

The Public Records (Scotland) Act 2011

Bòrd na Gàidhlig

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

8th June 2020

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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 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 Bòrd na Gàidhlig. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Bòrd na Gàidhlig was established as a public body by the Gaelic Language (Scotland) Act 2005 which was commenced on 13th February 2006. The legislation is designed to promote the use of Scottish Gaelic, secure the status of the language and ensure its long-term future. The Act sets out three main aims for Bòrd na Gàidhlig:

- **to increase the number of persons who are able to use and understand the Gaelic language;**
- **to encourage the use and understanding of the Gaelic language; and**
- **to facilitate access, in Scotland and elsewhere, to the Gaelic language and Gaelic culture.**

The first Chair and members of Bòrd na Gàidhlig were appointed by Scottish Ministers in January 2006. The Bòrd currently has six members in total, including the Chair, and is responsible for the governance and strategic direction of Bòrd na Gàidhlig. The National Gaelic Language Plan 2018-2023 contains the main strategic aims for Gaelic in Scotland and informs the Bòrd's Corporate Plan (2018-23). The principal development areas in the plan are increasing the use of Gaelic, increasing the learning of Gaelic, promoting Gaelic and developing how the organisation works. The key aims of the plan include an increase in the number of public authorities with Gaelic language plans, an increase in the number of children entering Gaelic Medium early years education and other developments in Gaelic medium education as well as an increase in the number of adults acquiring Gaelic, and the expansion of Gaelic use in a number of different contexts and areas.

As a statutory Non-departmental Public Body, the Bòrd is directly funded by the Scottish Ministers and is accountable to them. The Bòrd works closely with the Scottish Government, public authorities and key partners (including the Gaelic organisations and community groups) to promote and develop the use and understanding of Gaelic and to ensure that public funds are wisely and effectively spent. Bòrd na Gàidhlig, in partnership with Gaelic speakers and the people of Scotland, wants Gaelic to be spoken far and wide

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.
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Progress Update Review (PUR): Bòrd na Gàidhlig

Element	Status of elements under agreed Plan 03APR14	Status of evidence under agreed Plan 03APR14	Progress assessment status 08JUN20	Keeper's Report Comments on Authority's Plan 03APR14	Self-assessment Update as submitted by the Authority since 03APR14	Progress Review Comment 08JUN20
1. Senior Officer	G	G	G	Update required on any change	The CEO at Bòrd na Gàidhlig is Shona MacLennan.	Thank you for this update which has been noted.
2. Records Manager	G	G	G	Update required on any change	The Records Manager is now Carol Johnson, Office Manager. Her job description is attached [Appendix A]	Thank you for this update which has been noted. The Assessment Team acknowledged receipt of the <i>Job Description Office Supervisor</i> (March 2014). This document will be retained in order that the Bòrd submission can be kept up-to-date.
3. Policy	G	G	G	Update required on any change	The records management policy was updated in 2017 and a copy is attached. [Appendix B]	In their original submission Bòrd na Gàidhlig committed to keep their information governance policies and guidance under review. The Assessment Team is pleased to acknowledge that this is being done. The Assessment Team acknowledge receipt of the <i>Records Management Policy</i> (v2.0 January 2017). This document will be retained in order that the Bòrd submission can be kept up-to-date.
4. Business Classification	A	A	A	The BCS developed by BnG is commended for its functional approach and availability to staff. BnG intends to impose the BCS architecture on SharePoint as this is developed over the next	The business classification has been used to develop a new file plan for SharePoint and the next stage is to move the existing files into the new structure.	The Assessment Team acknowledge that the Bòrd are migrating their systems to a SharePoint solution. This was bound to be incremental and take several years to bed-in properly. The Assessment Team remind Bòrd na Gàidhlig of the importance of appropriate policies, governance and staff

