The Public Records (Scotland) Act 2011

NHS Shetland

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

17 October 2019

Contents

1. Public Records (Scotland) Act 2011

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

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

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

2. Progress Update Review (PUR) Mechanism

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

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

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

3. Executive Summary

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

4. Authority Background
Shetland NHS Board is responsible for health care for a population of around 23,000. Local Hospital and Community Services are provided from the Gilbert Bain Hospital. In addition, visiting consultants from NHS Grampian provide out-patient clinics as well as in-patient and day-case surgery to supplement the service provided by locally-based Consultants in General Medicine, General Surgery, Anaesthetics and Psychiatry.

https://www.shb.scot.nhs.uk/

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.

Element	Status of elements under agreed Plan 08MAR18	Status of evidence under agreed Plan 08MAR18	Progress assessment status 17OCT19	Keeper's Report Comments on Authority's Plan 08MAR18	Self-assessment Update as submitted by the Authority since 08MAR18	Progress Review Comment 17OCT19
1. Senior Officer	G	G	G	Update required on any change	The Executive Lead is now Simon Bokor-Ingram, Interim Chief Executive of NHS Shetland.	The Keeper's Assessment Team thanks NHS Shetland for this update which has been noted.
2. Records Manager	G	G	G	Update required on any change	The responsible person is still David Morgan, however the post title is now 'Information Governance Manager/DPO'.	The Assessment Team thanks NHS Shetland for this update which has been noted.
3. Policy	G	G	G	Update required on any change	No Change.	No immediate action required. Update required on any future change. The Assessment Team acknowledges the receipt of *NHS Shetland Records Management (High Level) Action Plan* which underlines the authority's commitment to

						pursue the improvements described in this PUR. We have saved this document in order that the NHS Shetland submission remains up-to-date.
4. Business Classification	A	G	A	The work to develop the BCS is included in the Records Management Action Plan (evidence 012) and has an estimated completion date of October 2018. The Keeper requests that he is kept informed of the progress of this work. NHS Shetland has committed to using the Progress Update Review (PUR) mechanism to review progress and inform the Keeper. The commitment to undertake the implementation of an EDRMS is confirmed by an extract from the 2017/18 eHealth Work Plan presented to the eHealth Informatics Support Group (evidence 017). This also appears as an action in the Records Management Action Plan with an estimated completion date of June 2021. NHS Shetland has committed to using the PUR mechanism to review progress and inform the Keeper. The Keeper can agree this Element on an 'Improvement	An updated Records Management Action Plan is attached as evidence in Appendix 1. Completion of the BCS has not progressed as quickly as planned due to resources being diverted to work on the development of a) an organisation wide Information Asset register and b) Data Flow Mapping as part of GDPR compliance. The completion of tasks a) & b) will assist with the production of the BCS and lay the foundation for the EDRMS work. Evidence of the IAR and Data Flow Mapping work is provided in Appendix 2.	The development and roll-out of a business classification scheme was bound to be an incremental and time-consuming process and the Assessment Team accepts that the original target of October 2018 has been missed. The authority has explained that other information governance work (especially around GDPR) has taken priority. This is understandable. NHS Shetland are not alone in developing an Information Asset Register (principally to reveal records containing personal information?). This could expand to encompass all public records of the authority. The Keeper agrees that an Information Asset Register should assist with the production of the BCS and lay

			Model' basis. This means that the authority has identified a gap in provision (the lack of a fully developed and implemented BCS) and has identified how it intends to close this gap. This agreement is dependent upon the Keeper being kept informed on the progress of work to close this gap.		the foundation for the EDRMS work as suggested.

The Assessment Team acknowledges the receipt of *Data Flow Audit Process Report* which demonstrates that the authority is actively pursuing the improvements described under element 4 in the PUR. We have saved this document in order that the NHS Shetland submission remains up-to-date.

The Assessment Team notes that the authority has submitted this PUR thus fulfilling a firm commitment in the original submission.

