

RESEARCH ARTICLE

A ‘legacy of suspicion’: the UK National Archives, the ‘migrated archives’ and the insecticide debacle of 2022

Mandy Banton

Institute of Commonwealth Studies, School of Advanced Study, University of London
Email: mandy.banton@sas.ac.uk

Abstract

In early 2022 the UK National Archives (TNA) suddenly withdrew one of its most sensitive archival collections from public access. There was no warning, and, for a considerable time, no explanation, thus fuelling a decades-long ‘legacy of suspicion’ about the underlying motives of TNA, the Foreign Office and even the entire British government. This article traces that story using early speculations expressed by users (and potential users) of the so-called ‘Foreign and Commonwealth Office migrated archives’, information eventually provided by TNA, and an analysis of some requests submitted under the UK Freedom of Information legislation. It concludes with a discussion of a new TNA programme to open up the collection to the national archives of the countries from which the records were removed at independence.

Résumé

Début 2022, les Archives nationales britanniques (TNA) ont brusquement retiré de l'accès public l'une de leurs collections archivistiques les plus sensibles. Sans prévenir ni, très longtemps, fournir d'explication, ce retrait a alimenté le nuage de suspicion qui plane depuis des décennies sur les motifs profonds des Archives nationales, du Foreign Office, voire du gouvernement britannique dans son ensemble. Cet article retrace cette histoire en se référant aux premières spéculations exprimées par les usagers (existants et potentiels) des archives dites migrées (Foreign and Commonwealth Office Migrated Archives), aux informations qu'ont fini par fournir les Archives nationales, ainsi qu'à une analyse de certaines demandes déposées au titre de la loi britannique sur la liberté d'accès à l'information. Il conclut par une discussion sur un nouveau programme des Archives nationales visant à ouvrir cette collection aux archives nationales des pays d'origine des documents retirés au moment de l'accession à l'indépendance.

The background

It is now ten years since the so-called ‘Foreign and Commonwealth Office migrated archives’ (FCO 141), consisting of about 20,000 colonial government records removed to London from British colonies at independence, were transferred to the UK National

Archives (TNA). They were opened to the public during 2012/13 although many documents are redacted and many others closed for extended periods or retained by the Foreign, Commonwealth and Development Office (FCDO). The thirty-seven sub-series within FCO 141 include records removed from seventeen former British dependencies in Africa, listed in TNA's catalogue ('Discovery') under their pre-independence names.¹

The histories of the removal of these records to the UK as each territory achieved independence, the decades during which they were hidden away in British government repositories and their very existence denied, and the eventual acknowledgement of their existence are now well known (Banton 2012; Sato 2017; Linebaugh 2022). Far less is known, at least in the UK, about the huge numbers that were destroyed overseas and, I think, about the practical implications caused for incoming independent governments by the loss of what were not then 'archives' but current records. As Kwame Nkrumah (1963) noted, the removal of such documents seemed like 'a line drawn across our continuity.'

It was as though there had been a definite intention to cut off all links between the past and present which could help us in finding our bearings. It was a covert reminder that, having ourselves rejected that past, it was for us to make our future alone.

Much has been written about the court case brought against the British Government by veterans of the struggle for independence in Kenya – the Land and Freedom Army, popularly known as Mau Mau – who claimed, and won, compensation for abuse and torture, and the High Court ruling that forced the Foreign and Commonwealth Office (FCO) in 2011 to admit its custody of relevant documentation and, soon afterwards, to release it. The three expert witnesses in the case published their reports (Anderson 2011; Bennett 2011; Elkins 2011).

