

The Public Records (Scotland) Act 2011

**West Lothian Council
West Lothian Licensing Board**

Progress Update Review (PUR) Final Report

30 April 2018

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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 Final 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 **West Lothian Council and West Lothian Licensing Board**. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Local government in Scotland comprises 32 unitary local authorities, responsible for the provision of a range of public services. West Lothian Council (WLC) is one of these authorities <http://www.westlothian.gov.uk/> It provides services to the people of West Lothian, such as education, social care, waste management, cultural services and planning.

Licensing is the responsibility of Licensing Boards under powers contained in the Licensing (Scotland) Act 2005. Local Licensing Boards have wide discretion to determine appropriate licensing arrangements according to local needs and circumstances and their own legal advice. Each local government area must have a Licensing Board. West Lothian Licensing Board consists of 10 Board members.

West Lothian Council provides all local government services for the West Lothian area, which has a population of 180,130. The Council Headquarters are located in Livingston. There are 33 councillors in 9 wards.

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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 progress update submission.		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		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
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				a gap in provision. They will request that they are updated as work on this element progresses.			choose to notify the Keeper on this basis.
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6. Records Management Plan Elements: Checklist

West Lothian Council and West Lothian Licencing Board – October 2017 Submission (Hereafter 'the Council')

Element	Status of elements under agreed Plan, July 2013	Status of evidence under agreed Plan, July 2013	Progress assessment status, February 2018	Keeper's Report Comments on Authority's Plan, July 2013	Self-assessment Update as submitted by the Authority since <Date>	Progress Review Comment - <Date>
1. Senior Officer	G	G	G	Update required on any change	Since the RMP was agreed Senior Management responsibility for the Records Management Plan was changed to Julie Whitelaw, Head of Corporate Services and notified to the Keeper in 2014. There are no notifiable changes for 2016-17.	No immediate action required. Update required on any future change
	G	G	G	Update required on	There are no notifiable changes for	No immediate action required.

2. Records Manager				any change	2016-17.	Update required on any future change
3. Policy	G	G	G	Update required on any change	The Records Management Policy and associated guidance were reviewed in September 2016. The policy was approved by council April 2017. There are no changes to be notified to the Keeper. Link to Policy: West Lothian Council's Records Management Policy Examples of updated guidance are provided in Appendix A .	Policy supplied in support of the update statement and confirmation that the RM policy and associated guidance is subject to regular review. The examples of Guidance provided to staff are comprehensive and thorough. They set out arrangements for record, regardless of format, and include reference to records of historical importance. Given the background the Act this is an important inclusion. No immediate action required. Update required on any future change.
4. Business Classification	G	G	G	Update required on any change. The Keeper notes that detailed and appropriate file plans exist for activities not included in the EDRMS. The Keeper would like to hear whether such file plans have since been accommodated within the EDRMS.	Since the RMP was agreed the council has embarked on a replacement to the current (Meridio) electronic document and records management system (EDRM) with the Objective eRDM system. Objective is used throughout the Scottish Government. Due to significant changes, current versions of file plans are notified to the Keeper as Appendix B . Details are provided for the applicable retention rules, data labels and vital records. NB: File plans for Legal Services, Revenues and	This is a major undertaking for the authority. It is commendable that the authority is resourcing this vital development work to further safeguard its public records. File plans being supported by the new system are submitted in evidence and are undoubtedly comprehensive and fit for purpose. As shown in the column to the left, the authority indicates that on submission file plans for Education and Revenues and Legal Services

					<p>Education are currently under major reconstruction and therefore draft versions are provided as evidence of these. The council is currently migrating file plans from the current EDRMs to the new system. Cross reference tables are provided to evidence the controlled migration from one system to another (Appendix C). Migration has been tested and is due for completion by the end of 2017. The management of records within the business classification scheme, in the new system will be subject to ongoing monitoring and annual review to ensure that all of the functions, activities and transactions carried out by the council continue to be represented. The scheme in the new system will still be based on the LGCS (Local Government Classification Scheme). The design and migration documents for the new EDRM system are provided as Appendix D & E respectively)</p>	<p>remained in draft. The Assessment team therefore graded this element 'Amber' as being under improvement.</p> <p>Responding to the Interim Report the authority was able to confirm that these outstanding file plans had been agreed and were now operational. Evidence was supplied in support and included the agreed file plans for Education and Revenues and Legal Services. This was accompanied by a useful cross-match with the LGCS showing compliance with industry standards.</p> <p>Additional evidence to do with the design and implementation of the new system and the reliability of the migration exercise was provided and is without doubt.</p> <p>The assessment team applauds the work of the authority in resourcing this major transition and ensuring its implementation is robust.</p> <p>Update required on any future change.</p>
5. Retention Schedule	G	G	G	Update required on any change	<p>The council review retention schedules on an ongoing basis. The current retention schedules are being reviewed with a view to</p>	<p>Current retention schedules are being reviewed in line with the authority's operational policy, but also to accommodate their inclusion</p>

