

## **Public Records (Scotland) Act 2011**

### **Scottish Criminal Cases Review Commission**

### **The Keeper of the Records of Scotland**

**22<sup>nd</sup> June 2023**

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## 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 fully 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 record keeping 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. Executive Summary

This report sets out the findings of the Keeper's assessment of the RMP of the Scottish Criminal Cases Review Commission by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 6<sup>th</sup> March 2021.

The assessment considered whether the RMP of the Scottish Criminal Cases Review Commission was developed with proper regard to the 15 elements of the Keeper's statutory Model Records Management Plan (the Model Plan) under section 8(3) of the Act, and whether in this respect it complies with it and the specific requirements of the Act.

The outcome of the assessment and the Keeper's decision on whether the RMP of the Scottish Criminal Cases Review Commission complies with the Act can be found under section 7 of this report with relevant recommendations.

## 3. Authority Background

**Description of Authority:** The Scottish Criminal Cases Review Commission (SCCRC) is a public authority which was established in April 1999 by Part XA of the Criminal Procedure (Scotland) Act 1995.

SCCRC have the power to refer cases dealt with on indictment (High Court/Sheriff & Jury) and summary cases and make referrals directly to the High Court if they consider that a miscarriage of justice may have occurred in relation to conviction, sentence or both and that it is in the interests of justice that such a referral should be made. SCCRC can only review cases where the conviction and sentence was imposed by a Scottish court.

SCCRC's powers are set out at Sections 194F, 194H, 194I and 194IA of the Criminal Procedure (Scotland) Act 1995. These include the power to request a precognition on oath and the power to obtain documents from any person or organisation: [Criminal Procedure \(Scotland\) Act 1995 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1995/194)

The SCCRC are funded by the Scottish Government's Justice Directorate and are accountable to the Scottish Parliament for those public funds. However, their review of all cases is carried out independently of Parliament, the Scottish Government, the Crown, the Justiciary and the Defence.

[The SCCRC is a public body addressing miscarriages of justice](#)

## 4. Keeper's Assessment Process

The RMP was assessed by the Public Records (Scotland) Act Assessment Team on behalf of the Keeper. Assessors used the checklist elements listed in section 5, to establish whether the Scottish Criminal Cases Review Commission's RMP was developed with proper regard to the elements of the Model Plan and is compliant with the Act. The assessment also considered whether there was sufficient supporting evidence of such compliance.

### Key:

<b>G</b>	The Keeper agrees this element of an authority's plan.		<b>A</b>	The Keeper agrees this element of an authority's plan as an 'improvement model'. This means that he is convinced of the authority's commitment to closing a gap in provision. He will request that he is updated as work on this element progresses.		<b>R</b>	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Keeper may choose to return the RMP on this basis.
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## 5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer	<b>G</b>	<b>G</b>	<p>The Public Records (Scotland) Act 2011 (the Act) requires that an individual senior staff member is identified as holding corporate responsibility for records management in a public authority.</p> <p>The Scottish Criminal Cases Review Commission (SCCRC) have identified their Chief Executive, who was at time of submission Gerard Sinclair, as the individual with overall responsibility for records management in the organisation. The Keeper notes that Mr Sinclair has now been replaced by Michael Walker. The Keeper is content that a change of personnel does not invalidate an authority's Records Management Plan (RMP) as long as the role itself does not substantially change. Therefore the Keeper agrees that Mr Walker's name can substitute for Mr Sinclair's whenever it appears.</p> <p>The Keeper also notes that Mr Walker had information governance responsibilities in SCCRC prior to his appointment as Chief Executive. In fact, he was the identified individual at element 2 (see below) at the time of the Keeper's original agreement in 2014. The Keeper views this as evidence that Mr Walker is fully familiar with the records management provision in the authority.</p> <p>The Chief Executive is a member of the Business Continuity Planning Team (see element 10).</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission have</p>

			identified an appropriate individual to this role as required by the Act.
2. Records Manager	<b>G</b>	<b>G</b>	<p>The Act requires that each authority identifies an individual staff member as holding operational responsibility for records management and that this staff member has appropriate corporate responsibility, access to resources and skills.</p> <p>SCCRC have identified Chris Reddick, Director of Corporate Services as the individual with day-to-day responsibility for implementing the RMP.</p> <p>Mr Reddick has responsibility for identifying staff training needs and arranging for these to be addressed; making sure that, where necessary, staff have the appropriate security clearance to do their jobs effectively; overseeing the application of retention schedules and providing input into their development; undertaking management and statistical reporting.</p> <p>The Keeper has been provided with Mr Reddick's <i>Job Description</i> which confirms the above. Mr Reddick is also the key contact for the Keeper's PRSA Assessment Team and has routinely engaged with them since submission.</p> <p>It is clear from the above that the Director of Corporate Services is closely aware of the records management provision in SCCRC.</p> <p>The Keeper agrees that SCCRC have identified an appropriate individual to this role as required by the Act.</p>
3. Policy	<b>G</b>	<b>G</b>	<p>The Act requires an authority to have an appropriate policy statement on records management.</p> <p>SCCRC have a <i>Records Management Policy</i> which has been shared with the</p>



