

The Public Records (Scotland) Act 2011

Clackmannanshire Council and Clackmannanshire Licensing Board Progress Update Review (PUR) Report by the PRSA Assessment Team

27 February 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 Clackmannanshire Council and Clackmannanshire Licensing Board. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The County of Clackmannan is one of Scotland's 33 historic local government counties, bordering on Perthshire, Kinross-shire, Stirlingshire and Fife. The county town was originally Clackmannan, but by 1822 neighbouring Alloa had outgrown Clackmannan and replaced it as the county town. Some rationalisation of the county boundaries was undertaken in 1889-1890, and in 1971 the Muckhart and Glendevon areas, formerly in Perthshire, were transferred to Clackmannanshire.

In 1975, under the Local Government (Scotland) Act 1973, the 33 historic counties lost their administrative status, and a new hierarchy of regions and districts was created. Clackmannanshire became part of the Central Region, under the name Clackmannan District, together with Stirling District and Falkirk District. The historic name was restored in 1996, under the Local Government etc. (Scotland) Act 1994.

In terms of population, Clackmannanshire is the smallest council area in mainland Scotland.

<http://www.clacksweb.org.uk/>

The Clackmannanshire Licensing Board is established under the Licensing (Scotland) Act 2005 and deals with the administration of liquor licensing and certain other statutory duties. It comprises eight members, who are elected members of Clackmannanshire Council and are appointed to the Board by the Council.

<http://www.clacksweb.org.uk/regulation/licensingboard/>

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		R	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Assessment
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				authority's commitment to closing a gap in provision. They will request that they are updated as work on this element progresses.			Team may choose to notify the Keeper on this basis.
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Progress Update Review (PUR) Template: Clackmannanshire Council and Clackmannanshire Licensing Board

Element	Status of elements under agreed Plan 12JUN17	Status of evidence under agreed Plan 12JUN17	Progress assessment status 27FEB20	Keeper's Report Comments on Authority's Plan 12JUN17	Self-assessment Update as submitted by the Authority since 12JUN17	Progress Review Comment 27FEB20
1. Senior Officer	G	G	G	Update required on any change.	<p>Stuart Crickmar replaces Stephen Coulter as the Senior Management Officer responsible for overall strategic accountability for records management.</p> <p>Lindsay Thomson replaces Andrew Wyse as the person responsible for the Licensing Board.</p> <p>Corporate Management Team has been changed to Senior Leadership</p>	The Assessment Team thanks Clackmannanshire Council for this update which we have noted.

					Group. Chief Executive, Deputy Chief Executive and Executive Director has been changed to Chief Executive and 3 Strategic Directors.	
2. Records Manager	G	G	G	The Keeper notes that Mr Munro's role in the Council's records management structure may change in the future. The Keeper requests he is updated if there is any change in this Element (such as the appointment of a dedicated 'Records Management Officer'). Please note that a change of identified individual will not invalidate the agreed plan, provided that the new appointee has similar skills and responsibilities to the current post-holder.	Following the Council restructure, Annette McEnaney, Senior Governance Officer, Legal and Governance will be taking on the role of Records Management Officer. There is no change to the responsibilities as Annette has similar skills and training as the current postholder.	The Assessment Team thanks Clackmannanshire Council for this update which we have noted.
3. Policy	G	G	G	Update required on any change.	<p>The Records Management Policy has been updated.</p> <p>Information Governance is now an integral part of the Annual Governance Strategy, is included in the Code of Governance and has been identified as key risk in the Corporate Risk Register.</p> <p>Other progress includes the refocusing of the Records Management Group as the Information Governance Group which encompasses all aspects of information and records management</p>	<p>In their original submission Clackmannanshire Council committed to updating relevant policy documents on a regular basis. The Assessment Team appreciates the confirmation that this is being done.</p> <p>The Assessment Team commends the commitment of time and resources to raising the profile of</p>

					<p>within the Council. The Terms of Reference have been updated and agreed.</p> <p>A number of reports to the Senior Leadership Group and guidance notes have been produced regarding the sending of emails, information security, training and Drive Usage procedure.</p>	<p>Information Governance. This is very encouraging. They look forward to being kept updated on this work in subsequent PURs.</p> <p>The Assessment Team thanks Clackmannanshire Council for the update regarding the expanded role of the Records Management Group which we have noted.</p>
4. Business Classification	A	G	A	<p>However, the <i>Plan</i> states (page 9): “It was agreed that implementation of the BCS would be rescheduled until completion of the Server Replacement Programme (due early 2017).” And “A Project is underway on the corporate implementation of the BCS.” And “The EDRMS will be harmonised with the CFS [Corporate File Structure] in due course.” The Keeper agrees all these actions.</p>	<p>Some progress has been made to the implementation of the BCS through our Corporate File Structure, including some Services migrating content to comply with the structure. Improvements have been made to align the EDRMS classifications with the BCS/CFS and significant progress made on the application of retention timescales on legacy data within the EDRMS in preparation for the implementation of the CFS. Overall there has not been as much progress as was anticipated due to delays in dependant projects and the Council Corporate Restructure. However, the CFS has been regularly updated and maintained manually to reflect changes in structure and service functions.</p>	<p>The roll out of the Corporate File Structure within the EDRMS is bound to be incremental and further time must be allowed for it to bed in and become fully operational.</p> <p>The Assessment Team acknowledges the planned migration. They look forward to being kept updated on this work in subsequent PURs.</p> <p>This element remains at ‘amber’ for the moment as the work progresses.</p>