					<p>applying these in the new EDRM system. Examples of how these are being developed for the EDRM system are provided in Appendix F. Application of the above is evidenced in the file plans (Appendix B). In addition, the council have developed a 'Procedure for Managing Legal Holds' (see Appendix G). This procedure sets out the arrangements to 'preserve' records where required to provide evidence, such as, an inquiry, court case, fraud investigation etc. The Keeper will be notified of any further significant changes.</p>	<p>under the new EDRMs. This is a sensible approach. Evidence supplied under appendices B and F detail the development and application of the revised retention schedules under the new system. The retention periods against record classes remain in place and continue to be action, so no change is recorded here, in effect. The authority further supplied evidence of a newly developed 'Procedure for Managing Legal Holds'. This is particularly useful in meeting the demands of the Scottish Child Abuse Inquiry but, as the document sets out, has application across a range of business areas and requirements.</p> <p>No immediate action required. The assessment team would, however, be interested to learn about any future updates to the retention schedules.</p>
6. Destruction Arrangements	G	G	G	Update required on any change	<p>Since the RMP was agreed the council has entered into a new contract for the destruction of paper records. The bulk destruction of paper records is now contracted to: Data Solutions 2016 Ltd The Databank Centre Unit 5 Redhill Distribution Centre Salbrook Road</p>	<p>There is no doubt that the authority continues to take the destruction of paper records seriously. Updated staff guidance addresses this matter thoroughly. Section 9 sets out the authority's expectations over three pages with specific reference to destruction arrangements and responsible personnel.</p>

					Redhill RH1 5DY There are no other notifiable changes.	Additional evidence submitted in response to the Interim Report, included the Non-EU Award letter, an example certificate of destruction and the Quality Response Form provided by Restore DataShred (now Data Solutions 2016). The assessment team is content that this element remains in compliance. Update required on any future change.
7. Archiving and Transfer	G	G	G	Update required on any change	There are no notifiable changes.	No immediate action required. Update required on any future change.
8. Information Security	G	G	G	Update required on any change	West Lothian Council's Information Security Policy is reviewed annually. The policy was approved by council April 2017. There are no changes to be notified to the Keeper. Link to Policy: West Lothian Council's Information Security Policy In addition, the council achieved PSN compliance on 24 th of August 2018.	Referencing updated policies assures the assessment team that the authority's assessment and review procedures continue to be robust and fit for purpose. No immediate action required. Update required on any future change. The assessment team again commends the authority for ensuring it remains PSN compliant.
9. Data Protection	G	G	G	Update required on any change	There are no notifiable changes.	No immediate action required. Update required on any future change.
	G	G	G	Update required on		No immediate action required.

10. Business Continuity and Vital Records				any change	There are no notifiable changes.	Update required on any future change.
11. Audit Trail	G	G	G	Update required on any change	There are no notifiable changes.	<p>Closely aligned to improvements being made under element 5, this element was considered to be vulnerable to this change. Additional evidence supplied under the interim report liaison period was able to verify all outstanding work had been completed to leave this element in compliance. The additional evidence, including files plans for Education and Revenues and Legal Services, clearly demonstrates that all business areas are covered for audit purposes. Further, evidence of the authority's compliance under this element is the EDRMs audit register which maintains a detailed record of specific actions that have been undertaken on items within the system. The assessment team is content the PUR shows this element is fully compliant.</p> <p>Update required on any future change.</p>
12. Competency Framework	G	G	G	Update required on any change	All staff must complete mandatory training on Records Management, Data Protection, Freedom of Information, Email and EDRMs. This training was updated and completed in January 2017. There are	No immediate action required. Update required on any future change.

					no notifiable changes.	
13. Assessment and Review	G	G	G	Local improvement plans were submitted to 'demonstrate that services within the council know where there are records management issues still to be addressed and have plans in place to address these issues'. These plans show some projects still to be completed. The Keeper wishes to receive updates on these ongoing projects	Updated Improvement Plans are provided in Appendix H. The council conduct an annual survey to evaluate the effectiveness of records management arrangements. The results of the 2016-17 survey are provided in Appendix I.	It is without doubt that the authority continues to take its assessment and review obligation seriously. The Improvement Plan submitted in evidence with this update records, as did earlier version submitted in previous years, in considerable detail all outstanding records management work streams and key targets. It again is a comprehensive working document used to identify needs, allocate responsibility and monitor progress. Management group scrutiny is central to its effectiveness. The assessment team commends the authority for its commitment to this form of internal scrutiny and the pro-active management of potential areas of risk. No immediate action required. Update required on any future change.
14. Shared Information	G	G	G	Update required on any change	There are no notifiable changes.	No immediate action required. Update required on any future change.