The long years of official British denial – the first African collection was removed at Gold Coast/Ghana independence in 1957 but that from Ceylon (now Sri Lanka) almost a decade earlier – inevitably created a 'legacy of suspicion' among scholars and other interested persons throughout the Commonwealth, and indeed internationally. As Professor Tony Badger, appointed by the Foreign Secretary to oversee the transfer of the records to TNA, insisted, such a legacy would inevitably persist (Badger 2012). That it has done so has not been ameliorated, but rather strengthened, by the ongoing attitude of the British government. Prior to 2011 the possibility of returning the documents was occasionally discussed, but ruled out despite ongoing demands from the independent nations concerned.² That decision has persisted. Similarly FCO and its successor have refused to consider the free provision of digital copies as advocated

¹ Basutoland, Bechuanaland, Cameroon, Gambia, Gold Coast, Kenya, Nigeria, Northern Rhodesia, Nyasaland, Sierra Leone, Southern Rhodesia, Swaziland, Tanganyika, Uganda, Zanzibar. Plus Mauritius and Seychelles (the latter linked with the British Indian Ocean Territory).

² Kenya was the earliest, and probably the most persistent of the demanders. Various surveys have assessed the situation, the most recent conducted by James Lowry for the ICA (International Council on Archives, 2018/19).

by the Association of Commonwealth Archivists and Records Managers (ACARM 2017). As the then Foreign Secretary wrote the following year:

Foreign and Commonwealth Office paper files selected for permanent preservation are transferred to The National Archives. Paper files are not routinely digitized and are publically [sic] available for free at The National Archives and visitors can make their own digital copies of files if they so wish. For those unable to visit The National Archives, digital and paper copies of documents can be ordered with the charges (at cost recovery) agreed with HM Treasury and approved by Parliament.³

That appears to continue to be the official FCDO line. There is no recognition that most African scholars do not have the funds to travel to Kew and support themselves there for the long periods required for much archival research. They, in particular, may find it impossible to secure visas for entry into the UK (All-Party Parliamentary Group 2020). The cost of copying is prohibitive. It is notable that most of the research into the 'migrated archives' in the last decade has been undertaken by Westerners.

The status of these records remains questionable. Can they properly be described as 'FCO paper files'? In 2011 the FCO acquired a legal opinion that they are UK public records but, in accordance with standard practice and longstanding policy, has refused to release details of that opinion. It overturns a 1976 decision that they are *not* UK public records, but without any explanation.⁴ The earlier decision was made by the Lord Chancellor who was empowered by the Public Records Act (1958) to determine 'whether any records or description of records are public records for the purposes of this Act'.⁵ The question had been referred to him jointly by the FCO and TNA's predecessor, the Public Record Office, whose staffs had been debating the matter for years.

Unfortunately events of 2022 served to reinforce the 'legacy of suspicion'. There was no deliberate intent to do so, but simply an extraordinarily inept handling of unforeseen developments by the UK National Archives. As we will see later, however, TNA now has plans which may, hopefully, improve its reputation in this particular area.

The insecticidal contamination and TNA's reactions

The story, as it eventually emerged, is roughly as follows:

In February 2022 members of TNA's staff preparing certain documents within the migrated archives series, FCO 141, for digitization were concerned to find stickers attached to some of them stating 'A poisonous insecticidal solution has been used in binding this book'.⁶ Certain insecticides were known to be harmful to humans but in-house analyses were inconclusive. TNA lacked the capacity to carry out

³ Boris Johnson to my Member of Parliament, 26 May 2018.

⁴ For a further discussion of the legal status of these records see Banton (2020).

⁵ Public Records Act (1958). TNA, a non-ministerial department, now comes under the Department for Culture, Media and Sport rather than the Lord Chancellor's Department. The legislation has consequently been amended in this clause to read 'Secretary of State' rather than 'Lord Chancellor'.

⁶ 'Book' is interesting. FCO 141 is known to consist primarily of loose papers secured in folders by treasury tags; bound volumes exist but are very much in the minority and tend to consist of items such as registers of correspondence.

authoritative assessments and in mid-April it was recommended that external analysis be commissioned to inform the next steps for ensuring continuing access to the collection. Staff members were advised to avoid handling items in the series until a conclusive analysis and risk assessment had been completed and it can be assumed – although the exact date is unknown – that the series was withdrawn from public access at the same time, that is sometime between February and April 2022. Interestingly it later emerged that similar stickers had been found in 2013 when the series was transferred from the FCO to TNA. There was then a temporary delay in the transfer but no further action was taken and full background correspondence appears now not to exist.

