

The Public Records (Scotland) Act 2011

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

3rd April 2020

Contents

1. The Public Records (Scotland) Act 2011.....	3
2. Progress Update Review (PUR) Mechanism.....	4
3. Executive Summary.....	5
4. Authority Background.....	5
5. Assessment Process.....	5-6
6. Records Management Plan Elements Checklist and PUR Assessment.....	6-14
7. The Public Records (Scotland) Act Assessment Team's Summary.....	15
8. The Public Records (Scotland) Act Assessment Team's Evaluation.....	15

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

4. Authority Background

The Scottish Borders is one of 32 council areas of Scotland. It borders Dumfries and Galloway, East Lothian, Midlothian, South Lanarkshire, West Lothian and, to the south and east, Northumberland in England. The administrative centre of the area is Newtown St Boswells

<https://www.scotborders.gov.uk/site/>

The Scottish Borders Licensing Board ("the Board") is the Licensing Authority for the Scottish Borders Local Government Area for the Licensing (Scotland) Act 2005 as amended by the Criminal Justice and Licensing (Scotland) Act 2010 & Alcohol(Scotland) Act 2010.

https://www.scotborders.gov.uk/info/20025/licensing/491/licensing_board

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	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
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				provision. They will request that they are updated as work on this element progresses.			the Keeper on this basis.
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Progress Update Review (PUR) Template: Scottish Borders Council and Licensing Board

Element	Status of elements under agreed Plan 25OCT17	Status of evidence under agreed Plan 25OCT17	Progress assessment status 20MAY19	Progress assessment status 03APR20	Keeper's Report Comments on Authority's Plan 25OCT17	Self-assessment Update 11JAN19	Progress Review Comment 20MAY19	Self-assessment Update as submitted by the Authority since 20MAY19	Progress Review Comment 03APR20
1. Senior Officer	G	G	G	G	Update required on any change.	Brian Frater (named as SIRO in our RMP) has also been assigned the role of Data Protection Officer.	The Keeper's Assessment Team note this addition to the roles and responsibilities of the individual identified as having overall responsibility for records management in the authority.	Brian Frater is retiring and Nuala McKinlay (Legal Chief Officer has been appointed the roles of SIRO and DPO.	The Assessment Team thanks Scottish Borders Council for this update which we have noted.
2. Records Manager	G	G	G	G	<p>N.B. The Keeper understands that, since the <i>Plan</i> was submitted for his agreement, Teresa Maley has left Scottish Borders Council. As stated in the Keeper's guidance to his <i>Model Plan</i>, a change of personnel does not invalidate the <i>Plan</i>.</p> <p>On this issue the Council have now stated: "Jaimie Taylor has been appointed as the interim Information Manager to lead a project focussed on the GDPR. However, this role will not assume all duties previously undertaken by Ms Maley and responsibility for these duties will sit with the Chief Legal Officer, Nuala McKinlay (see element 1) with assistance from the Interim Manager and Information Officers."</p> <p>An update is required on any change.</p>	Jaimie Taylor remains in the interim Information Manager post as the Information Management Team structure under goes a review. It is envisioned that the Information Manager post will remain and will be recruited to on a permanent basis in due course. We will notify the Keeper of any change as soon as this process has been completed.	The Assessment Team thank the Council for this update and will continue to consider Mr Taylor our 'Key Contact' for PRSA.	Jaimie Taylor has been appointed to the post of Information Manager on a permanent basis.	<p>The Assessment Team thanks Scottish Borders Council for this update which we have noted.</p> <p>Congratulations Jaimie and apologies for calling you 'Mr Taylor' in the last PUR.</p>
3. Policy	G	G	G	G	Update required on any change	The Records Management Policy and associated policies have been updated to reflect	The original submission indicated that information governance policies are routinely reviewed and updated and the		No immediate action required. Update required on any future change.

