

The Public Records (Scotland) Act 2011

NHS Greater Glasgow and Clyde

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

7th June 2019

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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 NHS Greater Glasgow and Clyde. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

NHS Greater Glasgow and Clyde (NHSGGC) is one of 14 regional NHS Boards in Scotland. The Board provides strategic leadership and performance management for the entire local NHS system in the Greater Glasgow and Clyde area and ensures that services are delivered effectively and efficiently. Responsible for the provision and management of the whole range of health services in this area including hospitals and general practice, NHSGGC works alongside partnership organisations including local authorities and the voluntary sector. NHSGGC serves a population of 1.1 million and employs around 38,000 staff. It is the largest NHS organisation in Scotland and one of the largest in the UK. The overall purpose of the unified NHS Board is to ensure the efficient, effective and accountable governance of the local NHS system and to provide strategic leadership and direction for the system as a whole, focusing on agreed outcomes.

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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6. Progress Update Review (PUR): NHS Greater Glasgow and Clyde

Element	Status of elements under agreed Plan, October 2016	Status of evidence under agreed Plan, October 2016	Progress assessment status, April 2019	Keeper's Report Comments on Authority's Plan, October 2016	Self-assessment Update as submitted by the Authority since October 2016	Progress Review Comment, April 2019
1. Senior Officer	G	G	G	Update required on any change.	No Change	No immediate action required. Update required on any future change.
2. Records Manager	G	G	G	Update required on any change.	Records Manager Responsible changes – RMP is being updated to reflect changes	The changes in responsibilities are noted and the authority has advised that details will be forwarded in due course. As this is a statutory role, the Keeper will require evidence of any changes to the role responsibilities but understands that these changes are likely to reflect legislative changes compatible with the Element 2 role.
3. Policy	G	G	G	Update required on any change.	All references to DPA 1998 to be replaced with DPA 2018 and GDPR details to be inserted	These changes are noted with thanks. The review and updating of policies in line with changes in legislation and

						practice is appropriate and welcome.
4. Business Classification	A	G	A	<p>...The introduction to the draft scheme states “The BCS enables the effective management of records and information throughout NHSGGC. It is essential that NHSGGC properly manages its records and information in order for the organisation to comply with legislation such as the Data Protection Act 1998, Freedom of Information (Scotland) Act 2000 and Public Records (Scotland) Act 2011.”</p> <p>The <i>Plan</i> states (page 9) “With an organisation the size of NHSGGC it is inevitable that progress will be made on an incremental basis.”</p> <p>The Keeper agrees both these statement and accepts that it is too early in the project for the authority to commit to a completion date. However, the Keeper will expect to see continual progress over the next year or so.</p>	<p>Title changed to “Information Asset Register”</p> <p>This element will be updated completely as the board have moved from using the BCS to using the IAR as a tool for managing records. All evidence re IAR will be submitted with new version of RMP on completion</p>	<p>This update is noted.</p> <p>If there are substantial changes to the RMP, as this implies, then the authority may wish to submit a new RMP under Section 5(6) of the Public Records (Scotland) Act for the Keeper’s Agreement. Until a new RMP is formally submitted, the existing Agreed RMP remains in force, along with the Keeper’s conditions for his original Agreement. It would therefore be helpful to hear formally from the authority what their timescale is for either submitting a new RMP or providing more information about the use of the IAR as a BCS.</p>

				<p>Kerry Lochrie (see element 2) has been named as the Deputy Health Records Manager for GGC with responsibility for rolling out the improvements detailed in the <i>Plan</i> once it is agreed by the Keeper.</p> <p>The Keeper agrees this element of NHS Greater Glasgow and Clyde's records management plan under 'improvement model' terms. This means that the authority has identified a gap in provision (a full business classification scheme has not yet been rolled-out in the organisation) and have put measures in place to close that gap. The Keeper's agreement is conditional on him receiving updates as the BCS project progresses.</p>		
5. Retention Schedule	G	G	G	Update required on any change.	No change to Board Statement. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.

6. Destruction Arrangements	G	G	G	Update required on any change.	No change to Board Statement. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.
7. Archiving and Transfer	G	G	G	Update required on any change.	No change to Board Statement. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.
8. Information Security	G	G	G	Update required on any change.	Details will be added re how Fairwarning supports information security. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks. The Assessment Team look forward to hearing more information about Fairwarning.
9. Data Protection	G	G	G	Update required on any change.	Changes made to incorporate DPA & GDPR changes. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks. It is appropriate to incorporate DPA and GDPR changes into practice and policies.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	Details re the board's IAR have been added to this element. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks. It is to be expected that the IAR would be a vital record and protection/recovery of this would be included in the business continuity plans.

11. Audit Trail	G	G	G	Update required on any change.	No change to Board Statement. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.
12. Competency Framework	G	G	G	Update required on any change.	No change to Board Statement. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.
13. Assessment and Review	G	G	G	Update required on any change.	Changes made re responsibilities. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.
14. Shared Information	G	G	G	Update required on any change.	Changes made to incorporate DPA & GDPR changes. Policies submitted as evidence are being reviewed and updated	This update is noted with thanks.

7. PRSA Assessment Team's Summary

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 6 February 2019. The author of the progress update submission is Kerry Lochrie, Project Lead, Information Governance.

The progress update submission makes it clear that it is a submission for **NHS Greater Glasgow and Clyde**.

The Assessment Team has reviewed **NHS Greater Glasgow and Clyde's** Progress Update submission. The Assessment Team commends this authority's efforts to keep its Records Management Plan under review.

General Comments

NHS Greater Glasgow and Clyde continues to take its records management obligations seriously and is working to bring all elements into full compliance. The entire Records Management Plan is being revised and it appears that the authority is not yet ready to make a statutory submission but has the intention of doing this. Section 5(6) of the Public Records (Scotland) Act 2011 allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. Section 5(2) 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.

The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates. It is noted that all the policies are under review; that there are changes to the responsibilities of the post agreed by the Keeper to fulfil the statutory role of the Records Manager (Element 2); and that the Business Classification Scheme is being re-named as an Information Asset Register. It would be useful to hear further details of the authority's decision to use the Information Asset Register as (or instead of) a Business Classification Scheme. Without such detail it is not really possible to provide comments on the concept but it may be helpful to note that the new Records Management Plan will continue to be assessed against the Model Records Management Plan and agreed on that basis.

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. PRSA Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that **NHS Greater Glasgow and Clyde** 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