed a different emphasis. Cook (2002, p96) pointed out that if we allow privacy to take precedent then we have a society which only remembers those who choose to be. This led to the destruction of records, including the home office destroying the landing cards for Windrush under the misunderstanding of the DPA (Gentleman, 2018), although copies were later found in ledgers in TNA (Ardehali, 2018). Similarly, Int4,C believed that "one of the interesting things about the Saville Investigations was that ... all of the NHS organisations concerned said 'erm you know we had great difficulty finding any useful

records relating to this because we had destroyed it all in accordance with the NHS Records Management code' erm I think only Stoke Mandeville⁷ said they thought they had recognised they had a bit of a problem there and were thinking about doing something about it".

5.3 Control

Control and power appeared to be a consistent theme not only in archival literature but also in the findings; it was mentioned in four interviews and all focus groups. Interestingly, although the archivist focus group discussed control from several perspectives, including control by the archivists, depositors, different organisations (including libraries and the ICO) and also the users ("who know the field sometimes better than the archivist behind the table" FG1,D), the users discussed it almost entirely from the perspective of the archivist controlling access..

5.3.1 Archivists as gatekeepers

Although Greene (1993, p32) believed that from the 1920s to the 1980s archivists moved away from 'jealous guardians of the access gate who scrutinized each supplicant researcher' the idea of a gatekeeper is still prevalent both in literature generally and in all of the focus groups. For example, FG3,N pointed out that access to the archive: "is all controlled essentially by the archivist, and again, because mine isn't catalogued, if they kind of feel that they don't want to go and help me look for it then that, that's it, I just have to cross that that particular collection off my list and move on". Both user groups demonstrated this, and also the archivists. Indeed, the archivists still appear to see themselves as temporary custodians and gatekeepers, nearly 100 years after Jenkinson.

FG2,K said "sorry when you talk about archivists, archivists are only custodians of those records. They don't own them. And if you're thinking about county record offices, we all own

⁷ Stoke Mandeville was strongly associated with Jimmy Saville, where he was appointed as a voluntary porter in 1969 and a fundraiser for a spinal unit in 1980. He was given accommodation (and free access) on site. 60 individuals reported abuse at this one hospital JOHNSTONE, A. A. & DENT, C. 2015. Investigation into the Association of Jimmy Savile with Stoke Mandeville Hospital, A Report for Buckinghamshire Healthcare NHS Trust..

them at the end of the day, although legally they are owned by the county council". A point made by MacNeil (1992), Moran and Taylor (2003) and Boyns (1999) and also taken by the Scottish archivists in Int6. As a group, Int6 agreed that all records should be included in catalogues, although closed ones should be clearly marked. Int6,H stated that "if we are holding things and you know we're basically expending peoples, tax payers, money on sort of holding this material the very least we could do is acknowledge that we have it and you know say 'We have got a collection of x, you can't come and see it but we have got it'".

The archivists in FG1 appeared to view their role as that of a benevolent parent, and largely as positive. They were also very clear that if users are "refused access to a record that they understand why ... that it wasn't just like "Noo, we don't feel like letting you see that, coz I've just decided" but look this is why! ... they understand there is a need to protect people who are named in these records" (FG1,D). Traditionally, 'the archivist is viewed by historians as a kind of honest broker, or informed tour guide, between the original creators of the record and its later use by researchers' (Cook, 2011a, p607). Cook (2011a, p614) observes that this 'traditional view of the archivist's role in society, best enunciated by Jenkinson in the 1920s, still espoused explicitly by a few archivists, and absorbed by many more as a kind of unquestioned professional ethos, archivists do not interpret, or mediate, or construct social memory'. Findlay (2013, p19) emphasises that an archivists role is 'not to serve as a gatekeeper waiting for decades before making the raw materials of history available to us in piecemeal form, but rather as the trusted guardian and provider of timely, useable evidence, the use of which will allow us to steer an honest course for our society'. In contrast, both of the user focus groups focused largely on the archivist's controlling access.

The idea that reputations and relationships with depositors should be protected was found repeatedly throughout this research. For example, FG1, A's archive had chosen to close records about the head of a family who had committed suicide. The family concerned did not accept that it was suicide "but we still have quite a good ongoing relationship with that family, and we they still direct more material to us so we just... go with it". Similarly, the photographs of unpopular Christmas window displays which were known to be embarrassing to a local business were deliberately not provided for journalists, who were instead directed to the business' press office (FG1,E). This was also found by Deazley and Stobo (2014, p11) when looking at copyright and mass digitisation in the *Codebreakers Project*. 'maintaining a reputation as a trusted, reliable repository is imperative in managing relationships with depositors old and new'. Potentially, some families attempt to protect the privacy of their families as a whole; James Joyce's grandson admitted to burning his mother and grandfather's correspondence for such a reason (Hodson, 2004). A third possibility may be

to protect business interests: “we basically took it in knowing that the depositor wasn’t going to allow us to make it available but the alternative was that it get sold at auction or just disappears” (FG1,C). This emphasises again the importance attached to protecting relationships with depositors. Legacy decisions (decisions taken by previous archivists) were also mentioned: if FG1,D found a record “where we had accepted it on a certain condition of it not being made available, then I wouldn’t make it available, erm until I was challenged to do so, and then I would probably ... have to on a certain regard just because those were the terms on which things were given”. As Int2 observed he did not want to “damage” the relationship with his “depositor over the long term... need that balancing act between what’s interesting to historians and researchers and what you think you ought to be releasing to keep people’s sensibilities”. This “balancing act” exemplifies the dilemma between openness and privacy of archives.

The university archivist at first insisted he would turn a collection away because “you are committing public funds to look after something which no one is going to be able to look at”. Interestingly, the two university archivists interviewed took a similar view to the university archivist in FG1. Int2 stated “we tend to avoid taking collections that we know have to remain closed’ and contact an alternative archive as ‘the important thing is that the stuff goes to an appropriate home. That it doesn’t get destroyed and that is more important that it ends up, usually in a public archive, that you know its future is going to be reasonably secure.”

Other archives, notably literary ones, close records until the death of the creator. FG3,P had wanted to consult a feminist author’s archive, but the papers are closed until after her death and FG3, P was unsure what was contained in them (“and I don’t know what they are really”). Panofsky and Moir (2005) have also written about an archive where the literary papers were originally closed until death, but the daughter insisted on keeping the additional deposit closed. As FG1,D, pointed out “it’s really an imbalance of power”.

In FG2 there was a general feeling that the archivists had all the power and were in control and the users were relatively powerless. Although they felt that archivists generally wanted what was best for the records (FG2,I “they are so precious about stuff that is so precious!”), there was a strong desire for increased transparency and “honesty” as they phrased it. There was also a strong level of general trust in archivists: “but I mean if I was, if I was told, for instance, that the council minutes were closed to me then I’d just have to accept that that was the position...I would’ve assumed for something like that, a public body, I would have assumed that there was some kind of ... legal backing to declaring that they were closed” (FG2, K) (see Section 5.4). Again this emphasises’ Cook (2011a, p607)’s idea that archivists are perceived as ‘honest brokers’.

Interestingly, the academic users perceived power more negatively than the users in FG2. FG3,O for example, pointed out that he signed user access forms “because if you don’t sign it, you don’t get access!”. FG3L, M and N all felt that archivists controlled access to the archive generally. N worked largely with uncatalogued collections and M was working with a closed collection and was aware that she was “there at the grace of the archives so I don’t like to step on feet”. FG3,L was told that some of the accounts she wanted would be very expensive to copy but “my real feeling was we can’t be bothered to help you so we’re going to make it prohibitively expensive, go away”. Although this may have been due to differences in the record content or how it was stored, necessitating a different level of staff involvement, L interpreted it as a control mechanism. Certainly, the literature suggested that the variability in responses to similar FOI requests between authorities may be because FOI and records management are structured very differently in different organisations (Shepherd et al., 2011, p27).

The archivists also appeared to realise that they were in a position of power. FG1,D observed that for FOI enquiries “most members of the public, it’s the one-off enquiry in their life, they’re never going to do it again and they have very little information, it’s really an imbalance of power”. Certainly, most requesters, are members of the public, rather than journalists (Worthy and Hazell, 2016, p6). See Chapter 6.

5.3.2 The archivist controlling which records are seen by users

Archivists may also control which records are actually seen by users, partly by applying closure periods and partly by how they are catalogued. This includes particularly disturbing records. FG1,A gave the example of a set of mortuary records connected to the Blitz and that an archive had taken “the decision to take the photographs out of the files because ... there is a difference between somebody getting the information from the file and seeing graphic photographs”. Int2 believed that some records were simply too disturbing to even allow the public to know that they exist. Int2’s archive holds several collections which are deemed so sensitive that although they have been catalogued “because ... you gotta know what you have, so you don’t release the wrong information. This is really horrible stuff”, they are not made public. Instead two catalogues are held, one of which is heavily redacted before being placed on the website. He explained that this is “not because you’re trying to sort of hide something for some political reasons but because it’s nasty” or because they

need to protect living individuals. This distinction was drawn because so many archives are accused of political bias (Harris, 2002; Banton, 2017; Cobain, 2016). Int2 admitted that some institutions would acknowledge that they held these collections but then refuse access (as shown in Int6). This attitude was also shown by Schwartz (2005, p88), where the Whipple-Scandrett Papers at the Minnesota Historical Society were only listed as having nine boxes, until a whistle blower pointed out a 10th box containing lesbian love letters which was added to the catalogue.

The archivists also controlled access to original copies as FG1,D pointed out “you need a serious reason to see stuff that old”, especially when facsimiles are available. FG2,G had been refused access to book which had “bowed”, and was particularly upset as the archive “had no plans to conserve it just keep this old book”. The lack of transparency had upset G; if the archivist had shown her the volume and explained that the conservation would need to wait until budgets or technology improved, this could perhaps have pacified her.

Similarly, Cook (2011b) points out that archivists also chose whether to highlight, or not, relationships whilst cataloguing and indexing. Rawson (2017), however, shows that potentially highlighting key words may be problematic.

Professionals may also decide to ‘protect’ individuals. As previously mentioned, FG3,O, decided not to tell a widow that her husband “had been thrown out of the regiment” for theft as he “didn’t want to upset her.” Similarly, in FG1, when discussing incest cases at court, FG1,B said the Caldicott “Guardian asked for ... a passage to be redacted from the record that we released ... on the grounds that the family might not know already”. This benevolent attitude, although well-meaning, may also be accused of control.

5.3.3 The power of users

Although archivists know their specific collections, researchers may have a far greater knowledge of the subject area itself. Similarly, increased mobility of archivists and short-term contracts can lead to archivists taking ‘with them a pool of expert knowledge about that collection, in spite of the cataloguing essentials being committed to paper or disk’ (Clark, 1996, p99). This can shift the power away from the archivists as FG1,D pointed out: users “who know the field sometimes better than the archivist behind the table, then you can be quite an uncomfortable conversation I imagine. If you choose to be.” Another group of users

which may have increased power are journalists, as Tony Blair believed (Blair, 2010). Int4,D commented that the archivist and depositor “may only have the information in front of them, whereas a researcher or a newspaper may have many other sources available to them”. The problem of increased discoverability and linkages by the internet was mentioned in several of the interviews.

There is also the potential that users can bring records to the attention of archivists and this will ultimately result in re-closure. Although archivists routinely deride headlines where historians discover hidden records, (Int4,E [historians] “think they are on the track of this great discovery, and they’ve ... found these records that nobody has ever seen before!”) this is shown in both literature, interviews and FG1. For example, in a Scottish context, Int6,H described how a researcher had actually approached the archivist and suggested a longer closure period. The researcher had seen “a letter from the 1920s setting out some ... fairly personal circumstances ... what [had] happened to a family, and in most circumstances you could think well, that was quite a long time ago, but .. because this researcher knew that area, they knew that the population was quite static and that there were a lot of people there who might actually still live in the same houses, people they knew that that was so and so mother, its sort of what the connections are as to how, what the impact can be”. Similarly, an historian researching a biography found a 12 page document at TNA indicating that his subject had been a British spy. Shortly afterwards he wrote about this on a nuclear history website, and the Ministry of Defence recalled the record from TNA (Cobain, 2016, p147, and Rossiter, 2015, p368-71).

Placing catalogues online has also impacted on user power, partly through increased discoverability. Participants in both Int6 and FG1 gave examples of being approached by members of the public whose personal information was placed online. Int6 discussed how photocopies of Scottish court records which were subsequently closed had been placed online by users and the difficulty the archive had in getting them taken down. FG1,E mentioned that a set of religious records which had been closed due to depositor influence, but were available online via the same church. This lack of control of records when they were placed in the public domain was also raised by Ints3 and 2. Clearly users may have considerable power thanks to technology. Yaco (2010, p664) points out that the internet amplifies the problems of disclosure.

The users, arguably, however chose to make themselves less powerful. For example, their knowledge of the legal framework was very limited. Several users, however, insisted that if they were refused access then: “I would just smile sweetly and I would go off and I would Google every single thing I could find out about how I would then say, well actually I’m

coming back again, and this is what you're going to have to do for me!" (FG2,I). In reality, only two of the users had actually pursued any refusals, giving a variety of reasons why they had not including lack of time (FG3,O) and "the project I was doing at the time, phev took so many other tumbles that I didn't really follow it through" (FG2,I). Possibly this is due to the nature of the information which different users are seeking: there may be a variety of sources to establish where someone lived or worked, for example. It also suggests that the users are passive consumers of archives, rather than more actively involved.

Only L and M in FG3 continued to pursue negative responses and both of these were full time postgraduate students. FG3,L's PhD relied on using primarily just one collection and she therefore continued to seek permission from the Caldicott Guardian until it was granted 18 months into her project. FG3,M's PhD, although using data from all UK universities, and therefore a much larger potential dataset, had taken a different attitude to the non-responses and varying copying costs (including some which she felt were deliberately over-expensive). This may have been a combination of factors including personality or more time to pursue them. Interestingly, the third full time doctoral student FG3,N had decided "to cross that ... particular collection off my list and move on".

5.3.4 Influence of depositors and other stakeholders

As FG1,A pointed out, however, "quite a lot of those things we may not own as well. Some of them they tend to be coroners, police, so to some extent it is not solely our decision". This can mean that creators and depositors may impose access restrictions on their deposit, including who may access records and whether a closure period is necessary. FG1,E explained "you don't want to risk with drawl of material". Variations are still apparent at some archives for example Int5, mentioned that the "[x] family- some of them are in the estate office and you have to try and ask the steward if they will give access to them. You'll know that they are there in the archives but you can't really have access to them, some have been digitised and are available in the [county] Records office", it requires access via the family estate.

The need to maintain relationships was demonstrated by FG1, A and E and also the interviews. Although FG1,D stated originally that "I won't accept material on those conditions", he acceded that it was better than losing deposits. Ints2 and 5 also emphasised

that the potential of future deposits (and the “quality of the material that is to come as well” (Int5)) would impact on decisions.

Whole record classes across multiple archives may be affected by depositors’ decisions. This was shown by the intended increase of closure period of baptism, marriage and burial records by the Roman Catholic church (from open to closed for 110 years (CAALG, n.d.), which FG3,O raised. Both FG1,E and FG3,M spoke about problems accessing health records caused by changes in Caldicott Guardians. Similarly, FG1,A mentioned that she had “a sneaking suspicion” that her local police force were allowing access to their records on site, rather than depositing records as “we used to deal with a lot of enquiries from them”. She pointed out, however, that “is their right”. The group also discussed how it was difficult to get new deposits from social care and police forces; something Int6 also picked up on (see Chapter 6). This was similarly mentioned by the Hillsborough Report (Hillsborough Independent Panel, 2012) and Shaw Report (Shaw, 2007).

5.4 Transparency and trust

Trust within archives is important. All stakeholders must, to a certain extent, trust each other (Craig, 2005). The depositor must trust the archive to hold it securely, the archivist must trust that the user is who they say they are (whether using a CARN ticket, Archive Card or not⁸), that they will use pencils (as FG2,I joked), that they will not steal or damage the records, or reproduce without permission. When part-closure of volumes is employed to enable greater access or researchers given boxes rather than individual documents this increased further. Indeed, transparency and trust were evident throughout this research. It was particularly evident in relationships between users and archivists, and archivists and other professionals, which then improved access. As Blomqvist (1997, p281) asserts, trust relationships develop gradually over time, and Craig (2005, p246) emphasises trust is ‘nurtured by experience’, and this research appears to support this.

Trust is also enabled by transparency; users appreciate being told why they cannot access

⁸ County Archive Research Network is a national system of user registration or readers tickets. It allows users to register once rather than repeatedly at each (participating) archive and offers archives some security, ‘in the unlikely event of documents being stolen or misused’ <http://www.archives.org.uk/what-we-do/campaigns-sp-1351194270.html> It will be replaced by Archive Cards in April 2019 <http://www.archives.org.uk/latest-news/722-ara-announces-development-of-new-archives-card.html>

something. For example, FG2,G “if you’re given a decent reason why then you can sort of take that on board and think yeah, right okay”. Similarly, FG2,I suggested that it was about “honesty” and if archives “are struggling, because you know to get whatever it is they’ve got to walk to the far end of the bowels and things[and] whether you can put in a request and we’ll sort it out for you on Tuesday morning”. This was a reference to the long distance between a strongroom and the searchroom at the archive this focus group was held at. Document production can be affected by staff breaks, users requesting multiple records or needing more staff help. Moran and Taylor (2003, p63) point out that these are all caused by ‘limited resources’.

The archivists in FG1 also understood the need for transparency. FG1,D felt that “as long as the public they can see why a decision has been made and the grounds on which something has been refused ... It’s where it’s not clear to them or it’s not made clear to them that there are these avenues that they can follow to challenge the decisions”. FG1,E said that it’s “an FOI thing I think, about whether or not you admit you hold the record” which was met with general agreement. Whilst demonstrating an understanding, a desire to promote a professional image was also evidenced, for example FG1’s attitude to the minor fire which had occurred at one archive. Similarly, the archivists are operating under time and financial pressure and this may affect how they behave (see Chapter 6).

Both user groups believed that reasons for closure should be added to catalogues, rather than simply closed. Indeed, both FG3,O and FG2,G had wanted to view records which were closed for conservation reasons. FG3,O also claimed that some catalogues do not mention that a record is closed, and it was only when he requested that this was made apparent. The archivists in the focus groups and interviews, however, discussed having multiple catalogues, indexes and closed attribute fields, with differing levels of detail in each (including why records are closed). Although they gave clear justifications as to why they needed these, e.g they included names and dates to aid staff in answering enquiries, this lacks transparency. Similarly it was not asked whether the users were aware of these multiple versions.

FG2,H was particularly distrustful, using phrases to describe archivists and archives as “greedy”, “highly suspicious”, “suspicious goings on”, “being hidden” and “obviously somebody didn’t deem that important enough to put into the new system”. This was a combination of misunderstandings about records she could access or use (for example she wanted to publish a photograph of a painting in her book and was upset that the archivist had drawn a line through it when they were unable to contact the copyright holder for

permission) and her experiences with her child's burial record. FG2,H became suspicious when she found two burial registers and it "alarmed [me] because I thought this is something that's been hidden in the National Health Service and I found it by accident" and it was at the time "when they're investigating all these children that they were using, they used their body parts... I just worried that my child had not been buried because I had paid for a burial and ...it sparked off a terrible period of distress for me, because to me, there was something wrong". The Alder Hey organ scandal⁹, was heavily reported in newspapers at the time and this had clearly led to H assuming the worst, especially as there were no records from the funeral director (the group tried to reassure her that there may be a more innocent explanation). Indeed, as Etherton (2006, p240) points out 'hospital records also have a well-known history of being poorly cared for or carelessly discarded'. However, the fact that H was concerned because of the Alder Hey scandal underlines the validity of Flinn and Shepherd (2011) 's assertion that the reporting of multiple scandals has 'contributed to a growing sense of public distrust and mistrust of authority and official sources of information'. Whether H would have sought this information or not (in order to attain the closure which Etherton (2006) wrote about), and whether she would have been as distrustful of the two burial registers and lack of funeral documentation, or attributed a different reason for them, had the Alder Hey scandal not been in the headlines is a matter of conjecture. The fact that she chose to discuss this very personal story in a focus group supports Kruegar (1994, p13)'s view that participants who travel further are more willing to disclose information as they are unlikely to meet again (FG2,H had travelled by train and did not know any of the other participants).

5.5 Understanding of the legal framework

The literature review showed that there was a large variety of applicable laws, including some which appeared to contradict others. Awareness of this legal framework however varied considerably amongst the participants, and noticeably reflected what was required for individuals' own needs, be they researcher or archivist. Amongst the archivists in FG1 understanding of the legal framework was in the practical application rather than a

⁹ The Alderhey Scandal is the name given to the removal and storage of child and fetal body parts for research purposes from 1948 until 1999 (REDFERN, M. 2001. The Royal Liverpool Children's Inquiry Report. Norwich: Stationary Office.) many without consent of the parents. The Donaldson Report found that 105,000 organs were retained across hospitals and medical school across England BATTY, D. & PERRONE, J. 2001. Alder Hey organs scandal: the issue explained. *Guardian*, 27 April 2001.)

theoretical understanding, whereas Ints1 and 4 in particular showed a much greater general understanding, as had been anticipated. Also as FG1,A pointed out that “it’s a pity that we have such differing interpretations of presumably the same pieces of legislation. Why have we got such widely differing opinions on identical sets of records?” FG1, however, could not provide an answer.

The understanding of the legal framework was fairly limited in both user groups, but was noticeably far lower in FG2, however, who only mentioned copyright without prompting. The users mentioned several times that they “assumed” there was a legal framework but did not know what it was: “well there’s got to be some” (FG2,I); “yep, I mean to be honest with the likes of the council minutes and that I just assumed that there must be almost a statutory erm framework you know but erm, there may not be” (FG2,K).