					<p>the new Data Protection legislation.</p> <p>A report was agreed by the IGG in April 2018 that provided further clarity around Information Governance roles and responsibilities. The report makes clear that the overall responsibility for Information Management sits with Service Directors (who have now been designated as Strategic Information Asset Owners) with operational responsibility delegated to Operational Information Asset Owners (OIAOs). Strategic Information Asset Co-coordinators (SIAC) will be the conduit for SIAOs and will be their representatives on the IGG. The information Governance Policy has been updated to include the DPO role and its position within the IG structure as well as to reflect the above changes.</p> <p>The updated version is available to view on our external website: https://www.scotborders.gov.uk/downloads/file/2268/information_governance_policy</p>	<p>Assessment Team acknowledge the evidence that this is being pursued.</p> <p>The Assessment Team acknowledges they have now received <i>Information Risk Management Roles and Responsibilities</i> document described.</p> <p>The Team also note the updated weblink.</p> <p>See also under element 9</p>			
4. Business Classification	A	G	A	A	<p>The Plan states (page 8): “Scottish Borders Council has not yet adopted a global business classification scheme for records because of the diversity of systems deployed in services. Most service systems have a local business classification or file plan. The Council ... will be moving shared drives to Office 365 from 2017.” And goes on “The</p>	<p>The rollout of Office 365 has proven more difficult and has taken longer than anticipated, progress does continue and a number of early adopters are now using the platform. It is intended this progress will gain momentum in 2019. As the implementation of Office 365 continues, we are</p>	<p>The Keeper’s Assessment Team note the update (as requested) and acknowledge that pilot ‘early adopters’ are operational.</p> <p>The Team also acknowledge that there is useful information sharing with other local authorities. E-mail evidence has been supplied.</p>	<p>At present work is underway on the initial migration of data stored within the Shared drives onto the platform. An audit has been undertaken to give an understanding of the number of documents; the age of each document; duplication; links contained within each document and explicit permissions. Using this information, the Council is considering its approach to</p>	<p>The development of an Information Asset Register was a target for the authority and the Assessment Team is pleased to acknowledge that this has been achieved.</p> <p>The migration of the diverse systems operated by a local authority to a single solution is bound to be incremental.</p>

					<p>move to Office 365 presents an opportunity to assist services in using business classification to structure their information and promote use of the retention schedules more consistently than it has in the past.” The Keeper agrees this improvement principle.</p> <p>The Keeper agrees this element of Scottish Borders Council and Scottish Borders Licensing Board’s <i>Records Management Plan</i> under ‘improvement model’ terms. This is in acknowledgement that the authority is in the process of ‘embedding’ <i>Information Asset Register</i> (see above) and populating the <i>Business Classification Scheme</i> throughout the organisation. He is convinced of the commitment to complete this work, however his agreement is conditional on his being updated as the project progresses.</p>	<p>collaborating with City of Edinburgh, Orkney, Fife, Dumfries & Galloway and Aberdeenshire Councils to design and develop an information governance structure and processes for Office 365. The aim is take full advantage of the available functionality of Office 365 and automate processes where possible. This approach is expected to alleviate the potential impact on business processes while maximising staff buy in. Work will continue on this throughout 2019.</p> <p>The Information Asset Register was refreshed in 2018 and now includes business classification and retention schedules for all identified assets. The format of the Register is in the process of being further developed in SharePoint to provide services with an automated process with risk assessments built in. OIAO training continued throughout 2017/18 mostly on a 1:1 basis with officers as the re-survey of the register was undertaken and drop in sessions were held in December 2017. Further training will be provided throughout 2019 as we continue to embed the Information Asset Register as a management tool.</p>	<p>The Keeper has already agreed this element of Scottish Border’s RMP on an improvement model basis and the PUR submission would seem to confirm that required improvements are progressing adequately.</p> <p>The Assessment Team recognise the advantages of developing an information asset register and note the authority’s comments regarding training.</p> <p>If this were a formal submission it is likely that this element would retain its Amber grading. The Team looks forward to a further update at the time of the next PUR.</p>	<p>the migration. Alongside this, work continues on the design and implementation of Information Governance processes within O365. However, this continues to be challenging due to the complexity of the functionality within O365 and how this can be best implemented taking a pragmatic approach.</p> <p>The Information Asset Register has been developed within SharePoint Online creating a user friendly version and is due to be rolled out and refreshed in January 2020.</p>	<p>However, it appears that Scottish Borders Council is pursuing this objective in a systematic and practical way.</p> <p>Many Scottish Public authorities are migrating their records management provision to a SharePoint/Office 365 Cloud solution and the Keeper has noted that it might be useful for him to facilitate a forum to allow experience to be shared. If this goes ahead in 2020 the Assessment Team commits to informing our Key Contact at the Council.</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>
5. Retention Schedule	G	G	G	G	Update required on any change.	As stated under Business Classification, we are collaborating with other Councils on O365 Record Management processes including implementing retention schedules.	As previously, the Assessment Team acknowledge that Scottish Borders Council have an operational retention schedule.		No immediate action required. Update required on any future change.