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				<p>three years. It will also commence a back-scanning project to capture regulatory records for operational purposes.</p> <p>The Keeper agrees this element on 'improvement model' terms. This means that he is convinced of BnG's commitment to implement the BCS fully over time as part of the project to implement Sharepoint, provided that he is updated as this project progresses.</p>	<p>The new structure will allow automatic assignation of keywords and retention schedules, as well as the introduction of information security classification markings.</p> <p>The preparatory work for this is complete and the new file plan is currently with IT to develop a plan for implementation.</p> <p>The scanning of HR files has been completed and these are now managed electronically with access provided to HR.</p>	<p>training in making this major project a success.</p> <p>The Assessment Team would remind the Bòrd of the importance of appropriate policies, governance and staff training in making this major project a success (for training see under element 12 below).</p> <p>This element remains at Amber while this work is ongoing.</p> <p>The Assessment Team notes that hard copy HR files have been scanned into the electronic system. The move away from paper is a common feature in the Scottish public sector and is liable to provide more robust control for the organisation.</p>
5. Retention Schedule	A	A	A	The very comprehensive retention schedules developed by BnG shall be applied alongside the BCS within the SharePoint project as it is rolled out. The authority intends to review its retention schedules every three years.	The implementation of the new file plan in SharePoint will allow the majority of retention schedules to be integrated into the system using labels and these have been developed as part of the work referred to above. Once the new system is established, files will also be regularly deleted if they are not marked as records.	<p>The Assessment Team agrees that the implementation of the SharePoint solution (see element 4 above) will greatly improve confidence that all record types have retention decisions appropriately allocated.</p> <p>The development of this solution, mentioned in the authority's original submission, is bound to be incremental and the Assessment Team is satisfied that the Bòrd are moving in the right direction.</p>

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				<p>The Keeper agrees this element on 'improvement model' terms. This means that he is convinced of BnG's commitment to implement the retention schedule fully over time as part of the project to implement Sharepoint, provided that he is updated as this project progresses.</p>	<p>The retention schedules have also been applied to hard copy information with Bòrd na Gàidhlig's archive reviewed and weeded.</p>	<p>They look forward to further updates in subsequent PURs.</p> <p>This element remains amber while the SharePoint project progresses.</p>
6. Destruction Arrangements	G	G	A	<p>BnG have suitable destruction arrangements in place but have recognised the ongoing need to ensure that these apply to all record types. BnG anticipates that the implementation of SharePoint will greatly assist in the destruction of electronic records. The Keeper would welcome updates concerning the role SharePoint plays in the</p>	<p>Bòrd na Gàidhlig will be managing this using SharePoint moving forward and plans to use the workflow for disposal about to be introduced by Microsoft.</p> <p>We will also be introducing a disposal form for hard copy records although it is envisaged that these will reduce with time. A copy of this form is attached. [Appendix C]</p>	<p>Clearly, when all the public records of the authority are managed on a SharePoint system (see element 4) the routine and controlled destruction of electronic records should be more robust. However, this functionality will probably not be universally operational for some time.</p> <p>The Assessment Team acknowledge receipt of the <i>Disposal of Records Procedures and Guidance</i> (v1.0 January 2020). This document will be retained in order that the Bòrd submission can be kept up-to-date.</p> <p>The Keeper agrees that a disposal form for the destruction of hard-copy records is good</p>

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				authority's destruction arrangements.		<p>practice and notes the intention of utilising such a form going forward. The PUR makes it clear that the authority is not yet comfortable that their provision for the controlled, secure and irretrievable destruction of records in all media is current operating in line with best practice. For that reason this element will temporarily turn 'amber' (informally there is no change to the Keeper's agreed RAG status at this stage).</p> <p>The Assessment Team looks forward to receiving updates on the steps being taken in the authority to make the provision around this element more robust</p>
7. Archiving and Transfer	G	A	A	<p>BnG have identified the National Records of Scotland (NRS) as a suitable place of deposit for their records. A draft Transfer Certificate was submitted as evidence and the NRS confirmed that talks were under way for developing a MoU with the authority.</p> <p>The Keeper agrees that BnG are taking steps to ensure that appropriate archiving arrangements</p>	<p>An MoU has been entered into with NRS although Bòrd na Gàidhlig has yet to receive feedback on the retention schedules. Once comment has been provided on the retention schedules and those records marked for permanent preservation, a separate workstream will look at how files can best be transferred to NRS.</p>	<p>The Assessment Team acknowledge that there has been a delay at NRS regarding getting MoUs signed off.</p> <p>The National Records of Scotland have recently rolled-out a new, GDPR compliant, MoU. Organisations depositing their records with NRS for permanent preservation are encouraged to engage with the new version.</p> <p>In order to expedite this for your authority, the Assessment Team suggests that you e-mail the lead officer in the NRS client management unit: neil.miller@nrscotland.gov.uk asking to be sent the new MoU for consideration and</p>