			<p>Keeper and which is available online at:  <a href="#">Records Management Policy.pdf (cdn-website.com)</a></p> <p>The Keeper agrees that the <i>RMP</i> supports the objectives and commitments stated in the <i>Records Management Policy</i>.</p> <p>The <i>Records Management Policy</i> specifically supports the authority's <i>Data Protection Policy</i> (see element 9).</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission has a formal records management policy statement as required by the Act.</p>
4. Business Classification	<b>G</b>	<b>G</b>	<p>The Keeper of the Records of Scotland (the Keeper) expects that the public records of an authority are known and are identified within a structure.</p> <p>The SCCRC have developed a Business Classification Scheme that indicates the record types that are created as they undertake the activities required to carry out their functions. This has been supplied to the Keeper.</p> <p>The record types described in the <i>Business Classification Scheme</i> map those in the authority's <i>Data Retention Policy</i> (see element 5).</p> <p>Records types in the Business Classification Scheme are described as either “case-related” records or “non-case-related” records. Both record types are ‘public records’ under the Act and are subject to the Keepers requirements.</p> <p>The SCCRC operate a hybrid record-keeping system. Public records are managed digitally and in paper-format.</p> <p>Staff are given clear instructions on saving files to the systems in a series of four</p>

			<p>'procedures' documents that have been provided to the Keeper.</p> <p>The operation of systems on which digital records are managed involves utilising contractual arrangements with third-party technology providers. The SCCRC have provided the Keeper with several documents that explain and confirm these third-party arrangements (for example a <i>Professional Services Agreement</i> from one provider and <i>Letter from the Director of Security and Compliance</i> at another).</p> <p><u>Digital eDRM</u>          The vast majority of SCCRC's case work records are managed on the authority's eDRM. The Keeper has been provided with detailed staff guidance of the use of this system and agrees it includes the creation, filing and security of public records in a consistent manner and that the structure of the system is clear to record creators and other SCCRC users (<i>Case Handling Procedures x4</i>).</p> <p><u>Digital network drive</u>          A small amount of case-related records (such as some committee minutes or case target sheets), and most non-case-related records (for example contracts with suppliers or financial and employee records) are stored on the Commission's network drives rather than the eDRM.</p> <p><u>Digital Line of Business Systems</u>          As with many other public authority's, SCCRC create and manage public records on bespoke line of business systems such as their information security management system "Diligent Boardbooks" or the case management system "Solcase". The Keeper is not familiar with these systems but accepts that the SCCRC are confident that these allow an appropriate level of records management functionality, such as tracking and destruction (see under individual elements below).</p> <p><u>Hard-copy in-house</u></p>
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			<p>Limited hard-copy case-related records are temporarily stored in SCCRC's premises. After the authority complete a case review the hard-copy records are scanned on to the relevant case file on the authority's eDRM and the original destroyed (see element 6). The Commission also manages a certain amount of non-case work administrative records in hard-copy. These are destroyed according to record type and the SCCRC's <i>Retention Schedule</i> (see element 5).</p> <p><u>Hard-copy external storage</u> There is no suggestion in the <i>RMP</i> that SCCRC contracts out paper-record storage to a third-party contractor.</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission retains all its public records in controlled systems which are structured in a clear manner and which can be used by staff to manage public records where appropriate.</p>
5. Retention schedule	<b>G</b>	<b>G</b>	<p>The Keeper expects an authority to have allocated retention periods to its public records and for those records to be retained and disposed of in accordance with a Retention Schedule.</p> <p>SCCRC have a published <i>Data Retention Policy</i> which is available at: <a href="https://cdn-website.com/UPRyQoMQiO9kh2DggSAi.pdf">Data Retention Policy UPRyQoMQiO9kh2DggSAi.pdf (cdn-website.com)</a></p> <p>This Policy has also been provided to the Keeper separately. It is version 6.0 approved by the Board of SCCRC in August 2021.</p> <p>The Keeper acknowledges that he has also seen, separately, the Director of Corporate Services secure file storage retention schedule which is not published.</p> <p>Staff are given a clear explanation of how long records are retained in a series of four 'procedures' documents that have been provided to the Keeper.</p>

