**Kew and the spooks**

The National Archives are housed in a delightful building in Kew, west London. The grounds are tranquil, save for the one-a-minute flights into Heathrow at 1,000 feet overhead. The staff is friendly, even if you are a Paddy, though the Friday hamburgers in the café are not what you might expect.

Kew exudes middle class English bon homie. Researchers, anxious to know if William the Bastard was a vegan, book into the many chintzy Bed and Breakfasts in the area.

But all is not as it seems. There is an Advisory Council. It is chaired by the Master of the Rolls. Who? You might ask. He is a very senior judge. You might immediately think of public school and Oxbridge and you would not be wrong. The present Master is Sir Terence Etherton, educated at St Paul’s and Cambridge. The principle of the Council is openness and objectivity*. “That principle will only be set aside when there are clear grounds to do so , based on public or the national interest, or sensitivity about personal data.”*

According to Kew, the Committee “ *regularly challenges government departments to provide evidence to justify requests for documents to remain closed”.*

I was particularly interested in Security Service documents, disclosable under what is now the twenty year rule. I bore in mind the fine words relating to openness and objectivity.

I asked the question: “re the Security Service- how many files were sent to Kew under Section 3 [1] of the Act and for how many was exemption claimed under Section 3 [4]?”

The answer was astonishing. The Security Service can retain whatever records it chooses.

See <https://www.gov.uk/government/publications/signed-instrument-for-the-retention-of-public-records>

This instrument, which has never been voted on or debated by the House of Commons, gives the Security Service the legal authority to retain all of its records. Kew told me : “*It [the Security Service] therefore does not need to apply on an individual basis for records that it wishes to retain. The National Archives does not hold statistics on the number of records that the Security Service retain under section 3 [4] of the Act.”*

Not only that, but because the Security Service is its own policeman, Kew does not know what records MI5 has, what they relate to and how many of them exist.

The legislation appears to bypass the Advisory Council completely.

On 19th December 2011 the Lord Chancellor made an instrument in exercise of the proviso contained in section 3 [4] of the Public Records Act 1958. A list set out the bodies who can retain their records because to release them “*will create a real risk of prejudice to national security”.*

Among the bodies listed is The Northern Ireland Office.

So searchers in the records at Kew have a difficult job to prise out, for example, MI5’s list of PIRA agents, although ‘right to life issues’ would not seem to be a reason to hold on to a file.

As a guide, here are the reference letters for significant departments:

Cabinet Office ‘CAB’

Northern Ireland Office ‘CJ’

GCHQ ‘HW’

Security Service ‘KV’

I intend to communicate with the Advisory Council to try to understand how they can possibly assert that the default setting is openness, if the Security Service gets carte blanche from the State.