The Public Records (Scotland) Act 2011

Orkney Islands Council and Orkney Islands Area Licensing Board

Progress Update Review (PUR) Report by the PRSA Assessment Team

18th November 2022

Contents

1. Public Records (Scotland) Act 2011

The Public Records (Scotland) Act 2011 (the Act) received Royal Assent on 20 April 2011. It is the first new public records legislation in Scotland since 1937 and came into force on 1 January 2013. Its primary aim is to promote efficient and accountable record keeping by named Scottish public authorities.

The Act has its origins in *The Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950-1995* (The Shaw Report) published in 2007. The Shaw Report recorded how its investigations were hampered by poor recordkeeping and found that thousands of records had been created, but were then lost due to an inadequate legislative framework and poor records management. Crucially, it demonstrated how former residents of children's homes were denied access to information about their formative years. The Shaw Report demonstrated that management of records in all formats (paper and electronic) is not just a bureaucratic process, but central to good governance and should not be ignored. A follow-up review of public records legislation by the Keeper of the Records of Scotland (the Keeper) found further evidence of poor records management across the public sector. This resulted in the passage of the Act by the Scottish Parliament in March 2011.

The Act requires a named authority to prepare and implement a records management plan (RMP) which must set out proper arrangements for the management of its records. A plan must clearly describe the way the authority cares for the records that it creates, in any format, whilst carrying out its business activities. The RMP must be agreed with the Keeper and regularly reviewed.

2. Progress Update Review (PUR) Mechanism

Under section 5(1) & (2) of the Act the Keeper may only require a review of an authority's agreed RMP to be undertaken not earlier than five years after the date on which the authority's RMP was last agreed. Regardless of whether an authority has successfully achieved its goals identified in its RMP or continues to work towards them, the minimum period of five years before the Keeper can require a review of a RMP does not allow for continuous progress to be captured and recognised.

The success of the Act to date is attributable to a large degree to meaningful communication between the Keeper, the Assessment Team, and named public authorities. Consultation with Key Contacts has highlighted the desirability of a mechanism to facilitate regular, constructive dialogue between stakeholders and the Assessment Team. Many authorities have themselves recognised that such regular communication is necessary to keep their agreed plans up to date following inevitable organisational change. Following meetings between authorities and the Assessment Team, a reporting mechanism through which progress and local initiatives can be acknowledged and reviewed by the Assessment Team was proposed. Key Contacts have expressed the hope that through submission of regular updates, the momentum generated by the Act can continue to be sustained at all levels within authorities.

The PUR self-assessment review mechanism was developed in collaboration with stakeholders and was formally announced in the Keeper's Annual Report published on 12 August 2016. The completion of the PUR process enables authorities to be credited for the progress they are effecting and to receive constructive advice concerning on-going developments. Engaging with this mechanism will not only maintain the spirit of the Act by encouraging senior management to recognise the need for good records management practices, but will also help authorities comply with their statutory obligation under section 5(1)(a) of the Act to keep their RMP under review.

3. Executive Summary

This Report sets out the findings of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for Orkney Islands Council and Licensing Board. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Orkney Islands Council is the local authority for Orkney. It was established in 1975 by the Local Government (Scotland) Act 1973 and was largely unaffected by the Scottish local government changes of the mid-1990s.

It provides services in the areas of Environmental Health, Roads, Social Work, Community Development, Organisational Development, Economic Development, Building Standards, Trading Standards, Housing, Waste, Education, Burial Grounds, Port and Harbours and others. The council is allowed to collect Council Tax.

The council is also the harbour authority for Orkney and its Marine Services division manages the operation of the islands' 29 piers and harbours.

Orkney Islands Council is the smallest local authority in Scotland.

http://www.orkney.gov.uk/

Licensing is the responsibility of licensing boards under powers contained in the Licensing (Scotland) Act 2005. Local licensing boards have wide discretion to determine appropriate licensing arrangements according to local needs and circumstances and their own legal advice. Each local government area must have a licensing board. Orkney Islands Area Licensing Board handles the administration of a range of licences.

The board has eight members.

http://www.orkney.gov.uk/Service-Directory/L/Licensing-Board.htm

5. Assessment Process

A PUR submission is evaluated by the Act's Assessment Team. The self-assessment process invites authorities to complete a template and send it to the Assessment Team one year after the date of agreement of its RMP and every year thereafter. The self-assessment template highlights where an authority's plan achieved agreement on an improvement basis and invites updates under those 'Amber' elements. However, it also provides an opportunity for authorities not simply to report on progress against improvements, but to comment on any new initiatives, highlight innovations, or record changes to existing arrangements under those elements that had attracted an initial 'Green' score in their original RMP submission.

The assessment report considers statements made by an authority under the elements of its agreed Plan that included improvement models. It reflects any changes and/or progress made towards achieving full compliance in those areas where agreement under improvement was made in the Keeper's Assessment Report of their RMP. The PUR assessment report also considers statements of further progress made in elements already compliant under the Act.