			<p>The introductory text of the <i>Data Retention Policy</i> focuses on the retention of records featuring personal information and GDPR retention restrictions (principle 5). However, the policy itself adequately includes non-personal information. For example a range of record types around corporate administration such as financial planning and events organisation.</p> <p>Therefore, the Keeper can agree that each record type created by the SCCRC as they undertake their activities in pursuit of their public function is assigned a retention period in the <i>Data Retention Policy</i>. For example</p> <table data-bbox="801 614 1272 794"> <tr> <td>Media cuttings</td> <td>6 Years</td> </tr> <tr> <td>Image library records</td> <td>6 Years</td> </tr> <tr> <td>Events organisation</td> <td>10 Years</td> </tr> <tr> <td>Publications</td> <td>6 Years</td> </tr> <tr> <td>Press releases</td> <td>10 Years</td> </tr> </table> <p>The <i>Data Retention Policy</i> is format neutral and the Keeper agrees that appropriate retention decision have been applied to all the public records created by the authority, as detailed in their <i>Business Classification Scheme</i>, in whichever records management system they are managed (see element 4).</p> <p>Retention is reviewed twice a year. This is recognition that the SCCRC <i>Retention Schedule</i> is a 'living document' liable for adjustment as business or legislative requirements change over time (see <i>Records Management Policy</i> – see element 3 - section 11.2)</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission has a schedule providing retention decisions for the record types created while pursuing its functions.</p>	Media cuttings	6 Years	Image library records	6 Years	Events organisation	10 Years	Publications	6 Years	Press releases	10 Years
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<p>6. Destruction Arrangements</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Act requires that public records are destroyed in a timely, controlled and secure manner.</p> <p>The SCCRC's published <i>Records Management Policy</i> – see element 3 - states that “The Scottish Criminal Cases Review Commission creates, receives and maintains records in pursuance of its statutory functions. The Commission recognises that those records need to be accurate, reliable and secure, and managed and <u>disposed of appropriately...</u>” (<i>Records Management Policy</i> section 1)</p> <p>With this commitment in mind SCCRC has a <i>Data Retention Policy</i> which has been provided to the Keeper (see element 5). Showing and explaining retention decisions for the various record types created and managed by the authority.</p> <p>SCCRC have the following process in place, to ensure the controlled, secure and irretrievable destruction of public records (For the structure of SCCRC records management systems see element 4 above).</p> <p><u>Digital eDRM</u>: The vast majority of the casework records of SCCRC are managed on the eDRM system. As such they are subject to the automated destruction processes of that system.</p> <p><u>Digital Network Drives</u>: The destruction of records held digitally on network drives cannot normally be automated and therefore must be done manually. The <i>Records Management Policy</i> recognises this and states at section 11.3 “The Records Manager has responsibility for overseeing the destruction of case-related records. The Commission’s Director of Corporate Services has responsibility for overseeing the destruction of non-case-related records”.</p> <p>The <i>Records Management Policy</i> also notes that legal officers and other staff have a responsibility for: "Making sure that they follow closure and disposal procedures as set out in the case handling procedures." The Keeper has been provided with</p>
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		<p>these case handling procedures. This suggests that the Records Manager (see element 2) is responsible for liaising with the information asset owners (the relevant legal officers) before deleting <u>case related</u> records from the network. The Keeper agrees that this is appropriate. On the other hand the Director of Corporate Services will ensure that <u>non-case related</u> records are deleted at the end of their retention period without the necessity of engaging with the record creator. <b>Please let us know if we have misunderstood this situation.</b></p> <p><u>Digital Line-of-Business</u>: These line-of-business systems sit outside eDRM, but the Keeper can agree that they are likely to allow the destruction of public records within a retention framework as required.</p> <p><u>Physical in-house</u>: The <i>Data Retention Policy</i> describes the importance of the disposal of paper waste (confidential or otherwise). This work is undertaken by a third party contractor. SCCRC have provided the Keeper with destruction certificates as evidence that this arrangement is in operation.</p> <p><u>Hardware</u>: Hardware disposal is arranged through a third party contractor. The Keeper has been provided with destruction certificates as evidence that this arrangement is in operation.</p> <p><u>Back-Ups</u>: SCCRC, quite properly, retain back-ups of public records for business continuity reasons (see element 10). This arrangement is explained in the SCCRC <i>Business Continuity Plan</i>, for example at section 11.1.</p> <p>The Commission keeps a record of which records are destroyed and the date of their destruction. The Keeper commends the principle of public authorities retaining 'destruction logs'.</p> <p>The controlled destruction of records is supported by clauses in the authority's <i>Data</i></p>
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			<p><i>Protection Policy</i> (see elements 8 and 9 below).</p> <p>The Keeper agrees that SCCRC has processes in place to irretrievably destroy their records when appropriate.</p>
7. Archiving and Transfer	<b>A</b>	<b>G</b>	<p>The Act requires that all Scottish public authorities identify a suitable repository for the permanent preservation of any records considered suitable for archiving. A formal arrangement for transfer to that repository must be in place.</p> <p>The SCCRC <i>Records Management Policy</i> (see element 3) recognises this and states: “Disposal is the physical destruction or deletion of the records, or the transfer of the records to an appropriate storage area, or the <u>transfer of the records to an external archive (such as the National Records of Scotland).</u>” (<i>Records Management Policy</i> section 11.01)</p> <p>However, the SCCRC are in the unusual situation that they consider that their founding legislation, the Criminal Procedure (S) Act 1995 <a href="http://legislation.gov.uk">Criminal Procedure (Scotland) Act 1995 (legislation.gov.uk)</a> (the CP Act) precludes the transfer of public records to archive. The Keeper’s Assessment Team have reviewed the legislation (as it applies to SCCRC) and understand that the authority regards the transfer of records to archive may lead to a form of ‘disclosure’ that this is not expressly permitted in the relevant clauses in legislation (section 194). There are limited occasions where disclosure of information may be permitted and the Keeper’s Assessment Team concurs that public access through an archive is <u>not</u> one of those listed.</p> <p>The restrictions on the CP Act would seem to apply even in cases where records have been closed to the public for an extended period and are only to be accessed for the purposes of historical research after an agreed closure period has elapsed (potentially decades in the future). It should be noted that other public authorities</p>