Only one user claimed to have a good understanding (FG3,L), which was then qualified with “I thought I did until I started getting some wacky responses” referring to the differing responses she had received from FOI requests. FG3,L also said “there seems to be some confusion out there as to what their actual obligations are to keep information around and make it available.” This led L to question whether this was an excuse to “fob me off” or whether archivists were confused and mistaken. L’s information was provided in a variety of ways and for a variety of costs, which confused her: “I’ve had everything from super helpful ‘Oh! Here you go! Here it is’ scanned, back by return email, through to erm ‘you’ll have to come and visit us’ through to erm ‘we need to make a charge’ well okay you’ll need to make a charge if I’m going to ask you to scan and send it to me”. She was also given “some peculiar responses” including being told that “we’re not required to provide that to you because you can get it via another way” because the universities were also limited companies. “So I just went to Companies House¹⁰ and paid three quid for it and that’s fine. ... Others that I knew were companies and that had also filed at Companies House did not feel the need to do that, they just sent me the information”. L, therefore concluded that “how it is being applied and understood in the archive seems to vary quite widely. And I don’t claim to be an expert on what the law says, I just know I’ve had a range of responses all of which seem to be grounded in disparate understandings of what they think the law is.” Certainly, Shepherd et al. (2011, p27) believe that the ‘variability in responses to similar FOI requests between authorities is perhaps not surprising given the myriad of ways in which FOI and records management is structured. Similarly, s.21 of the FOI Act states that organisations do not have to provide information as it is accessible by other means

¹⁰ Companies House is the United Kingdom’s registrar of companies and makes this information available to the public UK GOVERNMENT. n.d. *Companies House* [Online]. Available: <https://www.gov.uk/government/organisations/companies-house> [Accessed 30 September 2018].

(*Freedom of Information Act, 2000*). Other archivists may have found it more expedient to simply provide the information, than say this. Indeed FG1 all admitted that they will try to help researchers by “suggest[ing] people do things that will be cheaper for them” (D) “or quicker” (A) and suggesting alternative sources.

The focus group participants’ knowledge of the legal framework was almost exclusively what they needed to know for their own purposes (or in a discussion with colleagues), rather than being comprehensive. This was particularly evident with regards to legal challenges, and possibly why copyright law was discussed so frequently. Considering how wide the legal framework affecting these archives is (Appendix 1), that many laws are not specifically about archives (e.g. DPA, GDPR and FOIA), and others relate to only certain records (e.g. local government acts), this is perhaps not surprising. The local authority and university archives are also housed underneath larger organisations, and consequently have legal teams which could also be referred to for advice. These teams were specifically mentioned by FG1,A and FG1,D, both of whom organisations had been subject to ICO scrutiny in recent years.

Int3,A believed that that there was generally “a growing awareness of the impact of Data Protection. So you know sort of 10 or 15 years ago ... there was still very little awareness of it. But in the last 5 or 10 years that awareness has grown and grown and grown and the profession as a consequence has I think become increasingly risk averse around the issues”. This was reflected in the discussion by the FG2 users about Nectar cards, fraud and the ability for anyone to request birth certificates.

All of the focus groups demonstrated practical rather than theoretical knowledge of the legal framework. For example, FG1,D said that “I treat every enquiry as an FOI request in that in that I try and answer them all as quickly as I can!” Although they believed that all of their collections were subject to FOI and were only exempt if they were catalogued, rather than because of who owned the collections, FG1,E said “actually in practice, most of it is exempt on the grounds of if its catalogued and open, then its exempt anyway on the grounds that they can come in and see it so it’s not actually an FOI enquiry”. FG1 discussed the dichotomy where:

FG1, A: “if we want to put something out on the council social media channels we fill a form in, and it gets sent to the social media team and they because they want to make sure that we don’t say anything that isn’t signed off and approved and you and you think that the enquiries we are replying to everyday, that’s essentially what we are doing but that’s essentially what huge parts of the council are doing”

As, FG1, A pointed out “it is probably one of those things where it is easier if you are very closely associated with a county council or unitary authority because they have a data protection procedure and you just use that”. This reflects Gale and Webb (2008, p71)’s

suggestion of the 'reassurance of a blanket hundred-year rule or a refer-it-to-someone-else-for-them-to-make-the-decision rule'.

External factors were also shown to have an influence on the implementation of the legal framework. FG1,A's legal team insisted that all school records must be closed for 100 years "and that was their interpretation of the ICO judgement. Int4,C and D suggested that archives are "cautious" because of the possibility of fines from the ICO which would be "devastating". See Section 6.3.1. Similarly, FG1 also found data protection specialists' reactions to the archive amusing:

A: "I showed somebody from the data protection team around the archives and they looked a bit horrified, they hadn't realised we had data on that many people. Well you're just going to have to go away and I'm just not going to let you [All laugh] ...Really?!"

D: Exactly, we had some lawyers in from the university and they were ... carefully explaining data protection rules to us and I was going 'yep, we know that and that' and ... she almost basically ruled out the whole archive profession because of these issues."

Although amusing it did mean that mistakes could occur. FG1,A said that her council "introduced data protection subject access requests for dead people!" and "releasing recently deceased persons social care files to their families ...there may be some very distressing material in those social care files and they were arguing they had a duty of care to the relatives not to give them access to distressing material.. but the only problem was that they had failed to state anywhere on this form what date it covered . They didn't actually ever say 'recently deceased' anywhere it just said 'for deceased persons' and I did have to go back to them and say that covers like 95 per cent of the archive, do you seriously want me to use one of these? [All laugh] Oh no! It wasn't for you! [All Laugh]"

5.6 Summary of Chapter 5

Although users and archivists now expect access to records, there is no general right to access only discretionary access to both public records and any other records. Access is affected by variables including individual archive institutions' ethos, the sensitivity of records, the personality of archivists and any relationship to the researcher. The importance of trust, transparency and power were evidenced throughout this research, although these are fluid concepts which change according to both individual perception and time. Similarly, the

practical issues (discussed further in Chapter 6) have considerable impact on access to records.

Why a record is sensitive is similarly dependent on so many variables that it is difficult if not impossible to define (Sillitoe, 1998, p9). This was shown both in the literature and this research. Indeed, the fairly unhelpful adage concerning privacy that it is easier to recognise than define (MacNeil, 1992; Young, 1978) appears to be the most useful definition (Sillitoe, 1998, p9).

Once a record has been catalogued as sensitive it will usually be closed for a specified period of time (a closure period). Although closure periods may be considered an administrative “convenience” (Int3), they are used extensively across archives as they are easily understood by both archivists and users and easily applied. Indeed, time pressures mean they are, arguably, a necessity in many archives and allow equitable access (access that is both fair and equal). It may still be possible to access records which are closed for clearly specified reasons such as a patient’s own hospital record, or if needed by the police or legal team for an inquiry such as IICSA. Similarly, researchers may request access for specified research projects (typically, but not always, academic researchers). Differential and preferential access were particularly controversial to both of the user focus groups and were discussed at length.

Although the archivists overwhelmingly appeared to believe that they gave equal and balanced access to all (both in the focus group and in several of the interviews), they did actually give differential access. Both user focus groups, Int3,A, Int5 and some literature (e.g. Flinn and Jones, 2009b) questioned this equality and gave supporting evidence of witnessing preferential treatment, and partially justifying it.

Differential access, although contentious, was also shown to be applied equitably and allowed increased access where appropriate e.g. for individuals’ own records. Despite the focus group users’ strong belief that preferential treatment of academic researchers continues, this research suggests that it was less than the users believed. Reasons for apparent preferential treatment may actually be due to personality (of both user and archivist), development of relationships and, most importantly, trust and practical reasons such as the nature of their research questions (see Chapter 6). Indeed, this research found that users’ research questions were more relevant than academic qualifications in achieving access.

Control and power were also significant themes. Control was demonstrated by the appraisal and subsequent selection and closing of records, allowing differential access and even which records are catalogued. The level of detail, whether records are highlighted with key terms or kept 'hidden' in closed fields or secondary catalogues, even whether records were catalogued at all were evidenced in either (or both) research and literature. Similarly, relationships with depositors are important. This was shown both in terms of acquiring new deposits but also any restrictions placed on them; they are not outdated relics of the past as suggested by the literature review and interviews.

This chapter examined the issues which affect access and closure of archives. The importance of human emotions, relationships and the subjectivity of what is considered sensitive have all been evidenced repeatedly. Indeed, trust and personalities, coupled with a fairly disparate legal framework and ethic systems strongly suggests that social capital theory is applicable to archives, as was suggested by Johnson and Duff (2005) but has been little investigated subsequently. This was unexpected and clearly warrants further investigation.

Chapter 6 Archives in the Real World

“In an ideal world, everything would be appraised properly, everything would be double checked, you’d have the sign off for absolutely everything, you’d close things that needed to be closed and it’s all a nice, hunky dory world. In the real world, you have a vast warehouse full of records and you have to deal with them and appraise them very, very quickly and you have to make certain quite snap judgements” (Int2).

6.1 Introduction

This chapter explores the pressures and practicalities that affect how archivists behave in 21st century archives in England. Although perhaps the pressures are more obvious in affecting users access to records, they also affect appraisal and cataloguing decisions. Indeed, it may affect even decisions on whether to accept or refuse deposits, particularly if they have unresolved legal issues or lengthy closure periods attached.

As early as the 1950s archivists recognised the impossibility of keeping everything and that the selection of records was necessary, leading to continuous debates about its desirability and methods. Record survival is also affected by events such as fire or flood, deliberate destruction, including sampling and records management schedules, or simply not being kept and deposited in publicly accessible archives.

The divergence between ideal and reality has been exacerbated by decreasing budgets, changes in records creation and content, records management (which destroys some records and encourages deposit of others) and an increased emphasis on outreach, online catalogues and digitisation. The need to generate income was expressed in all focus groups and several interviews, which demonstrates this clash, and the controversy surrounding it. As Boyns (1999, p67) points out the ‘tradition of the `scholar archivist’ has all but disappeared... particularly in local authority repositories’ and ‘concern with anything other than day-to-day survival can seem a luxury’. Archivists now make decisions ‘against the realities of huge backlogs, limited resources, and pressing external and professional demands’ and this in turn affects which records are catalogued and to what level of detail (Cook, 2011a, p606). This will then impact on the accessibility of records and accusations of control and preferential treatment, as evidenced in Chapter 5.

This chapter also discusses the limited understanding by users and other stakeholders. Archivists are “low down in the food chain” (Int2) and consequently are affected not just by funding but by political and personal motivations of their employers and line managers. Professional ethics were strongly enounced but the compromises that archivists felt were necessary were also shown.

The third objective of this research was to establish what different stakeholders consider are the practical issues which surround openness and privacy. Although primarily discussed by the professionals in FG1 and interviews (especially Ints2, 3 and 6), the impacts were felt in both of the user focus groups.

6.2 Politics

At the highest level, public sector archives are subject to the whim of controlling governments, who ultimately decide whether they should exist and which records be kept, thus shaping history (see Banton, 2012b; Cobain, 2016; Harris, 2006; Findlay, 2013; and Jimmerson, 2009) This is particularly true of government records, both at national and local levels. Legislation, including privacy legislation such as data protection, can potentially mean that many records are destroyed or, one of the criticisms of FOI, not created at all ('empty archive syndrome' (Flinn and Jones, 2009b, p5)). Politics, and legislation created by politicians, also affects when records may be made available to the public. For example, data protection affords lifetime protection for individuals, FOI allows records to be made available (even if it is piecemeal and out of context (Dacre, 2009, p14), public records were made routinely available after 50 years in 1958, reduced to 30 years in 1967 and are now available after 20 years in England and 15 in Scotland (*Constitutional Reform and Governance Act 2010*). Indeed, legislation may even affect what history is studied. Flinn and Jones (2009a, p37) argue that the introduction of the 30 year rule 'triggered the serious study of contemporary history in the UK'. Similarly, Jimerson (2009, p188) suggests that history used to be about bureaucracy because that is what was kept in archives (see Section 5.3).

Archives are also subject to politics at a more local level. Restructures in local government boundaries may affect the physical location of records and result in splitting of collections across new archives. Changes in administration, be that the central ruling political party or local government, the chief executive of a council or even an individual archivist changing

employment and taking collections with them (as mentioned by FG1,A) will similarly impact. The legal framework and levels of funding also have considerable effect on archives. As Int2 pointed out “archivists are normally quite low down in the food chain” and have a “whole set of factors that are limiting what archivists can do” including “immediate bosses who are often not archivists and so struggle to understand the issues involved” and financial constraints. Currently many archives are subject to repeated budget cuts and are being encouraged to raise revenue (Darby, 2013). FG2 discussed this and also the need for balance rather than being “greedy” (FG2,H). Another possibility is to become part of a spun-out service or separate trust, and therefore transferring an ‘in-house service into a social enterprise, mutual, charitable trust, local authority trading company or a transfer to community management’ (Thomas et al., 2014, p2). Trusts are becoming increasingly common in Scotland and the implications for archives were discussed in Int6, and FG2. Unfortunately, the archivist from a spun-out service was unable to attend FG1, which limited discussion of this aspect.

The problem of justifying services by numbers of researchers was discussed by Ints1, 2 and 5. This reflects discussion in the literature e.g. Cook (2011b).

Influence of organisational structure

Frequent restructuring had a profound impact on the archivists and their services in FG1 as it made them confused, less confident and consequently more risk averse. All of the archivists in FG1 had worked in at least two different departments due to restructures (they had worked at their current archives for at least 10 years). FG1,A had worked at her archive for 14 years and said “I think this might be the 3rd or 4th directorate I’ve been in”. These restructures were to save money or for political reasons, including the requirement for all local authorities to have a Director of Children’s Services following the Every Child Matters report and the Children Act of 2004 (Harris, 2006, p5). When asked where their archive sat within the organisation the resulting confusion was evident: “I’m still, still slightly unsure who I work for!” (FG1,D) and “I’m just trying to figure out what it’s called!” (FG1,A). FG1,E explained she had been “through endless restructurings ... at one point we were with... adult social care and housing and so on”. It also made the archivists slightly nervous about their continued employment: “I feel slightly less umm secure just because you know that every university is always going to have a library!” (FG1,D). This was supported by Int2 who pointed out that archivists are “are often poorly paid, have job insecurity”. This is a recurring

theme amongst list-serv emails on Jisc-mail and articles in the Journal of the Society of Archivists (e.g. Clark, 1996 and Boyns,1999).

Another consequence of restructuring was that it becomes difficult to make relationships with colleagues or to know who has responsibility. FG1,B noted that at one time “most of the councils employed their own records managers ... then they were all gradually made redundant so ... at least there was a person that you knew that you could link with at some point.” At an extreme level, lack of relationships can lead to confusion and unprofessional conduct. FG1, A explained that “I think our um asylum records are just being dealt with through the standard Freedom of Information request, I don’t think our FOI team are contacting the Health Trust. Erm, but I don’t know for certain. But we’ve had so many trust changes that it’s a bit confusing trying to figure out who is the person responsible for it, so I’m not sure if they are making the decision within council rather than going through to the to the trust” she qualified this with “but I mean generally the decision is it’s not available anyway. They are very, very risk averse” . Restructuring has been recognised as a problem since the 1990s when Boyns (1999, p68) pointed out ‘[l]ocal government reorganisation, and particularly the reduction in size or abolition of certain county councils, is in some cases ending the close relationship between the repository and its local authority’. Similarly, Int6,G believed that creating or maintaining professional relationships for archives who are part of a trust or a spun-out service becomes even more difficult: “you can lose an overview, and so if you have... the archivist is here and the records manager is over there, ... there is a higher risk that you can lose that dialogue and understanding and trust. ... all of these soft, soft things which you need to have in place for a reasonable decision making process”. The need to create relationships with other professionals was a frequently recurring theme across this research. Likewise, FG1,B noted that “merging with museums I think takes [our archive] even further away from the councils but because we were responsible to [several] different councils... linking in with the records management functions was always quite... difficult”.

Where archives sit within an organisation, and depending on whether “your Local Authority end up thinking of you as information management or does it think of you as heritage?” (Int6,I) are important, and can leave archives “vulnerable” (Int6,G). FG1,C observed that “it’s kind of hard to argue the value of museums when you are around a table where the other people are overseeing care homes and care in the community for the elderly and things.” Mortimer (2002, p67) described this situation as ‘dangerous’ 14 years earlier; ‘no local government councillor will justify keeping a leisure facility open at the cost of a school’, and that it was safer to be in an accountability role, as the archivists in FG1 also suggested. Int6,G felt, in Scotland at least, “the local authority archivists who seem to have a stronger

and more confident voice are the ones which are not in a trust because they are more closely allied to you know the corporate governance within the local authorities". Int6,H, however, noted that it was not simply a case of being in an accountability role but being in the right department "at the right time". Whereas "10 or 15 years ago ...cultural heritage ...was ... the place to be where you'd maybe get more attention and get more money and bit more sexier but now, you know, if you're still in that position you're now in a dangerous position'. This raises the issue of whether short-term improved funding is better than a less well funded but safer positioning, a point observed by Collett-White (2013) at Bedford Record Office. Here 'a move to central administration may have seemed sensible in functional terms, in resource terms it was less successful; when the rest of the Arts and Recreation Department joined the libraries in the Leisure Department ... BRO became very much the poor relation when it came to funding capital projects' (Collett-White, 2013, p122).

FG1,D suspected that his archive's last restructure into a slightly more arms-length organisation was because they "partner quite a lot with the county record office so I think ..., it makes it easier for us to develop partnerships er in the region if we're sort of branded that way". Certainly, several university and local authority archives have become joint services, or housed in the same building over recent years e.g. Hull (opened 2010) and Lincoln. FG1,D did, however, "feel slightly less umm secure". An increasing number of archives and museums, have however, become part of spun out services or trusts (Thomas et al., 2014). FG2,H believed that this had been successful at Beamish, the North of England Open Air Museum, and was strongly in favour of archives taking this route as she believed it would offer better value for money. Her judgement, may however, have been affected by her husband's involvement with this museum. FG2,F queried how appropriate this was, and discussed it with H:

F: "if you're getting private people paying for archives, that are a public resource, will they then kind of put restrictions coz 'oh we own it, so we don't want such and such being used' and more stuff might get closed or- It's it's a difficult thing for archives to kind of-

H: they can't close it all together

F: No they can't

H: because it's a public right to have access

F: but they can make it a lot harder

The different stakeholders felt that records are primarily kept for different reasons. The archivists in FG1 emphasised the accountability roles of the archives, although still aware of the research interests and family historians. Ints2 and 5 (both university archivists) and the participants in FG3 highlighted research, whereas FG2, although acknowledging this in passing, were far more focused on archives as a leisure pursuit. Again, this may be down to age and background, especially as all participants in FG2 accessed archives as a hobby.

Impact of boundary changes and creation of new archives

Local government reorganisation and the re-drawing of county boundaries has had, and continues to have, a major impact on local authority archives. The *Local Government Act, 1972* created metropolitan counties and resulted in new archives being created and archives transferred. This continues to cause confusion as to where records are kept for users and also has longer term implications for where records are held (e.g. parish records for Gateshead are held at Durham County Record Office, those for Newcastle at Northumberland Record Office, microfilmed copies for both are held at Tyne and Wear Archive Service).

This confusion was highlighted by FG1,A: “well there was a set of boundary changes in '74 and a set of boundary changes in '96 for us.... between '74 and '96 we were one authority but there was also a university archive in the area and then there was another archive set up in '96”. Sometimes collections are split between these new repositories and other times they are kept by the original archive which may also create tensions. FG1,A highlighted how some schools “feel as well that because they are [urban borough] schools they're not [county council] ones, that why .. [does the county record office] have their records and we have to keep explaining local government boundary changes in the 1970s and it gets... complex...”. As FG1,E observed, “there are blurring of boundaries inevitably”. This makes archives even more complicated as Chapman (2010) bemoans, particularly for new users and leads to legacy issues (see Section 6.4.1)

The establishment of new university archives may also have consequences. FG1,A explained that the county archivist became the new university archivist and “got the big family and estate collections to travel with him to the university”. This highlights the influence of archivists' personalities.

FG1, A also noted that there is no standardisation between different successor councils for which she holds records for and needs to liaise with. “I'm often getting those calls from Information Governance officers in those councils whereas I don't have an equivalent within [county] there is not an Information Governance officer, there is a Data Protection Team, there is an FOI team, ... and there is no combined function there, they do keep them very separate”.

Ownership of records

As discussed in Sections 5.2.1 and 5.3.4, many records held in archives are not actually owned by the organisation, but held on long term loan. Other records, including court records, are public records which are held in PODs, after inspection by TNA. In addition, who actually owns the records may be different to perceived ownership, as was discussed in 5.2.3. Similarly, there may be a strong emotional attachment to certain records “this is my” (FG1,A) and “being refused it .. can be very difficult because it’s something that is very important to them” (FG1,C). Sometimes this is because individuals ‘need to make sense of a disrupted life’ (Etherton, 2006, p227), sometimes because “if you spend a lot of time researching individuals, they may be dead but I think people, particularly maybe with family history there is a strong sense ... of ownership” (FG1,A).

6.3 Management and professional concerns

Archives are in a unique position in that they combine several purposes (including a business role, accountability and leisure interest) and also have a variety of stakeholders. As FG1,A said “my customers aren’t exclusively the people who are in the research room asking the questions, my customers include the people who deposited the record, the people who are in the record, the people who are going to want to look at them in 50 years’ time!” Thus, archivists are aware that a variety of people have an interest in archives, but also that this might change over considerable time periods.

Records, particularly in a local authority context, are also not necessarily static - they can be semi-current and returned to departments or depositors - and are also subject to restructures due to boundary changes and political ideas. Different organisations have differing appetites for risk, levels of funding and remits, and focus of access (e.g. emphasis on digitisation or outreach). Similarly, relationships with other professionals and stakeholders also vary. All of these issues can have a profound impact on accessibility of archives, although users may be unaware which can increase tensions between users and archivists.