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				are in place and asks that once a Memorandum of Understanding or transfer agreement has been finalised it is sent to the Keeper for inspection.		sign-off. Neil will let you know who your client manager is and has indicated to the Assessment Team that he is happy to prioritise MoU's for authorities looking to submit the new version as evidence in element 7 of their Records Management Plan.
8. Information Security	G	G	G	The Keeper commends the work of the authority in creating comprehensive policies to ensure the security of its records both inside and outside of the workplace. The Keeper would like sight of the reviewed/amended policy and to be kept informed of the development of e-learning information security training packages for staff.	Changes have been made to a number of information security policies to align them with the Scottish Government's cyber resilience policies, and some staff training has also been delivered to assist with using information security classifications. Bòrd na Gàidhlig's new Cyber Resilience Policy is attached. [Appendix D] Training has been delivered to staff as an appropriate e-learning package could not be sourced at the time. This will be reviewed in the first quarter of 2020.	The Assessment Team acknowledge receipt of the <i>Cyber Resilience Policy</i> (v1.0 October 2018). We note this document is marked as 'draft'. We look forward to receiving an approved version for our records in a subsequent PUR. For training see element 12 below

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9. Data Protection	G	G	G	Update required on any change	Bòrd na Gàidhlig's policy has been updated to reflect the requirements of the GDPR and DPA 2018. A copy of that policy is attached. [Appendix E] An invitation to tender has been issued for the provision of DPO as a service, with it being envisaged that a contractor will be appointed and start in that role from 1 April 2020.	As with all other Scottish public authorities Bòrd na Gàidhlig have been required to review and update their data protection procedures in light of the 2018 legislation. The Assessment Team acknowledges that the public facing Bòrd's website has been updated appropriately. For example: https://www.gaidhlig.scot/wp-content/uploads/2020/03/Privacy-Notice-Contacts-List.pdf The Assessment Team acknowledge receipt of the <i>Data Protection Policy</i> (no version no date). This document will be retained in order that the Bòrd submission can be kept up-to-date.
10. Business Continuity and Vital Records	A	A	A	BnG has committed to designing and implementing suitable storage arrangements for Vital Records as well as testing the disaster recovery plan once they have rolled out SharePoint across the organisation.	A business continuity and disaster recovery plan is due to be finalised in March 2020.	A <i>Business Continuity Plan</i> which features records recovery provision has been pursued for some time by the Bòrd and now is about to be finalised. This is good news and the Assessment Team looks forward to receiving an update on this in subsequent PURs.

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				The Keeper agrees this element on 'improvement model' terms. This means that he is convinced of BnG's commitment to implement suitable storage arrangements for vital records, provided he is updated as this project progresses.		
11. Audit Trail	A	A	A	BnG recognise that current audit trail provisions are weak but they anticipate considerable improvements once SharePoint is rolled out across the organisation. The Keeper also recommends that consideration is given to applying naming conventions and version	<p>This work remains ongoing although the volume of paper records has been significantly reduced.</p> <p>Parts of the business do have naming conventions for files and a number are already following the new corporate file plan (finance), which will assist with audit trails.</p> <p>It is likely that SharePoint will be utilised to implement</p>	<p>This remains a work in progress. Although the PUR reports that naming conventions are imposed on some business areas it is clear that this is not universal.</p> <p>The Bòrd correctly identify that the adoption of SharePoint will greatly strengthen version control it will still be necessary for the authority to provide naming convention guidance.</p> <p>If this were a formal resubmission under section 5 of the Act the Keeper would expect the authority to provide evidence that</p>