Engagement with the PUR mechanism for assessment cannot alter the Keeper's Assessment Report of an authority's agreed RMP or any RAG assessment within it. Instead the PUR Final Report records the Assessment Team's evaluation of the submission and its opinion on the progress being made by the authority since agreeing its RMP. The team's assessment provides an informal indication of what marking an authority could expect should it submit a revised RMP to the Keeper under the Act, although such assessment is made without prejudice to the Keeper's right to adopt a different marking at that stage.

Key:

G	The Assessment Team agrees this element of an authority's plan.	A	The Assessment Team agrees this element of an authority's progress update submission as an 'improvement model'. This means that they are convinced of the authority's commitment to closing a gap in provision. They will request that they are updated as work on this element progresses.	R	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Assessment Team may choose to notify the Keeper on this basis.

6. Progress Update Review (PUR) Template: Orkney Islands Council and Orkney Islands Area Licensing Board

Element	Status of elements under agreed Plan 05JUL20	Status of evidence under agreed Plan 05JUL20	Progress assessment status 18NOV22	Keeper's Report Comments on Authority's Plan 05JUL20	Self-assessment Update as submitted by the Authority since 05JUL20	Progress Review Comment 18NOV22
1. Senior Officer	G	G	G	Update required on any change.	No change.	Update required on any change.
2. Records Manager	G	G	G	Update required on any change.	Paul Kesterton has replaced George Vickers as Information Governance Officer.	Thank you for this update which has been noted.
3. Policy	G	G	G	Update required on any change.	No change.	Update required on any change.
4. Business Classification	A	G	A	The *Plan* states that the Council intends to introduce an EDRMS as a central storage area for documents and records that are currently stored on personal drives, on email accounts and on shared drives, all of which currently do not have records management functionality. The Council intends to use SharePoint with an added bolt-on to improve records management functionality. Submitted as evidence is the *EDRMS Project Plan* which details how the project will implement the new system. This was approved by the Project Board in December 2018. It is anticipated that the project will take around three years. **This is entirely appropriate for a project of this size and the Keeper requests that he is kept informed of the progress of this work, which is**	EDRMS project currently ongoing, presently developing the information architecture to enable creation of a demo site to facilitate testing and orientation of site functionality. Target milestone for creation of test site and demonstration of capability due by end of August 2022.	The Assessment Team thanks you for this update on eDRMS project. It is good to hear that gradual progress is continuing to be made. The Team also appreciates the update on improvements to line-of-business systems in use.

				likely to achieve significant benefits for the Council. The *Plan* states that the Council also uses a number of bespoke systems to manage documents and records, for example PARIS for social work files and IDOX for planning files. These systems will be reviewed by the Council and, if necessary, processes will be put in place to bring them into line with the Council's records management policies and procedures. **Again, the Keeper requests that he is kept informed of the progress of this work.** **The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has identified where improvements can be made to current recordkeeping systems and have evidenced the commitment to put these improvements into practice. The Council has recognised that the full implementation of the SharePoint + Bolt-On solution will take several years. This agreement is dependent upon the Keeper being kept informed of progress on a regular basis during the course of this work.**	Bespoke case management systems in use by the Council have been reviewed, and action plans drawn up to drive improvement where needed. Work is underway to improve the PARIS social work system with a PARIS system development project currently ongoing.	As the projects are ongoing, especially the key implementation of the new eDRM system (SharePoint + Bolt-On), this Element will remain at Amber. The Assessment Team looks forward to further updates in subsequent PURs.
5. Retention Schedule	**A**	**G**	**A**	The Keeper notes that robust retention scheduling will be required to fulfil a commitment in the *Records Management Policy* that "Records are disposed of in accordance with approved Records Retention Schedules" and an aim to pursue "Better use of Council facilities as records are retained for no longer than is necessary through use of retention schedules". **The Keeper can agree this Element on an 'Improvement Model' basis. This means that the Council has recognised that the full roll-out of the joint *BCS/Retention Schedule* to their new eDRM solution will take several years. This agreement is dependent**	EDRMS project will be incorporating Retention framework which will develop retention labels and policies to enable more robust retention scheduling. Current target for development of retention model is	Thank you for this update. It is clear from this update that while the eDRMS is being rolled out, the joint BCS/Retention Schedule remain in gradual development. This Element will remain at Amber while