			<p>referred to in the CP Act, such as the High Court, the Criminal Courts Rules Council and the Lord Advocate, currently transfer their records for permanent preservation to NRS under strict access restrictions.</p> <p>However, for the present, and as noted in the Keeper’s original agreement (April 2014), SCCRC has committed to archiving records deemed worthy of permanent preservation on its own premises. This is confirmed in the reviewed <i>RMP</i> in considerable detail (<i>RMP</i> sections 11.03 – 11.07). The Keeper notes that SCCRC have recognised the national archive accreditation scheme, but for the moment have decided not to pursue this option. Should the SCCRC rethink this decision in the future, the Keeper recommends that the SCCRC liaise with the NRS Head of Archive Liaison and Strategy to explore accreditation further:  <a href="mailto:jane.brown@nrscotland.gov.uk">jane.brown@nrscotland.gov.uk</a></p> <p>SCCRC should be aware that, since 2014, the year of original agreement, the Keeper has published his guidance on archiving provision. It is available at: <a href="http://nrscotland.gov.uk">Supplementary Guidance on Proper Arrangements for Archiving Public Records (nrscotland.gov.uk)</a> However, it would not be expected that SCCRC should be compliant on all aspects of these arrangements, for example they would not be expected to address public access issues.</p> <p>The Keeper is satisfied that SCCRC understand that a small amount of the records created as they pursue their functions, for example Board minutes, will be of historical significance and should be preserved permanently. He agrees that they have put processes in place to put this into practice including providing staff guidance and have provided him with details of the current arrangements.</p> <p><b>However, in order to fully agree this element of the SCCRC <i>RMP</i> the Keeper must be satisfied that</b></p>
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			<p>a) There are no record types, falling outside of the scope of the CP Act restrictions, that should be identified as suitable for permanent preservation and transferred to NRS as mentioned in the published <i>SCCRC Records Management Policy</i> (those not containing personal information for example).</p> <p>b) The arrangements in place at SCCRC are suitable for the permanent protection of public records.</p> <p>In order to satisfy himself on these points the Keeper requires SCCRC to liaise with his Senior Inspecting Officer Neil Miller: <a href="mailto:neil.miller@nrscotland.gov.uk">neil.miller@nrscotland.gov.uk</a> Neil has been made aware of this report and of the situation it highlights.</p> <p>Given the potential significance of the public records created by SCCRC, the Keeper will expect the authority to report on this and should take the opportunity to do so under his Progress Update Review (PUR) process: <a href="https://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/progress-update-review-pur-mechanism">https://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/progress-update-review-pur-mechanism</a> SCCRC will receive a template PUR for completion. This should arrive around the anniversary of this new agreement.</p> <p>In 2014, the Keeper awarded this element of the SCCRC <i>RMP</i> an amber RAG status around the unusual issue of a Scottish public authority considering that it is prevented by legislation from transferring records to an archive. In the interim, the situation has not changed and, separately from the <i>RMP</i>, the SCCRC have confirmed this opinion to the Keeper.</p> <p>With this in mind, the Keeper agrees this element of the Scottish Criminal Cases Review Commission's <i>RMP</i> under amber 'improvement model' terms</p>
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			<b>pending engagement with his Senior Inspecting Officer as required above.</b>
8. Information Security	<b>G</b>	<b>G</b>	<p>The Act requires that public records are held in accordance with information security compliance requirements.</p> <p>The SCCRC’s published <i>Records Management Policy</i> – see element 3 - states that “The Scottish Criminal Cases Review Commission creates, receives and maintains records in pursuance of its statutory functions. The Commission recognises that those records need to be accurate, reliable and <u>secure</u>, and managed and disposed of appropriately...” (<i>Records Management Policy</i> section 1).</p> <p>The <i>RMP</i> (for example at page 7) also clearly recognises the risks around records management “and the harm that might result from the improper use of those records or from their accidental loss or destruction.” The <i>RMP</i> also recognises the risks around the physical security requirements of premises where public records are stored, including the necessity of protecting any servers on which digital records are managed.</p> <p>The SCCRC does not have a separate information security policy. However, there are a detailed information security sections in their <i>Data Protection Policy</i> (sections 13-14. See element 9 for more on the <i>Data Protection Policy</i>). This section includes the authority’s commitments around physical, remote working and technological security and its management and organisational security.</p> <p>The Keeper has been provided with the SCCRC Case Handling Procedures staff instructions. He agrees that these appropriately emphasise the importance of information security, for example the protection of paper records and the issue of password-protected laptops and secure email systems (<i>Case Handling Procedures Stage 2</i> sections 2.58 - 2.60)</p>

