

# Civil Registration: Delivering Vital Change Response from the Society of Genealogists

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## **INTRODUCTION**

The General Register Office published the long awaited detailed consultation document called “Civil Registration: Delivering Vital Change” on July 10. This sets down the government’s proposed changes to the legislation relating to the civil Registration Service in England and Wales by means of an order using powers of the Regulatory Reform Act 2001

While there are matters that affect changes to the current registration system that are of note, **the Society of Genealogists considers the most important sections are those that concern the access by family historians to what are considered to be historic and modern birth, marriage and death records.**

This response concerns itself with the section outlining access to modern and historic records and hence most affecting genealogists are chapters 6 to 8 (pp91-120) but there will be other sections that will affect the work of family historians.

The consultation document discusses only those policy changes that will need to be made under the RRO and contains very little detailed information as to how these policy changes will be implemented. It is, however, the implementation of some of these proposals that should cause family historians greatest concerns and the Society of Genealogists would stress that consultation of users is vital before embarking on the implementation of the proposals.

The Society considers that the key proposals are as follows:

## **HISTORIC RECORDS**

- Historic records relate to people born over 100 years ago
- Fully available to the public
- These records will be digitised - possibly by the not-for-profit sector for records over 100 years (It is not yet decided whether the Registrar General’s copies or the original registers are to be digitised. That will be decided by the contractor)
- Access free or at minimum cost
- Original registers over 100 years old transferred to local record offices

Little information is given in the consultation document about what will happen to historic records. It is suggested that the local registrars’ records relating to persons born more than one hundred years ago be deposited locally and made available for public inspection. It would appear local authorities will have some guidance as to what they should make available but will have a certain amount of freedom as to how they do it. Hence it is clear there will be varying standards of how the and where the records are housed which will depend on the financial resources made available to local archive services.

Given that there is limited information as to what the data base drawn from the historic records will be like, there is little for the Society of Genealogists to say upon this matter other to welcome the idea and to hope that there will be full and detailed consultation with prospective users in its development and implementation

**In specific answer to the Consultation Paper's question 111-113 on Historic Records the Society of Genealogists responds as follows:**

*111 Do the proposals maintain the necessary protections for those affected?*

Protection is indeed maintained for the majority of individuals concerned, as these persons will be over 100 years old and relatively few will still be alive. Information about those living individuals will be as readily available as it is today as the full information currently recorded on their certificates will be made available, and hence protection will be maintained as it is today.

*112 Do the proposals prevent any person from continuing to exercise any right or freedoms that he or she might reasonably expect to continue?*

The proposals concerning a database of historic records are welcomed, as they will enable more people to exercise their freedom to trace their ancestry by allowing greater access to the records on the Internet. The Society welcomes the greater access to original local records wherever possible. The Society welcomes the suggestion that genealogists will no longer have to purchase expensive certified copies of historical documents. However as we have no idea at present how this data base of historic records will be implemented the Society of Genealogists would give warning that great emphasis should be made on ensuring accuracy of the database; access to the certificates themselves and the robust nature of the system devised other wise there will be immense problems caused by the volume of use. The Society of Genealogists suggests a user advisory panel be established and their views should be heeded.

*113 The proposals impose a number of burdens. We welcome your views on whether the tests of proportionality, fair balance and desirability are satisfied in respect of these new burdens*

Burdens will be placed upon the non profit sector to provide the historic data base yet no details is given of how the costs might be recovered. The archive community is faced with the burden of looking after local historic records and given falling resources for archive provision it is possible they will not be able to carry this burden. The Society of Genealogists is concerned that many original historic certificates deposited in local record offices may not be made available for inspection as the burden of looking after these records will prove too expensive for local authorities.