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				<p>control to records held outwith SharePoint.</p> <p>The Keeper agrees this element on 'improvement model' terms. This means that he is convinced of BnG's commitment to implement audit trails for records, provided he is updated as this project progresses.</p>	<p>version control although, once the new file plan is implemented, all options will be considered against business requirements.</p>	<p>the authority could be confident that the location of all public records is known and changes recorded. Ensuring all staff file and name records correctly is a key part of this.</p> <p>For the moment this element remains at Amber, but the Assessment Team would strongly suggest that naming convention guidance and training is rolled-out throughout the organisation as soon as practicable.</p>
12. Competency Framework	G	G	G	Update required on any change	<p>Bòrd na Gàidhlig regularly provides training to all staff on records management and data protection, and has recently rolled out SharePoint training at two levels: one for all staff and a further session for those who will be administrators.</p> <p>Further records management training is planned for early in the next financial year to coincide with the roll out of the new file plan.</p>	<p>The Keeper expects to see evidence that Staff creating, or otherwise processing records, are appropriately trained and supported.</p> <p>There seems to be ample evidence that information governance training is appropriately considered in the authority.</p> <p>SharePoint training is being provided as the migration continues (see element 4).</p> <p>Information security training is being provided (see element 8).</p> <p>It is expected that the Data Protection Officer, once in post, will organise training</p>

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						on that issue. The Assessment Team looks forward to learning more about this in subsequent PURs.
13. Assessment and Review	G	G	G	The Keeper welcomes the addition of a review of BnG's RMP within this authority's Internal Audit Work Plan and would like to hear updates on this project.	An audit of the RMP and progress that was made was completed in 2018. The findings from that audit are attached. [Appendix F]	It is a requirement of the Public Records (Scotland) Act 2011 that "An authority must— (a) keep its records management plan under review" (PRSA Part 1 5.1.a.) In their original submission Bòrd na Gàidhlig provided an Internal Audit Work Plan for the years 2014-2017 showing that the RMP would form part of that audit. The Assessment Team is pleased to acknowledge that this was done. The Keeper has previously commended the use of internal audit, where available, to provide an 'objective' view on information governance provision in an organisation. The Assessment Team acknowledge receipt of the <i>Internal Audit Quarterly Report</i> (November 2018 - January 2019). This document will be retained in order that the Bòrd submission can be kept up-to-date. The authority's participation in the PUR process this year also demonstrates a commitment to reviewing its RMP.
14. Shared Information	G	G	G	BnG intends to revise its contractual statements to cover the records	Bòrd na Gàidhlig has implemented both data processing agreements (for	Thanks you for this update. However, the Assessment Team has no record of receiving Appendix G as part of the PUR

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				management provisions of contractors carrying out BnG's functions on its behalf, using text available on the Scottish Council on Archives website. The Keeper requests that he is informed of these changes and would ask that he is sent a sample contract (redacted if necessary) as an example of this change.	those processing personal data on BnG's behalf) and data sharing agreements for those who would like access to personal data contained in BnG's research data. A copy of the templates is attached. [Appendix G – to be emailed seperately]	submission. There is no requirement to submit evidence at the time of Progress Update Review. However, we thought we should bring this discrepancy to your attention. The RAG status of this element remains Green.

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 10th January 2020. The progress update was submitted by Alasdair MacKinnon, Head of Corporate Services.

The progress update submission makes it clear that it is a submission for **Bòrd na Gàidhlig**.

PRSA Assessment Team's Summary

The Assessment Team has reviewed Bòrd na Gàidhlig's Progress Update submission and agrees that the proper record management arrangements outlined by the fourteen 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

Bòrd na Gàidhlig 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 **Bòrd na Gàidhlig** 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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Pete Wadley
Public Records Officer