A paper presented to TNA's Executive Team in April 2022, and later released in response to a Freedom of Information request, advised that a communication plan for staff and readers who accessed FCO 141 should be created as soon as possible. What staff members were then told is unknown but there appears to have been a considerable delay before any information was provided to TNA's readership. The catalogue was amended at some stage to state that documents were not available to order, but that information was given only at individual file level. The series level description continued to state that it was 'open unless otherwise stated', the usual form of wording. Individuals using the catalogue would have become aware that individual items were not orderable, but could not have known that the entire series was unavailable.

On 14 April 2022 an academic researcher who had managed to place an order before the catalogue was amended was told, by email, 'the series FCO 141, which you have booked to view at The National Archives next week, is being temporarily withdrawn in order for our Collection Care team to carry out a condition assessment.' The statement was viewed with suspicion by him, his colleagues and his contacts – there was speculation that withdrawal was connected with a recent refusal by TNA to allow access to a film crew – and news spread quickly through various interested networks. That notion was apparently unfounded – but there is that 'legacy of suspicion' again.

In early June 2022, when there was still no general information, an African PhD student travelled from her university in the United States to view certain FCO 141 documents. A complication here was that although she believed that her advance order for a selection of the documents had been successfully completed, this was denied by TNA. Finding the information given by various staff at a Kew enquiry point to be inconsistent and unconvincing she was brave enough – or perhaps just angry enough – to demand to speak to a senior manager and was told on 8 June that insecticide had been found on the files, and that further information was expected on 20 June. This may have been the first public mention of insecticide and an acknowledgement that there was a potential health implication.

Word that a statement was due on 20 June quickly got around. Nothing appeared. A UK professor asked for clarification and was told that TNA was working with specialist consultants to establish a risk assessment and safe handling guidance. An update would be provided at the end of July; in fact it was issued on 11 July, six months after the problem was identified. Here I have learned a valuable lesson – do not rely on an online news item continuing to be available. The July update – not of course an 'update' at all – was itself updated on 2 August; the July version is no

longer available.⁷ However, by 2 August, and maybe by 11 July, an explanation of the situation, and an apology for inconvenience caused, was finally provided (TNA 2022a).

In the meantime SCOLMA (the UK Library and Archives Group on Africa) sent an open letter to TNA's Chief Executive and Keeper expressing concern about the withdrawal of FCO 141 from public access, seeking further information, and requesting assurance that developments would be reported publicly and on a regular basis (SCOLMA 2022). The open letter stressed:

As you know, the history of these records, as well as the fact that they remain relatively under-researched, makes them particularly high-profile among colonial records. The importance and political sensitivity of these documents is evident in the many publications by academics and archivists on their history and significance.

Although the initial response (not from the Keeper but from one of his directors) failed to cover all the points raised by SCOLMA, later communications from TNA did address them. A TNA source later commented that the correspondence with SCOLMA had been 'helpful'; perhaps simply meaning that it had not been antagonistic.

On 21 September TNA announced that access to FCO 141 had been reinstated, with certain safeguards put in place including viewing of the documents in a separate reading room and the mandatory wearing of gloves (TNA 2022c).

[As an aside, TNA is far from the only body that makes important 'announcements' via obscure areas of its extensive website, in this case through 'news' pages which are unlikely to be found by anyone who does not already know of their existence and is prepared to search them regularly for interesting items. I found the 'announcement' of TNA's FCO 141 digitization programme – see below – while looking for something else entirely. And in an informal conversation two long-standing members of TNA's staff told me they were unaware of the existence of a 'news' area within the website.]