### **MODERN RECORDS.**

These are described as relating to persons alive or dead for up to 70 years and those records of between 71 and 100 years old. Records of persons under 100 years old will be placed on a database at cost to the exchequer. The later 71-100 year old records will be captured later

- Modern records are defined as relating to those born in the last 100 years and this restriction will apply to all events.
- Access to databases by Government departments etc will remove the use of certificates for most official purposes
- Documents issued will have no legal status or evidential value
- Original Records less than 100 years old will be retained by the registration service who would handle requests for access to restricted information until the information is captured electronically
- Public access to the database will probably at a charge but not more than current cost of certificate. The index will be free but the suggested charge for fuller information is £2

### ***THE DATABASE WILL ENABLE “THROUGH LIFE” RECORDS TO BE LINKED TOGETHER. ONLY AUTHORISED USERS WILL BE ABLE TO ACCESS THE LINKED RECORDS***

**In specific answer to the Consultation Paper’s question S5 concerning access the linking information on “through life records” the Society of Genealogists suggests that linking birth, death and marriage records, along with other information to be added to the data base such as divorce will prove impossible to implement retrospectively. However it welcomes the possibility that future events concerning an individual will be linked to together. The Society would advocate that family historians should be able to access the linked records. Individuals should ensure their personal records are correct.**

### ***SOME MODERN INFORMATION WILL BE RESTRICTED***

- Most information available to the public on a database but access to some fields currently within the certificate such as address and occupation is to be restricted.

#### **EVENT RESTRICTIONS**

Births	address of mother, occupation of parents, address of informant
Marriages	Occupation of bride and groom, addresses at time of marriage, occupation of parents (currently only father is recorded but henceforth Mother’s occupation will be noted but information will be restricted)
Deaths	Occupation of deceased, occupation husband if deceased is widow (In future wives’ occupations will be recorded cause of death, informants usual address

Some more detail is given concerning how the access to modern records will be made and it is these proposals that will be of most concern to family historians.

Restricted information (address and occupation, cause of death etc) will be available to certain family members.

### ***INFORMATION RESTRICTED TO FAMILY MEMBERS***

The definition of family members is apparently open for discussion. The document suggests the following:

Spouse/life partner; their children/stepchildren; parents/step parents (including guardians) brothers and sisters (including half siblings) grandchildren/step grandchildren; uncles or aunts (or if they have died their children). Family Members would have to provide appropriate evidence to confirm their relationship.

The consultation paper suggests a very narrow definition of family members who might be able to access this restricted information. However hundreds of thousands of searchers at the Family Record Centre and other repositories throughout England and Wales want to take up the challenge of linking as many potential family members together as possible to create a full and proper family history.

**In specific answer to the Consultation Paper's question S6 the Society of Genealogists proposes that the definition of family members should be as broad as possible. At the very least the definition should be expanded to include nephews and nieces and more distant blood relatives. Great-nephews and nieces, second cousins perhaps. This is more in line with the definition of the family as decided by the Ministry of Defence when dealing with modern personnel records after 1920.**

**The Society of Genealogists questions how proof of relationship can be given without using the information that will be restricted. It also wonders how the Registration service will cope with all the potential family members asking to see the restricted information, as they will clearly wish to do.**

**In specific answer to the Consultation Paper's S7 the Society of Genealogists believes the list of potential Authorised Users is too restrictive.**

**The Society of Genealogists has been informed this issue is still open for discussion and there is a specific consultation question concerning the definition of an authorized user. The issue seems to be A) policing the authorized user and B) balancing legitimate access for a specific purpose against the rights of privacy of an individual.**

**Probate & intestacy researchers should be able to apply to become authorised users when doing legal searches but often they do ordinary genealogical case-work as well and hence would have an unfair advantage over other professional genealogists. There are members of the Association of Genealogists and Researchers in Archives (AGRA) who might be considered. However not all professional researchers are members of AGRA**

**Is there any possibility that members of genealogical organisations such as the Society of Genealogists applying? Is there a possibility of introducing a family history register of members who sign up to some form of code of practice that allows for access to information?**

**Perhaps interested parties might discuss the possibility of establishing a registry of bone fide family history users. There are of course concerns of the sheer number of users, and how they would be monitored. However it might be worth suggesting this approach, especially if we can address how the registry might work in practice. Also it is possible the Society of Genealogists or other body**

**might suggest that an organisation could apply for authorised user status and offer to deal with some of the concerns. Perhaps the genealogical community might comment on how a code of practice could be devised.**