6.3.1 Risk appetite

Risk management, and corporate appetite for risk, was discussed particularly in the interviews but in all focus groups as well (see Figure 5). As Hodson (2004, p211) wrote '[b]oth institutions and archivists must determine acceptable risk levels for the possible legal fallout of violating someone's privacy rights'. Different archives will have different levels of risk which they are willing to accept: governmental archives will have a much lower tolerance, for example (Lomas, 2016). Int5 and Yaco (2006, p664) both observe that even different collections within an archive may have different levels of risk associated with them. Noticeably, the English national level archivists were the most concerned with risk. The archivist focus group, although slightly higher, is slightly distorted because it was by far the longest discussion and also FG1,A was particularly concerned with risk.

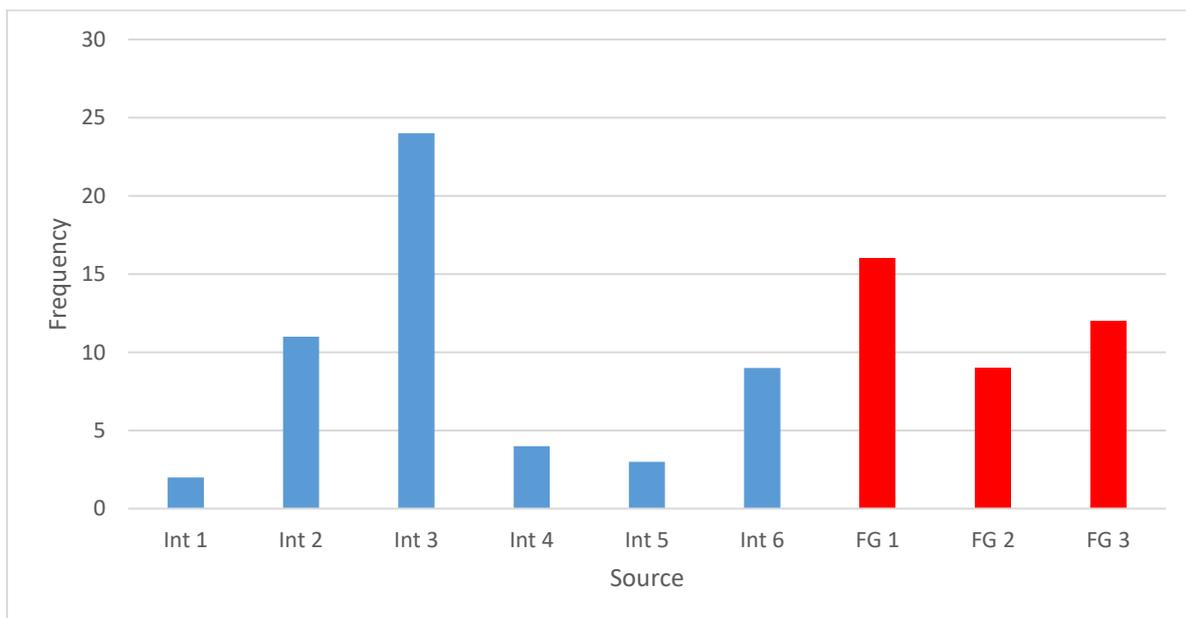


Figure 5. Frequency of coding of 'risk management' by source

FG1,A described her council as “very, very risk averse”, partly due to being subject to ICO judgements and legal proceedings recently. This risk averse stance impacted considerably on access at her archive including a 100 year closure period on log books which “is unusually long” (FG1,B) but A explained that was her “legal department’s interpretation” of the Powys ICO decision (ICO 2011, Decision Notice FS50314844). FG1,A’s council had also removed academic declaration forms, the only one of the archives represented at FG1 to do so, although Int3 had said that Privileged Access was no longer available at his national level archive. Unsurprisingly, perhaps, FG1,A referred to consulting her “legal team”

far more than any other focus group participant (13 times). Clearly, this risk averse stance was the cause of some of the variation seen between archives (see below). FG1,A suggested that because “we don’t necessarily have the capacity to ... do a massive retrospective process, although looking at data protection on them we take a risk averse decision to make them because it’s easier to make them quite inaccessible”.

Int3,A believed that if “working within a public authority context or you’re working in a professional job” then archivists consider risk and “can I release this material? Whereas the community archive will bung stuff up online”. The results from FG2, which included at least three members of community archives, strongly suggested the opposite; as a group they were very concerned about copyright in particular. Although these participants were perhaps more interested in privacy than some community archives, as shown by their participation in this focus group, this may be another misconception and unfair denigration (Int5). Certainly FG2,G mentioned a book which had been written on a local village to raise funds for her community archive, and she needed to establish the copyright for each photograph before she published it because the author had just used photographs “he’s got from the web”.

Some risk averse behaviour may be due to a lack of understanding. This was implied by both user focus groups, where participants said “the chances are they’ve got longer closure periods on them just to be safe” (FG3,M) and “basically people can’t be bothered to read the full judgement and come up with a reasonable decision, they just default to ‘no’” (FG2,I). This idea that limited understanding resulted in knee jerk reactions was also shown in the Interviews. Int2, for example, said archivists “disguise their ignorance” of copyright law and digitisation by not putting records online, emphasising that it is “because of a lack of staff time and it’s because of lack of knowledge”. Int6 believed that a lack of confidence rather than knowledge held some archivists back. Farley and Willey (2015, p666) note the necessity of archivists being ‘familiar with access laws so that they can make knowledgeable assessments of risk’ and the impact of ‘changing interpretation of laws by the courts makes it important to keep up-to-date on restricted records procedures by following archival and library publications’, although of course this has time implications.

Lack of time also leads to risk averse decisions. Int2, pointed out that the “best way” of getting work done was to “avoid risk. Most archives are in crisis so are you really going to risk a blow up with the Chief Executive of the company or whatever the head of your organisation is, when you could spend 95 per cent of your time cataloguing, dealing with some enquiries, dealing with the public? That’s the reality of it”. This lack of time was a

strong theme throughout the research. In addition, as Ints2 and 3 pointed out, “where is the public harm” (Int3,B) in erring on the side of closure, suggesting it would be safer to keep records closed and open them if challenged rather than risk data breaches. Int3,B also emphasised that “risk management is quite a useful strategic approach” as it makes professionals “actually think more systematically about what they are doing and why they are doing it”.

Int6 made the point that taking custody of records does not mean they must be open, although this “become a hard-sell- why are we giving shelf space to these things that are you know shut for 100 years, why are we taking on all this corporate risk?” Thus, if records are held in safe custody by an archive, they may be found and used, potentially causing long term problems (Cobain 2016).

Negative publicity and fines are serious issues for many archives. Int4,C believed “people are cautious because if any average Local Authority archive got hit with a £100,000 fine by the Information Commissioner that would be devastating”. Similarly, Int3,B emphasised that:

“the stuff that gets in the paper about information access is about data breaches, inadvertent breaches, security breaches. It’s not ‘oh isn’t it marvellous that this person has got this data set that they can use to do xyz’ so that makes the authorities very risk averse and I think the archivists within the authorities who are generally not at senior level or at an influencing level they are much more at an operational level, are very risk averse. And what are they going to get? A complaining requester? You know, so that is better than being all over the local paper”.

This, however, actually happened to FG1, A when they refused an FOI request and the requester went through all possible complaints procedures. FG1,A said that it “upset the council who were getting unhappy letters from MPs”, although the ICO ruled that the archive had acted appropriately as they could not provide the information requested.

Technology, and the ease of distribution of copies, may also contribute to a risk averse stance (see Section 5.2.1). Int3,B believed that difficulties in “policing the boundaries” resulted in a more risk averse stance. Likewise, Richmond (2014, p30) said ‘we just did not want the material to go out of our control, be held somewhere else, where somebody at some point could just flick a switch and suddenly material would be all over the internet’. The more catalogues which are “exposed to search engines... the higher the risk is for the archive”, and although archives want their catalogues and indexes to be “picked up more easily for research, being on line” it also means that “somebody might pick up goodness knows what from your catalogue, cross refer it with something else and turn up on somebody’s doorstep” (Int6,H). This problem is also recognised in literature; Yaco (2010,

p664) writes that the internet 'amplifies the problem of disclosure' and that different collections may need different levels of redaction. Similarly, FG3,M and N discussed the differing levels of redaction in digitised records which they had used, and had ultimately rendered them far less useful, to the extent that FG3,M now needed to use non-redacted copies for her research.

6.3.2 Funding

Poor funding and cuts have long been an issue in archives (Clark, 1996; Jefferis, 1996), a point which Int1 also made. Arguably these have been exacerbated by FOI and Subject Access Requests, and FG1 talked about the financial impact of these (also see literature review). FG1,E spoke of a "very nasty Subject Access Request we can't charge them more than the statutory tenner, for something that will potentially take ooh I shudder to think how many hours of my time, you know several weeks". FG1,C mentioned that records at her archive which were requested under FOI were not subject to the research service fee of £32 per hour. Interestingly, this method was attempted in the ICO - Woodhorn judgement, but the ICO ruled against the researcher (Information Commissioner's Office, 2010, DN FS S0287660). Again, this shows variation and lack of knowledge; although all of the archivists in FG1 were working in the North of England, none had heard about this judgement of a local archive – as FG1,F commented "they kept that one quiet".

Int2 emphasised that "the key problem" is that "the sector doesn't have enough money", and therefore needs to raise money. Archivists are also "often poorly paid" and have "job insecurity" (Int2), again, points which have been made for decades (see Clark, 1996). The decreasing footfall to local authority archives is common knowledge, and was discussed in Int1 and Int2. This has resulted in decreased opening hours in many archives e.g. Shropshire Archives reduced their opening hours in 2016, although by substantially less than had been proposed (Shropshire Council, 2016). As Int5 pointed out, as "the county archives who are digitising a lot of their very popular parish material" means their users no longer need to physically visit archives. Indeed, this phenomenon is well enough recognised that users are also commenting (Chiddicks, 2017). Poor funding and the need to generate income may also result in "a whole vicious circle thing" where "county archives" digitise "their very popular parish material... [which] led to those services declining in terms of user need because they don't need to visit them anymore" and "vast amounts of non-name rich data is

never truly up for digitisation because the audiences won't use it because they can stay on line" (Int5). Similarly it also leads to users becoming confused between catalogue descriptions and digitised copies, and users assuming they must have the correct person as it is the only one listed (as discussed by FG2).

Conversely, as Int2 explained, digitisation also means that "people are aware of what you have" and as his archive "is totally unique and is not amenable to digitisation by one of the companies like Ancestry that just wants data, ... people have to come here. Or they look at digitised copies and ... their interest is ... excited... So specialist repositories, charity archives, organisations of professional associations it tends to be the other way". This shows how digitisation has affected archives both positively and negatively, and demonstrated the need to think creatively about how to best to capitalise on opportunities, whilst protecting archives.

Another consequence of poor funding is the regular restructuring of organisations ("they keep trying to cut the number of directors as well which I think is really the issue", FG1,A), and the creation of spun out services and trusts. Although the users in FG2 accepted that "most people who do research understand that it has to be funded coz if it's not funded then we can't get access" (FG2,G), revenue generation can lead to accusations of "being greedy" (FG2,H). Variations in fees were particularly unpopular in FG2, although FG3,L was also upset by them being prohibitively expensive. Paid research services are common, but vary considerably in cost between archives (Darby, 2013) FG1,A said her archive's view was that "an enquiry which we can answer without getting a record out we will answer for free, an enquiry where we have to get records out and search through then you pay for it." FG1,C justified the cost of research services as "that is quite a lot of time to get it out, scan it... redact what needs redacting". Possibly, it is because the users do not understand the amount of work required that they consider them greedy.

On a more micro level, poor funding means that archivists have to prioritise what they will catalogue first, particularly with regard to decaying media for example (Int2). It may also impact on the amount of time and level of detail that archivists can spend processing collections (Hodson, 2004). This may in turn affect the level of detail in catalogues; whether they are catalogued to item, file or box level, or whether the archivist has read all of the letters in a box, for example (Stobo et al., 2013, p21). Similarly, it will affect opening times and timed document collections (Moran and Taylor, 2003, p63). These upset FG3 ("we don't have time for that! Give me a box and leave me alone for the day!", FG3,N) and also Mortimer (2002, p61). It may even affect which collections are accepted, as archives have limited resources of space and time (Jimerson, 2009, p221). This was suggested in my

research where archivists felt they must justify accepting records with long closure periods attached (see Section 5.3.1), particularly when spending tax-payers money.

An interesting point was raised by the university archivist in FG1 who said to the local authority archivists “you’re part of the statutory requirement as well which is your final card you can usually play, right?” Although, as the groups explained “councils are having to choose which of their statutory requirements they want to fulfil! I don’t think anyone’s safe!” (FG1,C) and the group discussed different archives reduction in council funding or being cut altogether. Indeed, funding has been reduced by more than 40 per cent since 2010 in some council departments, including ‘culture and related services’ (Amin Smith et al., 2016, p1). Similarly, Int3 discussed how inspections for Places Of Deposit would not necessarily mean records were removed, and some would quite like them taken away:

Int3,A: “Their problem is not with TNA, their problem was with their funders and that they could use TNA’s recommendations to try and get more funding.... but if their funders didn’t want to give them money in order to make, to make good what TNA’s recommendations were, TNA weren’t going to take the public records off them”.

Int5 also suggested that “the H[igher] E[ducation] sector with its huge research budget could perhaps start to help advocate that under which part of its public engagement, part of its impact, they could help free up records for another community as well”.

6.3.3 Different archives

Archives are created for different purposes by different organisations. Although they are traditionally viewed as collections of records created in the course of function and activities of organisations and/ or personal lives (Yeo, 2017, p ix), this somewhat belittles the relevance of the organisation, and the way it is funded. As already stated, governmental archives have a far lower level of tolerance for sensitivity (Lomas, 2016), and this is particularly true at a national level. Int1 pointed out the political environment is such that they cannot “embarrass ministers” by making mistakes and this leads to a far greater level of scrutiny. Int4,D likened it to “needles in hay stacks.... The expectation in a central government department is that that information will be gone through and those needles will be identified and the rest of it made available”. Similarly, business, religious and private archives are not necessarily open to the public (and may have different terms attached), whereas university and local authority typically are (Int2). Even when records have been deposited at public archives “there are lots of estates that have deposited material with

different terms and conditions. Sometimes you have to provide a letter or credentials that you are a bona fide researcher like the B[ritish] L[ibrary] collections for example. Other times they are ... listed and you've just got instant access" (Int5). The users' understanding of this, particularly in FG2, was very low. Although they acknowledged that "county record offices, we all own them at the end of the day" (FG2,K), they did not appreciate the reasons for varying access to other archives was due to how they are funded and who owns them. In addition, community archives may allow access differentially or not at all (see Section 2.3.3).

As Int3,A pointed out, however, "you've not got all local authorities in the universe behaving in one way, and all national archives behaving in another. You've got that but all these archives are behaving differently". Int6,G expanded this point, which is relevant to both Scottish and English archives:

"on the face of it Local Authorities all do the same thing, but in practice they all do very different things in very different ways. And some of that is erm [pause] is for very particular, you know local policy reasons, some of it is sort of territorial reasons, some of it is because it always has been, some of it might be there are particular, any number of local tensions. None of these things are particularly legally based, they maybe not even particularly logical".

The reasons for this variation are shown throughout this chapter- funding level, risk appetite, where the archive sits within the organisation, political atmosphere, and also personality of the archivists.

Overall, however, the findings suggested that generally universities are considerably better funded (Ints5 and 6, FG1) and also have a more open ethos (Int2) than local authority archives. Int2 attributed this to "because you are putting, collecting things mainly for research and because you're a public organisation... most of our stuff is open". This idea that primarily collecting for research is an interesting difference between local authority and university archives. Although both collect administrative records from their organisation and accept other collections, the universities typically have specialist collections focusing on different research interests (e.g. military, feminist, literary or colonial) rather than a specific geographical area. This may also impact on how the archives view more difficult collections with conditions attached. All the university archivists who participated in this research had chosen to recommend alternative archives for collections, unless there were "a very strong reason" to take the collection (Int2). As Int2 said "the important thing is that the stuff goes to an appropriate home. That it doesn't get destroyed and ... it ends up, usually in a public archive, that you know its future is going to be reasonably secure." (Int2). This contrasted with the views from the LA archivists in FG1 and Int6, all of whom were far more willing to take records in and close them. As FG1,C pointed out "it's not as if there's no gain ... you're

protecting this collection from what otherwise might happen to it". Although university and LA archives are all publicly funded, perhaps the driving ethos behind them, research versus accountability and public service, is more important than is apparent at first.

6.3.4 Training and professional ethics

Archivists, particularly those who work in local authority and university archives, are now usually qualified professionals, although para professional support staff are also employed. The first 'structured university programmes' in England began in 1947, although the course content has changed considerably as the archive profession has changed (Shepherd, 2004, p210). This has impacted on the profession as best practice and training. FG1,D pointed out "I mean obviously we are professionals and we try to follow the best guidance". Continuing professional development, and support by ARA, TNA and regional archive groups were shown in the archivist focus group and Int6. Similarly, the archivists mentioned seeking advice from their peers, a practice noted by Duff and Fox (2006, p141); 'consulting colleagues appears to extend beyond the initial training phase and continue on into the archivists' professional careers'.

There was some discussion about who should take the lead: FG1 felt strongly that TNA should, although the interviews did not mention this at all. Indeed, part of the defence by Woodhorn (Northumberland Archive's Service) against its ICO judgement was that they also looked to TNA for support (Information Commissioner's Office, 2010, DN FS S0287660). The archivists in FG1 and Int6 also talked about having confidence in their decisions and support from management. This is particularly notable because the interviews were with senior and national level archivists and educators, whilst FG1 were practicing archivists, and only one of whom was of a senior level. Clearly there is a divergence of opinion between practitioners and leaders.

The need for training or information when new laws were introduced was discussed in FG1 in connection with the *Sexual Offences Act, 2000* and the amendment in the *Sexual Offences Act, 2003* which only two archivists were aware of. The group discussed how it affected magistrate court records and as A said "we need wa-ay clearer guidance on this". Similarly, the group discussed how "how you manage people accessing material which they will find difficult and distressing in the research room... it's really hard to do that in a space which is full of people having a lovely time finding their family history erm and you have this

person in tears in the corner of the room” (FG1,A). This was clearly shown as FG2,H had “burst into tears” in the searchroom and the archive staff “ took me into a separate room because I was distressed”. In December 2017, ARA launched a series of support guides aimed at helping archivists who ‘find themselves dealing with emotionally-troubling or challenging situations’ (ARA, 2017).

Whether the user focus groups were aware of the professionalism of archives was less clear. They made less distinction between different archives (some of the archives discussed were likely run by non-archivally qualified archivists as they were “tiny” (FG3,N) and “kind of a specialised archive” (FG2,K)). The users also found some of the archival ethics around copyright confusing: FG3,H was upset by an archivist drawing a line through a photograph as they were unable to contact the copyright holder) and FG3,N was evidently confused by the archivist who said he needed to “email all these families if you wanted to reproduce this image which would be legal to in whatever sense but ... it’d be incredibly wrong if someone opened my thesis and they saw a photograph of I dunno their great great uncle or something ... but I just I just found that absolutely bizarre to have to think about in a way, because it has been donated to the public archive”. Possibly boundaries were blurred by trust and relationships, perhaps, however, the users simply do not need to understand these ethics.

Codes of ethics are also couched in deliberately vague terms, to allow them to be applied as broadly as possible (see literature review). Although the updated ARA 2018 Code of Ethics has been dramatically improved and is now a professionally written document (ARA, 2018).

6.3.5 Taking responsibility or avoiding situations

There was perhaps a divergence between how the interviews and FG1 viewed archivist’s lack of knowledge and avoidance of difficult situations. The interviews (with the exception of Int6) implied that a generally lower level of knowledge was held at practitioner level than was evidenced in the archivist focus group. Indeed, the experts took a prosaic approach emphasising “where is the public harm in all of this?” (Int3,B) and “what is the problem with closed records (Int2). Int5 observed that “it’s easier to find advice or turn a blind eye to it when you’re looking at certain activities such as with digitisation”, suggesting that archivists ask for advice ad hoc rather than systematically think options through. This was also noticed in FG2 too: “as long as possible so we don’t have any extra work to do!” and “so rather than reading what he really said in his judgment, they’ve just said Oh! A hundred years!” (FG2,I).

Similarly, the user focus groups suggested that archivists hid their ignorance or laziness by refusing access (this was particularly true of 100 year closure periods “I think that’s often just a throw away statement to get you to go away” FG2,I).

FG1,D made this point explicit: “is the effect of the uncertainty or the controversial nature of some of these records that you won’t suggest these avenues of enquiry to people? You’ll wait for an explicit request for access to come? Erm coz I quite sympathise with that approach but um what I imagine what we all usually do with let’s say 17th, 16th century whatever, enquiries have you tried this series, have you tried that series? And I don’t imagine we do that for these, for these records?”. Overall, FG1 gave perhaps slightly more idealised answers than were actual reality. They did, however, all agree that they would welcome more support (particularly from TNA) and the knowledge that that they were making the correct decisions. Indeed, FG1,D said that “if we had that confidence... we’d probably be a lot more forthcoming with what records we hold so that people may start requesting juvenile court records because they might know they existed”. This idea of confidence was also evidenced in Int6. Int6,G pointed out that “amongst archivists it is not necessarily having the understanding, that might sometimes be the case, but its more about the confidence to apply”. This confidence could be increased with support and understanding of senior management (which FG1 mentioned repeatedly) as well as other colleagues. Similarly, the desirability of a relationship with colleagues in social services, was mentioned several times by FG1 and also in Int6.