Individuals making enquiries about the situation sometimes expressed frustration that replies came from unnamed TNA staff described only by their job titles and clearly working to a script that often failed to answer the precise question. It appeared that no senior manager had been given overall responsibility to ensure adequate communication; that the real seriousness of the situation had not been recognized and it was felt adequate to adopt a 'call centre' type response to enquirers. TNA stated at various stages that it was fully aware of the sensitive history of FCO 141 but such awareness is rarely apparent. Staff seemed to be unaware of the central and unique significance of the series for much ongoing, important and time-limited research, showing surprise for example that researchers frustrated by the unavailability of FCO 141 did not respond positively to suggestions that they might wish to consult other documents instead. It was almost as if a researcher preparing a monograph on the Tudor navy was diverted to sources devoted to Henry VIII's marriages.

⁷ Had time allowed I may have been able to obtain the wording of the 11 July announcement from TNA, or it may exist among the 'snapshots' of websites maintained by the UK Government Web Archive: <https://www.nationalarchives.gov.uk/webarchive/>.

Freedom of Information requests⁸

During the months of uncertainty a number of interested persons inevitably used UK Freedom of Information (FOI) procedures to seek further information. At least one Parliamentary Question was asked (TNA 2022b).

Unfortunately, the handling by TNA of various FOI requests about the withdrawal of FCO 141 served to increase the suspicion that the records had been withdrawn for improper political reasons. Some of those requests were published by TNA on its website (TNA [n.d.](#)). Requests are also known to have been made to other UK government departments including the FCDO and the Department for Culture, Media and Sport (DCMS). Three requesters, two in respect of TNA and one in respect of FCDO, have shared their correspondence with those departments with me. I will refer to these individuals as R1 (requester 1), R2 (requester 2), both in respect of TNA, and R3 (requester 3) in respect of the FCDO. The three were based, respectively, in the United Kingdom, Nigeria, and the United States of America, showing the truly international spread of interest. R1 and R2 were subject to long delays by TNA in responding to both their initial requests and also to the requests they made for internal reviews of the initial decisions. TNA's delays were marked by a number of procedural irregularities, which may result from a misunderstanding of its obligations under the FOI Act – unfortunate given the high level of requests that it receives – but which, at least in this case, are more likely to be evidence of cynical delaying tactics. R3's request was also subject to an irregular delaying tactic by the FCDO but after that initial delay it was answered in full much more quickly than the requests to TNA submitted by R1 and R2.

On 7 July 2022, R1 requested the background documents to the decision to test a sample of FCO 141 files, the results of those tests, and any assessment of the risks to the documents or to people coming into contact with them. On 15 July, R2 requested a series of lists of document references, relating to such matters as those FCO 141 documents which had been found to bear labels referring to insecticide, documents which had been tested for insecticide, and documents which had been found to contain traces of insecticide.

We know from TNA's published summary Board minutes of 19 July that, by then, TNA was 'keen to establish access to the records by September' (TNA 2022b). The public statement of 2 August said that access would be restored after 'handling processes' had been put in place. However in early August the Keeper of Public Records decided that releasing the information requested by R1 and R2, would, or would be likely to, inhibit the free and frank provision of advice, or the free and frank exchange of views for the purposes of deliberation, or would *otherwise* prejudice, or would be likely *otherwise* to prejudice, the effective conduct of public affairs [my emphasis]. This conflated three separate exemptions under the FOI Act. It is difficult to believe that, if any of the information requested by R1 and R2 had been in the public domain from August 2022 onwards, the staff of the National Archives would, or would have been likely to, stop giving the Keeper free and frank advice about the handling processes to be used in restoring access to FCO 141, or that the Keeper and his staff would, or would have been likely to, have ceased to exchange free and frank

⁸ I am grateful for the assistance given in this section by a colleague with particular expertise in the requirements of the UK FOI Act 2000.

views about FCO 141 for the purposes of deliberation whether within TNA or with other government departments.