**It seems unreasonable that family members who might, for example, be disabled or who lack the time or ability to undertake research and who would therefore be unable to exercise their privilege to access restricted information, cannot nominate an agent to access information on their behalf.**

**What lies behind the Access proposals?**

Clearly it is the view of the ONS as expressed in the document that genealogists will be given some things (the historic data base) in return for losing some things (access to certain fields with the modern records data base). Certain paragraphs are key

*It is accepted however that genealogists carrying out speculative searches to find members of their family would not be able to access the full record and would therefore not have access to as much information as they do now (para. 6.4.28)*

*The Minister also considers that groups such as genealogists cannot expect to enjoy the same level of access to modern records due to the security concerns described (para. 6.4.85)*

In various meetings with civil servants either as part of the “Gateway Review Process” or in session with the ONS Regulatory Review Order Policy Team it has become clear that the issue of right to privacy of the individual is paramount in their minds. In addition, but perhaps not as a driving force, is the issue of identity theft that goes across all department thinking including the registration service. These issues seem to be taken as being above the needs of family historians..

**In specific answer to the Consultation Paper’s question 91& 96 concerning correcting and updating records and classification and computerisation, the central database and records management the Society of Genealogists responds as follows:**

**96 & 91: Do the proposals maintain the necessary protections for those affected?**

**Traditionally family historians have questioned the accuracy of the existing indexes to births marriages and deaths and we would look to the current proposals to improve this situation. Unless the proposed database is accurate and easily correctable it will not afford protection for those whose information is contained within or for those who wish to use the information for genealogical research. No matter how well the quality of the work is controlled, and government projects have hitherto not displayed any significant ability to control the quality of data transcription, there will be errors in transcribing information onto the database. We would warn the implementers of these proposals not to repeat the errors made in the 1901 census database. Unless the researcher has access to an image of the certificates either locally or via the Registrar General they will not know whether the database is trustworthy. The family historian will welcome the opportunity to access information on the internet but if it is not accurately presented then it will not be considered a reliable source. Hence current protections might not be maintained.**

**In specific answer to the Consultation Paper's question 101-104 concerning Privacy and Access to Modern Registration Records the Society of Genealogists responds as follows:**

*101: Do the proposals maintain the necessary protections for those affected?*

The Society of Genealogists believes the proposals do not maintain the necessary protections for those family historians that will be affected. The proposals endeavour to protect the rights of individuals but some of these protections are overly restrictive. The access restrictions governed by the age of the individual are unnecessarily prohibitive. The hundred-year rule concerning age is unworkable in a local context using the original records. It is the currency of information that causes possible danger of use in issues relating to privacy and identity fraud. As outlined in the document the protections suggested in the example relating to domestic violence would not have been offered. In this specific case the possible perpetrator of the violence would still have been able to obtain the restricted information, as they were a very close family member. The Society of Genealogists suggests that on balance a fairer restriction to records restrictions according to the date of the records with restrictions based on 75 years for birth, 50 years for marriage and 25 years for death. It suggests this restriction be placed only on the use of the electronic database. Personal application at an appropriate centre could enable more recent records to be accessed and still deter fraudulent and misappropriate use of the records.

*102. Do the proposals prevent any person from continuing to exercise any right or freedom that he or she might reasonably expect to continue?*

The proposals most certainly prevent the family historian from continuing to exercise their freedom to know about their family. The proposals will make it more difficult to identify a recent ancestor or distant relative in times when there is more migration and fragmentation of families. The Society of Genealogists would argue it is the right of a person to know who their families were in the same way that law recognises the right of an adopted person to know their true parentage. Hence the balance will swing away from what genealogists can reasonably expect to achieve at present using the existing paper copies. The proposals prevent speculative research to discover if another person is a relative. The proposals certainly restrict the current freedoms of persons to undertake larger analysis of possible family groups whether for academic, demographic or personal research. The proposals make it more difficult for trusts or other bodies from obtaining information concerning cases of intestacy.