6.3.6 Semi-current records

Archives are increasingly, perhaps, being used to correct past injustices. There have been several recent inquiries which have impacted on English archives, including the Iraq inquiry, Hillsborough and the ongoing IICSA (Committee of Privy Councillors, 2016; Hillsborough Independent Panel, 2012; and IICSA, n.d.). At their best, the ‘effects of the recent spate of public enquiries into child abuse within social services in promoting awareness and of improvements in record-keeping’ includes ‘the development of a stable pattern of depositing behaviour’ (Whitman et al., 2001, p264). The interviews and FG1 suggested, however, that this is not yet generally occurring, although the new *Public Records (Scotland) Act, 2011* may have an impact in the future.

To ensure they received deposits, one archive appeared to operate almost as a records management facility. FG1,E had previously worked at a Scottish archive which “had a fairly active collecting policy in the past, they had a lot of records from schools ... which were still open. And an active policy of returning ... log books to schools for use in class.” This highlights a point which Pickford (1999, p171) made: ‘we often provide elements of a records management service for our clients, for free, in the interests of securing their archives’ and that ‘we need to take a firmer line in distinguishing between archival responsibilities and records management’. This has been a traditional problem with archives, particularly with family and estate collections on long-term loan rather than gifted, so they may be transferred in lieu of inheritance tax at a later date. The Londonderry Estates at Durham County Record Office had been held at the office on long term loan since the 1960s but ownership only transferred in 2016 after being accepted as part of the scheme in 2014/2015 (Arts Council England, 2017, p88).

Depositors may request the return of records in order to consult or amend them and then return them (rather than consulting in the searchroom as normal users). FG1,A explained that “we have lots of vicars who want to take [records] away and do things in their parish and we then have to explain to them why they do need to make sure [they]...bring them back in”. Unfortunately, records do not necessarily come back: FG1,A also mentioned “a whole set of records associated with a reformatory school which the depositor asked to withdraw for two weeks to make copies of, that was five years ago and we haven’t seen them back” . This is, unfortunately, demonstrated repeatedly in the literature, particularly when records are not returned (Cobain, 2016). Similarly, even local newspapers report that records may be borrowed and not returned, such as the Scottish newspaper the Herald and its article about files being ‘borrowed’ on the Lockerbie and Dunblane incidents (Hutcheon 2018). Records may also be requested by the police or legal teams within a council or organisation. A successor council to FG1,A requested records after “an allegation of abuse made and a court case against them for civil damages.... And our council was saying, well just send them the stuff. Well I’m not, because that’s thousands of children’s information because it’s one line in this record and one line in [that]”.

The legal status of deposits was raised several times (many are long-term loans), and the importance of involving the depositor and maintaining a good relationship with the family. See Sections 5.3.1 and 5.3.4.

Changing temporalities are also important. Some archival records could now be considered semi-current. Flynn (2001) pointed out that BBC artist contracts were now used more

frequently as programmes were repeated that they were 'retransferred to the records centre where they could more easily be administered'.

6.4 Records

6.4.1 Legacy records

Legacy records are records which have already been deposited in the archive and may have been catalogued a considerable time ago. This can cause problems when legislation changes. Int1, for example pointed out that homosexuality and infanticide were once crimes and catalogued as part of the court records, potentially with names. As legislation has changed, these records should now be recatalogued. Similarly, decisions may be made which archives are no "longer confident about" (FG1,A), "especially if ... there was depositor influence" (FG1,E). Depositors may request specific closure periods which "might have been reasonable 20 years ago but... might be quite difficult to justify now" in view of changing legislation (FG1,E). Int5 also said that "you have historic D[eposit] A[greements]s that restrict access based on either current practice or the whim of the donor which is vastly different from what modern practice would be" and gave an example of a family estate collection in a county archive in the North of England which still requires family permission to view the records. See Section 5.3.4.

From a practical point of view the archivists in FG1 believed that it is "easier [to decide on a closure period] if you are dealing with something that has just come in... because you need to skim the log book for the admin history most of the time", which gave a feel for the content of the record (FG1,E). This was also pointed out by the Chief Archivists in County Archives Group (CAALG), a section of the ARA, in relation to closing Catholic registers for a longer term period 'It is usually far easier to impose this sort of restriction at the time of receiving the records rather than retrospectively' (CAALG, n.d.) . FG1,D observed "that if you're cataloguing into a series, then you'll adopt the closure period that has been applied to that in the past", although he also admitted "we would probably do well with reviewing" these decisions as they may no longer be appropriate. Again, this is down to time "we just don't necessarily have the ability to sit there and go through them for all' (FG1,A). Some archives, however, had a retrospective screening programme with take down procedures, including Int5's archive. This, Int5 suggested was because "the implications of DPA are probably

known but the practical effects are much harder to deal with and quite often that's ignored or at least it's easier to find advice or turn a blind eye to it when you're looking at certain activities such as with digitisation", he also pointed out that this was also for physical records and "I think a lot of archives will find themselves in a similar position".

FG1,A emphasised the importance of discovering legacy decisions as she admitted that she had "a duplicate set of committee minutes on our research room shelves and I have to admit that I'd never really bothered to go through them and all of a sudden I started going through the Children's Committee ones and the names!... Of the parents too! 1950s, 1960s". This is unique to LA archives which are much more open than governmental archives. Indeed, as part of *The Local Government (Access to information) Act, 1985* it is a requirement to have agendas and associated reports and minutes on display at council offices (or now many are online) for 6 years (*Local Government (Access to information) Act 1985*, section 100). Many, presumably, remain on display for far longer.

Inconsistencies in cataloguing are highlighted by legacy files, particularly where dates or names are included in some catalogues and not others. FG1,C and E said that they now try to include "birth dates where known so then we know when we can make it available" (FG1,E). Other projects may include cataloguing with more detail e.g. FG1,B decided to add names to "police files" when they were re-catalogued onto CALM as previously they were considered confidential. This was also demonstrated in a thread of tweets started by @MandaHill (10 Jan 2018): '[a] lot of our archives metadata is from the 1960s. I take great pleasure in finding out the real names of all the women only identified by their husbands' and updating the descriptions'. However, as Int6 pointed out, some records may conversely be catalogued in too great detail (leading to privacy implications) and this needs to be rectified.

Archives may be placed online (either as catalogues or digitised copies) and can be difficult to remove after rule changes. FG3 discussed catholic parish registers which were available online, but after the ruling by the Catholic Bishops were taken down (although the group were not aware of this). Similarly, the Scottish interviewees in Int6 mentioned photocopies which had been made from court records which were later closed "people have got scanners at home and they can scan things and put them on the internet, couldn't they? And that's what happens, so we have things in the archive which were closed but somebody had scanned something they got years ago and put it on the internet so anybody could see it" (Int6,H). The idea that digital images, including those scanned by the archive or from previous photocopies, resulted in a "total loss of control" (Int6,G) was shared by all of the archivists in FG1 too: "how do you, realistically, in the modern age prevent them from

disseminating that further?” (FG1,E) CAALG (n.d.) similarly point out that ‘many of these records have been in the public domain for a considerable amount of time and we do not necessarily have control over the microfilms, digitised versions, copies and transcriptions which have been made’. Gaudette (2003, p25) suggests that access implies dissemination, and once access is given, it can be assumed that dissemination will take place in one form or another. ‘Indeed, it is almost impossible to control, the literary rights notwithstanding’. Also Int6,H said “maybe you know in 20 years is that things that flip from one to the other but there are some consequences that are lurking out there that might not hit you for another 5 years”, which clearly worries many archivists. Int4,D was also aware and noted that legacy collections “released 10 or 15 years ago...maybe no longer appropriate having it on full open access” (see Section 5.2 on Access).

The impact of change in status in archives not only affects legal compliance but also can upset and confuse users. For example, FG1,A said “That’s a really horrible thing to explain to customers. But I’ve seen this on the internet! Ermm!”. Again, the need to explain this clearly to users is necessary to avoid accusations of control (see Sections 5.3 and 5.4).

6.4.2 Record survival

The survival of archives can appear quite serendipitous (Kenneth Lindblom quoted in Ostergaard, 2010, p251). Record survival depends on a number of factors, including both deliberate and non-deliberate acts. Professional management of archives including sampling and appraising, records management and collecting policies have a profound impact on record retention e.g. fewer than five per cent of government records are sent to TNA (Flinn and Jones, 2009a, p38). Similarly, other records may be either not created or not deposited, either because of ignorance or deliberate destruction. Researchers may not realise that such a large percentage is destroyed (Flinn and Jones, 2009a), therefore impacting on the complete record they expect or become upset when they realise that the records are no longer there. This was demonstrated by FG2,H, who was unable to find burial records (see Section 5.4). Records series or content may also change over the years (see Sections 5.3 and 5.4). Users may also assume that records exist which were never created, or not in the same format that exists now.

The users in the focus groups were aware that some records were destroyed, although FG2,I and K assumed it was accidental and due to a lack of knowledge. FG2,I said “some

people know to keep things and some people don't... there was an awful lot of stuff that when offices changed hands got binned, and it should have been retained". Similarly, FG2,K had worked for a county council when there was series of school closures in the 1970s and 1980s and the schools had to send "their last petty cash records [in and], I have seen one log book and one punishment book and the conclusion I came to was they just didn't know what else to do with it and then the next thought after that was how many of the other schools that have closed have either binned it or somebody has taken it home".

Records may also be destroyed in line with records management schedules. Int4,C pointed out that many records are destroyed according to records management schedules. Similarly, FG1,A described a user who was trying to access her care file and said "well they didn't think I was worth anything and you've just told me you didn't think it was worth keeping a file of paper on me. How do you ever make a a decision about sampling ever again?" As Int2 pointed out "sampling in archives has a long history with pros and cons", although Fowler (2017, p21) suggests it has 'managed to alienate almost all user-groups' as academics may need bigger samples than commonly taken and others need individual names.

At other times records may simply not be deposited. FG2,I said about school records "whether that's actually gone to archive or whether the stuff actually got as far as the education central store as it were. Stuff will be random everywhere". This was also shown in the Shaw report (2007), which emphasised the 'chaotic' nature of much of the records surviving for Scottish care homes. The report points out that '[r]ecords were scattered across organisations, archives and even countries. Some records are now being examined; others sit in boxes on shelves with little or no hint of what they contain; others were destroyed' (Shaw, 2007, Part 2). FG1 were very aware that records were not being transferred or deposited and this was particularly seen as a problem with health, police and social care records ("we're not getting those at all... They are not depositing new material" (FG1,A about police records). This was also shown by the Hillsborough report (2012, s3.28) which noted that 'only approximately one-third of police forces had archiving policies. Most indicated that contact with a local record office or archive was rare'. Similarly, Int6 discussed "social work records and how the archivists, records managers can't get anywhere near them because social workers won't let them" (Int6,H). Although this was seen partly as due to a lack of a good relationship between social workers and archivists, "there is this issue of social workers being unenthusiastic about sharing their records or they just disappear after 5 years or whatever" (Int6,I). Records may also be held in local studies libraries rather than archives. Although these may be 'copy' archives, which are generally extra sources useful for family

historians (Boyns, 1999) they may be originals and as FG1,A said to E “you’ll have to start negotiating for them”.

Patchy record survival can be difficult to explain to researchers, who may find this frustrating, particularly when the information is available in closed records. FG1,A gave an example of a user who wanted to find out who was in his class and “for this school I can’t tell them, because there is only an admission register, but had they ...gone to the school the other end of the street there would have been a class photograph”. Unless explained very clearly this may result in suspicion and allegations of controlling access. Similarly, some evidence just does not exist: FG1,D observed that “the ones that drive people mad are where there are property where no one really knows who who owns something and they’re desperate to try and prove it”. Some lives, particularly those of the most vulnerable, may be ‘poorly documented’ or even ‘totally absent’ in the records, as was shown in the War Child records of Norway where records simply do not exist (Valderhaug, 2011, p20). Many emotive things are held in archives (Etherton, 2006) and FG1 also picked up on the emotional response to archives. This may impact on the level of trust of archives, as was clearly shown by FG2,H.

FG3,O was aware that much of the politically sensitive records he was interested in from the 20th century had “gone” and was either held privately or destroyed. O recounted how “a chap came to me and said that he had the records of the Troops Out Movement in Newcastle in the 1970s, said it was all in some suitcase, but I said to him you must go to ... Tyne and Wear Archives and hand it over. And they’d put an embargo on it so nobody can see it... yes it is a shame. Because that’s what has happened to this other material as well, it’s just gone”. This concern has led to the creation of community archives (Fowler, 2017, p19; Jimmerson, 2009), although these may be relatively short lived due to problems of funding and staffing over longer terms, for example the women’s archive has moved from London to Glasgow after funding cuts. As Findlay (2013, p16) points out the ‘skewing of the historical record in favour of Governments [is], simply by virtue of their establishment by statute, longevity and assumed continued resourcing’. In addition, official records are kept by those in charge and they chose which records to keep (Valderhaug, 2011). This point has also been suggested concerning the ‘hostile environment’ of the current government towards immigrants and the 2010 destruction of the disembarkation cards from West Indian migrants (Grierson, 2018).

How records arrive at archives may impact on their survival. Although some are routinely transferred from depositing departments as a matter of course (particularly as governmental or business functions), many arrive under far less than ideal conditions. Int2 described how

“we have to go around the country looking at archives. We get a call and we go in” and “you have a vast warehouse full of records and you have to deal with them and appraise them very very quickly and you have to make certain quite snap judgements”. Similarly, Cook (2011a, p609) quoting Lamb pointed out that ‘some archivist may have to make up his mind in a hurry and act quickly in order to secure and preserve them’. Also, as D,FG1, pointed out, “the alternative is it disappears”. Stanley (2016, p64) adds that ‘[m]ost of everything that happened in everyday life is forgotten or lost because never recorded; some people are just too busy getting on with it’ or traces remain elsewhere and these traces can be misleading.

There may also be misunderstandings about what records were created. For example, FG2,K was researching German children who visited “in 1949 as a kind of respite holidays ...there must have been some involvement, the county council somewhere will have had some kind ... I mean ideally I’d love to have a list of you know the names of the children because it’s not turning up anywhere else”. This assumes the Council had a role, however, it could have been entirely organised by a charity with no need for council involvement. This is also shown in literature too, for example users assume that the same records were created in the past as now, although the Nuremburg Trials focused on the macro level of the Nazis regime’s crimes rather than on the micro of its victims (Fowler, 2017, p45).

6.4.3 Cataloguing

Cataloguing may choose to emphasise different aspects of the catalogue, which can lead to accusations of control (see Section 5.3). The decision whether to catalogue at item, file or box level, and also which parts to emphasise may also lead to discovery or otherwise. Similarly, uncatalogued records will impact on users being able to find records, particularly if the archivist is too busy or “they don’t want to go and help me look” (FG3, N). Also, as Eveleigh (2015, p62) points out ‘most archive organisations struggle with significant cataloguing backlogs’, due to funding.

FG2,H mentioned how she could not find a particular record when a card index was replaced by an online catalogue: “obviously somebody didn’t deem that important enough to put into the new system or what not but I found it really difficult to find things that I had found in the past”. Pugh and Power (2015, p100), believe that the ‘challenge of users finding what they want is further complicated by the range of different systems available in any one archive, let alone across archives, that users have to learn, remember and apply in the right context’.

Duff and Johnson (2003, p92) explain that '[m]ost archival systems have been developed to meet the needs of archivists and historians' and that the 'format and content of finding aids have not changed significantly in the last fifty years though the types of users wanting access to archival records have changed dramatically during this time'. Indeed, Darby and Clough (2013, p74) suggest that family historians offer 'a little-investigated, potentially unique, mode of information behaviour', in the UK at least.

Eveleigh (2015, p62) notes that catalogues are restrained and 'in order to be useful for every kind of research, had to serve none in particular'. Int2 discussed innovative cataloguing techniques, although also that this required funding and "vision". On a most basic level, the users in the focus groups also suggested that adding if records were closed to catalogue entries would be helpful. Clearly this links with transparency.

Discoverability has increased since the creation of the internet, and as Int6 pointed out, this is a mixed blessing. As "more catalogues are exposed to search engines ... the higher the risk is for the archive, and that's what the archive wants to do to make a catalogue- we want to expose the catalogues to search engines so that things can be picked up more easily for research but the counter to that is somebody might pick up goodness knows what from your catalogue, cross refer it with something else and turn up on somebody's doorstep" (Int6,H). Similarly Yaco (2010, p664) believes making collections available on the Internet 'amplifies the problem of disclosure'. Arguably, however, if records have been catalogued correctly in line with legal and organisational policies, disclosure should not be considered a problem. In reality, however, mistakes happen. Several archivists in FG1 and Int6 mentioned cases of human error, for example "some of my colleagues didn't have a very... clear understanding of which fields were visible to the public and which weren't" (FG1,E).

Murphy (n.d.), suggests that even finding aids are now potentially sensitive: a finding aid may list names of members in 'a "radical" political organization' which may cause personal embarrassment but could also 'put their life in danger'. FG2,K also mentioned this: "we produce indexes as you know for family history research and we share them with everybody and everybody who cares to look at that index?". This was acknowledged in FG1 and FG1,C mentioned that some indexes are "restricted to staff", including asylum records, "service files of policemen... social care files".

How to catalogue sensitive records is another interesting point. As FG1, A asked, "how do you phrase that? Because you don't want to make it sound like the record is disturbing but really exciting so I want to come and look at the gory stuff!". Achieving a balance, was accepted as necessary. Similarly, these records still need to be found, possibly by use of a

key words (or a thesaurus). This is particularly relevant, as both FG1 and FG2 pointed out, as language changes over time. However, as Rawson (2017) asks, ‘how do we resist and transform normative archival description practices without recreating newer but still equally damaging or silencing practices?’. Not, adding any terms, however, would make research more difficult, unless researchers knew the names of relevant people. Cook (2011b), also asserts that archivists may also choose whether to highlight or not relationships, also adding a layer of interpretation and control.

Several of the interviewees used multiple catalogues, whereas the focus group archivists had a public view and archivist view instead. Int6,G explained that at her archive:

“we have two different catalogues, well we’ve actually got three (all laugh),but two main ones, two public ones. And a public one which you can see in our searchrooms which is fuller than the public one which you can see on line. And our thinking there is that if you come in through our doors we can make you sign Data Protection undertakings so you can therefore be trusted to see you know lots of names in court cases and so on. Personally I think that’s a bit questionable.... , but you know it’s an institutional, it’s a corporate decision”.

Indeed, MPs were allowed to read the leaked Brexit impact assessment in a supervised reading room, much like an archive search room and no copies were permitted to be made (BBC News, 2018).

Cataloguing is generally computerised and this can often result in a poor user interface. Int2 was particularly dissatisfied with overly technical user interfaces which confuse “the public”, insisting that “if you get into your car and turn the ignition you just want the car to work, you don’t need to know about carburettors and everything... and it should be the same here... what I don’t want to do is get used to a lot of ridiculous terms that only a few hundred people use”. This was also found by Chapman (2010); one of the ‘largest issues’ were complaints about terminology such as additional deposits ‘[u]sers simply don’t understand’.

6.4.4 Practical solutions

Many of the examples of preferential treatment given by FG3 may actually have been practical solutions. The “extra help” given by archivists to academic researchers (FG3,M) may be simply because many finding aids are aimed at family and local historians whose requests are often consistent and need similar guidance (Boyns, 1999, p65). Other

researchers will need more assistance, particularly if their records are uncatalogued or only listed at a higher level. Johnson and Duff (2005, p119) propose that academic researchers value the archivists' knowledge of their collections and 'of records that were not yet described in the published finding aids or held by other institutions'. Many of the records used by FG3,N were uncatalogued and so she emailed the archives directly to request help, and then "because I always look at ephemera so it's one sheet every time! And I feel awful and I do! And there's no way around kind of, someone in the end just brings up stacks in a formal archive, that's why I get boxes because otherwise what on earth would you do? We don't have time for that! Give me a box and leave me alone for the day!". Although N and M believed that the archivists trusted them, it seems likely that it was simply a matter of being far more practical for the archivist. Certainly Mortimer (2002, p61) raised this point, giving an example of a researcher 'looking for some very specific information and needs only to consult the index of each volume, which is no more than a 30 - second act in each case. If he or she had access to all 100 volumes, this would require less than an hour. But in some record offices (in fact, in most record offices which have subscribed to modern professional standards) it would take several days, if not a week'. In their rebuttal, Moran and Taylor (2003) point out that this could be allowed if discretion is applied, although they believe it should be applied consistently across all user groups according to need rather than qualifications. Similarly, FG3,N researched using "boxes and boxes and boxes. Sometimes they don't have full accession numbers on them. Erm erm, because I try not to reference them wrong... unreferenced, uncatalogued". Again, because of the nature of the collections she was consulting (including a large number of boxes in one day), N claimed that "at some they've been amazing, they've just let me loose in the stores and things um! you know, if you need anything extra go and find it, but yeah they've given me their keypads, numbers!". N clarified these were mainly "tiny archives" and attached to museums - these may be staffed by volunteers or paid staff with other remits and with minimal training or busy with other tasks. When asked if other researchers were also allowed to retrieve their own documents N replied she was often the only researcher there.

FG3,M also claimed to have witnessed explicitly preferential treatment of academics in her previous employment as an archives assistant: "it was clearly an entire box that of correspondence or something they were looking at. They were only allowed three, but the box would stay behind the desk rather than sending someone back and forward to the strongroom ... And occasionally an academic would be allowed to come and stand at the desk and have a look through the box under the supervision of a member of staff". Although she specified this was because the user was an academic, this was her perception; it may actually have been because the archive staff had built up a relationship with this user and

they were therefore trusted more. Or the archivist had exercised their 'professional discretion' and balanced resources and the security of the records (Moran and Taylor, 2003, p63).