					<p>Investment has been made in new ICT hardware to provide suitable storage to allow the reorganisation of the Corporate structure.</p> <p>Lack of staff resources has caused a delay in developing a software solution of an Information Asset Database, but the existing manual records have been maintained and updated</p>	
5. Retention Schedule	G	G	G	Update required on any change.	Corporate Retention Schedule being kept up to date with regular reviews. Updated version will be available Autumn 2019.	There is a recognition that a Retention Schedule is a 'living document'. This is to be commended.
6. Destruction Arrangements	G	G	G	<p>Update required on any change.</p> <p>The <i>Destruction Arrangements Policy</i> was due for review by December 2017.</p> <p>The <i>Email Retention Policy</i> is due for review by August 2019.</p>	Both Policies have been updated.	In their original submission Clackmannanshire Council committed to updating relevant policy documents on a regular basis. The Assessment Team appreciates the confirmation that this is being done.
7. Archiving and Transfer	G	G	G	<p>Update required on any change.</p> <p>The <i>Archives Collection and Archival Policy</i> was due for review</p>	The Policy has been updated.	In their original submission Clackmannanshire Council committed to updating

				by July 2018.		relevant policy documents on a regular basis. The Assessment Team appreciates the confirmation that this is being done.
8. Information Security	G	G	G	The <i>ICT Security Standard</i> and <i>Email Acceptable Use Standard</i> were due for review by April 2017.	All the current ICT Standards are in a rolling programme of review. The PSN security Customer Certificate has been updated annually. In addition, compliance with Cyber Security Essentials has been awarded. Cyber Security Essentials plus is planned for implementation next year. (Risk Register)(Regular updates to risk and integrity forum).	As elsewhere it is clear that Clackmannanshire Council are correctly keeping policy and procedure documents under review. The Assessment Team acknowledges the Cyber Security Essentials award (<i>although they may have spelled your name wrong?</i>): https://www.cyberessentials.nsc.gov.uk/cert-search/?query=Clack
9. Data Protection	G	G	G	Update required on any change.	The Data Protection Policy has been updated to incorporate the new legislation (GDPR and Data Protection Act 2018). Basic training on data protection is available on Clacks Academy and is mandatory for all staff. Guidance and additional training for staff is also available for specific areas of data protection such as dealing with data breaches and dealing with subject access requests.	As with all other Scottish public authorities Clackmannanshire Council 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 Council website has been updated appropriately: https://www.clacks.gov.uk/regulation/dataprotectionpolicy/
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	All Business Continuity Plans as regularly updated to ensure that all information is current.	In their original submission Clackmannanshire Council committed to updating relevant policy documents on a regular basis. The Assessment Team appreciates the confirmation that this is being done.
11. Audit Trail	G	G	G	Update required on any change.	As noted in Element 4, the application of retention timescales on legacy data within the EDRMS in preparation for the implementation of the CFS. This allows for an audit trail be created as proof that the information is no longer held by the Council in line with GDPR.	The Assessment Team accepts that the development of the Corporate File Structure in the EDRMS does not impede the efficient location and recognition of the Council's public records when required. Therefore this element remains 'green' while the work progresses.

12. Competency Framework	G	G	G	Update required on any change.	<p>Additional training has been added as a Core Competency on Clacks Academy training suite and has been included as Mandatory training for all staff.</p> <p>Training sessions for Elected Members have also been held on information security and data protection.</p>	The Assessment Team commends the commitment of time and resources to expand the information governance training regime. This is very encouraging. They look forward to being updated on the success of this project in subsequent PURs.
13. Assessment and Review	G	G	G	Update required on any change.	<p>As noted in Element 3, Information and Records Management is now included in the Annual Governance Statement.</p> <p>As noted at Element 4, other progress includes the rebranding of the Records Management Group to the Information Governance Group which encompasses all aspects of information and records management within the Council. The Terms of Reference have been updated and agreed.</p> <p>A further Internal Audit review is contained in the rolling Audit programme.</p>	<p>There seems to be a general profile-raising exercise underway at the Council and this is to be commended.</p> <p>The use of internal audit (in public authorities where this is available) is also to be commended.</p>
14. Shared	G	G	G	Update required on any change.	In line with GDPR, a number of new Data Sharing agreements have been reviewed and updated.	The Assessment Team thanks the Council for this

Information					<p>Additional guidance has been produced on official sensitive emails, Drive Usage, protection of sensitive information and Public Protection of information.</p>	<p>update.</p> <p>At the time of a formal re-submission under the Act the Keeper would expect to see evidence of these new documents. However, for the PUR, the Assessment Team is content to accept that they exist and acknowledges that the Council appears to be responding appropriately to changes in legislation and to a general (and welcome) focus on controlled and documented information sharing procedures in the public sector.</p>
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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 19th September 2019. The progress update was submitted by Lynn Gardner, Project Co-ordinator.

The progress update submission makes it clear that it is a submission for Clackmannanshire Council and Clackmannanshire Licensing Board.

PRSA Assessment Team's Summary

The Assessment Team has reviewed Clackmannanshire Council and Clackmannanshire Licensing Board'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

Clackmannanshire Council and Clackmannanshire Licensing Board 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 **Clackmannanshire Council and Clackmannanshire Licensing Board** 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