					Business areas have reviewed and identified appropriate retention period for assets in the Information Asset Register and the Published version of the IAR on our external website will be updated to include this additional information in due course.	They note and agree the Council's intention to combine the retention schedule and information asset register to form a useful business tool.			
6. Destruction Arrangements	A	G	A	A	The Keeper agrees this element of the Council's records management plan under 'improvement model' terms. This means that the Authority has identified a gap in their records management provision (destruction of electronic records held on shared drives) and has put processes in place to close that gap. The Keeper's agreement would be conditional on his being updated as this project progresses.	In 2018, staff undertook a housekeeping exercise on their H Drives (personal drives) and this resulted in 5TB (a third) of data being purged. The intention is to run further AI reports on the shared drives to identify the number of orphaned, historic and duplicate information stored. Not all existing records from the shared drives will be migrated to Office 365 as a cut off threshold will be applied (this is still to be confirmed but it is expected the threshold will be set at 10 years as a bare minimum) and records of this age or older will only be migrated by exception with justification.	This is clearly still a work in progress as it is for many Scottish public authorities. However, the Assessment Team acknowledges that Scottish Borders Council have made major inroads in to resolving this issue and this is to be commended. If this were a formal submission it is likely that this element would retain its Amber grading. The Team looks forward to a further update at the time of the next PUR.	Please refer to the commentary provided in Element 4.	This is clearly still a work in progress as it is for many Scottish public authorities whose digital records are held on shared drives. However, the Assessment Team acknowledges the work Scottish Borders Council is pursuing to migrate their public records on to system where destruction of digital records can be better controlled (or automated). The Keeper has already agreed (October 2017) that Scottish Borders Council has processes in place to ensure the controlled, secure and irretrievable destruction of hard-copy records (including those held by a third party storage company), hardware and back-ups. This element remains at 'amber' for the moment as the work on the Office 365 solution progresses The Assessment Team look forward to being kept updated on this work in subsequent PURs.
7. Archiving and Transfer	G	G	G	G	Update required on any change.	No Changes to report at this time.		No immediate action required. Update required on any future change.	

8. Information Security	G	G	G	G	Update required on any change.	No significant changes to report. The Information Security Policy and protective monitoring policies have been updated to reflect recent Data Protection changes. New staff guide for data breaches has been issued to staff.	The original submission indicated that information governance policies are routinely reviewed and updated and the Assessment Team acknowledge the evidence that this is being pursued.	No immediate action required. Update required on any future change.
9. Data Protection	G	G	G	G	Update required on any change.	<p>A GDPR Implementation project commenced in 2017 and finished in December 2018. Policies with Data Protection elements have been updated to reflect the changes:</p> <ul style="list-style-type: none"> Records Management Policy Information Security Policy Information Governance Policy Data Protection Code of Practice Incident Management Procedure <p>New policies and guidance were created:</p> <ul style="list-style-type: none"> Data Protection by Design and Default Data Protection Privacy Policy Statement Privacy Notices GDPR Staff Handbook <p>Information Sharing code of practice to be updated and this will be done once the ICO publish their guidance (consultation finished Oct 2017). Data breaches are now reported to the DPO. A GDPR online course was created and was made mandatory for all staff to complete. This will be merged into the Information Awareness online course later in the year.</p>	<p>Scottish Borders Council have provided several evidence documents relating to data protection along with the PUR.</p> <p>The Assessment Team acknowledges that the authority has responded to the changed requirements of GDPR/DP 2018 and have explained this to their users https://www.scotborders.gov.uk/info/20060/access_to_information/854/data_protection_and_your_rights</p> <p>The Information Asset Register described under Element 4 will be a vital tool in GDPR provision and the Council have provided a copy of their <i>GDPR Highlight Report</i> which shows how personal information is being recorded through the different service areas of the Council. The Assessment Team thanks the authority for including this document in its submission.</p>	No immediate action required. Update required on any future change.