TNA's letter of 17 January 2023 to R1 suggested that if the information requested had been disclosed before it was complete, TNA might have been pressurised into restoring access prematurely, thus prejudicing the effective conduct of public affairs. Since TNA had already decided to restore access it seems improbable that such pressure would have any real effect. Instead, the Keeper and his staff seem to have defaulted into denying access to information about the withdrawal of FCO 141 as a matter of course, and then tried to justify doing so in a manner that, it can be argued, is in breach of the decision making required by the FOI Act.

All of the information requested by R2 was eventually provided on 22 November 2022, and almost all of the information requested by R1 was provided on 17 January 2023. The documents released provided no evidence whatsoever that the withdrawal of FCO 141 had been for any reasons other than concern for the health and safety of staff and researchers handling the records. (The same is true of the information disclosed to R3 by FCDO on 23 September 2022.) However, the irregular and improper approach taken by all TNA staff involved, including the Keeper, in processing the requests, fuelled the suspicion that TNA might indeed be party to the unlawful withdrawal of the records.

A new digitization programme

The 'legacy of suspicion' was thus perpetuated by the events of 2022, and indeed strengthened. It is unknown if TNA recognized that fact or, if so, if recognition in any way influenced developments announced in early 2023, although it is clear that relevant discussions about a new digitization project were already in train at least a year earlier. On 14 March 2023, in a news item which was once again hidden in a remote area of its website, TNA announced that it had 'begun a programme of work to digitize and make more widely available records from the series FCO 141 (TNA 2023). Given that R2 (see above) was informed in November 2022 that it was the Nigeria content of FCO 141 which was being prepared for digitization when the 'insecticide stickers' were found, the assumption would seem to be that the programme was already in progress as early as February 2022. This was not at all apparent in November, however, when it was assumed that digitization was being undertaken for a paying customer. The March 2023 news item continued:

The digitisation of this series will, once complete, run to more than 2 million images. In alignment with the ambitions of the International Council on Archives' Africa Programme, we have begun this work with a focus on Africa – specifically records relating to Botswana, the Republic of Cameroon, Eswatini, Gambia, Kenya, Nigeria and Sierra Leone. Overall, we anticipate approximately 800,000 images being created relating to the 15 African countries within the series. Given the global scale of the task, the overall project is expected to take between 5 and 10 years to complete.⁹

⁹ A colleague responsible for digitization programmes within the national archives of another European state expressed surprise that the process should be estimated to take so long, noting that his institution digitizes one million images each year.

While the digitisation will be undertaken by The National Archives, the work to make the digitised records available will be a collaboration with the national archives of the nations to which the records relate. We have begun discussions with colleagues in this first wave and look forward to further discussions as the programme develops.

This project is a practical demonstration of our commitment to connect with the biggest and most diverse audience possible in the most innovative ways we can. Over the last four years, we have worked hard to demonstrate why archives matter as vital assets for democracy and for future generations across the UK and around the world – collaboration has been at the heart of our approach. We will provide an update on our progress following the ICA [International Council on Archives] Congress in Abu Dhabi this coming October.

In discussion with a senior TNA staff member I was able to learn a little more about the project. As is implied by the announcement, digital copies will be made individually available to the national archives of each country concerned. That is, copies of the Nigerian content will go to the National Archives of Nigeria, copies of the Kenyan content to the Kenya National Archives and Documentation Service, etc. No institution will receive copies of the entire collection. I was told that no restrictions will be placed on those institutions regarding the use to be made of the copies; for example national archivists will be free to provide copies to other institutions *within their nation*. However, TNA will not make copies available via the internet, citing data protection concerns, which suggests that other national archives will also be required not to do so. This is not clear – and how might it be policed? Access within the TNA building at Kew will be via dedicated terminals only. This rather suggests that the originals of FCO 141 may be withdrawn from public access – one way of dealing conclusively with the insecticide problem.