			<p>The <i>RMP</i> (page 8) also recognises the security risks presented by e-mail. The controlled management of e-mail is specifically explained in the SCCRC <i>Data Retention Policy</i> (see element 5) for example at section 6.0.</p> <p>The Keeper agrees that the relevant sections in the <i>Data Protection Policy</i> adequately provide the information that one might expect to see in a stand-alone information security policy. It is particularly useful that, as part of the <i>Data Protection Policy</i>, the authority's information security commitments are published at <a href="#">Data Protection Policy - Verson 7.0 - Final (web version) (002).pdf (cdn-website.com)</a>. As a small, single function, organisation that processes sensitive personal information as its core business, it may make a stronger business tool to combine the information security and data protection policies.</p> <p>The SCCRC's premises are protected by an alarm, a shutter, security lighting and CCTV. Visitors to its premises are subject to controlled access (<i>Data Protection Policy</i> section 14.16).</p> <p>SCCRC utilise line of business systems (see element 4). On the basis of statements in the <i>RMP</i> (for example at page 8) the Keeper can accept that these systems have appropriate security functionality in operation.</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission has procedures in place to appropriately ensure the security of their records as required by the Act.</p>
9. Data Protection	<b>G</b>	<b>G</b>	<p>The Keeper expects a Scottish public authority to manage records involving personal data in compliance with data protection law.</p> <p>The SCCRC processes information under part 3 of the 2018 Data Protection Act, the processing of personal data by competent authorities for 'the law enforcement</p>

