

## **Public Records (Scotland) Act 2011**

### **Midlothian Council Midlothian Licensing Board Assessment Report**

**The Keeper of the Records of Scotland**

**19 June 2014**

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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 fully 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 record keeping 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. Executive Summary

This report sets out the findings of the Keeper's assessment of the RMP of **Midlothian Council** and **Midlothian Licensing Board** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 28 February 2014.

The assessment considered whether the RMP of **Midlothian Council** and **Midlothian Licensing Board** was developed with proper regard to the 14 elements of the Keeper's statutory Model Records Management Plan (the Model Plan) under section 8(3) of the Act, and whether in this respect it complies with it and the specific requirements of the Act.

The outcome of the assessment and the Keeper's decision on whether the RMP of **Midlothian Council** and **Midlothian Licensing Board** complies with the Act can be found under section 7 of this report with relevant recommendations.

### 3. Authority Background

Local government in Scotland comprises 32 unitary local authorities, responsible for the provision of a range of public services. Midlothian Council is one of these authorities <http://www.midlothian.gov.uk/>. It provides services to the people of Midlothian, 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.

### 4. Keeper's Assessment Process

The RMP was assessed by the Public Records (Scotland) Act Assessment Team on behalf of the Keeper. Assessors used the checklist elements listed in section 5, to establish whether **Midlothian Council** and **Midlothian Licensing Board** RMP was developed with proper regard to the elements of the Model Plan and is compliant with the Act. The assessment also considered whether there was sufficient supporting evidence of such compliance.

**Key:**

<b>G</b>	The Keeper agrees this element of an authority's plan.		<b>A</b>	The Keeper agrees this element of an authority's plan as an 'improvement model'. This means that he is convinced of the authority's commitment to closing a gap in provision. He will request that he is updated as work on this element progresses.		<b>R</b>	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Keeper may choose to return the RMP on this basis.
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## 5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	<b>G</b>	<b>G</b>	Gary Fairley, Head of Finance and Integrated Support Service, has been identified as the senior responsible officer with responsibility for Midlothian Council's Records Management Plan (RMP) and records management. He also sits on the Corporate Management Team and is a Senior Information Risk Owner. The Keeper agrees that this is an appropriate individual for the requirements of this element.
2. Records Manager <i>Compulsory element</i>	<b>G</b>	<b>G</b>	Zarya Rathe has been identified as having operational responsibility for records management within Midlothian Council. Document 'M708 Job Description' has been provided as evidence for this element. The Keeper agrees that this is an appropriate individual for the requirements of this element.

<p>3. Policy <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>As evidence for this element Midlothian Council have submitted their Records Management Policy. This is a robust document that clearly sets out roles and responsibilities for records management within the council. The policy shows a commitment to best practice records management and also refers to the provision of training to achieve this, which the Keeper welcomes.</p> <p>The policy ties in with the Information Management Strategy 2013 and the IMG Action Plan 2013-14 which sets out action points for the Information Management Group.</p> <p>The Keeper agrees that Midlothian Council has an operational and approved Records Management Policy as required by the Act.</p>
<p>4. Business Classification</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>Midlothian Council has supplied their combined Business Classification Scheme (BCS) and Retention Schedule. This appears to be a very thorough BCS, based on the model BCS published by the Scottish Council on Archives, which covers all the record creating areas of the Council. The Licensing Board's activities are covered by the BCS. The BCS is based on the functions of the Council, which the Keeper commends as best practice records management.</p> <p>The BCS is accompanied by a BCS policy document which highlights the Council's corporate approach to the classification of records created/received in the course of its business. This document supports the BCS, highlighting its importance, roles and responsibilities, and the fact that it applies to records in all formats.</p> <p>In line with other public authorities Midlothian Council are currently implementing an EDRMS upon which it intends to impose the BCS. This process will be reviewed with the intention of adding a detailed file plan to the BCS structure.</p>

			<p>The Keeper agrees that Midlothian Council has in place a detailed BCS which appears to cover all the record creating activities of the Council. The Keeper commends the merging of the BCS and the Retention Schedule into one comprehensive document.</p>
5. Retention schedule	<b>G</b>	<b>G</b>	<p>The Retention Schedule of Midlothian Council, based on the SCARRS Model published by the Scottish Council on Archives, is incorporated into the BCS (see Element 4 above). It has also been developed through wider consultation with staff, further ensuring it is comprehensive in its scope.</p> <p>The Retention Schedule is accompanied by a policy document which highlights the Council's corporate approach to retention scheduling. This document supports the Retention Schedule, highlighting its importance, roles and responsibilities, and the fact that it applies to records in all formats.</p> <p>The Keeper agrees that Midlothian Council has developed a comprehensive Retention Schedule which sets out the actions to be taken at the end of a record's active life-cycle.</p>
6. Destruction Arrangements <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>Midlothian Council has provided evidence for the procedures and policies regarding the secure destruction of paper records. As evidence the Council has provided their Records Disposal Policy which sets out the procedures, as well as destruction certificates from the commercial provider of a paper shredding service.</p> <p>The Records Disposal Policy and Records Disposal Procedure set out the procedures in place within the Council for the destruction of electronic records. The planned move to an EDRMS means that the tracking of destruction will be built in to the system and at present the destruction of electronic records is recorded</p>

