National Records of Scotland

Public Records (Scotland) Act 2011

**Scottish Environment Protection Agency
Assessment Report**

The Keeper of the Records of Scotland

11 March 2014

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 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 Environment Protection Agency** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 18 November 2013.

The assessment considered whether the RMP of the **Scottish Environment Protection Agency** was developed with proper regard to the 14 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 Environment Protection Agency** complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

The Scottish Environment Protection Agency (SEPA) is Scotland's environmental regulator. Its main role is to protect and improve the environment. They attempt to do this by being an environmental regulator, helping business and industry to understand their environmental responsibilities, enabling customers to comply with legislation and good practice and to realise the many economic benefits of good environmental practice. They protect communities by regulating activities that can cause harmful pollution and by monitoring the quality of Scotland's air, land and water. The regulations they implement also cover the keeping and use, and the accumulation and disposal, of radioactive substances.

SEPA is a non-departmental public body, accountable through Scottish Ministers to the Scottish Parliament. SEPA has been advising Scottish ministers, regulated businesses, industry and the public on environmental best practice for over a decade.

http://www.sepa.org.uk/

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 Environment Protection Agency'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:

G	The Keeper agrees this element of an authority's plan.	A	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.	R	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.

5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer *Compulsory element*	G	G	Allan Reid, Chief Officer (Governance) of the Scottish Environment Protection Agency (hereafter SEPA) is the individual with responsibility for the management of the public records. His appointment is made clear in a covering letter, dated 18th November 2013, that also appoints the Information Officer to the role of implementation (See Element 2 below). Mr Reid is an entirely appropriate individual to undertake this role and therefore the Keeper agrees that there is clear evidence that a Senior Responsible Officer has been allocated.

2. Records Manager *Compulsory element*	**G**	**G**	Alison Mackinnon, Information Manager for the Scottish Environment Protection Agency, is responsible for the day-to-day records management provision for the public authority. Ms Mackinnon's responsibilities are included as part of the text of the RMP and supported by technical competencies document and AIIM (Association for Information and Image Management) certificate. The text of the RMP is repeated in the *Records Management Policy* (dated 15 November 2013 and authorised by Mr Reid Reference BPS-002) (See element 3 below) Both RMP and *Records Management Policy* make Ms Mackinnon's responsibility for records management clear and specifically mention PRSA responsibilities. Training is mentioned among the Information Manager's responsibilities. Ms Mackinnon is also the Data Protection Officer for SEPA (see element 9 below) The Keeper agrees that an appropriate person has been named to the records management role.
3. Policy *Compulsory element*	**G**	**G**	SEPA has a records management policy which has been supplied to the Keeper. In the covering letter to the RMP, the Chief Officer (Governance) specifically states that he endorses the SEPA Records Management Policy. The Records Management Policy forms part of SEPA's Quality Management system. It appears to be appropriately supported by procedures and is available to all staff. Specifically, the *Records Management Procedure* document (v.7 dated 22 May 2012, authorised by David Logan Reference BP-004) has been supplied in evidence. The records management procedures are available to staff on their intranet pages. SEPA have included a screen shot of the Records Management Intranet Site homepage to strengthen the evidence package. SEPA has ISO9001 (Quality Management) and ISO17025 (General requirements

			for the competence of testing and calibration laboratories) accreditation. Their records management policy supports these accreditations. SEPA's Annual Operating Plans are publically available at http://www.sepa.org.uk/about_us/publications/annual_operating_plans.aspx Therefore, the Keeper agrees SEPA has fulfilled this compulsory requirement under PRSA.
4. Business Classification	**G**	**G**	SEPA has submitted a full business classification (BCS) that covers the entire operation in 9 functions. Corporate Management and Environmental Strategy are two such functions. Some areas have been defined in more detail than others. The Keeper accepts this as practical. SEPA have invested in a quality management system hosted and maintained by http://www.q-pulse.com/default.aspx which allows staff access to records over an intranet. Records on system include: Business and Work Procedures, audits and corrective actions Targeted training is already underway for the SEPA EDRM. Since 2010 SEPA has operated a <u>functional</u> business classification. This is a business decision for SEPA, but the Keeper acknowledges that the current thinking in the field would support a functional arrangement over a structure mirroring the corporate hierarchy. The BCS is linked to the functions detailed in the Annual Operating Plan http://www.sepa.org.uk/about_us/publications/annual_operating_plans.aspx SEPA is expanding the BCS to create an information-asset type single document

			which will include retention periods and vital records (see *Business Classification* under General Comments below). It is not thought that any <u>function</u> of SEPA is carried out by a third party. The Keeper agrees that SEPA's current classification scheme meets the requirements for this element and looks forward to reviewing the new, more comprehensive, system when appropriate.
5. Retention schedule	**G**	**G**	SEPA has provided a full retention schedule with a column detailing reasons for retention decisions. (Reference BP 139) The schedule is available to all staff through the QPulse Quality Management System (See element 4 above) This retention schedule has been created after consultation with the local records owners in SEPA's different service areas. The Keeper commends this principle. SEPA is expanding the BCS to create an information asset type single document which will include retention periods and vital records (see *Business Classification* under General Comments below). The Keeper agrees that SEPA has a functioning retention schedule that appears to cover all the record types created as the authorities carry out their functions
6. Destruction Arrangements *Compulsory element*	**G**	**G**	SEPA supply destruction policies covering – a) Paper records b) Hardware (*Data and Storage Media Destruction Procedure* Reference WP-IS-18) Relevant certificates etc. have been provided as proof that these policies are in operation.