	🟧	🟩	🟧	**upon the Keeper being kept informed of progress on a regular basis.**	October 2022. This will then be implemented incrementally to Services as the EDRMS information architecture is rolled out.	the eDRMS project is ongoing. The Assessment Team looks forward to further updates in subsequent PURs.
6. Destruction Arrangements	**A**	**G**	**A**	<u>Digital records</u>: **As with many other Scottish public authorities the controlled, secure and irretrievable destruction of records held electronically on shared drives remains a problem. However, the Keeper agrees that the move to an electronic document management solution (see element 4) will greatly help with this. This project remains incomplete and, as this is the case, cannot be considered as universally applied.** The *Plan* also states that procedures to automatically delete emails after a set period will be introduced. This is to be commended. **The management of e-mail is a particular risk for a public authority and the Keeper would be grateful for an update when this process is rolled out.** <u>Back-ups</u>: **The *Evidence Schedule* supplied with the *Plan* has the following statement: "Plans are in place and being implemented to destroy the backlog of paper records that have passed their destruction dates and data held on old electronic hardware and back-up tapes." The Keeper agrees this action.** **The Keeper agrees this element the Council's *Records Management Plan* on improvement model terms. This means that the authority has**	The Council has made significant progress with Destruction Arrangements with an industrial shredder in place, Procedures in place for the transfer of paper records due for destruction in place, and the Council has now destroyed the backlog of back-up tapes. The matter that remains outstanding is the destruction of digital records which is being addressed by the Council's Electronic Document and Records Management Project, which is ongoing, with a target date for completion of	Thank you for letting us know that the Council has now completed the destruction of the backlog of backup tapes. It is also positive news that significant progress has been made with regard to paper records destruction arrangements. The digital records destruction arrangements remains work-in-progress. While good progress has been made in other areas, this Element will remain at Amber until the eDRMS project and digital records destruction arrangements have been fully implemented.

				identified a gap in provision (the processes for the destruction of digital records are not universally controlled and a back-log of back-up tapes require destruction), but have put process in place to close that gap. The Keeper's agreement would be conditional on his being updated regarding progress.	development of 31 March 2023.	
7. Archiving and Transfer	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.
8. Information Security	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.
9. Data Protection	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.
10. Business Continuity and Vital Records	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.
11. Audit Trail	**A**	**G**	**A**	The Keeper notes that robust document tracking processes will be required to fulfil a commitment in the *Records Management Policy* that "Records are easily accessible for as long as they are required" and a pursuit of "Accurate and timely retrieval of records through effective filing schemes". **The Keeper agrees this element of the Council's Plan under improvement model terms. This means that the Council has identified a gap in their records management provision, but have put in place a project to close that gap. The Keeper's agreement is conditional on his being updated as that project progresses.**	The Audit Trail for records is being addressed by the Council's Electronic Document and Records Management Project, which is ongoing. The target date for development of the EDRM System to be completed is 31 March 2023.	Thank you for this update and the estimated target date for the eDRMS project completion. It is hoped that the implementation of this new system will provide improved audit trail functionality for electronic records. This Element will remain at Amber until

	🟧	🟩	🟧			the eDRMS has been fully implemented. The Assessment Team looks forward to further updates in subsequent PUR submissions.
12. Competency Framework	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.
13. Assessment and Review	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.
14. Shared Information	**G**	**G**	**G**	Update required on any change. The *Plan* states (page 26) that [Orkney Islands Council and Licensing Board] are: "working with its partners to develop Information Sharing Protocols to ensure that the SASPI principles and the Information Commissioner's Office Data Sharing Code of Practice are implemented." The Keeper agrees this action. **The Keeper would be interested to receive a copy of the new-style agreement when appropriate. He will also be interested to know if SASPI is still the template agreement to be used.**	Ongoing review of current Information Sharing Agreements. SASPI and Scottish Information Sharing Toolkit continue to be utilised as the basis for agreements.	The Assessment Team thanks you for this update, confirming that while Information Sharing Agreements are under ongoing review, SASPI and the Scottish Information Sharing Toolkit continue to be used by Orkney Islands Council and Area Licensing Board.
15. Records Created or Held by Third Parties	**G**	**G**	**G**	Update required on any change.	No change.	Update required on any change.

7. The Public Records (Scotland) Act Assessment Team's Summary

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 22nd July 2022. The progress update was submitted by Paul Kesterton, Information Governance Officer.

The progress update submission makes it clear that it is a submission for **Orkney Islands Council and Orkney Islands Area Licensing Board**.

The Assessment Team has reviewed Orkney Islands Council and Licensing Board's Progress Update submission and agrees that the proper record management arrangements outlined by the various elements in the authority's plan continue to be properly considered. The Assessment Team commends this authority's efforts to keep its Records Management Plan under review.

General Comments

Orkney Islands Council and Licensing Board continues to take its records management obligations seriously and is working to bring all elements into full compliance.

Section 5(2) of the Public Records (Scotland) Act 2011 provides the Keeper of the Records of Scotland (the Keeper) with authority to revisit an agreed plan only after five years has elapsed since the date of agreement. Section 5(6) allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates.

The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

8. The Public Records (Scotland) Act Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that Orkney Islands Council and Licensing Board continue to take their statutory obligations seriously and are working hard to bring all the elements of their records management arrangements into full compliance with the Act and fulfil the Keeper's expectations.

The Assessment Team recommends authorities consider publishing PUR assessment reports on their websites as an example of continued good practice both within individual authorities and across the sector.

This report follows the Public Records (Scotland) Act Assessment Team's review carried out by

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