6.4.5 "Very comprehensively mixed up"

This quote by FG1,E shows the extent to which records may be filed with other records. Records may be "mixed up" as they were compiled (in this case), or for more convenient storage and can result in access problems and variation between archives. Also, as FG1 discussed there is confusion for users:

B: people don't understand the format of the records in a lot of cases

A: I just want my file

E: there are twenty people on every page! And you are somewhere in the middle"

FG1,A gave the example of another council having a "court case against them for civil damages and they wanted the records. And our council was saying, well just send them the stuff. Well I'm not, because that's thousands of children's information because it's one line in this record and one line in , and I could not get them to understand until I made them come to the office and got the documents out and said 'look, I'm not transferring them.' Oh we thought it was all just a file!". A point made by FG1,E was that a "lot of the most sensitive stuff, ...[is] very comprehensively mixed up, with for example clinical data about patients to which this person would have had access at the time", which further complicated a SAR she was currently dealing with.

FG1,C brought up the problem of committee minutes which include "part As that are accessible to everyone, anyone can look them up and the Part Bs that are confidential. And they're all filed in together. So you've got no way of separating the two!" This had resulted in all minutes being "restricted for 100 years and on a case by case basis you have a look... depending on what it is and what else is in the volume". One enquiry was refused because although "the enquiry itself was fairly harmless- it was planning or something like that, it was quite old, but there were some personnel committee minutes in with it, so that was out. Even though the actual minutes he wanted to see were fine, because they were in a volume with the other ones we couldn't we couldn't let them." This would have been difficult to explain to the enquirer, and the group commented that it could be solved by technology.

6.5 Variation between archives

Variation was evidenced throughout this research. It is shown in the different closure periods applied, the different people who can access records, and how they are physically accessed, including redaction and intermediary bodies. Although as FG1,A said “it’s a pity that we have such differing interpretations of presumably the same pieces of legislation” and FG1,D “the law should be unambiguous”. Archives are by their nature unique, and vary in content and context (see Section 5.2.1) and when combined with factors such as legacy decisions, funding and political decisions this can result in very different closure periods and access procedures. This in turn can be frustrating for both archivists and users and unnecessarily limits research. This situation is exacerbated by decisions made by individual archivists, as Tamboukou (2016, p79) points out ‘archivists have different personalities and expectations and practices that seemed fine to one archivist on Monday morning might not go down well with their colleague in charge on Tuesday afternoon’. This may also be due to age, experience and seniority; those who have more experience and confidence may be more willing to bend rules than newer or less qualified staff members (Clark, 2018).

Different closure periods were mentioned for several records sets- indeed when asked which records were affected, FG1 joked “all of them!” (FG1,A and B). It was particularly apparent with school log books, however, which varied in their closure periods between 30 years (FG1,E) and 100 years (FG1,A). A similarly wide variation was also found in a report produced by ACA in 1988, although they found closure periods ranged from 25 years to 100. The ‘majority opting for 30 years’ was mentioned by both this report and FG1,B (“it’s more usually 30 years”) (Sillitoe, 1998, p10). FG1,C explained “our log books used to be a 30 year closure... then it came to light that there were several cases in ‘60s and ‘70s of head teachers recording things that really shouldn’t be released ...we don’t sort of blanket close it but an archivist has to look through the book before it can be seen by a researcher”. Content and context of records may also affect the length of time records are closed for, for example the notebook of the camping trip which was closed at the archive where FG1,A worked (see Section 5.2.1).

Differential access is discussed at length in Section 5.2.3, particularly in relation to those accessing their own records or for academic research. Access may also sometimes be through intermediary bodies such as the Caldicott Guardians, who may also vary in their preferences for access. FG1,E believed that access had been restricted considerably by “a change in personnel and they have clamped down comprehensively”. Likewise, FG3,M found that her project was made more difficult by a change of contact within the Caldicott

Guardians as “the Caldicott Guardian that we originally dealt with for the project, ... he was very nice... and visit[ed] us, but then he then informed us that actually we should have just been dealing with the local one”. The collection which FG3,M used was digitised in two stages and the second stage actually included a greater level of redaction which limited its usefulness for research. FG1,A also noted that there had been so many restructures she was unsure who their contact was.

Indeed, FG1,E suggested that variation is caused by “external data controllers” and expanded that “our issue at the moment with mental health records - one Caldicott Guardian or whatever they’re called these days... has one interpretation and the next one has a completely different one”. This is also seen for collections with depositor imposed restrictions, such as family collections (Int5), and police records (FG1,B said their local force have become “very risk averse”). Different organisations may also have different appetites for risk, as FG1,A emphasised “some councils ... or organisations, are a lot more risk averse than others” and her own council’s version impacted on all areas of their work (see Section 6.3). Organisations also interpret laws differently, as discussed in 5.5.

Part-closure was practiced at some, but not all, of the archives discussed in the focus groups. This varied between tying off volumes (mentioned by FG1,E and FG3,M), covering pages and supervising access (FG2,G and FG2,I), using a paid research service (FG1,C), staff scanning and redacting sections (FG1,C and FG3,M), removing items from files (FG1,A and FG3,O), offering a transcription (“most of them are quite happy with a scribbled transcript and you either ask for ID and get them to confirm something that’s in the register” (FG1,E). Both FG1,B and E said that they will enable access “beyond the hundred year rule” by part closure of volumes but E emphasised “when I get the chance I will try to go by birth date but you’ve got to be in the searchroom when a when a ... part open document is requested”. This suggests that searchroom assistants do not have the authority to do this or necessarily ask for an archivist. The “beyond the hundred year rule” mentioned by FG1,B is actually “after the hundred year rule”, a booklet issued by the Health in Archives Group of the Society of Archivists in 2004 (not TNA as believed by FG1,B) in order to improve access to medical records (Gale and Redfern, 2004). The other archivists in FG1 had not apparently heard of this, possibly as they completed their qualifications around this date and were not working in county record offices when it was published. The ACA guide also recommended tying off volumes to improve access (Sillitoe, 1995).

Reasons for variation

Variation may occur for several reasons. As Int3,B pointed out, decisions have “historically been very localised because we don’t have a national archive system when it comes to things outside *The National Archives*” [interviewee’s emphasis]. Collett-White (2013) supports this explaining that this is ‘an area of local authority provision that is still unstandardized, each county record office still shows very much the influence of its origins, the support of its employing authority and the impact of the latest round of cuts and restructuring’. Similarly, Shepherd et al. (2010, p27) suggest that the ‘Variability in responses to similar FOI requests... is perhaps not surprising given the myriad of ways in which FOI and records management is structured’. This may explain why A, FG3 received such differences in the responses to her FOI requests at different universities.

Different organisations have different emphasis too, as suggested in Int2 (see Section 6.3). This is reflected not just by business role and archive type, but also by individual organisations risk appetite (FG1,A was notably more concerned about her legal team than the other archivists). Depositor relationships may be considered more important at some archives than others.

When asked why they believed there was this variation, the archivists’ in FG1 replied “most of the differences are down to decisions that had been taken by individuals in the past” (FG1,B). The interviews also showed the impact of legacy decisions. The users, however, suggested that “a lot of places ... don’t have set guidelines on it, so it’s just kind of what they think is best based on kind of what they’ve been told from kind of high above and a lot of the time some of them can be too extreme some of them aren’t enough, and it would be nice to have some sort of standardisation so that you know what you’re working to” (FG2,F). This statement also acknowledges the impact of personality and interpretation of guidelines, rather than strict legislation. Indeed, ethics govern much of the privacy and openness aspect of archival collections, as suggested in the literature review.

Variations are also shown by personality, trust and relationships and have been discussed at length in Chapter 5, and the impact of practical solutions previously in 6.4.4. Greene (1993, p37) believes that archivists must have clear institutional policies to ‘minimise variation between different curators’, although these need to be both easily available and actually used by the researchers, who appear to be passive rather than proactive consumers.

One effect of variation can be that researchers expect to see records at all archives. As FG1,E, pointed out, however, users may attempt to gain access by “telling you things that

are just blatantly not true! Or if they are true they shouldn't have been true!". Archivists then need to verify whether these records are actually open "I try and check the online catalogue of the other place and see if it does actually say if its open or closed! As soon as I say that they do tend to go 'ooh maybe it wasn't'" (FG1,A). This underlines Jefferis' (1996, p41) point that 'strict rules can offer very practical help; they are, for example, useful for dealing with over-assertive researchers'. Certainly, including record status on catalogues helps this as well as transparency.

Variation can also mean that research cannot be conducted, although for some things "There are so many sources of information" (FG1,A) that other ways of obtaining information can be found (e.g. checking newspapers for news stories of court proceedings), others cannot. FG1,A mentioned a project which wanted to examine "patterns of juvenile crime and they were having real problems ... differences between certain offices that some archives were saying yes they are open after 30 years and others were saying after 100 and the academics involved in that project were finding that ... hard" and the project was eventually cancelled.

FG1,D also noted that it was simply not practical to keep changing access: "if you were able to erm, practicably change your access requirements to this case or that case I think you'd find yourself exhausted by having to keep keep on changing your access rules".

Whether it is possible to standardise

Although all members of the focus groups expressed a strong desire for standardisation, the interviews suggested out that "standardising practice is always going to be a quite a challenge in England" (Int3,B). There have been "attempts", as Int3,A pointed out "to standardise something in terms of conditions but also some degree of practice and you know, at least in those institutions that were holding public records, and the accreditation process". Some members of FG1 were aware of the Greater Manchester Partnership Access Policy (2013), which includes closure periods and notes for certain categories. These are not widely known outside of the North-West, however, nor the 2011 Scottish Council on Archives Record Retention Schedules for Scottish Local Authorities (SCARRS) and it's 2014 revision, beyond Scotland (see Scottish Council on Archives, 2014). FG1,A said "I am dropping TNA in it I guess a bit by saying it would be really useful if we had some

guidance from TNA saying ‘this is the’ ...because obviously we’re going to legal people within the council who aren’t experts in this either, and they’re having to come up with something and it would be so much easier if we had ‘this is a nationally approved, definitely seen by lawyers, everybody agrees with’”, with which the group agreed.

However, Int3 suggested that although it is “possible” to standardise access, questioned whether “is it desirable?” as “it depends on whose perspective you are looking at this from? Are you looking at all of this from the perspective of a records manager, professional convenience, from the perspective of erm the CEO who has a whole different set of priorities or from the user’s perspective. Obviously, the user always wants more access. So you know whose, whose interest are you asking the question?” The uniqueness of the archival record (including all the issues which affect its sensitivity in Chapter 5), the individual organisations’ ethos and risk appetite as well as human relationships and attitudes will all impact on this. Indeed, MacNeil (2005) points out that ‘most archivists have these problems arise at work and therefore need institutional context, but also need whole profession discussion too’ involving ethical standards and codes. Whether these go far enough and whether the profession needs explicit examples to follow is thus open for continuing debate.

6.6 Summary of Chapter 6

Local authority and university archivists in 21st century archives are under considerable pressure, and this is mainly outside of their control. This pressure is amplified as they are “low down in the food chain” (Int2) and not working in isolation but subject to a number of other factors, including political, management, funding and legacy issues. These pressures are not necessarily clear to the users, excepting a vague understanding of financial pressures indicated by charges and reduced opening times and this lack of transparency can create problems.

The archivists in FG1 demonstrated repeatedly that they want to do the “the right thing” (FG1,D) for both their records and their users. The pressures outlined in this research, however, mean that time allowed to process and provide access to records for the researcher is limited. This results in archivists making “snap judgements” (Int2) or limiting access, as shown by the blanket closure of school log books for 100 years by FG1,A. Similarly, archivists work with legacy records, with inherited buildings and systems, and

decisions made by previous archivists. Thus archivists cannot necessarily apply access decisions which they want to but generally accept the current arrangement or at best retrospectively change when possible.

Variation in access policies and closure periods is evident in all of the interviews and the focus groups, and this has been noticed for at least 30 years (Sillitoe, 1998). As Int3,B pointed out, however, variation “is reflected in this area of practice as it is in many other areas of practice”. This variation is caused partly by how archives have developed over the last 100 years, and the impact of individual archives’ (and their home institution’s) appetite for risk and overall ethos. This research suggests that university archives appeared to be more open whereas local authority archives took a longer-term accountability view. The impact of political decisions, including boundary restructures and restructures of organisations, has clear impacts on day-to-day management.

Individual archivists attempt to allow as much access as possible within these constraints by being practical and helpful. This may, however, be interpreted as preferential treatment by users. Once again, this research demonstrates that personality, trust and relationships affect access policies and contribute further to variation. Indeed, the understanding of the legal framework was shown to be less important than personality and human aspects, as was also demonstrated in the previous chapter. The archivists overwhelmingly showed the importance of knowledge and support networks, and the need for training opportunities, confidence and support for their decisions. Interestingly this was also picked up by some users (including FG2,H who was generally quite negative) and interviewees.

This chapter addressed Objective 3, the practical implications of access and closure. It has shown a profession which is pulled between an ideal world and making compromises forced on them by external factors. Some of these factors are apparent to users, but many are not and this lack of communication and transparency adds to frustrations. The idea of archivists as gatekeepers is actually perpetuated by some of these decisions, which although are often with the apparent aim of balancing the rights of all stakeholders, time and money, may give the impression of preferential treatment.

Chapter 7 Conclusion

“Simplicity, clarity, uniformity are key. And the balance between DPA and FOI needs to be a bit more towards FOI with a genuine research need” (Int5)

7.1 Introduction

This research aimed to critically investigate the issues surrounding access to archives in local level public archives within England from multi-stakeholder perspectives. By consulting professional archivists and archive users instead of senior managers or educators, it has explored the issues in the “real world” rather than an idealised or perceived one. It included semi-structured interviews with experts and three separate focus groups with archivists, academic researchers, local and family historians. This methodology enabled rich, detailed qualitative data to be collected and allowed each group to direct the conversation to the aspects of access and privacy that they consider are most important. It has demonstrated the contrasting needs and perspectives of the different stakeholders and permitted the issues surrounding openness and privacy in archives to be fully discussed.

An overriding thread that runs through this research is the fluid nature of many concepts, including privacy, sensitivity and trust. These vary between individuals and can change according to time, culture and context. This makes it difficult to take absolute decisions on access, particularly when external factors, including organisational culture, politics and stakeholders, also play a role.

7.2 The meaning of the public domain in an archival context

The overall question which this research explored was ‘what is the meaning of the public domain in an archival context, and how can this help archivists to ensure and justify effective, equitable access?’ The literature strongly suggested that the public domain in an archival context is an ‘amorphous and vague’ concept (Lange, 1981). Often used as a stock phrase without precise definition, or indeed full understanding, the public domain was used as such in the focus groups. This research, however, has shown that a working definition

may be considered to be 'information that is available to the public, whether for a cost or free, and is reasonably accessible'. Records may be within the public domain but still closed, for reasons of sensitivity or depositor influence. Several interviews and focus groups suggested that digitisation, particularly with commercial partners, is blurring the boundaries still further. The existence of information within the public domain may help archivists justify access as it may offer a guide as to whether a record is sensitive. Archivists should, however, be aware of the wishes of the depositor and those included in the record, and also whether the level of detail is the same in the record or greater. Protecting relationships with depositors may actually be as, if not more, important than whether the information is in the public domain.

The word 'equitable' rather than equal was deliberately chosen at the outset of this research. This research showed that equitable access is not allowing equal access to all, but instead identifies individual needs of users, including those of data subjects, close relatives and those with specific research questions, beyond simply curiosity or interest. This can be phrased as those with a 'research need'. The concept was supported by both of the user focus groups, and it was transparency and justification that was desired perhaps more than equality i.e. the researchers just wished to know why access may be allowed or not. The judicious use of ethics and judgement, therefore, is paramount. Although the concept of the public domain may *assist* an archivist, it cannot be used without due consideration to allow access that is equitable and effective.

7.3 Issues surrounding openness and privacy of archives in the public domain

The aim of this research was to critically investigate the issues surrounding openness and privacy from a multi stakeholder perspective. This research has shown that although legislation and ethics are an important framework which govern the overall landscape of archives, they are less important than human interactions and relationships. Individual archivists aim to give as much access as possible within the constraints of working in their archives but this in turn may appear to be allowing preferential access. Indeed, transparency and clarity are key to allowing equitable access as suggested by the quote at the beginning of this chapter: "simplicity, clarity, uniformity are key. And the balance between DPA and FOI needs to be a bit more towards FOI with a genuine research need to support some of this material." (Int5). The idea of a genuine research need to support equitable access is an

important one, and supported by the majority of stakeholders who participated in this research. The practical considerations which surround openness and privacy at non-national archives are evidenced by the variations which have been created. These include legacy archives, depositor influence, political machinations, funding and staff cuts and copying fees. These are little understood by the users, and greater transparency, or “honesty” as the users in FG2 phrased it, would aid this. The reality of working in non-national archives in the 21st century is very different from the ideal taught on professional courses and this research underlines the importance of support and relationships as well as ethical judgement and legislation in allowing effective and equitable access.

7.4 The relationship between the rule of law, archives and the question of privacy

The first objective appears to be far less important than was anticipated at the outset of this research. Awareness of the legal framework within which archives exist varied considerably according to the individual’s questioned: the interviewees, who were leading experts, generally displayed far greater knowledge of legal issues than the practising archivists, who had considerably more than the majority of the users. The focus group participants’ knowledge of the legal framework was almost exclusively what they needed to know for their own purposes (or in a discussion with colleagues), rather than being comprehensive. This was particularly evident with regards to legal challenges, and possibly why copyright law was discussed so frequently; FG2 particularly worried that they might be prosecuted. Considering how wide the legal framework affecting these archives are (Appendix 1), that many laws are not specifically about archives (such as DPA, GDPR and FOIA), and others relate to only certain records (for example Local Government Acts), this is perhaps not surprising. The local authority and university archives are also within larger organisations, and consequently have legal teams which could also be referred to for advice. These teams were repeatedly mentioned by the archivists in FG1 whose organisations had been subject to ICO scrutiny in recent years.

The rule of law appears to be an amorphous concept, typically used without definition, just as ‘in the public interest’, ‘public domain’ and privacy seem to be. The literature suggested that the rule of law generally should be fair, impartial, applied equally to all and a flexible concept which is able to change over time. Within an archival context, however, the rule of

law is the application of equitable, fair and transparent access. Equitable rather than equal access is important, as some clearly have a greater need for access to archives than others. Indeed, the updated ARA (2018) code notably calls for 'open and equitable access to records' rather than equal (2018, p2). Similarly, just as laws should be written down, so there is a desire for transparency of access through written, published guidelines and verbal explanations. This was evidenced as much by the users as by the archivists, and would perhaps lead to less misunderstandings and assumptions of control and preferential access. The application of ethical and professional standards, and support from networks, appears to be more important in archives rather than a strict adherence to the legal framework and rule of law.

7.5 Openness and privacy of archives

The second and third objectives examined issues surrounding access and the practical implications as viewed by different stakeholders. They were discussed separately in Chapters 5 and 6, however there was considerable overlap. Indeed, the reality of working in non-national archives in 21st century England is such that practical considerations, in most situations, appear to take precedence. In no way, however, is this suggesting that archivists are anything other than hardworking professionals with strong codes of ethics. The interviews and focus groups discussed snap decisions and compromises but also repeatedly evidenced professionals who enable as much access as practicable.

Although there is a general presumption of access to records in the public domain, there is actually no legal right of access. Discretionary access may be granted, however, by the judicious application of the public interest test to public records. This research, however, suggested that not only was the understanding of the public interest test limited (beyond its use for FOI or at TNA), but that the same access was applied to both public and private records with little distinction. Indeed, similar length closure periods were used for both private and public records and access controlled in the same way, excepting any stipulations made by depositors or through intermediary bodies such as the Caldicott Guardians. This lack of distinction may be for administrative convenience, or because it is simpler for users to understand. It may also be because archivists fail to realise the full significance of the distinction; all of the local authority archivists in FG1 believed that all of their records were subject to FOI, not just their public records. The users also displayed a general "misunderstanding about what is a private record and what is a public record" (Int5), and

made little differentiation between different archive establishments. Indeed, the archivists in FG1 allowed as much access to all of their collections as the legal framework (as they understood it) and the limitations of working in their particular archive allowed.

The question of what makes a record sensitive was also discussed. Sensitive records need to be closed for general consultation as they may contain personal information (defined by the DPA and GDPR as ‘any information relating to an identified or identifiable natural person’) or may in themselves be offensive (e.g. mortuary photographs of Blitz casualties). Usually, set closure periods are applied as sensitivities generally diminish over time or when the subject dies. What makes an individual record sensitive is subjective and the content and context of individual records may make some records sensitive which would not otherwise be, for example the school camping trip notebook discussed in FG1. Whether the information is already in the public domain can be an indication that a record is no longer sensitive. Archivists must be aware, however, of whether the same level of detail is included in the records and also whether being from a trusted source may lend credence to rumours. This research showed that technology, especially the internet, has had a considerable impact on issues of sensitivity. Records can now be easily linked, have improved discoverability and may also be shared across a wide audience almost instantaneously. These actions were difficult, if not impossible, before the rise of the internet.

Most codes of ethics, the literature and the archivists who participated in this research, believe that equal access is given to all researchers. This research, however, suggests that this is not actually true or indeed desirable. Equitable access was shown as not applying equal access to all, but instead looking at individual needs of researchers. It is perhaps a given that a user requesting their own file (or that of a close relative) should be allowed greater access, and academics have always been allowed preferential access for specific projects (Flinn and Jones, 2009b). All three focus groups, however, suggested that research question rather than academic credentials was important. There is still a strong prevailing perception, however, amongst researchers, that academic qualifications increase access and archivists are prejudiced against those without.