*103. The proposals impose a number of burdens. We welcome your views on whether the tests of proportionality, fair balance and desirability are satisfied in respect of these new burdens*

The proposals impose new burdens and it would seem the genealogical researcher has been identified as the main bearer of these burdens. The British

**genealogical community of 250,000 – 700,000 persons around the UK has been singled out as the group that will be most clearly encumbered by the proposals. The Society of Genealogists suggests this is neither fair nor balanced nor desirable.**

**The burden on local providers of modern records and those few organisations that hold copies of modern records will be cumbersome and more detail is required about how they will police the restrictions to modern records which are not in electronic form.**

**We need clarification on how the access framework will be applied to holders of copies of records. We are concerned that archives will not make post 1900 registers available as they are mostly used on film and hence they cannot stop someone looking at prohibited marriage information while examining burials or baptism entries. Copies of modern baptismal and burial registers may well be inadvertently withdrawn as a consequence of access to modern marriage registers being restricted. Many parish registers had been copied onto film or fiche and these fiche contained marriages, baptisms and burials often on the same fiche or film. It is unlikely that resources will be available to edit the films or fiche so that modern marriages are separated. Copies of modern marriage registers have been in the public domain for some time. Persons undertaking family history have purchased many copies of modern marriage registers.**

**The following statistics may be of help. For example fiche copies of the original parish registers can currently be purchased for the counties of Northamptonshire and Shropshire. Of the 315 Northamptonshire registers copies available 188 (60%) include copies marriage registers after 1900. Of the 236 Shropshire registers 120 (52%) include marriages after 1900. The baptisms and burial registers frequently occur on the same fiche as the modern marriages. There at least 156 published transcripts of Oxfordshire parish registers which include marriage information after 1900. All three counties have a significant number of parishes where the marriage information dates beyond 1940, often up as far as the 1990s)**

**THE SOCIETY OF GENEALOGISTS DOES NOT BELIEVE INFORMATION SHOULD BE RESTRICTED BY AGE OF THE INDIVIDUAL CONCERNED**

**The proposals suggest that if someone died in their twenties we will have to wait till the 100<sup>th</sup> anniversary of their birth before being able to see details of an address, occupation or cause of death on a death certificate. Thus introducing the concept of privacy for the dead. The proposals concede that some of that information might be available elsewhere; by looking at the will for example – if there is one. Surely the imposition of a blanket 100 year restriction on this information is unreasonable? It seems to over compensate for any sensibility that family members might feel concerning, for example, a potentially embarrassing cause of death. The restrictions by age of the individual occur in no other system of registration known to the Society of Genealogists. It is certainly not what has happened in countries with similar registration systems to our own (indeed those that were based on the English system such as the Australian States or New Zealand have also have introduced changes to cope**

with fraudulent abuse but nothing to compare with the restrictions suggested in England)

The Society of Genealogists fully appreciates that Scottish Registration System is a completely separate system from that of England and Wales yet surely Scotland has faced the same problems of fraud etc and they haven't introduced such restrictions. The excellent scotlandspeople website allows family historians to view the information on certificates for marriages up to 1927, deaths up to 1952 and births up to 1902. However, later records can still accessed in the Edinburgh office of the Registrar General for Scotland. Yet again family historians in Scotland will be better served than in England

The paper only identifies some of the potential burdens and difficulties that will be brought about by the proposed creation of the civil registration databases. In future hundreds of thousand of family historians will find it far more difficult to identify a potential ancestor, or indeed a distant cousin, as certain key points of information currently available on the paper certificate will be withheld from the data base.

Anyone encumbered with a common name such as Smith or Jones will find it almost impossible to differentiate between Jones the tailor or Jones the milkman as vital information about occupations will not be given.

As more families become aware of common genetic illnesses that might afflict them, information concerning the cause of death will be closed to only a few direct family members leaving the wider range of relations unaware of a potential risk.

*104: Do you have any views on the costs and savings identified?*

The Society of Genealogists welcomes the proposals that viewing full details from the database will be cheaper than purchasing paper copies of the certificates.

**In specific answer to the Consultation Paper's question 118 on the proposals for handling existing registers** the Society of Genealogists responds as follows:

*118 The proposals impose a number of burdens. We welcome your views on whether the tests of proportionality, fair balance and desirability are satisfied in respect of these new burdens*

The Society of Genealogists feels that it would be impossible for the Registration Service to adequately deal with requests to provide restricted data from existing modern registers before the database is established. In terms of sheer practicality does this means paper copies will be provided with certain fields crossed through or is it felt the registration service will return to the old and wholly unsatisfactory system of transcribing certificates? Thus we will be returning to a system that produced inaccurate transcriptions of information from the records.