			<p>purposes’.</p> <p>The Scottish Criminal Cases Review Commission is registered as a data controller with the Information Commissioner’s Office (ICO): ZB341812</p> <p>The SCCRC have a <i>Data Protection Policy</i> which has been provided to the Keeper. This is version 6.0 approved by the SCCRC Board in August 2021. They have made this policy available to the public at:  <a href="#">Data Protection Policy - Verson 7.0 - Final (web version) (002).pdf (cdn-website.com)</a></p> <p>The Data Protection Policy makes the following statement in its introduction: “1.1 The Scottish Criminal Cases Review Commission (the Commission) recognises the importance of protecting the privacy of its staff and other individuals about whom it obtains, records and discloses information”</p> <p>The <i>Data Protection Policy</i> explains the 6 principles of data protection and the accountability clause (section 6).</p> <p>The <i>Data Protection Policy</i> explains the actions to be taken in the case of a suspected data breach and the authority’s incident reporting procedure (for example at section 15.00).</p> <p>The SCCRC have committed to carrying out data protection impact assessments before they begin any processing of personal data which is likely to result in a high risk to individuals (<i>Data Protection Policy</i> section 16.00).</p> <p>The SCCRC have also committed to operating an <i>Information Asset Register</i> to further their compliance with data protection legislation. The Keeper has been provided with a sample page from the <i>Information Asset Register</i>.</p>
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			<p>Service users can make a subject access request using an online template: <a href="https://www.sccrc.co.uk">Have your case reviewed by the Scottish Criminal Cases Review Commission (sccrc.co.uk)</a> as explained in their Privacy Policy at: <a href="https://www.sccrc.co.uk/Privacy%20Notice_65O3Bzn5SPCwVEGIL1A0.pdf">Privacy Notice_65O3Bzn5SPCwVEGIL1A0.pdf (cdn-website.com)</a></p> <p>All Members of staff undertake mandatory data protection training.</p> <p>SCCRC have appointed a Data Protection Officer as required by the Data Protection Act 2018: Stephen Lynn a copy of the registration certificate has been provided to the Keeper.</p> <p>The Keeper agrees that SCCRC have arrangements in place that allow them to properly comply with data protection legislation.</p>
<p>10. Business Continuity and Vital Records</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Keeper expects that record recovery, prioritising vital records, is an integral part of the authority's business continuity planning.</p> <p>The Scottish Criminal Cases Review Commission has a <i>Business Continuity Plan</i> which has been provided to the Keeper (dated 2020). The copy of the plan received by the Keeper has been appropriately redacted to remove details of staff contacts etc.</p> <p>The Keeper agrees that the <i>Business Continuity Plan</i> properly considers the recovery of records as part of its function (for example at sections 5 and 11). This recovery involves utilising contractual arrangements with third-party technology providers. As noted in element 4 above, the SCCRC have provided the Keeper with several documents that explain and confirm third-party arrangements. The Keeper agrees that the arrangements explained in the <i>RMP</i> are operational.</p>

			<p>The <i>Business Continuity Plan</i> is monitored and reviewed, and implemented if necessary, by the organisation’s Business Continuity Planning Team. The remit and details of their quarterly meetings have been explained to the Keeper. Both of the individuals identified at elements 1 and 2 above sit on the Continuity Planning Team.</p> <p>The SCCRC have identified that a very small number of records are vital for the legal operation of the authority. These are copied in paper form and stored off-site.</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission have an approved and operational business continuity process and that information management and records recovery properly feature in the authority’s plans.</p>
11. Audit trail	<b>G</b>	<b>G</b>	<p>The Keeper expects an authority to have processes in place to track public records in such a way that their location is known and changes recorded.</p> <p><b>In the Keeper’s original 2014 agreement he awarded the SCCRC with an amber RAG status for this element. This was on the grounds that he had not been provided with staff guidance around the consistent naming of the authority’s public records. He now acknowledges that he has been provided with 4 <i>Case Handling Procedures</i> instruction documents that cover the proper naming and storage of the authority’s records.</b></p> <p>As well as the correct naming of documents, the <i>RMP</i> explains how the eDRM (see element 4 above) imposes version control and the tracking of changes made to casework records (<i>RMP</i> page 9).</p> <p>SCCRC is a small authority and, as such, the requirement for complex and wide ranging record searches will be limited. The Keeper can accept that records in all formats can be suitably tracked and versions identified. For example he can accept</p>

			<p>the explanation that “paper records are not removed from the locked filing cabinet in the office of the legal officer to whom the case is allocated. When a record is removed from its file, a note is left in the file to record that it has been removed, why it has been removed and where it has been taken” (<i>RMP</i> page 10). The authority has a checklist of the contents of paper records. The Keeper agrees this system is appropriate.</p> <p>Similarly, in the case of the network drive, public records and their containers usually need formal naming convention policies. The <i>RMP</i> explains that there is control of folder creation and the Keeper agrees that this is probably adequate for a small organisation.</p> <p>SCCRC also utilise line-of-business systems in their activities. The Keeper can agree that these systems include adequate record tracking and identification functionality.</p> <p>The Keeper agrees the Scottish Criminal Cases Review Commission has procedures in place that will allow them to locate their records and assure themselves that the located record is the correct version.</p>
<p>12. Competency Framework for records management staff</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Keeper expects staff creating, or otherwise processing records, to be appropriately trained and supported.</p> <p>The Keeper agrees that for a small authority like SCCRC there is no need for the appointment of a full-time, qualified records manager as long as there is a clear commitment to training and development for the individual identified at element 2. In the case of the SCCRC this is the Head of Casework.</p> <p>The <i>RMP</i> states (page 11): “The Commission recognises that its records manager must have the relevant skills and training to carry out that business task to a</p>