For the moment this element remains at amber, but the Assessment Team is confident that NHS Shetland is taking reasonable steps to structure its public records using mechanisms that reflect the functions of the authority by means of a business classification scheme, information asset register or similar. |

						This should record, at a given point in time, the information assets the business creates and maintains, and in which function or service area they are held. As authorities change, the structure should be regularly reviewed and updated. The Assessment Team has been supplied with the NHS Shetland Action Plan **(see element 3)** which commits the authority to "Establish a comprehensive business classification scheme that describes what business activities the authority undertakes." The Assessment Team looks forward to receiving an update on this work in subsequent PURs.
5. Retention Schedule	**A**	**G**	**A**	The Records Management Procedure: non-clinical records The Procedure will undergo a full review prior to April 2018. The Keeper requests that he is sent the updated version once it becomes available.	Review delayed – we are awaiting publication of the updated NHS Scotland Retention Schedule (currently the 2012 version).	**See element 4** As part of the development of an Information Asset Register and prior to the potential migration to a new records

			Procedure for the Retention and Destruction of Personal Health Records The Procedure is currently under review and it advises that staff should contact their local records management representative for up-to-date advice. The Keeper requests that he is sent the updated version once it becomes available. The RMP states that retention rules are not currently being applied to electronic records held on shared drive networks, emails or some business systems. This will be addressed under Action 5.2 of the Records Management Action Plan (evidence 012) which has an estimated completion date of December 2020. The 'Improvement Action' section of this Element states that NHS Shetland intends to develop a detailed Information Asset Register (IAR) and a comprehensive BCS as part of the implementation of an EDRMS. This work will allow the consistent application of retention schedules. The development of the IAR is due for completion in October 2019. Work has already	In 2019/20, NHS Shetland will purchase propriety software that will enable it to undertake comprehensive audits of all electronic assets; this process will identify asset owners, set retention flags, when the record was last accessed, security permissions, detect the presence of personal data, unusual activity etc. An example of this tool is provided in Appendix 3 The complete organisational IAR is still in development. Due to the size and complexity of NHS Shetland this has proved to be a significant task and it is unlikely that we will meet our ambitious target of October 2019. The Board's network of Information Asset Leads (previously called 'Records Management Champions') are working to a) verify the accuracy of the departmental IARs that make up the overarching IAR and b) ensure they are regularly updated.	management system **(SharePoint/O365?)**, NHS Shetland are reviewing the retention decisions applied to record types in the authority. This review has been delayed by the development of the new NHS Code of Practice (and retention periods) which is being produced by the Scottish Government. The Keeper is kept up-to-date with the development of this tool. In order to help control the management of 'electronic assets' NHS Shetland are undertaking an audit. This will inform the *Information Asset Register* **(see element 4)**. To facilitate the audit the authority has purchased specialist software. The Assessment Team acknowledges that they have received the specifications of this software. They thank NHS Shetland for sharing this information.

				commenced on populating the IAR and NHS Shetland intends to produce a completed draft IAR by the end of March 2018. The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has identified a gap in provision (the lack of consistent application of retention schedules) and has identified how it intends to close this gap. This agreement is conditional on the Keeper being kept up-to-date on the progress of work to close this gap.		For the moment this element remains at amber, but the Assessment Team is confident that NHS Shetland is taking reasonable steps to structure its public records using mechanisms that reflect the functions of the authority by means of a business classification scheme, information asset register or similar. This will then allow the imposition of retention decisions against records types. The Assessment Team looks forward to receiving an update on this work in subsequent PURs.
6. Destruction Arrangements	A	G	A	The RMP (under Element 5) states that at present NHS Shetland does not actively apply retention rules to electronic records stored on shared network drives, emails or some line-of-business systems. It is anticipated that the development of an EDRMS based on a detailed BCS will greatly improve the capability to systematically delete electronic records in accordance with the	Work on the development of a test EDRMS will commence in June 2019. In 2019/20, NHS Shetland will purchase propriety software that will enable it to undertake comprehensive audits of all electronic assets; this process will identify asset owners, set retention flags, when the record was last accessed, security	The Assessment Team acknowledges the receipt of *Electronic Document Disposal Register and Guidance* which underlines the authority's commitment to pursue the improvements described in this PUR. We have saved this document in order that the

| | | | | retention schedules. It is anticipated that the implementation of the EDRMS will be completed by June 2021. NHS Shetland has committed to update the Keeper on progress by using the PUR mechanism.

The RMP also states that NHS Shetland intends to develop a disposal register to record the fact that records scheduled for destruction have been securely disposed of.

This action is built in to the Records Management Action Plan (evidence 012) and has an estimated completion date of October 2019. The Keeper requests that he is sent a sample of the register once it has been developed.