			c) Electronic records – A work procedure instruction for SEPA staff (FCS-2 dated February 2014) has been supplied to the Keeper. d) Back-Up Records stored on network file servers or within database systems are backed up nightly. Backups are stored for an agreed period of time before being destroyed. Schedules for backup and destruction of records are created within the backup software which then manages the backup and deletion of records. Destruction forms are not completed as the destruction is done automatically as part of the routine of the backup software and on a server rather than file basis. The Keeper agrees that SEPA has provided sufficient evidence of their ability to properly destroy all records when appropriate.
7. Archiving and Transfer *Compulsory element*	G	G	SEPA utilises external storage of material with a third party. This is a separate issue from archiving records for permanent preservation. SEPA's archiving provision is with NRS. SEPA has a MoU with the NRS for permanent preservation of records. This is confirmed by NRS client managers. Transfer to the NRS Digital Archive has not yet started. The Keeper agrees that SEPA has arrangements in place to transfer records to an appropriate archive.
8. Information Security *Compulsory element*	G	G	SEPA have supplied their *Information Security Policy* (v2 dated March 2013 Reference BP-142 and their security guidance *Securing Our Environment.* Security of the information held on back-up tapes is specifically mentioned in their *Back-Up Policy* (Dated 2011 and authorised by the head of IS reference WP-IS-003) Security procedures and training are the responsibility of the Information Security

<table>
<tr><td></td><td></td><td></td><td>Group. This group is in a state of flux at the moment, but as it is specifically mentioned in the RMP, the Keeper would be interested to know who sits on it and where it is placed in the organisation's hierarchy SEPA have stated that it will provide details of the reconstituted ISG when it is finalised.

SEPA operate a protective marking system based on the Cabinet Office's Security Policy Framework.

SEPA demands that its staff undertake annual training on information security, including, but not limited to, the Cabinet Office Protecting Information e-learning packages. Data protection training is part of this e-learning package.

SEPA is expanding the BCS to create an information asset type single document which will include protective marking allocation (see *Business Classification* under General Comments below).

SEPA have provided screen shots showing how user's accounts are 'deprovisioned' to ensure control over who is accessing corporate information. A sample e-mail showing these procedures in action has also been provided.

The Keeper agrees that SEPA have properly considered the security of their records</td></tr>
<tr><td>9. Data Protection</td><td>G</td><td>G</td><td>SEPA has provided the Keeper with its comprehensive Data Protection Policy (BRS 003 dated 2011 and authorised by the Information Manager). The Information Manager is also the Data Protection Officer.

The staff guidance for handling subject access requests has also been submitted. Subject access request information is made public from the privacy pages of the SEPA website: http://www.sepa.org.uk/system_pages/privacy_policy.aspx</td></tr>
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			SEPA demands that its staff annual training on information security, including, but not limited to, the Cabinet Office Protecting Information e-learning packages. Data protection training is part of this e-learning package. The ICO registration number for SEPA has been provided. The Keeper agrees that SEPA has properly considered data protection as part of its records management provision.
10. Business Continuity and Vital Records	G	G	Business continuity plans exists for SEPA offices and two have been supplied as samples. The Keeper is content with these as evidence that such procedures exist for all offices. Regular back-ups are taken of electronic information and a *Back-Up Policy* (Dated 2011 and authorised by the head of IS reference WP-IS-003) has been supplied in evidence. SEPA is expanding the BCS to create an information asset type single document which will include retention periods and vital records (see *Business Classification* under General Comments below). The planned inclusion of vital records in the business continuity plans is also welcome. The Keeper agrees that SEPA have properly considered business continuity from a records management perspective. Also, the 'Information Asset Register' project (see *Business Classification* under General Comments below) will allow SEPA to efficiently identify vital records.
11. Audit trail	A	A	Due to the nature of SEPA's current records management provision there is no single audit trail that applies across the entire business. It is quite acceptable to

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<tr><td></td><td></td><td></td><td>have several tracking systems as long as staff know which to use.

It is understood that the EDRM system imposes an audit trail, but that many legacy corporate records lie outside this system. This 'gap' is not unusual in the Scottish public sector. However, the Keeper understands that the improved business classification system (see Business Classification under General Comments below) will record the relevant audit trails for these records. The management of records held on shared servers will form part of the review and design phase of the roll out of the new system (beginning in April 2014 and acknowledged by Chief Officer (Governance) in the covering letter). The Keeper would be keen to see how SEPA responds to this problem when that phase is complete, although this is not required for agreement.

The RMP details the procedure for tracking paper records (this tends to be regulatory rather than corporate information) which shows centralised control particularly of records held off-site by a third party.

There is a commitment to keep this element updated as more planning is undertaken over the next six months.