			<p>reasonable standard. It recognises, too, that records management is a separate function from general office duties and requires specific resources applied in the form of training. Accordingly, such personal development continues to be one of the specific formal objectives of the records manager”</p> <p>SCCRC have provided the Keeper with the job description of the Head of Casework. This sets out his responsibilities with regards to the creation and implementation of SCCRC’s RMP, as well as a wider information governance role. There is also a commitment to undertaking necessary training, which the Keeper welcomes.</p> <p>Anecdotally, the Keeper acknowledges that Michael Walker, Head of Casework at time of submission and now Chief Executive (see element 1), has had good engagement with his Assessment Team over several years. The Keeper is perfectly satisfied that senior management in the SCCRC are aware of their responsibilities in this area and have engaged with records management learning opportunities as is appropriate to the size and complexity of their organisation and that Chris Reddick, Director of Corporate Services, now identified at element 2 in place of Mr Walker, will have access to training and support as appropriate.</p> <p>All staff are required to undergo training on the authority’s eDRM before using the system. Detailed guidance is provided (RMP page 10).</p> <p>All members of staff undertake mandatory data protection training.</p> <p>SCCRC utilise public records for the purposes of staff training and professional development (<i>Data Retention Policy</i> – see element 5 – section 5.9)</p> <p>The Keeper agrees that the individual identified at element 2 has the appropriate responsibilities, resources and skills to implement the records management plan. Furthermore, he agrees that the Scottish Criminal Cases Review Commission</p>
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			consider information governance training for staff as required.
13. Assessment and Review	<b>G</b>	<b>G</b>	<p>Section 1(5)(i)(a) of the Act says that an authority must keep its RMP under review.</p> <p>The SCCRC review their RMP annually.</p> <p>The review is undertaken by the SCCRC Director of Corporate Services in conjunction to the records manager (see element 2) and utilising the Scottish Government’s Directorate for Internal Audit and Assurance. The Keeper has been provided with a sample of such an audit from 2021 (on the case management system). He commends the use of a review that is independent of the SCCRC records management team. Reports resulting from reviews of this type are provided to the SCCRC Chief Executive (see element 1).</p> <p>The Commission operates its own IT system which is subject to ongoing security testing (<i>RMP</i> page 7).</p> <p>Public records are reviewed twice a year to identify which records are due for disposal (see element 6) (<i>Records Management Policy</i> – see element 3 - section 11.2)</p> <p>The <i>Data Protection Policy</i> (see element 9) is scheduled for review by the end of August 2023.</p> <p>The <i>Data Retention Policy</i> (see element 5) is scheduled for review by the end of August 2023.</p> <p>The <i>Business Continuity Plan</i> (see element 10) "will be reviewed, tested and updated on a regular basis. The plan will be formally reviewed on an annual basis to ensure that it continues to be effective. The Commission’s Audit Committee will</p>

			<p>oversee the annual review and report progress to the Board" (<i>Business Continuity Plan</i> section 1.7). Testing details have been shared with the Keeper.</p> <p>The Data Protection Officer (see element 9) will carry out periodic checks to ascertain whether staff are complying with procedures concerning data protection and records management (<i>Data Protection Policy</i> section 19.00).</p> <p>The Keeper agrees that the Scottish Criminal Cases Review Commission have made a firm commitment to review their <i>RMP</i> as required by the Act and have explained who will carry out this review and by what methodology. Furthermore he agrees that supporting systems have appropriate review periods allocated.</p>
14. Shared Information	<b>G</b>	<b>G</b>	<p>The Keeper expects a Scottish public authority to ensure that information sharing, both within the Authority and with other bodies or individuals, is necessary, lawful and controlled.</p> <p>SCCRC routinely share information with other organisations. For example information about a case may be shared with the Crown Office and Police Scotland as well as with private sector organisations, such as a solicitor's office. As this information may be of a highly sensitive nature (and because it is good practice generally) it is vital that this information is shared in a controlled and secure manner.</p> <p>To this end, SCCRC share information using formal protocols and information sharing agreements. The Keeper has been provided with examples of these (with Police Scotland) and agrees that they appropriately consider information governance clauses. The Keeper has also be provided with a sample of a template information sharing confidentiality agreement that must be authorised by any third party prior to receiving information from SCCRC.</p> <p>They also commit that "Where it shares data with stakeholder organisations, the</p>