Version

This progress update submission is dated October 2017. The author of the progress update submission is Roberto Riavez, West Lothian Council, Information Strategy and Security Manager.

The progress update submission makes it clear that it is a submission for **West Lothian Council and West Lothian Licensing Board**

PRSA Assessment Team Summary:

This update, dated October 2017, is the third submitted to the Assessment Team by **West Lothian Council and West Lothian Licensing Board** since their plan was agreed. The Assessment Team agrees that the record management arrangements outlined by the fourteen elements in the authority's plan continue to be properly considered. The Assessment Team commends this authority for keeping its Records Management Plan under review.

The authority continues to demonstrate strong commitment to maintaining and improving upon their records management provisions. This is illustrated not least by their regular review of key policies and procedures and updating of the same. Their commitment to the resource intense transition from one EDRMs to another, currently underway and nearing completion, is further testimony to this.

The authority is to be commended for the publication, where appropriate, of their record management policies and accompanying documentation on their website. The Assessment Team considers this an effective way of demonstrating compliance and publicising on-going initiatives. This is an approach which we would recommend other public authorities to adopt.

The Assessment Team would welcome future updates on the ongoing roll out and bedding-in of the authority's new EDRMs.

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.

General Comments:

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 resubmitted it plan under section (5)(6) of the Act.

While this assessment cannot, therefore, lead to an allocation of a RAG status against **West Lothian Council** and **West Lothian Licencing Board's** agreed RMP, as evidenced in the Keeper's published report, it is the case that the 'ticks' the authority gained under each element correspond to a 'green' status indicator under the now established RAG status mechanism. Green or green-equivalent 'ticks' achieved by the authority under the original submission cannot be visually improved upon under a RAG mechanism. However, updates provided against current arrangements can demonstrate progress continues to be made under these compliant elements. Such updates would indicate the authority is committed to ongoing assessment of all its arrangements to further improve upon and maintain its records management arrangements.

PRSA Assessment Team Evaluation:

Updates against improvement are not a requirement under the Act, so it is commendable that the authority has chosen once again to engage in this way with the assessment team.

Based on this progress update assessment, and following the authority's two previous update submissions, the Assessment Team considers that **West Lothian Council** and **West Lothian Licensing Board** clearly takes its statutory obligations seriously. The statements in this update report, combined with comprehensive and detailed evidence, make it clear that this authority is committed to pursuing the benefits of good records and information management. The evidence submitted includes,

- detailed service level improvement plans which are routinely scrutinised by management
- updated staff guidance.
- new guidance on managing legal holds.
- detailed design and migration documentation on the new EDRMs.
- the Council's new file plan, including updated classification, vital records and retention scheduling.
- file plan and LGCS cross match documentation.
- authority wide self-audits and statistical analysis.
- Evidence of secure destruction arrangements.

- links to all updated policies.

There is no doubt that the authority continues to robustly assess and review its arrangements and that results are reported to management. The assessment team once again commends the authority for this thorough and measured approach.

This third comprehensive update from **West Lothian Council** and **West Lothian Licensing Board** makes it clear that authority continues to work hard to maintain all elements of their records management plan in full compliance with the Act and fulfil the Keeper's expectations.

The PUR mechanism allows authorities to assess current arrangements and consider where a change in the status of certain elements might have taken place as a consequence of organisational change. This is further useful if an authority were considering reviewing and submitting its plan for further formal agreement by the Keeper under section 5(6) of the Act.

The assessment team is pleased to report that the West Lothian Council and West Lothian Licensing Board's PUR submission demonstrates that the plan remains in compliance under each element. The authority is undergoing a major transition which means changes to policies, procedures and systems. Some core elements of the plan - business classification and audit trail - were affected by this change, but the authority has been able to demonstrate under this PUR submission that work has concluded to ensure these areas remain compliant under the agreed plan.

- 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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Hugh Hagan
Senior Public Records Officer