The research showed that variation in access is as prevalent now as it was 30 years ago (Sillitoe, 1998). Variation is shown both by widely varying closure periods for similar record sets (notably school log books) and how closed records may be accessed by users. Access varies between proving a relationship and being allowed to view records in a searchroom, via an intermediary body, by using a paid research service, by part-closure or full redaction. As Int6,H pointed out “on the face of it Local Authorities all do the same thing, but in practice they all do very different things in very different ways”. This research also suggested that

university archives may have a more open approach whereas local authority archives take a longer-term accountability view, using longer closure periods to ensure records remain inaccessible but safe.

Reasons for variation included legacy decisions, which were also perceived as office tradition. FG1, as expected, went into greater detail about the impact of legacy records and decisions, including change in legal position, explaining that records are now closed, changing catalogue entries and simply time pressures. Similarly, an archive's position within their organisation (including which department or if they are spun-out), their ethos, funding levels and restructures all cause variation between archives. Funding cuts and political decisions may affect opening hours, level of detail (or indeed any) cataloguing or (processing of collections) and the restructuring of both organisations and geographical boundaries. The importance of support from senior executives, as they may have little prior knowledge of archives or may understand their role in accountability as well as leisure pursuits was believed to cause variation. The unique nature of archival documents means that records may not be standardised, and the content and context may vary between the same records sets between archives. Indeed, the content of individual records may even change within the same record series as shown by the impact of a change of headteacher in FG1. Sensitivities and sensibilities continue to change over time, along with vocabulary used.

Overwhelmingly, however, this research suggests that much of the variation was due to softer, less tangible and more human responses. Individual personality and the development of relationships were especially important factors. Both user focus groups pointed out that the personality of archivists was important in gaining access, as some were considered more helpful than others. This helpfulness may, however, be linked to job security and funding; archivists with greater knowledge of collections may appear more helpful, and this is gained by working in the same archive for an extended period. All three focus groups also emphasised the importance of personality of users; varying from being polite to having an "air of importance" (FG2,G) or lying to gain access.

Cultivating relationships was also perceived to improve access to uncatalogued or closed records as archivists' trust was earned. Relationship building with depositors resulted in the transfer of more records to the archives and ultimately being preserved. These may be "very long term relationships that might last decades" (Int2) and were considered important enough that access was restricted to certain records, even those in the public domain, in order to protect this relationship by at least two archives. This use of social capital theory and social networking in archives was suggested by Johnson and Duff (2005), and appears

to permeate throughout this research. Neither Johnson and Duffs nor this methodology focused on social capital, but both studies demonstrated the importance of relationships in gaining access. Although relationship building to encourage donations was commonplace when many LA and university archives were first created (Collett-White, 2013), and is still acknowledged on an informal basis, this research demonstrates its continued importance at all levels and by all stakeholders. It also suggests that improving relations with certain sectors, notably local police forces and social workers, may improve record transfer rates for particularly important record sets which are currently under-represented and may be needed for future enquiries (particularly in view of recent scandals such as Hillsborough and child abuse).

The desirability of transparency, trust and consistency by archivists was evidenced repeatedly. This is perhaps made more difficult by the time and financial pressures which the archivists and interviewees were so aware of. Indeed, archives “in the real world” could be quite far removed from the ideal, and this was acknowledged by the participants, and the impact on service level. Factors outside of the archivists’ control have a considerable impact on issues of privacy and access, and result in much of the variation shown.

The archivists in FG1 demonstrated repeatedly that they wanted to do the “the right thing” (FG1,D) for both their records and their users. Limited staff time, however, meant archivists often made quick decisions or limited access. Similarly, archivists work with legacy records, with inherited buildings and systems, and decisions made by previous archivists. Thus, archivists are not necessarily able to apply closure periods they believe are correct, but must accept the current arrangement, or retrospectively change when possible. The users, in contrast, understood the practical implications predominantly in terms of financial, staff and time pressures, and to a lesser extent funding cuts. This results in unnecessary misunderstandings and the archivist appearing to be unhelpful or controlling. The researchers in FG2 suggested that if archivists were more honest about difficulties or reasons for closure than they would be more understanding.

In general, the users in this research appeared to act more as impassive consumers of the archives. Although the users claimed they would demand more access if denied, in reality only two did, and this was more dependent on available time or needing specific sources than perhaps personality. This differs from the more active use of wiki and community archives shown in the earlier 21st century (Wheelock, 2013; Duff et al. 2013). It is unclear why there is this shift of emphasis. Possibly, it was due to the selection of participants in this research, although it may also be due to prevailing notions of official gatekeepers and power which were also evidenced in this research.

7.6 Original contribution to knowledge

This research identified the importance of relationships, personality and human interaction in archives in the 21st century. Although this was noted historically for improving record deposits, and occasionally in the literature for improving access (Mortimer, 2002; Johnson and Duff, 2005; Flinn and Jones, 2009,b), this research emphasises its continuing relevance and highlights its importance across all aspects of archival work. As records are becoming increasingly used for the redress of past abuses (e.g. Hillsborough and IICSA (Hillsborough Independent Panel, 2012)), this work demonstrates the importance of improving relationships with all stakeholders including social workers and police in order to secure deposits of records and allow suitable access. Although legislation may improve retention rates, this research suggests it is the human interactions which may have the greater impact.

Very little has been written about university and local authority archives generally and this research has thus increased the understanding of access in non-national archives in England. It has highlighted how these archives are very disparate from national level archives, with contrasting pressures and expectations from stakeholders (including depositors and users). It has also demonstrated the reality of working in non-national archives, and how these pressures affect the *practice* of archival work rather than the theory. Indeed, even the language used is different as evidenced by the use of the phrases 'public interest test' and 'sensitivity review' between research participants with differing backgrounds. With funding cuts and pressures of raising revenue, the tradition of the 'scholar archivist' has largely disappeared (Boyns, 1999, p67) and non-national archives are often not glamorous, or perhaps imaginative and bold, enough to attract external funding.

Thirdly, this research highlighted that users still overwhelmingly believe that archivists give preferential access. Where differential access was evidenced there were clear reasons for it, however a lack of transparency (often linked to a lack of time) resulted in misunderstandings. The level of misunderstanding between the two stakeholders was considerable and created power imbalances and levels of distrust which are unwarranted. The archivists seem unaware of this, suggesting that this is, perhaps, an area which could be comparatively easily addressed for very little financial outlay; archivists taking the time to explain why access can or cannot be permitted, or when it can in future, and giving all researchers the same induction. In turn this would promote trust and relationships and encourage all users to ask questions, rather than those who are most confident.

7.7 Reflections and limitations

The data collection was undertaken between August 2015 and January 2016. In June 2016 Britain voted to leave the EU (Brexit), GDPR was introduced in May 2018 and the IICSA inquiry continued to run (although with different chairs and under different names). The Conservative Government's policy of Austerity continued to affect budgets, resulting in cuts in real-term budgets of 26 per cent, which has not been shared evenly across services resulting in some services, including culture, being significantly more affected than others (Amin Smith et al., 2016, p1) At the beginning of the research period the Rtbf and scandals of politicians' emails were popular in the press, towards the end the harvesting and selling of big data became major issues (Cambridge Analytica in particular) and beyond the right to be forgotten, where some users wish to be remembered and others destroy their records (Greenfield, 2018). The overall climate which archivists work in is changing and will continue to change as GDPR (which has only been touched on) influences records management systems and transfers of documents. This research is particularly timely in view of IICSA, the abuse of children in care homes, the migration of children during and after WW2 (including to Australia, Canada and within the UK), the Windrush scandal and the need for redress.

The composition of the focus groups was a limitation because several participants had to withdraw from the focus groups, resulting in smaller and less diverse groups than planned. Most critically the archivist from a spun-out service and the user who primarily researched on-line were absent and this impacted on subsequent discussions. The location and layout of FG2 was also not ideal as it appeared to impact on the discussion with users making reference to the archive in the same building and the imposing nature of the building (Ketelaar, 2002), and the researcher's previous employment. Although depositors are an important stakeholder it was decided not to include them specifically in this research as it would be difficult to approach them ethically. Several members of FG2 had actually deposited records in archives, however. A clear strength was the absence of professional genealogists in the focus groups; unique amongst published qualitative studies in Britain. Similarly, the conversation was open and free flowing in all of the focus groups, and all participants were involved.

The research demonstrated that archivists developed strong informal and formal support systems to advise and support each other, including within ARA and regional bodies such as Archives for Yorkshire. It was significant that although ARA training was mentioned by the archivists in FG1, they turned to TNA for advice and expressed a strong desire for an

increased level of support. This was also reflected in the Northumberland Archives ICO judgement (Information Commissioner's Office, 2010, DN FS S0287660). FG1, B erroneously believed that TNA had produced a guidance booklet when it was actually a subsidiary of the Society of Archivists (the preceding body of ARA). TNA therefore has an expected advisory role, and archivists would welcome firmer and more proactive advice from them. Indeed, TNA also have an explicit role, as shown by the press release after the closure of the MLA, clearly enounced in its opening sentence 'Support and leadership for the UK's archive sector will transfer to The National Archives (TNA) from April 2012 following the closure of the Museums, Libraries and Archives Council (MLA), Culture Minister Ed Vaizey announced today' (Department of Culture Media and Sport and Ed Vaisey, 2012). The advisory council could play a greater role; they are noticeably quiet about archives other than TNA, despite also applying to PODs. Whether these are roles which TNA and the Advisory Council are willing, and have funding, to undertake, however is beyond the remit of this research. If police records and contracted out services become public records in the future (as they have in Scotland) then these bodies will need to play a greater, regulatory role.

7.8 Further research

A useful contribution to knowledge would be an exploration of relationships within an archive setting using social capital theory and social network analysis. This was suggested for academic users over a decade ago by Johnson and Duff (2005), but this research suggests it is applicable to all stakeholders, including depositors, colleagues within organisations, all users and also other archivists. Indeed the importance of relationships seems to be explicitly understood; specific research would highlight this and perhaps show how relationships can be utilised to ensure records are transferred in a timely and appropriate way. As this research has suggested that relationships are more important than legislation, and legislation is beginning to change (e.g. GDPR and PRSA), this would be particularly timely.

A repeat of the survey of closure periods for categories identified in the lost 1980s ACA survey would be interesting. This would demonstrate the variation of closure periods on a nationwide scale; although the current research has given reasons for this variation, this would provide statistical evidence.

The status of archives and archivists within organisations and society appears to be changing with the increasing emphasis of accountability, importance and media attention. Internationally archivists are held in high esteem and this is reflected in salaries, job security and status. In the UK, family history, once seen as a slightly egotistical leisure pursuit, is also perhaps undergoing a review. It is now considered an important field in its own right, for example in dementia care, 'roots' tourism, and making sense of disrupted lives. Archives are treading a balance between various groups, and possibly the archivist's role and status is changing. Therefore an examination into the relationship between archivists and the academy, TNA, social services and the police, for example, could help to justify continued employment and funding for local authority archives who are threatened with budget cuts.

Appendix 1 Relevant laws

FOIA , FOI

Freedom of Information Act 2000 (came into force 1st Jan 2005, revised during writing)

Reference- *Freedom of Information Act 2000, c.36*

Key Points- information may be requested from public bodies, must be made in writing, 20 working days to respond, 24 exemptions some of which require a public interest test, cost limit (£600 for government departments, £450 other public bodies), complaints can be made to the Information Commissioner, then First Tier Tribunal.

EIR

Environmental Information Regulations 2004

Reference - *Environmental Information Regulations 2004, No.3391*

Key Points- all environmentally related information- including anything about the environment such as notes, drafts and maps/plans.

DPA

Data Protection Act 1998, Replaced with Data Protection Act 2018

Reference- *Data Protection Act, 1998,c.29* and *Data Protection Act ,2018, c.12*

Key Points- 8 DP principles, relate to the use of personal data, the archive becomes the 'data controller'. GDPR resulted in the UK DPA will need to be amended. Rtbf, plus need to inform data subject if repurposing their data (A.14 & 15)

CRAG

Constitutional Reform and Governance Act 2010

Reference- *Constitutional Reform and Governance Act 2010, c.25*

Key Points- Public records are open at 20 years instead of 30, with timetabled phase in until 2022.

Copyright, Designs and Patents Act 1988

Reference- *Copyright, Designs and Patents Act, 1988, c.48*

updated by The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014 (one of several regulations brought in in 2014), but not yet amended on the online Act,

Re-use of Public Sector Information Regulations, 2015

Key Points- archives can copy whole uncopyrighted works for researchers,

Local Government Acts

1962, 1972, 1985 – Access to Information, 2000.... Lots of amendments

Key Points - 1962 Act provided limited discretionary powers for local authorities to provide certain archive services, which was strengthened in the *Local Government Act 1972*

Local Government Act 1985 (Access to information) requirement to have agendas and associated reports and minutes on display at council offices (or now many are online) for 6 years (section 100)

Parochial Registers and Records Measures 1978

Amended 1992 and 2003

Reference- *Parochial Registers and Records Measures 1978, No.2*

Key Points- one or more diocesan record offices created, all non-current registers over 100 years old (and those whose earliest entries were over 150 years old) must be deposited, records non deposited must be cared for and inspected every 5 years by inspectors appointed by the bishop. Registers must be available for consultation at the diocesan record offices.

1992 amendment allowed for use of surrogate copies instead of originals.

Public Records Act

Reference - *Public Records Act 1958,c.51 (6 and 7 Eliz.2)*

Key Points - defines who produces public records (but does not include an authoritative list of records] and that they must be transferred to TNA or POD after 30 years (reduced to 20 by the CRAG Act 2010).

Human Rights Act

Reference - *Human Rights Act 1998, c.42*

Key Points - sections on privacy and freedom of expression as fundamental human rights. Article 8.1 states that 'Everyone has the right to respect for his private and family life, his home and his correspondence' . Article 9 is the right to freedom of thought, conscience and religion, and the right to change views

Other legal framework

ICO uses case law extensively

Public Interest

Public Domain

ICO (responsible for FOI, DP, EIR, privacy and electronic Coms Regs, INSPIRE and re-use of Public Sector Information regulations)

Appendix 2 Greater Manchester Archives Access Plan

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Greater Manchester Archives and Local Studies Partnership Access Policy

1. Introduction

This policy outlines the ways in which access is provided and enhanced to archives and local studies collections for all stakeholders.

This policy and strategy covers the archive and local studies services for the following local authority archive services in Greater Manchester:

- Bolton Archives and Local Studies
- Bury Archives and Local & Family History Service
- Manchester Libraries, Information and Archives*
- Oldham Local Studies and Archives
- Stockport Local Heritage Library
- Tameside Local Studies and Archives
- Trafford Local Studies
- Rochdale Local Studies and Archives
- Salford City Archives and Local History Library
- Wigan Archives and Local Studies

*County Record Office, City Archives, Local Studies, Rare Books and Special Collections.

The services aims to locate, collect, preserve and make as widely available as possible archive and local studies collections for the benefit of present and future generations. All services contribute to the aims and objectives of their parent organisations.

2. Methods of Access

Customers can access the collections in the following ways:

- In person.
- On-line access (certain collections).
- Social media.
- Outreach and learning activities.
- Exhibitions and interpretation.
- Research services (usually paid).
- Volunteering.

2. Customer Profiles

Services are committed to making their collections available to all sections of society.

Traditionally services have attracted a narrow audience in person. It is over-representative of the over 55 age group, predominantly white, loyal, regular users who tend to spend between 2-5 hours per visit.

Services are now committed to providing access to the following audiences through a variety of methods including digitisation, outreach, community engagement, volunteering, social media and learning:

- Young People
- Schools
- Families
- Communities

Digital use of archives and heritage in digital format is increasing. Since 2005/06, the proportion of people in England who have visited heritage websites significantly increased from 18 per cent to 31 per cent.

3. Customer Care

All services are committed to providing outstanding customer care – in person, on the telephone, by email/letter and on-line/social media. Each service will adhere to its parent authority's customer care standards and charters.

4. Legislation and Standards

In terms of access services will comply with the following legislation and standards:

- Local Government (Records) Act, 1962.
- Local Government Act 1972 (s.224).
- Public Records Acts, 1958 and 1967 (for those services that hold public records).
- Parochial Registers and Records Measure 1978 as amended 1992 (for those services that holds parish & diocesan records).
- PSQG Access to Archives Standard.
- The National Archives Accreditation Standard.
- Disability Discrimination Act 1995.
- Data Protection Act 1998.
- Freedom of Information Act 2001.
- Representation of the People Act 2000.

5. Customer Consultation

Services will regularly seek the views of its customers by using a combination of some of the following tools:

- Customer surveys e.g. Library Plus, Archives PSQG, Museum audience surveys.
- Customer / stakeholder groups.
- Customer comment / complaint forms.
- Standpoint survey (where available).
- Social media.

In most cases these tools will be part of the wider library / museum service.

6. Access Information

Access information for collections will be published on the web site of the service and where appropriate in hardcopy (e.g. leaflets, flyers). This will include:

- How to access digital collections and finding aids on-line.
- Details of events, activities and exhibitions.
- Research policy for remote enquiries.
- Fees and charges.
- Opening hours.
- Identification required for access in person and booking arrangements.
- If advance notice is required for any collections.
- Details of any temporary closures.

7. Access Restrictions

Conservation and Handling

Information will be provided to customers on how to correctly handle archives and rare items.

Some collections may not be able to be viewed because they are too fragile or require conservation.

Surrogates

Where a surrogate (microform or digital) is available the original will not be used unless staff deem the surrogate is unusable. The availability of surrogate should be clearly marked in finding aids.

Uncatalogued Collections

Services will do their best to give access to uncatalogued collections but in some cases access may have to be restricted.

Electoral Registers

For those services that hold full versions of the electoral registers from 2003 onwards they can only be consulted under supervision and copied solely by means of hand-written notes. No form of photographic, mechanical or electronic copying is permitted by law. The law also prohibits the Library from disclosing any information from these full versions over the phone or in writing until 10 years after their publication.

Copying of pre 2003 electoral registers is permissible - subject to preservation (see section 8). Customers should also understand their responsibilities under the Data Protection Act (see below)

Restricted Access and Data Protection

Some collections may have access restriction due to the wish of depositors, Data Protection, commercially sensitive material, or Freedom of Information exemptions.

A summary of closures can be found in Appendix 1. This should be used as a guide by services, but some series may have different circumstances.

Services will ensure that customers understand their responsibilities under the Data Protection Act. Customer's research should not be used to support measures or decisions with respect individuals and will not cause or likely to cause substantial damage or distress to any person who is a subject of those data.

8. Reprographics and Reproduction.

All copying is subject to preservation, copyright and size/format. Some items may not be able to be copied for preservation reasons. All services provide photocopying facilities (at a charge).

Customers are welcome to use a camera to photograph collections (at a charge) subject to guidance. Scanning of collections by customers is not permitted.

Digital copies of items can be provided to customers by staff (at a charge).

Copies are for private use only – permission should be sought from the service for publication or commercial use.