			<p>Commission will adhere to the ICO's Data Sharing Code of Practice" (<i>Data Protection Policy</i> section 17.00) a link to the ICO's code is provided for staff.</p> <p>The Keeper can agree that the Scottish Criminal Cases Review Commission properly considers records governance when undertaking information sharing programmes.</p>
<p>15. Public records created or held by third parties</p>	<p>N/A</p>	<p>N/A</p>	<p><b><u>Third Parties:</u></b></p> <p>The Public Records (Scotland) Act 2011 (PRSA) makes it clear that records created by third parties when carrying out the functions of a scheduled authority should be considered 'public records' - PRSA Part 1 3 (1)(b).</p> <p>This <i>RMP</i> is arranged according to the 14 element version of the Keeper's original Model Plan. In May 2019 the Keeper introduced a 15<sup>th</sup> "Third Party Contractors" element: <a href="https://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan">https://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan</a></p> <p>However, it should be noted that the requirement to address the issue of third party contractors carrying out functions of an authority has always been integral to the Act.</p> <p>The SCCRC confirms that it does not contract out any of its functions to a third-party. There may be occasions when the SCCRC requires expert opinions/reports in respect of a case under investigation. However, the Keeper considers that in these cases SCCRC are contracting-in a service to help them pursue their function, rather than contracting-out the function as meant by the Act.</p> <p>The Keeper agrees that this element does not apply to SCCRC.</p>



## Scottish Criminal Cases Review Commission (SCCRC)

### General Notes on submission:

**Version:** This assessment is on the *Records Management Plan* (the *RMP*) of the Scottish Criminal Cases Review Commission (SCCRC). This is the version submitted for the agreement of the Keeper of the Records of Scotland (the Keeper) on 5<sup>th</sup> March 2021.

This is the second formal records management plan received from SCCRC by the Keeper. The first was agreed on the 30<sup>th</sup> April 2014: <https://www.nrscotland.gov.uk/files//record-keeping/public-records-act/PRSAassessmentReportScottishCriminalCasesReviewCommissioner.pdf>

The *RMP* explains (page 2) that the SCCRC have corporate objectives “To investigate all cases efficiently, without undue delay and to a consistently high standard; to work with others to deliver a quality service; to promote public understanding of the Commission’s role; and to enhance public confidence in the ability of the criminal justice system to address miscarriages of justice.” The Keeper agrees that robust records management should assist SCCRC to effectively pursue these objectives.

The SCCRC’s *Records Management Policy* (see element 3) states at section 1.2 “The Commission recognises, too, that systematic records management is fundamental to its efficient operation. To those ends, the Commission is committed to providing sufficient staffing and technical and organisational resources to make sure that the requirements of records management can be achieved and maintained.” The Keeper agrees and commends this commitment.

The *Plan* mentions the Act and is based on the Keeper’s original, 14 element, Model Plan. This Model was updated in 2019 - see element 15 and at <http://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan>.

## **6. Keeper's Summary**

Elements 1 - 15 that the Keeper considers should be in a public authority records management plan have been properly considered by the Scottish Criminal Cases Review Commission. Policies and governance structures are in place to implement the actions required by the plan.

Elements that require development by the Scottish Criminal Cases Review Commission are as follows:

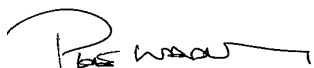
### 7. Archiving and Transfer

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Scottish Criminal Cases Review Commission**

- The Keeper recommends that the Scottish Criminal Cases Review Commission should publish its agreed RMP as an example of good practice within the authority and the sector.

This report follows the Keeper's assessment carried out by,



.....  
**Pete Wadley**  
Public Records Officer

.....  
**Liz Course**  
Public Records Officer

## 8. Endorsement of Report by the Keeper of the Records of Scotland

The report has been examined and is endorsed under the signature of the Keeper of the Records of Scotland as proof of compliance under section 1 of the Public Records (Scotland) Act 2011, and confirms formal agreement by the Keeper of the RMP as submitted by the Scottish Criminal Cases Review Commission. In agreeing this RMP, the Keeper expects the Scottish Criminal Cases Review Commission to fully implement the agreed RMP and meet its obligations under the Act.

Yours sincerely

A handwritten signature in cursive script that reads "Laura M. Mitchell".

Laura Mitchell  
Deputy Keeper of the Records of Scotland