The Keeper can agree this Element on an 'Improvement Model' basis. This would mean that the authority has identified a gap in provision (the lack of audit trail provision for the destruction of paper records and the lack of ability to delete electronic records in accordance with retention schedules) and has identified how it intends to close this gap. This agreement is dependent upon the Keeper being updated as the work to close the gap progresses. | permissions, detect the presence of personal data, unusual activity etc.

An example of this tool is provided in Appendix 3.

Medical Records already has a disposal register. NHS Shetland has now developed a web-based Disposal Register for Corporate Records.

Evidence of this is presented in Appendix 4. | NHS Shetland submission remains up-to-date.

In order to help control the management of 'electronic assets' NHS Shetland are undertaking an audit. This will inform the *Information Asset Register* **(see element 4)**. To facilitate the audit the authority has purchased specialist software. The Assessment Team acknowledges that they have received the specifications of this software. They thank NHS Shetland for sharing this information.

The Assessment Team acknowledges that NHS Shetland have developed a Disposal Register for corporate (rather than clinical) records. This was a target in the original submission and it is commendable that this has been done. |

	 (amber)	 (green)	 (amber)			The development of the ERDM work **(see element 4)** should greatly enhance the authority's ability to control the deletion of electronic records when required. For the moment this element remains at amber, but the Assessment Team is confident that NHS Shetland is taking reasonable steps to structure its public records in such a way that they can be confident that digital records are destroyed in a controlled, irretrievable and secure manner as they reach the end of their retention period **(see element 5)**. The Assessment Team looks forward to receiving an update on this work in subsequent PURs.
7. Archiving and Transfer	**G**	**G**	**G**	The 'Improvement Action' section of this Element states that NHS Shetland will work with NHS	No Change	No immediate action required. Update required on any future change.

				archivists and Shetland Archives to develop a selection policy for paper and electronic records created by NHS Shetland. **The Keeper requests that he is sent a copy of the selection policy once it has been finalised and approved.**		However, the Assessment Team acknowledges that it has been supplied with the NHS Shetland Action Plan **(see element 3)** which commits the authority to "Audit and review existing record collections to identify records of historic and enduring value to be transferred to Shetland Archives". They look forward to receiving an update on this work in subsequent PURs.
8. Information Security	G	G	G	**All NHS Shetland records management/information governance policies and procedures are being reviewed and updated** **as part of the RMP Action Plan. The Keeper requests that he is sent the Policy once it has been updated in order to keep the submission up-to-date.**	No Change The updated Information Security Policy is available at: https://www.shb.scot.nhs.uk/board/policies/InformationSecurityPolicy-May2019.pdf	No immediate action required. Update required on any future change. **The Assessment Team accepts that NHS Shetland has a revised *Information Security Policy*. However, the link provided did not work (16/7/19)** The Assessment Team has been supplied with the NHS Shetland Action Plan **(see**

						element 3) which shows a commitment to "Review security related policies and procedures to ensure they remain relevant and are applied uniformly across the organisation". This commitment is to be commended.
9. Data Protection	**G**	**G**	**G**	All NHS Shetland records management/information governance policies and procedures are being reviewed and updated as part of the RMP Action Plan. The Keeper requests that he is sent the Policy once it has been updated in order to keep the submission up-to-date.	No Change	As with all other Scottish public authorities NHS Shetland 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 health board website has been updated appropriately: https://www.shb.scot.nhs.uk/board/staffprivacy.asp

						The Assessment Team also acknowledges receipt of the NHS Shetland Action Plan **(see element 3)** which shows a commitment to "Update all records management and information governance policies and procedures to achieve GDPR compliance". This commitment is to be commended.
10. Business Continuity and Vital Records	**G**	**G**	**G**	Update required on any change	No Change	No immediate action required. Update required on any future change.
11. Audit Trail	**A**	**G**	**A**	NHS Shetland has explained that it is seeking to reduce its reliance on paper records by scanning both clinical and corporate records. A photograph of the scanning equipment has been provided (evidence 056). **To improve the tracking of paper corporate records NHS Shetland will implement a tracking system based on one in operation at the University of Edinburgh (evidence 057). The Keeper looks forward to receiving updates on the**	NHS Shetland has implemented a tracking procedure for paper records based on the system used by the University of Edinburgh. Evidence of this is presented in Appendix 5. Policy update work is continuing The updated Framework for Document Development is in almost complete. Security classification section to be added before and final approval.	**See element 4** The steps, regarding the tracking of paper records, committed to in the original submission have now been taken. The Assessment Team acknowledges the receipt of *Procedure for Tracking Paper Records – Clinical and Non-clinical* **(version 0.1 - is this draft?)** which underlines the