December 2013

Appendix 1

Record type	Closure	Reason	Decision making body	Notes for archive staff:
COURT: adult and juvenile court registers less than 30 years old	Closed	FOI s32 – absolute exemption for court records	Archive service	
COURT: Adult court registers more than 30 years old	Restricted for 100 years if victims of sexual offences identified	FOI s44 – breach another enactment (Sexual Offences (Amendment) Act 2003)	Archive service	Be alert for details of children in neglect/abuse/divorce cases etc.
COURT: Juvenile court registers (including adoptions) more than 30 years old	Restricted for 100 years	FOI s44 – breach another enactment (Children’s Act 2004)	Archive service	
COURT: Adoption records	Restricted for 100 years	FOI s44 – breach another enactment (Adoption Agencies Regulations 1983 regulation 14)	Archive service	
COURT: Licensing registers	Closed for 30 years	FOI s32 – absolute exemption for court records	Archive service	

<p>COURT: any records other than registers</p>	<p>Restricted for 100 years</p>	<p>FOI s40 – personal information FOI s44 – breach another enactment (Sexual Offences (Amendment) Act 2003 or Adoption Agencies Regulations 1983 regulation 14)</p>	<p>Archive service</p>	<p>Be alert for details or photographs of children in neglect/abuse/divorce cases etc.</p>
<p>CORONER'S COURT: Inquest files, Post Mortem files</p>	<p>There is a 75 year closure period on Coroners' records, taken from the final date of a file. Anyone wishing to view records less than 75 years old should obtain written permission from the relevant Coroner. Permission is usually only granted to close relatives of the deceased, or academic researchers who will publish their findings without naming subjects.</p>	<p>Public Records Act 1958 as amended by Public Records Act 1967, s44 and Coroners' Rules (1984) Rule 57.</p>	<p>Relevant Coroner</p>	<p>Be aware that the contents of coroner's court files can prove to be distressing, particularly photographs of the deceased. It may not be suitable for a researcher (who has been granted access permission) to consult this material near other members of the public in the general searchroom.</p>
<p>SCHOOL: Admission registers</p>	<p>Restricted for 30 years</p>	<p>Child Protection, while a child may reasonably still reside at the specified address.</p>	<p>Archive service</p>	<p>Be alert to registers that record or indicate more than simply name, age and address. For example, registers which record of indicate (even if only by the address) that a child was in care must be considered</p>

				as sensitive personal data and restricted for 96 years (Primary school) or 89 years (Secondary school).
SCHOOL: Log books	Restricted for 30 years (Note that log books containing sensitive personal data about staff or pupils will be subject to longer restrictions).	Child Protection	Archive service	Be alert to log books that record sensitive personal data on named staff (e.g. health information, or dismissal information) and pupils (health information, punishment, or suspected neglect cases referred to Social Services). Any such log books should be restricted for 96 years (Primary school), 89 years (Secondary school), or 75 years (if only staff, not pupils, are identified by name).
SCHOOL: Punishment books, pupil records/cards, accident books, contagious illness records	Primary school: Restricted for 96 years Secondary school: restricted for 89 years	Data Protection Act 1998 (if living) FOI s40 – personal information	Archive service	
SCHOOL: Staff records	Restricted for 75 years	Data Protection Act 1998 (if living) FOI s40 – personal information	Archive service	

HOSPITAL: Patient records containing clinical information	Restricted for 100 years	Data Protection Act 1998 (if living) FOI s40 – information provided in confidence	Relevant NHS Trust	
HOSPITAL: Death/Mortuary registers	No restriction if information is the same as recorded on the death certificate (e.g. name, age, place of death, cause of death) If any other medical information is given, 100 year restriction applies.	Data Protection Act 1998 (if living) FOI s40 – information provided in confidence	Relevant NHS Trust	
HOSPITAL: Maternity registers	Restricted for 100 years	Data Protection Act 1998 (if living) FOI s40 – information provided in confidence	Relevant NHS Trust	Be aware that the maternity register is the patient record of the mother, not of the baby, and so the child does not have automatic right of access to the record as a data subject under the Data Protection Act.
HOSPITAL: Staff records	Restricted for 75 years	Data Protection Act 1998 (if living) FOI s40 – personal information	Relevant NHS Trust	

HOSPITAL: Administrative records	Restrictions may apply if stipulated by the depositing NHS Trust	Terms of deposit	Relevant NHS Trust	If the Trust has not specified a restriction, be aware that administrative records may include personal data relating to patients or staff.
MIDWIFE: Midwife's registers or case books	Restricted for 100 years	Data Protection Act 1998 (if living) FOI s40 – information provided in confidence	Relevant NHS Trust	Be aware that the maternity register is the patient record of the <i>mother</i> , not of the baby, and so the child does not have automatic right of access to the record as a data subject under the Data Protection Act.
POOR LAW UNION: records showing people receiving Indoor or Outdoor relief, Admission & Discharge registers, bastardy orders,	Restricted for 100 years	FOI s40 – personal information	Caldicott Guardian for Adult Social Care & Caldicott Guardian for Children	
POOR LAW UNION: Death/Mortuary registers, Notices of Death	No restriction if information is the same as recorded on the death certificate (e.g. name,	Data Protection Act 1998 (if living) FOI s40 – information provided in	Caldicott Guardian for Adult Social	

	age, place of death, cause of death) If any other medical information is given, 100 year restriction applies.	confidence	Care & Caldicott Guardian for Children	
POOR LAW UNION: Creed registers	Restricted for 100 years.	Data Protection Act 1998 (if living)	Caldicott Guardian for Adult Social Care & Caldicott Guardian for Children	Be aware that a person's religion is classed as sensitive personal data under the Data Protection Act. This may need to be balanced with the usefulness of creed registers as indexes to other workhouse records.
POOR LAW UNION: Ward registers, nursing staff ward reports, treatment books, accident registers, Asylum Reception Orders, Maintenance of Lunatic Paupers records	Restricted for 100 years if contain or imply medical information about named individuals.	Data Protection Act 1998 FOI s40 – information provided in confidence	Caldicott Guardian for Adult Social Care & Caldicott Guardian for Children	Be aware records that simply state whether an individual was transferred to an asylum will confirm a mental health condition, and this medical information is extremely sensitive.
POOR LAW UNION: Attendant books, staff records	Restricted for 75 years	Data Protection Act 1998	Relevant NHS Trust	

POOR LAW UNION: Guardian minutes	No restriction unless sensitive personal data about named children or adults (including staff) is included. If such data is contained, restricted for 100 years.	Data Protection Act 1998 FOI s40 – information provided in confidence	Caldicott Guardian for Adult Social Care & Caldicott Guardian for Children	
ASYLUM: patient records, death registers, mortuary registers, reception orders	Restricted for 100 years	Data Protection Act 1998 (if living) FOI s40 – information provided in confidence	Relevant NHS Trust	It may be possible to make a distinction between personal and clinical information in patient records: personal information can be released once the patient is deceased, while the restriction on clinical information continues. Be aware that, even by confirming a person was a patient in an asylum, you would be disclosing a mental health condition.
ASYLUM: staff records	Restricted for 75 years	Data Protection Act 1998	Relevant NHS Trust	
LOCAL AUTHORITY CHILDREN'S	Restricted for 100 years	Data Protection Act 1998 (if living)	Relevant local authority	

HOME/ORPHANAGE		FOI s40 – personal information	Children’s Services department	
PRISON	Restricted for 75 years (adults) or 90 years (juvenile)	Data Protection Act 1998 (if living) FOI s40 – personal information	Archive service	
BORSTAL/INDUSTRIAL SCHOOL	Restricted for 100 years	Data Protection Act 1998 (if living) FOI s40 – personal information	Relevant Education/Children’s Services department	
PHOTOGRAPHS: Children	Restricted until the child/children reach the age of 18	Child Protection	Archive Service	
CLUB/SOCIETY: Membership records	Restricted for 30 years unless otherwise stipulated by the depositing organisation	Data Protection Act 1998	Archive Service or Depositing Body	<p>The depositing organisation (as Data Controller) may stipulate a longer restriction. If your service is the owner of the records (i.e. they are not deposited records) then the Archive service must act as Data Controller.</p> <p>Be aware that the nature of some organisations will justify a longer restriction</p>

				period for the safety of the data subjects (e.g. Zionist Society).
LOCAL AUTHORITY: Committee minutes for Education, Childrens' Homes, Social Services, Personnel, Adult Social Care or similar committees	Restricted for 75 years (if the committee relates to, and the minutes name, adults) or 100 years (if the committee relates to, and the minutes name, children)	Data Protection Act 1998 (if living) FOI s40 – personal information	Relevant local authority Children's Services, Education, Adult Social Care or similar department	Be aware that committees relating to these issues (children in education or care, adults in care, and local authority staff) may be called by a range of names and the committee name may change over time.
LOCAL AUTHORITY: Other committee minutes	No restriction unless volume of minutes contains sensitive personal data	Information has already been in the public domain	Archive service	Be aware that committee minutes may sensitive personal data relating to named individuals (particularly staff).

Appendix 3 Interview Questions

An introduction to the research question and the example of the school log book were given at the start, then the following questions asked.

Interview 1

- 1) What do you consider are the main tensions between privacy and access?
- 2) Can you give me any examples?
- 3) Do you think that TNA and non-national archives are different, and approach things differently. Why?

Interview 2

- 1) What do you consider are the main tensions between privacy and access?
- 2) Do you think most archivists are aware of Fol and EIR or just answer enquiries?
- 3) As a non-TNA archivist, do you think they view things differently?
- 4) Do you have any contacts that might be interested in my research?

Interview 3

- 1) From your own research, what have you learnt about the issues of access and privacy in relation to non-national archives? Challenges? Tensions?
- 2) Can you tell me a bit about your current research, please?
- 3) Do you think TNA and other archives are different? Why?

Interview 4

- 1) What do you consider are the main tensions between privacy and access?
- 2) What do you think is the role of TNA and local authority and university archives?

Interview 5

- 1) What do you consider are the main tensions between privacy and access?
- 2) Do you think most archivists are aware of Fol and EIR or just answer enquiries?
- 3) As a non-TNA archivist, do you think they view things differently?

- 4) Can you think of any more examples of variation in closure periods, other than school records?

Interview 6

- 1) What do you see as the tensions between openness and privacy in archives?
- 2) Has the Public Records Act had much impact on practice? And has it affected the idea of what is public? What has been the impact of the Records Management Plan? Has it been felt by archives yet? How has it been funded? Who by?
- 3) The reason I began this research was because of variation between school log books. Do you have any more examples of record series affected?
- 4) What are the trainees roles?

Appendix 4 Ethics Consent Form for Interviews with sample introductory e-mail

Dear xxx,

My name is Genny Silvanus and I am a first year PhD student at Northumbria University. My supervisor, Michael Moss, suggested that I contact you as he believed you may be interested in my research.

I am looking at privacy and openness of archives in the public domain, with a non-national focus (essentially why we close records and how long for). My background is local authority archives and I realised that there is very little consistency between archives, which is confusing and frustrating for researchers, as well as unprofessional. Hopefully my research can lead to some consensus. I am conducting two focus groups this autumn (one in London, one in Newcastle) and a Delphi study in the winter and am currently looking for participants.

I am also presenting a poster at the ARA conference on 1st September and will be in London from the Tuesday until Friday. I'm trying to fill my week up meeting useful people, if you are free at all or can suggest anyone.

Best Wishes, Genny Silvanus



PARTICIPANT CONSENT FORM

Project title: Privacy and Openness in the Public Domain

Researcher's name Genevieve Silvanus

Supervisor's name Prof Julie McLeod

- I understand the purpose of the research project and my involvement in it.
- I understand that I may withdraw from the research project at any stage and that this will not affect my status now or in the future.
- I understand that while information gained during the study may be published, I will not be identified and my personal results will remain confidential.
- I understand that I will be audiotaped during the interview.
- I understand that data will be stored electronically on the Northumbria University system, and will only be accessible by the researcher and her supervisor.
- I understand that I may contact the researcher or supervisor if I require further information about the research, and that I may contact the Research Ethics Coordinator if I wish to make a complaint relating to my involvement in the research.

Signed (research participant)

Print name **Date**

Contact details

Researcher: g.silvanus@northumbria.ac.uk

Supervisor: j.mcleod@northumbria.ac.uk

Appendix 5 Ethics Consent Form for Focus Groups



Faculty of Engineering and Environment

RESEARCH PARTICIPANT CONSENT FORM

Name of participant	
Researcher's name	Genevieve Silvanus
Title of research project	Openness and privacy of archives in the public domain

Brief description of nature of research and involvement of participant:

The aim of this research is to critically investigate the issues surrounding openness and privacy of archives in the public domain from a multi-stakeholder perspective, with a focus on non-national level archives. It will also address the meaning of the public domain in an archival context, and how can this help archivists to ensure and justify effective, equitable access. The research objectives are:

1. To examine the relationship between the rule of law, archives and the question of privacy.
2. To explore access to and closure of archival records, and the issues that affect them.
3. To establish what different stakeholders (including users, archivists, depositors and creators) consider are the practical issues which surround openness and privacy

Information obtained from this study will help to fill a knowledge gap and provide local authorities and universities with the information to implement policies effectively and equitably.

Information and activities required:

The selected participants will be contacted by email and invited to attend the appropriate focus group. The focus group will discuss different issues around privacy and openness, including practical examples. These will

Standard statement of participant* consent (please tick as appropriate)

I confirm that:

- | | |
|--|--------------------------|
| I have been briefed about this research project and its purpose and agree to participate | <input type="checkbox"/> |
| I have discussed any requirement for anonymity or confidentiality with the researcher** | <input type="checkbox"/> |
| I agree to be audio recorded | <input type="checkbox"/> |
| I understand I can withdraw at any time in the process | <input type="checkbox"/> |

****Specific requirements for anonymity, confidentiality, data storage, retention and destruction**

How the information will be stored and published:

The interview/email data will be kept secure on password-protected campus networked drives at Northumbria University; consent forms and the personal contact information provided by the participants will also be kept secure and confidential on the servers. Data will be anonymised as described above. Focus Group data captured on recording devices will be transferred to the secure servers and wiped from the recording device. All other research data will be kept until the end of the study, and will then be disposed of in line with Northumbria University's retention policy.

Signed **Date**

Standard statement by researcher

I have provided information about the research to the research participant and believe that he/she understands what is involved.

Researcher's signature
Date

Genevieve Silvanus
PhD researcher
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Northumbria University, Newcastle upon Tyne, NE2 1XE, United Kingdom.
Tel: +4407944199174 Email: g.silvanus@northumbria.ac.uk

Appendix 6 Information Sheets for Focus Groups



Information Sheet for Focus Group 1

Monday 5th December 2016, 2pm

Thank you for agreeing to take part in my research; I really appreciate you taking the time and effort. This sheet is intended to give you some more information about next week and explain how it fits into my research.

I have booked room P216 in the Pandon Building at Northumbria University, next to the central motorway (postcode NE2 1XE). It is a 15 minute walk from the train station and there is some very limited parking. Please let me know if you require a car parking space. The room is on the second floor, and there is a lift. Tea, coffee and cake/ biscuits will be provided at the start of the session. I anticipate the discussion finishing around 3.30pm.

My research

The overall aim of my research is 'to critically investigate the issues surrounding openness and privacy of archives in the public domain from a multi-stakeholder perspective'. I have chosen to do this from a local perspective, looking at archives subject to FOI in England and Wales (so not TNA or business archives). I am holding four focus groups, two for information professionals and two for users to explore these issues.

Questions to think about

(I don't expect you to have all the answers ready, this is just to give you some idea of the broad areas that will be covered and get you thinking about the subject)

What do you think are the tensions surrounding openness and privacy of archives?

How long are your school or university admissions registers closed for?

Have you noticed any differences in closure periods at different archives? Which record series are affected?

What laws affect the collections at your archive?

Please think about different collections in your archive that might have sensitive information. Why are they sensitive? Who decides how long they are closed for? Do you receive any advice from outside your archive?



Information Sheet for Focus Group 2

Friday 20th January 5pm

Thank you for agreeing to take part in my research; I really appreciate you taking the time and effort. This sheet is intended to give you some more information about this week and explain how it fits into my research.

I have booked committee room 3 at * It is a 5 minute walk from the train station and there is plenty of on-site parking. Please meet me at the main help desk where we will need to sign in. Tea and coffee will be provided at the start of the session. I anticipate the discussion finishing around 6pm.

My research

The overall aim of my research is 'to critically investigate the issues surrounding openness and privacy of archives in the public domain from a multi-stakeholder perspective'. I have chosen to do this from a local perspective, looking at archives which are subject to the Freedom of Information Act (so not TNA or business archives). I am holding three focus groups, one for archivists and two for users to explore these issues.

Questions to think about

(I don't expect you to have all the answers ready, this is just to give you some idea of the broad areas that will be covered and get you thinking about the subject)

What do you think are the tensions surrounding openness and privacy of archives?

Have you ever wanted to look at a record which was closed? Were you still able to access it? How?

Have you noticed any differences in closure periods of the same record sets at different archives?

Do you know which laws affect the records that you are interested in?

Do you share your findings with anyone else e.g. other family members or a history group? How?



Information Sheet for Focus Group 3

Friday 27th January 11am

Thank you for agreeing to take part in my research; I really appreciate you taking the time and effort. This sheet is intended to give you some more information about next week and explain how it fits into my research.

I have booked room PB216 in the Pandon Building at Northumbria University, next to the central motorway (postcode NE2 1XE). It is a 15 minute walk from the train station and there is some very limited parking. Please let me know if you require a car parking space. The room is on the second floor, and there is a lift. Tea, coffee and cake/ biscuits will be provided at the start of the session.

My research

The overall aim of my research is 'to critically investigate the issues surrounding openness and privacy of archives in the public domain from a multi-stakeholder perspective'. I have chosen to do this from a local perspective, looking at archives which are subject to the Freedom of Information Act (not national or business archives). I am holding three focus groups, one for archivists and two for users to explore these issues.

Questions to think about

(I don't expect you to have all the answers ready, this is just to give you some idea of the broad areas that will be covered and get you thinking about the subject)

Have you ever wanted to look at a record which was closed? Why was it closed? Were you still able to access it? How?

Have you noticed any differences in closure periods of the same record sets at different archives?

Do you know which laws affect the records that you are interested in?

What do you think are the tensions surrounding openness and privacy of archives?

Appendix 7 Questions for Focus Group 1 (Archivists)

Explain the purpose of group, and emphasise that it will be Chatham House rules and will be anonymous.

Please can everyone introduce themselves and say where they are from at beginning for the tape.

Opening question: how long are your school or university admission registers open for and why?

In your archive, who is responsible for deciding how long records are closed for? [prompts- senior archivist/depositor/law] and why, if it's not the law?

Can they be accessed whilst closed, how? By whom?

What is your understanding of the legal framework your archive is operating in? Where does your archive sit within your organisation? [Leisure, Library service etc]

From your experiences, what do you consider are the tensions between openness and privacy? For access to records, appraisal and cataloguing.

[extra question if there is time- What do you think is the effect of digital records on privacy?]

Why do you think there are differences between archives in terms of access and closure?

Appendix 8 Questions for Focus Groups 2 and 3 (Users)

Explain the purpose of the group, and emphasise that I am primarily interested in English and Welsh local level- so county and university archives, not TNA- and value their experiences. Also Chatham House rules and anonymous.

Please can everyone introduce themselves and say in 1 sentence what they are researching at beginning for tape.

Opening question. How many different LA and university archives have you researched at, roughly? (all to answer) [if it is none, that will be useful too as they will have different ideas!]

Have you ever wanted to look at a record which was closed? (What was it and why was it closed? How did you know it was closed? Did anyone explain why it was closed? Were you able to access it? How?)

What is your understanding of the legal framework which archives operate in? Do you know which laws apply to the records you are interested in?

What is the effect of the digital from a privacy point of view?

FG2: do you share your work, with whom and why?

Have you noticed any differences between different archives in terms of access and closure? Why do you think there are these differences?

Appendix 9 Example of transcript and coding

05/09/2018 13:02

Coding Summary By Node

openness & privacy

05/09/2018 13:02

Aggregate	Classification	Coverage	Number Of Coding References	Reference Number	Coded By Initials	Modified On
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Node

Nodes\\access

Audio

Internals\\FG1

Yes	Coverage	Number Of Coding References	Reference Number	Coded By Initials	Modified On	
	1.0000	171	1	GL	27/03/2017 13:51	
D as I say one of the things we will do with our research service is if someone can show umm through the relevant birth and marriage certificates and things, that the person they are interested in is a direct ancestor then they can have a redacted copy (R yeah) but they would have to use the research service because obviously, from our point of view, that is quite a lot of time to get it out, scan it, put erm, redact what needs redacting.. but that's (8 06)						
			2	GL	27/03/2017 13:51	
G how much do you charge for that?						
			3	GL	27/03/2017 13:51	
D its £32 an hour. I couldn't off hand say how long it would take.						
			4	GL	27/03/2017 13:51	
F does it happen often that?						
			5	GL	27/03/2017 13:51	
D Erm, I'm not sure. I don't think an awful lot to be honest.						
			6	GL	27/03/2017 14:02	
F in the in the 10 years I've been where I am, we've never once had to go through that process of someone having to prove, well having to have access to a redacted record and prove their direct relationship						
			7	GL	27/03/2017 13:51	
D I think its more common with some of our other records, for example the erm Winterton former county lunatic asylum that's more often, process, service is used more common. It happens occasionally for admission registers, but not an awful lot. L mmhmmm						
			8	GL	31/03/2017 12:02	
L yeah I've had er cases where people actually need the erm information for official purposes. I mean the one that comes to mind is erm people have emigrated to Canada have to prove that they were educated in English, laugh, so that their children aren't forced through the French system. Hah! Which is bizarre but they need, you know, actual certified copies on occasion to er..						
			9	GL	27/03/2017 14:26	
L yeah I've had er cases where people actually need the erm information for official purposes. I mean the one that comes to mind is erm people have emigrated to Canada have to prove that they were educated in English, laugh, so that their children aren't forced through the French system. Hah! Which is bizarre but they need, you know, actual certified copies on occasion to er..						