10. Business Continuity and Vital Records	G	G	G	G	Update required on any change.	No change to report at this time.	No immediate action required. Update required on any future change.		No immediate action required. Update required on any future change.
11. Audit Trail	A	G	A	A	<p>The Council have made the following statement about record tracking in the authority: "There is no centralised procedure for tracking files within the Council, however the majority of paper files are working files and officers within the services should be able to locate with ease. Services with regulatory requirements hold file registries such as the legal team who utilise the Profess time management system that has an inbuilt file registry and the Planning service who track files using a system called Uniform. Other departments such as Social work hold no paper files as all information is uploaded to their case management system and the paper copy is destroyed.</p> <p>Again, there is no central process in place for tracking and identifying records within shared drives. The Council recognises that this requires to be addressed and is committed to improving this through the implementation of Office 365. Office 365 will produce an audit trail of amendment/variations to any document/record and the Council recognises the value in promoting a consistent approach to version control and will produce guidelines for staff to be published along aside the introduction of Office 365."</p> <p>The Keeper agrees this element of the Council's records management plan under 'improvement model'</p>	As stated under Business Classification, this work is in progress and we are collaborating with five other Councils on Office 365 Record Management processes.	<p>The 'business classification'/information asset register project.</p> <p>*Apologies. The PUR template sent to Scottish Borders Council graded this element as 'green' (fully compliant). This was an error.</p> <p>The original agreement from the Keeper (October 2017) was 'amber' (improvement model).</p>	Please refer to element 4.	<p>The Keeper agreed the original submission on 'improvement model' grounds. That is to say the authority had recorded a gap in provision and was taking steps to close that gap.</p> <p>This was bound to be incremental and the Assessment Team is pleased to acknowledge that steps have been taken as agreed (Office 365 project – see element 4 above).</p> <p>It is important that any organisation can be confident that they can find a record when required and identify the correct version of that record. The Assessment Team acknowledge that Scottish Borders Council are pursuing this objective. The creation of an Information Asset Register (see element 4) is a significant step now completed.</p> <p>The Assessment Team looks forward to updates on progress in subsequent PURs.</p> <p>This element remains at Amber.</p>

					terms. This means that the Authority has identified a gap in their records management provision (tracking of records in paper format or held on shared drives) and has put processes in place to close that gap. The Keeper's agreement would be conditional on his being updated as this project progresses.				
12. Competency Framework	G	G	G	G	Update required on any change.	<p>The following statement within our RMP no longer applies as Teresa Maley has left SBC:</p> <p>'The current Information Manager is a qualified Archivist with over 30 years of experience in Archives, Records and Information Management and is a member of ARA and IRMS. She attends ASLAWG and the SOLAR FOI and Data Protection Group.'</p> <p>The information Manager post has been filled on an interim basis, the current post holder has completed ISEB courses on FOI and GDPR and currently undertaking a Postgraduate Certificate in Information Governance and Data Protection through Northumbria University. The Information Manager attends the SOLAR FOI and Data Protection meetings.</p> <p>We will update the Keeper once the post has been recruited to on a permanent basis later in the year.</p>	<p>Thank you for the update regarding personnel in SBC. Which we have noted.</p> <p>The Assessment Team wishes you success in your recruitment exercise and looks forward to meeting the new PRSA contact as soon as they have settled in.</p>	<p>Please see comment provided for Element 2.</p> <p>Jaimie Taylor attained her Post Graduate Certificate in Information Governance and Data Protection Law in July last year.</p>	<p>The Assessment Team thanks Scottish Borders Council for this update which we have noted.</p> <p>Congratulations on your qualification Jaimie.</p>
13. Assessment and Review	G	G	G	G	The <i>Information Asset Register (see element 4)</i> is re-surveyed annually. The <i>Plan</i> shows a 'future	As detailed under Business Classification, the re-survey of the Information Asset	The original submission indicated that information governance policies are routinely reviewed and		No immediate action required. Update required on any future change.

					development' in element 4 to re-survey the Information Asset Register in 2018 to ensure business classification and retention schedules are fully integrated. The Keeper would be pleased to know the result of this work.	Register was carried out in 2018.	updated and the Assessment Team acknowledge the evidence that this is being pursued.		
14. Shared Information	G	G	G	G	Update required on any change.	As part of our GDPR Implementation project, a audit was carried out to map where we are sharing information with third parties, the arrangements in place and this will be further developed in 2019. Work is also underway to create a contract management framework and due to ne be completed by March 2019. Data Protection by Design and Default policy and guidance has been updated, A section on Privacy considerations will be included in Committee Reports in 2019 to ensure that Data Protection has been considered when appropriate.	See element 9 The Assessment Team notes that the Council is using the imposition of GDPR/DP2018 as an opportunity to further improve an already compliant element. This is to be commended.		No immediate action required. Update required on any future change.

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 08 January 2020. The progress update was submitted by Jaimie Taylor, Information Manager.

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

PRSA Assessment Team's Summary

The Assessment Team has reviewed Scottish Borders Council and Scottish Borders 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

Scottish Borders Council and Scottish Borders 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.

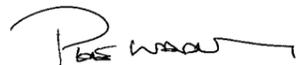
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that Scottish Borders Council and Scottish Borders 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