			<p>manually.</p> <p>Hardware disposal procedures have been included, which set out how Midlothian Council arrange for obsolete hardware to be disposed of. This is backed up by a register of hardware to be disposed of and an erasure certificate showing that secure destruction has taken place. The specification for the equipment used for secure deletion of data has also been supplied. An overview of the IT back-up system has been provided which shows how back-ups are managed.</p> <p>This, on top of the procedures in place for the secure disposal of paper records, means that the Keeper agrees that appropriate procedures are in place for the secure destruction of records at the end of their life-cycles.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>As evidence Midlothian Council has provided their Archival and Local Studies Collection Policy, their combined BCS and Retention Schedule and their Records Disposal Policy.</p> <p>The Archival and Local Studies Collection Policy sets out the remit under which the archive collects records, primarily those records that are relevant to the Midlothian Council are or its predecessors.</p> <p>The BCS/Retention Schedule identifies those records that deemed worthy of permanent retention.</p> <p>The Records Disposal Policy also highlights the responsibility of the Records Officer in identifying records that may have historical interest from those records that have been scheduled for destruction. A detailed explanation of how records are transferred has been supplied - ArchivalTransferProcedure1.0</p>



			<p>The Keeper is satisfied that the retention schedule and the work of the Records Officer correctly identifies those records that the Council wish to preserve permanently. The Keeper is also satisfied by the Archival and Local Studies Collection Policy, which identifies the type of records that would be of interest to the archive.</p> <p>The Keeper agrees that Midlothian Council has proper arrangements in place to archive records for permanent preservation.</p>
8. Information Security <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>Midlothian Council has submitted a comprehensive suite of evidence for this element. This includes policies and procedures which cover the secure use of computers, faxes, laptops, memory sticks and email systems.</p> <p>The Information Security Policy is very comprehensive. There is also a Paper File Transfer Policy which sets out the procedures in place for the movement of paper records.</p> <p>The Keeper agrees that there is considerable evidence to show that Midlothian Council takes the security of its information very seriously and has put in place policies and procedures to ensure that their information is protected.</p>
9. Data Protection	<b>G</b>	<b>G</b>	<p>Midlothian Council has provided several documents as evidence of their compliance with this element.</p> <p>The Council is registered with the Information Commissioner's Office.</p> <p>The Privacy Policy is available to all staff on the intranet system, as well as some of the other documents provided as evidence.</p>

			<p>The Basic Guide to Data Protection provides a useful checklist of Dos and Don'ts for staff when dealing with personal information.</p> <p>The Information Management Training Framework sets out the different levels of training requirements of staff.</p> <p>The Guidance for the Individual and Subject Access Request form documents cover the Council's approach to dealing with subject access requests and set out the rights that potential requesters have. This is also available on the Council's outward-facing website.</p> <p>The Keeper agrees that the evidence submitted shows that Midlothian Council is aware of its responsibilities under Data Protection and has the robust policies and procedures in place to manage these.</p>
<p>10. Business Continuity and Vital Records</p>	<p><b>G</b></p>	<p><b>A</b></p>	<p>Midlothian Council has submitted evidence of the different levels on which their business continuity plans operate. The Strategic Business Continuity Plan and the Major Emergency Procedures set out the corporate approach to responding to service interruptions.</p> <p>Below this, Heads of Service and Managers are expected to develop procedures for their business areas. A sample plan has been submitted for ICT. As well as this, the Council Tax and Benefits Application procedures have also been submitted as evidence.</p> <p>These plans are reviewed and tested on a regular basis. The Business Continuity Plan (BCP) is currently being reviewed and evidence of the Testing Strategy has been submitted for the ICT BCP.</p>