**The proposals give no indication as to how the access framework will be applied to holders of records such as registers held by religious and other bodies. It is hoped the guidelines will be flexible and made in consultation with such bodies.**

### Consultation

The Society has concerns about the consultation process. The Society of Genealogists represents the genealogical community in association with the wider membership of the Federation of Family History Societies. The Society of genealogists believes the consultation process should have been a two way process: a dialogue between two equal partners. This is not the case.

The Society welcomed the opportunity to hear what the General Register Office had to say about its proposals at several meetings expressly for the genealogical community, however it seemed these meetings were designed purely as an exercise to demonstrate that the genealogical community had been consulted. It appears to us that the meetings were more a means of telling us what will be rather than asking us what we think.

The Society fully endorses the opinion of our colleagues at the Federation of Family History Societies who point out that the proposed 100-year restriction reflects the majority opinion expressed in responses to *Registration – modernising a vital service* in 1999. However, only 40% of respondents expressed the view that there should be any kind of restriction, and half of those favoured a 75-year rule. Only 46% (ie fewer than 1 in 5 of all respondents) suggested 100 years. To present this as some kind of consensus is a very tendentious use of the statistics.

This response is made on behalf of the Executive Committee of the Society of Genealogists, the leading national learned society concerned with family history and genealogy and their associated social science disciplines. It is the largest society of its kind in the UK, with nearly 13,000 members. The Society campaigns for the integrity and preservation of records relevant to current and future research and optimum access to such records. Members of the Society are all researching family history, mostly as amateur hobbyists, though a significant number are professional researchers. Hence the Society's main, but by no means exclusive, concern is for access to records on behalf of genealogists who are looking for information about families and individual ancestors. It is not insignificant that within the Society's archives can found be the correspondence with the Home Office reflecting the Society's success in making the 1841 and 1851 censuses available for public inspection in 1912.

Since its foundation in 1911 the Society has continued to lobby on behalf of the genealogical community and takes an active role in rescuing documents that are of interest to family historians but which have been discarded by other larger and often public archives. Members of the Society first appeared before a Royal Commission on Public Records in 1913 giving evidence on behalf of the Society on probate and other ancient ecclesiastical records then at Somerset House and in reference to (amongst other things) the restrictive regulations in the Registrar General's Office as to Birth Marriage and Death Registers since 1837. The Society has the reports of the Royal Commission in its library including the evidences presented to the Commissioners between 1910 and 1915. They still make interesting reading. It seems the Society of

Genealogists is still arguing for cheaper and more convenient access to these records. It hopes the Registration Service's proposals will finally bring this about.

### Conclusion

The Society of Genealogists notes that the regulatory reform criteria are very specific. The Regulatory Committee may report to the House on any matter rising from its consideration of the proposals and the draft reform order but it is required to assess each proposal against 14 criteria of which four are directly relevant to the concerns of genealogists. The must consider whether the proposals

1. remove or reduces a burden
2. has been the subject of, and takes appropriate account of, adequate consultation
3. prevents any person from continuing to exercise any right or freedom which he might reasonably expect to continue
4. satisfies the proportionality between burdens and benefits as set out in the act

Given that family historians are going to be the most inconvenienced by the proposals and are distinctly identified as bearing these burdens then it would seem that family historians are neither being treated fairly nor in a balanced manner. The consultation process thus far has failed to appreciate that the responses made by the Society of Genealogists and the Federation of Family History Societies represented hundreds of thousands of family historians. Their responses counted only as two letters and this must not happen again.

This issue has caused great concern amongst the genealogical community. Some of the letters received from our members are copied herein to reflect the feelings within the community and specifically our members.

The Society of Genealogists believes that the proposals place unique burdens on the genealogical community; that the process of consultation has not heeded our views; that genealogists will be prevented from continuing their freedoms to establish their family relationships and concludes that the proposals are neither proportional or balanced.

Else Churchill

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