				progress of this work as part of the PUR process. NHS Shetland has in place a Policy for the Transportation of Health Records **The Keeper requests that he is sent the updated version once it becomes available. All NHS Shetland records management/information governance policies and procedures are being reviewed and updated as part of the RMP Action Plan.** **The Keeper requests that he is sent the Policy once it has been updated in order to keep the submission up-to-date.** Framework for Document Development **The Keeper requests that he is sent the updated version once it becomes available. All NHS Shetland records management/information governance policies and procedures are being reviewed and updated as part of the RMP Action Plan. The Keeper requests that he is sent the Framework once it has been updated in order to keep the submission up-to-date.**	In 2019/20, NHS Shetland will purchase propriety software that will enable it to undertake comprehensive audits of all electronic assets; this process will identify asset owners, set retention flags, when the record was last accessed, security permissions, detect the presence of personal data, unusual activity etc. An example of this tool is provided in Appendix 3	authority's commitment to pursue the improvements described in this PUR. We have saved this document in order that the NHS Shetland submission remains up-to-date. Tracking all public records held digitally is more of a problem particularly regarding corporate records on shared drives. However, the work explained under element 4 should greatly enhance the authority's control of this aspect of records management provision. This element remains at 'amber' until the IAR/EDRM solution is developed and rolled out. At that point the ability of the authority to locate digital records (and identify versions) should be greatly enhanced. The Assessment Team looks forward to receiving an update on this work in subsequent PURs. As before The Keeper requests that he is sent the

				The RMP also states that there is limited audit trail provision for records managed on shared drives.		updated version of the *Framework for Document Development* once it becomes available
						and
				The project to develop and implement an EDRMS is intended to significantly improve the level of provision in this area. This work is built in to the Records Management Action Plan (evidence 012) and has an estimated completion date of June 2021. The Keeper requests that he is kept informed of the progress of this work.		The *Policy for the Transportation of Health Records.* The Keeper requests that he is sent the updated version once it becomes available.
				The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has identified gaps in provision (the lack of audit trail capabilities in NHS Shetland's shared drives and paper records) and has identified how it intends to close these gaps. This agreement would be dependent upon the Keeper being kept informed of progress.		

12. Competency Framework	**G**	**G**	**G**	Update required on any change	No Change	No immediate action required. Update required on any future change. The Assessment Team has been supplied with the NHS Shetland Action Plan **(see element 3)** which shows a commitment to "Undertake a Learning Needs Analysis (LNA) to identify the extent of the workforce learning required for staff to be capable of fulfilling the records management responsibilities of their role" and to "Establish a training programme that will support the acquisition and maintenance of foundation, intermediate and advanced levels of records management competency"
13. Assessment and Review	**G**	**G**	**G**	Update required on any change	No Change	No immediate action required. Update required on any future change.

						The Assessment Team have been supplied with the NHS Shetland Action Plan **(see element 3)** which shows a commitment to "refresh all policies and procedures concerned with records management and information governance"
14. Shared Information	**G**	**G**	**G**	Update required on any change	Completion of a DPIA is now a mandatory component of NHS Shetland Project Initiation Documents. An example of this tool is provided in Appendix 3.	**For DPIA see element 9** No immediate action required. Update required on any future change.

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

<u>Version</u>

The progress update submission which has been assessed is the one received by the Assessment Team on 5th June 2019.
The progress update was submitted by David Morgan, Information Governance Manager & DPO.

The progress update submission makes it clear that it is a submission for NHS Shetland.

PRSA Assessment Team's Summary

The Assessment Team has reviewed **NHS Shetland** 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

NHS Shetland 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.
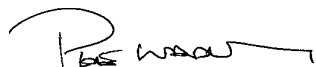
Where 'no change' has been recorded under the update on provision by the authority, the Assessment Team is happy to agree that these elements require no further action for the time being.

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

Based on the progress update assessment the Assessment Team considers that **NHS Shetland** 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,

Pete Wadley
Public Records Officer