Appendix 10 List of codes used, showing hierarchy

05/09/2018 13:18

Node Structure 05/09/2018 13:18

Hierarchical Name	Nickname	Aggregate	User Assigned Color
Node			
Nodes			
Nodes\access		Yes	None
Nodes\access\catalogues		No	None
Nodes\access\differential		Yes	None
Nodes\access\differential\end result (publish)		No	None
Nodes\access\differential\how gain		No	None
Nodes\access\differential\male, female		No	None
Nodes\access\differential\part of study group		No	None
Nodes\access\differential\record pertaining to self or family		No	None
Nodes\access\differential\research question		No	None
Nodes\access\differential\sign declaration form		No	None
Nodes\access\differential\uncatalogued material		No	None
Nodes\access\differential\unfair on archivist to make judgement		No	None
Nodes\access\differential\whether in person or remote		No	None
Nodes\access\equal		No	None
Nodes\access\open unless reason can not		No	None
Nodes\access\physical access		No	None
Nodes\access\preferential		Yes	None
Nodes\access\preferential \academic qualifications		No	None
Nodes\access\preferential \personality of archivist		No	None
Nodes\access\preferential \politeness, charm		No	None
Nodes\access\preferential \relationship		No	None
Nodes\access\preferential \valid reason		No	None
Nodes\access\preferential \who you are,		No	None
Nodes\access\prove that they are dead		No	None
Nodes\accountability		No	None
Nodes\'archives in the real world'		Yes	None
Nodes\'archives in the real world'\custom and practice		No	None
Nodes\'archives in the real world'\management		Yes	None
Nodes\'archives in the real world'\management\avoidance tactics		No	None

Nodes\\'archives in the real world'\management\financial concerns	No	None
Nodes\\'archives in the real world'\management\financial concerns\time pressures	No	None
Nodes\\'archives in the real world'\management\practicalities	No	None

Hierarchical Name	Nickname	Aggregate	User Assigned Color
Nodes\\'archives in the real world'\management\risk management		No	None
Nodes\\'archives in the real world'\management\taking or passing responsibility		No	None
Nodes\\'archives in the real world'\management\where is the harm		No	None
Nodes\\'archives in the real world'\politics		Yes	None
Nodes\\'archives in the real world'\politics\decision making		No	None
Nodes\\'archives in the real world'\politics\decision making\confidence		No	None
Nodes\\'archives in the real world'\politics\decision making\support for archivists		No	None
Nodes\\'archives in the real world'\politics\political motivations		No	None
Nodes\\'archives in the real world'\politics\types of archive		No	None
Nodes\\'archives in the real world'\politics\types of archive\differences between university and local authority archives		No	None
Nodes\\'archives in the real world'\politics\types of archive\location within organisation		No	None
Nodes\\'archives in the real world'\politics\types of archive\NRS		No	None
Nodes\\'archives in the real world'\politics\types of archive\TNA		No	None
Nodes\\'archives in the real world'\professional concerns		Yes	None
Nodes\\'archives in the real world'\professional concerns\appraisal		No	None
Nodes\\'archives in the real world'\professional concerns\appraisal\only justify keeping what you think need to keep		No	None
Nodes\\'archives in the real world'\professional concerns\archivists as custodians		No	None
Nodes\\'archives in the real world'\professional concerns\professional ethics		No	None
Nodes\\'archives in the real world'\professional concerns\records management, semi-current		No	None
Nodes\\'archives in the real world'\professional concerns\ttraining		No	None
Nodes\\'archives in the real world'\records		Yes	None
Nodes\\'archives in the real world'\records\catalogues		No	None
Nodes\\'archives in the real world'\records\legacy records		No	None
Nodes\\'archives in the real world'\records\legacy records\change in status		No	None
Nodes\\'archives in the real world'\records\promotion, or deliberate decision not to		No	None
Nodes\\'archives in the real world'\records\serendipity		No	None
Nodes\\'archives in the real world'\records\Standardisation-lack of		No	None
Nodes\\'archives in the real world'\records\Standardisation-lack of\standards required		No	None
Nodes\\Closure, privacy		Yes	None
Nodes\\Closure, privacy\closed records		No	None
Nodes\\Closure, privacy\closed records\100 years		No	None
Nodes\\Closure, privacy\closed records\conservation reasons		No	None

Nodes\\Closure, privacy\closed records\depositor imposed	No	None
Nodes\\Closure, privacy\closed records\depositor imposed\relationship with depositor and family	No	None
Nodes\\Closure, privacy\closed records\how users know	No	None
Nodes\\Closure, privacy\length of closure period	No	None
Nodes\\Closure, privacy\partially closed	No	None
Nodes\\Closure, privacy\privacy	No	None
Nodes\\Closure, privacy\reclosure	No	None
Nodes\\Closure, privacy\user response to closed records	Yes	None

Hierarchical Name	Nickname	Aggregate	User Assigned Color
Nodes\\Closure, privacy\user response to closed records\archivist maintains closure period		No	None
Nodes\\Closure, privacy\user response to closed records\users not attempted to gain access		No	None
Nodes\\Closure, privacy\user response to closed records\users request to see record		No	None
Nodes\\Closure, privacy\whether it should be open		No	None
Nodes\\control, power		No	None
Nodes\\control, power\value		No	None
Nodes\\dichotomus		No	None
Nodes\\differences between Scotland and England		No	None
Nodes\\digital technology		Yes	None
Nodes\\digital technology\big data		No	None
Nodes\\digital technology\born digital		No	None
Nodes\\digital technology\digitisation		No	None
Nodes\\digital technology\discoverability		No	None
Nodes\\digital technology\Effect on research		No	None
Nodes\\digital technology\Hillsborough		No	None
Nodes\\digital technology\Internet of Things		No	None
Nodes\\digital technology\linked data		No	None
Nodes\\digital technology\'once its out there its out there'		No	None
Nodes\\digital technology\online catalogues, search engines		No	None
Nodes\\digital technology\online commercial history sites		No	None
Nodes\\digital technology\personalisation, targetting		No	None
Nodes\\digital technology\Seemis		No	None
Nodes\\digital technology\'so much stuff' online		No	None
Nodes\\digital technology\social media		No	None
Nodes\\extent of variation		No	None
Nodes\\fraud, identity theft		No	None
Nodes\\'human nature'		No	None

Nodes\\informed consent	No	None
Nodes\\legal framework	No	None
Nodes\\legal framework\\confusing	No	None
Nodes\\legal framework\\copyright	Yes	None
Nodes\\legal framework\\DPA	No	None
Nodes\\legal framework\\EIR	No	None
Nodes\\legal framework\\FOI	No	None
Nodes\\legal framework\\FOISA	No	None
Nodes\\legal framework\\GDPR	No	None
Nodes\\legal framework\\Human Rights Act	No	None
Nodes\\legal framework\\ICO	No	None
Nodes\\legal framework\\ICO\\Scottish ICO	No	None
Nodes\\legal framework\\inquiries	No	None
Nodes\\legal framework\\Local Government Acts	No	None

Hierarchical Name	Nickname	Aggregate	User Assigned Color
Nodes\\legal framework\\Parish Measures Act		No	None
Nodes\\legal framework\\policy, guidelines		No	None
Nodes\\legal framework\\PRA		No	None
Nodes\\legal framework\\PRSA		No	None
Nodes\\legal framework\\Reuse of Public Sector Information		No	None
Nodes\\legal framework\\RtBF		No	None
Nodes\\legal framework\\time frames		No	None
Nodes\\long term view		No	None
Nodes\\misunderstandings		Yes	None
Nodes\\misunderstandings\\different types of archives		No	None
Nodes\\misunderstandings\\discussions to understand		No	None
Nodes\\misunderstandings\\perception of role of archivists		No	None
Nodes\\misunderstandings\\'scary'		No	None
Nodes\\misunderstandings\\what records exist		No	None
Nodes\\misunderstandings\\what users want		No	None
Nodes\\named projects		No	None
Nodes\\overthinking		No	None
Nodes\\Ownership		Yes	None
Nodes\\Ownership\\ownership of records		No	None
Nodes\\Ownership\\sense of ownership		No	None
Nodes\\professional organisations		No	None
Nodes\\public domain		No	None

Nodes\\random	No	None
Nodes\\records	Yes	None
Nodes\\records\geography, where records are from	No	None
Nodes\\records\public records	No	None
Nodes\\records\record sets	No	None
Nodes\\records\record sets\administration records	No	None
Nodes\\records\record sets\adoption records	No	None
Nodes\\records\record sets\adoption records\administration records	No	None
Nodes\\records\record sets\asylum records	No	None
Nodes\\records\record sets\bastardy bonds	No	None
Nodes\\records\record sets\bastardy bonds\administration records	No	None
Nodes\\records\record sets\burial register	No	None
Nodes\\records\record sets\business records	No	None
Nodes\\records\record sets\census	No	None
Nodes\\records\record sets\charity records	No	None
Nodes\\records\record sets\civil registration	No	None
Nodes\\records\record sets\colonial	No	None
Nodes\\records\record sets\coroners records	No	None
Nodes\\records\record sets\cottage homes	No	None

Hierarchical Name	Nickname	Aggregate	User Assigned Color
Nodes\\records\record sets\council minutes		No	None
Nodes\\records\record sets\council minutes\school inspection reports		No	None
Nodes\\records\record sets\court records		No	None
Nodes\\records\record sets\court records\juvenile court		No	None
Nodes\\records\record sets\disaster records		No	None
Nodes\\records\record sets\electoral registers		No	None
Nodes\\records\record sets\family and estate		No	None
Nodes\\records\record sets\feminist, inc periodicals and personal archives		No	None
Nodes\\records\record sets\fire service records		No	None
Nodes\\records\record sets\health		No	None
Nodes\\records\record sets\health\medical records		No	None
Nodes\\records\record sets\IRA pension and medal records		No	None
Nodes\\records\record sets\Jewish records		No	None
Nodes\\records\record sets\market charters		No	None
Nodes\\records\record sets\methodist records		No	None
Nodes\\records\record sets\military records		No	None
Nodes\\records\record sets\military records\MOD		No	None

Nodes\\records\record sets\MOD records	No	None
Nodes\\records\record sets\newspapers	No	None
Nodes\\records\record sets\parish registers	No	None
Nodes\\records\record sets\photographs, postcards	No	None
Nodes\\records\record sets\police records	No	None
Nodes\\records\record sets\prison records	No	None
Nodes\\records\record sets\Roman Catholic records	No	None
Nodes\\records\record sets\school records	No	None
Nodes\\records\record sets\service record	No	None
Nodes\\records\record sets\social care	No	None
Nodes\\records\record sets\university accounts	No	None
Nodes\\records\record sets\university records	No	None
Nodes\\records\record sets\workhouse records	No	None
Nodes\\records\records of ordinary people are different to those in the public eye	No	None
Nodes\\records\sensitive records	No	None
Nodes\\records\sensitive records\changing sensibilities	Yes	None
Nodes\\records\sensitive records\content	No	None
Nodes\\records\sensitive records\context	No	None
Nodes\\records\sensitive records\individual perception	No	None
Nodes\\records\sensitive records\living or dead	No	None
Nodes\\records\sensitive records\who looking at record	No	None
Nodes\\records\sharing	No	None
Nodes\\stakeholders	Yes	None
Nodes\\stakeholders\caldicott guardians	No	None

Hierarchical Name	Nickname	Aggregate	User Assigned Color
Nodes\\stakeholders\creators		No	None
Nodes\\stakeholders\legal team		No	None
Nodes\\stakeholders\non-archivist colleagues		No	None
Nodes\\stakeholders\relationship with archivist		No	None
Nodes\\stakeholders\users		Yes	None
Nodes\\stakeholders\users\awareness of privacy issues		No	None
Nodes\\stakeholders\users\emotional response		No	None
Nodes\\stakeholders\users\'social etiquette'		No	None
Nodes\\temporality changes		No	None
Nodes\\tensions between privacy and openness		No	None
Nodes\\training for users		No	None
Nodes\\transparency		No	None

Nodes\\trust	No	None
Nodes\\WDYTYA (Who Do You Think You Are)	No	None
Nodes\\why variation	No	None

Appendix 11 Coding frequency across Interviews

Code	Sources	References
access	5	143
catalogues	2	69
differential	2	20
end result (publish)	1	1
how gain	1	12
male, female	0	0
part of study group	0	0
record pertaining to self or family	1	1
research question	0	0
sign declaration form	1	1
uncatalogued material	0	0
unfair on archivist to make judgement	1	2
whether in person or remote	1	3
equal	1	3
open unless reason can not	1	3
physical access	2	19
preferential	3	24
academic qualifications	3	9
personality of archivist	1	2
politeness, charm	0	0
relationship	0	0
valid reason	0	0
who you are,	0	0
prove that they are dead	1	5
accountability	1	7
'archives in the real world'	6	321
custom and practice	2	27
management	6	112
avoidance tactics	2	17
financial concerns	6	26
time pressures	1	5
practicalities	2	12
risk management	6	53
taking or passing responsibility	0	0
where is the harm	1	3
politics	4	32
decision making	1	2
confidence	1	5
support for archivists	2	13
political motivations	1	26
types of archive	2	3

Code	Sources	References
differences between university and local authority archives	3	23
location within organisation	1	36
NRS	1	1
TNA	4	25
professional concerns	3	82
appraisal	3	41
only justify keeping what you think need to keep	1	1
archivists as custodians	0	0
professional ethics	1	1
records management, semi-current	1	19
training	2	12
records	5	62
catalogues	3	52
legacy records	2	3
change in status	1	10
promotion, or deliberate decision not to	0	0
serendipity	0	0
Standardisation-lack of	1	7
standards required	1	4
Closure, privacy	6	124
closed records	2	3
100 years	4	13
conservation reasons	0	0
depositor imposed	3	20
relationship with depositor and family	1	2
how users know	0	0
length of closure period	5	39
partially closed	1	3
privacy	3	30
reclosure	3	35
user response to closed records	1	1
archivist maintains closure period	0	0
users not attempted to gain access	0	0
users request to see record	0	0
whether it should be open	2	13
control, power	4	65
value	1	8
dichotomus	2	10
differences between Scotland and England	1	24
digital technology	6	235
big data	3	7
born digital	2	9
digitisation	1	4

Code	Sources	References
discoverability	2	8
Effect on research	2	11
Hillsborough	1	5
Internet of Things	1	8
linked data	3	21
'once its out there its out there'	1	1
online catalogues, search engines	3	19
online commercial history sites	4	18
personalisation, targeting	1	3
Seemis	1	24
'so much stuff' online	1	4
social media	2	9
extent of variation	2	23
fraud, identity theft	1	14
'human nature'	0	0
informed consent	1	1
legal framework	4	17
confusing	2	3
copyright	2	8
DPA	6	42
EIR	1	3
FOI	6	31
FOISA	1	11
GDPR	2	4
Human Rights Act	3	5
ICO	3	10
Scottish ICO	2	2
inquiries	1	11
Local Government Acts	0	0
Parish Measures Act	0	0
policy, guidelines	3	27
PRA	4	19
PRSA	1	56
Reuse of Public Sector Information	1	1
RtBF	1	1
time frames	1	8
long term view	2	18
misunderstandings	3	6
different types of archives	2	2
discussions to understand	1	4
perception of role of archivists	0	0
'scary'	0	0
what records exist	0	0

Code	Sources	References
what users want	0	0
named projects	2	5
overthinking	1	20
Ownership	1	1
ownership of records	1	1
sense of ownership	0	0
professional organisations	3	23
public domain	2	24
random	0	0
records	5	65
geography, where records are from	1	3
public records	1	1
record sets	0	0
administration records	0	0
adoption records	0	0
administration records	0	0
asylum records	0	0
bastardy bonds	0	0
administration records	0	0
burial register	0	0
business records	1	2
census	0	0
charity records	0	0
civil registration	1	1
colonial	0	0
coroners records	0	0
cottage homes	0	0
council minutes	0	0
school inspection reports	0	0
court records	3	11
juvenile court	0	0
disaster records	0	0
electoral registers	0	0
family and estate	1	1
feminist, inc periodicals and personal archives	0	0
fire service records	0	0
health	0	0
medical records	1	7
IRA pension and medal records	0	0
Jewish records	0	0
market charters	0	0
methodist records	0	0
military records	1	3

Code	Sources	References
MOD	1	1
MOD records	1	1
newspapers	0	0
parish registers	0	0
photographs, postcards	0	0
police records	0	0
prison records	0	0
Roman Catholic records	0	0
school records	2	6
service record	0	0
social care	1	4
university accounts	0	0
university records	1	11
workhouse records	0	0
records of ordinary people are different to those in the public eye	1	10
sensitive records	4	30
changing sensibilities	2	22
content	0	0
context	0	0
individual perception	0	0
living or dead	0	0
who looking at record	0	0
sharing	3	21
stakeholders	4	21
caldicott guardians	0	0
creators	1	2
legal team	0	0
non-archivist colleagues	1	4
relationship with archivist	1	2
users	3	10
awareness of privacy issues	1	1
emotional response	0	0
'social etiquette'	0	0
temporality changes	2	5
tensions between privacy and openness	3	26
training for users	1	2
transparency	0	0
trust	2	3
WDYTYA	0	0
why variation	1	3

Appendix 12 Coding frequency across Focus Groups

Code	Sources	References
access	3	623
catalogues	3	47
differential	3	265
how gain	2	45
male, female	1	12
part of study group	1	3
record pertaining to self or family	3	25
research question	3	23
sign declaration form	3	46
uncatalogued material	1	15
whether in person or remote	2	42
equal	1	3
physical access	2	27
preferential	3	281
academic qualifications	2	58
personality of archivist	3	114
politeness, charm	1	10
relationship	2	11
valid reason	2	13
who you are,	3	59
accountability	2	81
'archives in the real world'	3	938
management	3	208
avoidance tactics	2	38
financial concerns	3	86
time pressures	3	29
practicalities	3	30
risk management	3	37
taking or passing responsibility	1	17
politics	3	248
decision making	3	132
support for archivists	1	31
political motivations	1	71
types of archive	3	45
differences between university and local authority archives	2	37
location within organisation	1	48
professional concerns	3	118
appraisal	2	6
archivists as custodians	3	12
professional ethics	2	77
records management, semi-current	3	23
records	3	364
catalogues	3	47
legacy records	1	91
change in status	3	48
promotion, or deliberate decision not to	2	31
serendipity	3	76
Standardisation- lack of	3	119

Code	Sources	References
standards required	2	85
Closure, privacy	3	260
closed records	3	46
100 years	2	36
conservation reasons	2	19
depositor imposed	3	53
relationship with depositor and family	1	21
how users know	3	32
partially closed	3	74
privacy	1	2
reclosure	3	48
user response to closed records	3	80
archivist maintains closure period	2	6
users not attempted to gain access	1	11
users request to see record	3	63
whether it should be open	2	10
control, power	3	72
dichotomus	2	50
digital technology	3	242
online commercial history sites	3	72
'so much stuff' online	2	72
social media	2	15
extent of variation	3	90
'human nature'	2	38
informed consent	2	14
legal framework	3	163
copyright	3	59
DPA	3	45
EIR	1	3
FOI	3	88
ICO	1	6
Local Government Acts	1	7
Parish Measures Act	1	1
policy, guidelines	3	82
PRA	1	3
Reuse of Public Sector Information	1	10
RtBF	1	7
time frames	1	1
misunderstandings	3	277
different types of archives	2	70
perception of role of archivists	2	37
'scary'	2	29
what records exist	3	54
what users want	3	23
Ownership	2	56
ownership of records	1	18
sense of ownership	2	38
public domain	3	48
random	1	22
records	3	117
record sets	1	1
administration records	1	7

Code	Sources	References
adoption records	2	5
administration records	1	7
asylum records	1	5
bastardy bonds	2	10
administration records	1	7
burial register	1	35
business records	1	12
census	2	9
charity records	1	19
civil registration	2	12
colonial	1	6
coroners records	1	9
cottage homes	1	4
council minutes	2	19
school inspection reports	1	4
court records	2	53
juvenile court	1	27
disaster records	1	2
electoral registers	1	44
family and estate	1	34
feminist, inc periodicals and personal archives	1	10
fire service records	1	3
health	2	49
medical records	3	60
IRA pension and medal records	1	10
Jewish records	1	6
market charters	1	7
methodist records	1	3
newspapers	3	11
parish registers	2	79
photographs, postcards	1	3
police records	2	29
prison records	1	29
Roman Catholic records	2	33
school records	3	136
service record	2	3
social care	1	1
university accounts	2	16
workhouse records	2	3
records of ordinary people are different to those in the public eye	1	1
sensitive records	3	99
changing sensibilities	2	97
content	3	63
context	1	5
individual perception	3	16
living or dead	2	14
who looking at record	3	14
sharing	2	16
stakeholders	3	288
caldicott guardians	2	49
legal team	2	55

Code	Sources	References
non-archivist colleagues	1	8
users	3	161
awareness of privacy issues	2	35
emotional response	2	80
'social etiquette'	2	46
transparency	3	137
trust	3	28
WDYTYA (Who Do You Think You Are)	2	22

Abbreviations

ARA – Archives and Records Association

BMD – Births, Marriages and Deaths certificates

CARN - County Archive Research Network

DPA- Data Protection Act, 1998 and 2018

FOI- Freedom of Information Act 2000

GDPR- General Data Protection Regulation,

ICO – Information Commissioners Office

IICSA – The Independent Inquiry into Child Sexual Abuse

LA Local Authority archive,

NARA – National Archives and Records Administration

POD- Place of Deposit

PRA – Public Records Act, 1958

PRSA – Public Records (Scotland) Act 2011

PSQG – Public Services Quality Group

SAR – Subject Access Requests

SOA- Society of Archivists

WDYTYA?- Who Do You Think You Are?

Glossary

Appraisal is the process of assessing the value of records for the purpose of determining the duration and conditions of their preservation.

Archives and Records Association is the lead professional body for archivists, records managers and conservators in the United Kingdom. It is the successor to the Society of Archivists.

Assizes or the Court of Assizes, are held in county towns by visiting judges from London to hear more serious cases than held in the local Quarter Sessions. These records are kept at TNA.

BMD or Birth, Marriage and Death certificates, part of civil registration often confused with baptisms, marriages and funerals in churches

Caldicott Guardian is a senior person responsible for protecting the confidentiality of people's health and care information and making sure it is used properly. It is an intermediary between archives and users and typically a user will need permission from the Caldicott Guardian to view closed health records (including asylum records).

CARN cards or the County Archive Research Network is a national system of user registration or readers tickets in the UK. It will be replaced by Archive Cards in April 2019

Closure period is the length of time which a record is closed for.

General Data Protection Regulation (commonly called GDPR) came into force May 2018

Information Commissioners Office (or ICO), an independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

The Independent Inquiry into Child Sexual Abuse, set up because of serious concerns that some organisations had failed and were continuing to fail to protect children from sexual abuse. It was set up by statutory inquiry in March 2015 and expects to hear the last evidence in 2020. (<https://www.iicsa.org.uk/background>)

National Archives and Records Administration is the official archive for the United States of America, it is an official agency of the United States government.

Place of Deposit or POD. TNA appoints archives, after inspection, as Places of Deposit for specific public records under s.4 (1) of the Public Records Act. They typically are records of strong local interest, such as court records, or records which are kept by their creating institution.

PSQG or the Public Services Quality Group is a steering group under the National Council of Archives, most known for its survey of users which is undertaken every 18 months.

Society of Archivists, 1947-2010 this was the leading professional body for archivists in the UK and was the predecessor to the Archives and Records Association. The bi-annual journal still bears its name (Journal of the Society of Archivists).

Subject Access Requests, or SARs are part of the *Data Protection Acts 1998 and 2018*, whereby individuals may request their own records. Under the 1998 Act a £10 fee was chargeable, although under GDPR and the 2018 Act this is now free.

TNA or The National Archives, is the official archive for the UK Government, and for England and Wales, it is a non-ministerial department.

Local Authority archives are also known as county record offices. The Local Government (Records) Act 1962 provided limited discretionary powers for local authorities to provide certain archive services, which was strengthened in the Local Government Act 1972 (<http://www.nationalarchives.gov.uk/information-management/legislation/other-archival-legislation/local-government-acts/>). Some record offices were established before this date.

Who Do You Think You Are? Is a popular BBC television series where celebrities trace their family trees in archives and on location. First aired in 2004.

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