TNA will presumably need to put in place an ongoing programme of re-digitization to meet both its own needs and those of the other national archives, and their respective publics. As a comparatively modern collection, FCO 141 is not static. As extended closures and retentions expire will TNA make updated digitized versions available both online in its reading rooms and to those national archives concerned? Maintaining the digitized versions in harmony with newly released files and extracts will be a complicated administrative task. If the paper records are indeed withdrawn is there not a very real danger that researchers will find themselves with digital content that has not been updated?

I know nothing of the discussions that have been taking place between TNA and the national archives in Africa and elsewhere. However, what initially seems to be a welcome development and a fairly straightforward process, is likely to have numerous repercussions. Some former dependencies have indicated their willingness to accept copies of FCO 141, but many others continue to demand return of the originals. As noted above, the collection available for public inspection at TNA is far from complete given the degree of closure, retention and redaction. Will those countries willing to take copies be prepared to accept images taken from such 'doctored' records, or will they demand copies of the complete unexpurgated

collections, including those retained by FCDO, to be made available immediately rather than waiting for the expiry dates imposed by the British to be reached? Will they insist on receiving what was taken from them?

The individual national archives and their political masters will have numerous matters to resolve, from the purely practical – are there facilities in place for researchers to view the digital copies?¹⁰ Is TNA assuming – or indeed requiring – that access to the images will be free of charge, or will charging be a possibility? How will researchers obtain copies? Will they be restricted in their use of such copies? To the political – will governments be willing to make the copies freely available to their publics without first examining them? Is there a possibility that they may wish to conduct their own sensitivity reviews? What does their national archival legislation require?

Neither do I know what discussions may have taken place between TNA and the FCDO. Has the long-standing refusal of the latter, and its predecessor, to consider the provision of digital copies been based solely on the cost implications, or do more sinister underlying factors remain? Do current diplomatic relations with the countries concerned play a part in decision-making? In other words, is FCDO content with TNA plans?

Conclusion

Using personal communications with a wide network of archivists, historians and other scholars with a long-standing interest in the so-called ‘migrated archives’; an analysis of the responses to Freedom of Information requests submitted to the UK National Archives (TNA) and to the FCDO; and information culled from TNA’s website, this article outlines events of 2022, when the archives were removed from public access, and the way in which TNA dealt with an inevitable outburst of concern. It concludes that despite TNA’s protestations that it is fully aware of the historical sensitivities of the collection, it fails to fully understand the continuing existence of a ‘legacy of suspicion’ surrounding not only the removal of the documents from former British dependencies, their long concealment in the UK and the ongoing stance of the Foreign and Commonwealth Office, but also that TNA itself, as the current custodian, needs to tread very carefully in its dealing with the records and those interested in them. It is to be hoped that the digitization programme now underway will serve not only to meet at least some of the needs of the countries concerned, but also improve the reputation of TNA.

And finally, what about the science?

People wishing to use FCO 141 for their research and writing, be they historians, lawyers, social or political scientists, students, etc., are less likely to be concerned with another important aspect of this story – the scientific analysis of the insecticidal contamination and its possible effects. However, the team of specialists commissioned

¹⁰ I asked if any financial assistance will accompany the digitized copies and was told vaguely that there are fund-giving bodies which may be expected to assist.

by TNA has quickly reported on their work in an open access article published in *Heritage Science* in March 2023 (Angelova 2023), which will be of interest to archivists and conservators in particular. TNA is clearly not the only institution with experience of such problems.

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Mandy Banton is an historian with a PhD from the School of Oriental and African Studies, and a fellow of the Royal Historical Society. She was formerly a principal records specialist at the UK National Archives, and is now a senior research fellow in the Institute of Commonwealth Studies, School of Advanced Study, University of London, and a member of the Expert Group on Shared Archival Heritage of the International Council on Archives. Email: mandy.banton@sas.ac.uk

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