

Legal Records at Risk (LRAR) seminar

Institute of Advanced Legal Studies (IALS), 10 December 2015 2.30-5.30

Seminar notes

1. The seminar was introduced by the Chair and Director of IALS, Jules Winterton
2. An outline of the background to the Project was given by William Twining, Quain Professor of Jurisprudence Emeritus at University College London, followed by a brief presentation on action to date by Clare Cowling, Project Director. William's handout notes and Clare's slides are available separately.
3. Alex Ritchie, Business Archives Advice Manager, Archives Sector Development, The National Archives (TNA), then spoke about business records at risk. Alex made the following points:
 - In 2009 the TNA set up a Crisis Management Team to devise a national strategy for business archives at risk. The team works in collaboration with the Business Archives Council and the Archives and Records Association. The Team currently has 10 staff, who monitor the collapse of businesses and seek to rescue records. It has had notable success, with 22 deposits in archive repositories from 86 cases eg Comet and Woolworths.
 - The TNA manages an index of business records, based on the old National Register of Archives.
 - In-house business archives currently comprise 33% of all corporate archives, primarily in banking, alcohol and retail. There is an appreciation by these businesses of the potential of their archives for branding and reuse.
 - TNA has also undertaken a survey of architectural, building and construction records.
4. The two presentations were followed by questions, discussion and suggestions as follows:
 - It is not yet clear just which records of institutions specialised to law (ISLs) are of research value or how they are to be identified. Classifying the value of ISLs' records by, eg, the importance of their clients or their legal speciality is one option but could risk skewing the historical record through subject-based selection.
 - In-house archives of ISLs seem to be conspicuous by their absence. Where they exist they clearly demonstrate value for money to their organisations.
 - ISLs need better advice on records management.
 - The Law Society and Solicitors' Regulation Authority (SRA) should be more pro-active in guiding ISLs in best practice.
 - There is a need for a national dialogue with insolvency practitioners.
 - TNA should provide guidance to help the SRA dispose of its intervention archives.
 - There is a need to educate ISLs in the potential value of their records.

5. A refreshment break was followed by a series of round table discussions on the following: themes and propositions:

Workshop 1: What do we mean by “legal records at risk”? Are legal records now more at risk than in the past? If they are at risk, what are the contributory factors? Findings included:

- The Records Preservation Section of the Business Records Association (BRA) will no longer be able to act as a holding area for hard copy records of solicitors’ firms.
- Digital issues – same issue as with other records – digital continuity. There may be special issues around accessing the digital records of intervened firms.
- Lack of recognised value in legal records by the information owners.
- Sale of legal records (despite confidentiality/ownership issues).
- Regulatory bodies like TLS and the SRA: their recordkeeping guidance is excellent but needs updating and they need to monitor best practice more proactively to encourage better records management.
- Records may be at risk of becoming invisible – eg marriage settlements early nineteenth-century – mid-twentieth century.
- Barristers’ records: there is already a historical black hole with this category. Barristers do not appear to have an interest.
- Concerns about confidentiality do not appear to be a major issue, though some archives (eg London Metropolitan Archives) are now refusing to take in any records closed for more than 20 years due to storage costs.
- Success story – justices’ notebooks are retained by the Supreme Court (if offered by the judge) and will be made available for research. It is hoped TNA will accept custody.

Workshop 2: What hitherto neglected/at risk categories of legal records would researchers use if the records were readily available? In what areas of research might these records be significant and useful? Findings included:

- Questions of use – for scholars or for owners or both? Deeds, estate maps and manorial records are of recognised value to genealogists.
- Need for academic support and input. Historical mapping – interest of economic historians in arbitration. Legal historians and socio-legal studies: need to engage historians in collaborative projects.
- Use of seminars like this as means of engagement.
- Need to alert academic researchers to the potential value of legal records ie create a demand.
- Better publicity as to the location of legal records already available for research.
- Run a project with PhD students?

- More events like the Business Archives Council's "Meet the Archivists" sessions or Sheffield University Centre for Archival Practice student inductions.

Workshop 3: Given the current economic climate, how can the collection and care of legal records by archives and libraries be facilitated? Findings included:

- Need for a more co-ordinated archives strategy for the collection of private/business/legal records.
- Need for industry sponsorship of archiving projects – how to advocate for archives.
- The British Records Association intends to widen its scope to offer more guidance to law firms on the potential archival value of their business records.
- Need to differentiate types of solicitors' practice, especially specialist and niche practices in order to identify ISLs whose records may be of special archival interest.
- More digitisation would create more demand.
- Funding for digitisation and cataloguing projects is needed.
- Donations by depositing institutions to assist in covering transfer, storage and cataloguing costs (either one-off or on a regular basis) should be requested.
- Academic researchers and institutions could better communicate their research needs to archives.
- The legal profession must take more responsibility for its records and be educated a) in their research potential in many fields as well as legal history and b) about the availability of repositories.
- A legal heritage function along the lines of the Wellcome Trust would be the ideal!

6. The seminar closed promptly at 5.30.