The assessment team considers that this element of the RMP should be agreed on 'improvement model' terms. With the proviso that the Keeper may request that he re-assesses this element in the future.</td></tr>
<tr><td>12. Competency Framework for records management staff</td><td>G</td><td>G</td><td>The Records Management Policy details the responsibilities of the Information Manager. This is repeated in body of the RMP itself.

The RMP also states that 'Training and development needs relating to these responsibilities are assessed during the annual staff appraisal process'. The Information Manager's appraisal (properly reacted) has been supplied as evidence</td></tr>
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of this statement.

All new staff members receive a presentation on key records management issues including data protection at the Corporate Induction. The Keeper has been provided with a PowerPoint presentation *Information Management Induction November 2013* as evidence.

The RMP mentions that SEPA is a corporate member of the Information and Records Management Society http://www.irms.org.uk/ This demonstrates a commitment to give the Information Manager access to best practice, and latest thinking, in the field of records management and is commended by the Keeper.

SEPA demands that its staff annual training on information security, including, but not limited to, the Cabinet Office Protecting Information e-learning packages.

This element introduces SEPA's Records Management Coordinator, Anne Innes. The records management coordinators role is explained in the *Records Management Handbook (section 6.4) although the role is not mentioned in the RM Policy or the RMP.*

SEPA have included a screen shot of the Records Management Intranet Site homepage to strengthen the evidence package.

The Keeper agrees that the person named at element two has appropriate competencies and responsibilities to implement the SEPA RMP and that the authority properly consider records governance training for appropriate staff.

13. Assessment and Review	**G**	**G**	SEPA's RMP is subject to audit due to their accreditation under ISO9001 (Quality Management). An external auditor has been involved during the development of the RMP and as recently as November 2013. This involvement is to be commended. UKAS and LRQA both provide external audit of SEPA's systems which are accredited to ISO 17025 and ISO 9001 and 14001. Details of accredited tests are given in the Schedule of Accreditation for SEPA. The Keeper has been provided with a series of audit reports as evidence that this process is in place and a copy of an external auditor timetable proving that it will continue. Importantly, the Keeper welcomes the commitment to create a more formal RMP review system through a project board. This board should be in place in the spring of 2014. **The Keeper would appreciate being informed when this project board is established and the extent of their remit.** The Keeper agrees that SEPA has properly considered the importance of assessing records management provision in the authority.
14. Shared Information	**G**	**G**	SEPA shares information with other parties and does so under formal MOUs. SEPA's information sharing MOUs specifically refer to the governance of records and the Keeper has seen examples of these as evidence. He has also been provided with SEPA staff instructions on how to create an MOU (reference BP-152). These instructions refer to records, the involvement of the information asset owner and information security (protective marking). It is not thought that SEPA routinely <u>create</u> records in a shared environment – such as during joint projects with third parties. Should they undertake such activities in the future the Keeper would remind the authority of the importance of agreeing

			records governance in the long-term (end of project for example) at the outset. The Keeper agrees that SEPA have considered the records management implications of information sharing as is appropriate to their business. However, he understands that SEPA will revisit this issue in 2014 - 2015

General Notes on RMP, Including Concerns:

The records management plan has been approved in a covering letter by Allan Reid, the Chief Officer (Governance) of the Scottish Environment Protection Agency (see element 1). Mr Reid states in this letter that 'Ongoing compliance with the requirements of the PRSA is included in SEPA's current Annual Operating Plan (AOP) and is carried forward into the AOP for 2014-15'. SEPA's Annual Operating Plans are publicly available at http://www.sepa.org.uk/about_us/publications/annual_operating_plans.aspx

Records Management Procedure document (See element 3), is authorised by David Logan. David Logan is SEPA's Corporate Solicitor and also carries out the role of Head of Information Management. He is the direct line manager of the Alison Mackinnon, Information Manager (See Element 2).

<u>**Business Classification:**</u>
SEPA is expanding the BCS to create an information asset type single document which will include retention periods, audit trail, protective marking allocation and vital records. While not required for agreement, the Keeper commends this project as one that is likely to create a very useful business tool for SEPA. He would be pleased to receive a copy of this document for his records when SEPA deems it appropriate. The full scheme will be rolled out in the next three to five years. In the meantime the 'improvement plan' (action plan) by which this project will be taken forward would be a useful addition to the PRSA evidence folder when it becomes available. This improvement scheme is recognised by the Chief Officer (Governance) in his covering letter (see Element 1 above).

6. Keeper's Summary

Elements *1 - 14* that the Keeper considers should be in a public authority records management plan have been properly considered by the **Scottish Environment Protection Agency**. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Scottish Environment Protection Agency**.

- The Keeper recommends that the **Scottish Environment Protection Agency** 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,

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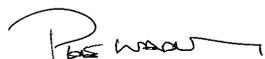
Pete Wadley
Public Records Officer

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Robert Fotheringham
Public Records Officer

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

Either
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 Environment Protection Agency** In agreeing this RMP, the Keeper expects the **Scottish Environment Protection Agency** to fully implement the agreed RMP and meet its obligations under the Act.

…   ………

Tim Ellis
Keeper of the Records of Scotland