	<b>G</b>	<b>A</b>	<p><b>Vital records have been identified for the Human Resources service area and added to the Business Classification Scheme/Retention Schedule but not for other areas within the Council. The RMP recognises the need to identify vital records across the Council and intends to work towards this as part of the exercise of implementing an EDRMS. The Council also intends to incorporate records and information into business continuity and emergency planning procedures. They also intend to review the Disaster Plan for the Records Centre, Archive and other paper stores as part of the BCP review.</b></p> <p>The Keeper can agree that there are robust BCP procedures in place to ensure that the Council's key functions can resume quickly in the event of a disaster on an improvement plan basis, provided he is updated as work towards identifying vital records progresses across the council.</p>
11. Audit trail	<b>G</b>	<b>A</b>	<p>Midlothian Council has submitted evidence showing the procedures in place for the tracking of paper and electronic records.</p> <p>The Records Centre operates a database which tracks the movement of and actions taken on paper records. Access permissions to the database are controlled by staff across various departments. Outwith the Records Centre, a series of 'superusers' across each service area maintains a file register where the movement of records can be tracked and also when records have been destroyed. The Paper File Transfer Policy has been submitted as evidence. Screenshots from the Records Centre database have also been submitted.</p> <p>There is audit trail functionality applied to the Council's main file structure and also to individual local EDRMS. A sample audit log has been supplied as evidence.</p> <p><b>The Keeper can agree that there are procedures in place for tracking the movement and changes to paper and electronic records on an improvement</b></p>

			<b>plan basis, provided he is kept informed as work on the project of implementation of an EDRMS progresses, which will help to standardise practice across the Council.</b>
12. Competency Framework for records management staff	<b>G</b>	<b>G</b>	<p>As evidence of compliance with this element, Midlothian Council has submitted the Records Officer's job description and competency framework plan. This shows that records management forms part of the Records Officer's job description and that consideration is given to suitable development opportunities in order to allow her to carry out her job.</p> <p>As well as training of the Records Officer, there is also evidence of a commitment to records management training across the Council, based on the Information Management Training Framework. The training modules are aimed at both management and administrative staff. The members of the Information Management Group are all required to undertake training.</p> <p>The Keeper agrees that the Records Officer has a measurable responsibility for records management within the Council and that the Council is committed to providing training to relevant staff.</p>
13. Assessment and Review	<b>G</b>	<b>G</b>	<p>Midlothian Council has committed to annually assessing and reviewing compliance with their RMP. The Information Management Group will be responsible for conducting this. The Information Management Group will report to the Corporate Management Team.</p> <p>Service areas within the council are required to self-assess compliance with the policies and procedures associated with the plan and report to the Information Group.</p>

			<p>The IMG Action Plan 2013-2014 shows the actions required/taken with regards to information governance.</p> <p>The Keeper agrees that appropriate procedures are in place to regularly review and update the RMP and associated policies.</p>
14. Shared Information	<b>G</b>	<b>G</b>	<p>Midlothian Council has signed up to the Pan Lothian and Borders Partnership General Protocol for Sharing Information. The Information Management Group recommended to the Corporate Management Team in late February-early March 2014 that Midlothian Council adopts the Scottish Accord for the Sharing of Personal Information (SASPI). <b>The Keeper would be interested to learn the outcome of this proposal.</b></p> <p>As of 1<sup>st</sup> January 2014 the Council has also inserted a clause into all contracts with 3<sup>rd</sup> parties detailing their requirements with regards to records management.</p> <p>The Keeper agrees that Midlothian Council have put proper arrangements in place for the sharing of corporate information with other bodies and for ensuring that 3<sup>rd</sup> parties performing functions on behalf of the Council comply with their obligations with regards to records management.</p>

**General Notes on RMP:** Elements 1 and 2 – Appropriate individuals have been identified as having senior and operational responsibility for the RMP and for records management within Midlothian Council.

Element 3 – The policy submitted is robust, clearly setting out roles and responsibilities as well as the corporate approach to records management, but there is a question about the status of copies within the document.

Elements 4 and 5 – The combined BCS and retention schedules appear to comprehensively cover all the record creating areas within the council. Midlothian Council intends to implement an EDRMS and add a detailed file-plan to the BCS. The Keeper would request that he is kept informed as the implementation project progresses.

Element 6 – As well as that supporting the destruction of paper and electronic records, evidence showing that Midlothian Council has considered the secure destruction of hardware and the destruction of electronic back-ups has been submitted. The Keeper can agree that procedures are in place to ensure the secure destruction of Midlothian Council's records.

Element 7 - The Keeper agrees that Midlothian Council has proper arrangements in place to archive records for permanent preservation.

Elements 8 and 9 – Midlothian Council has provided evidence that shows that they take information security and their obligations under Data Protection seriously and have put in place policies and procedures to lessen the risks of unauthorised access to their corporate information and personal and sensitive data.

Element 10 - The Keeper can agree that there are robust BCP procedures in place to ensure that the Council's key functions can resume quickly in the event of a disaster on an improvement plan basis, provided he is updated as work towards identifying vital records progresses across the council.

Element 11 - The Keeper can agree that there are procedures in place for tracking the movement and changes to paper and electronic records on an improvement plan basis, provided he is kept informed as work on the project of implementation of an EDRMS progresses.

Elements 12, 13 and 14 – There is appropriate evidence provided to show that Midlothian Council has built records management into the corporate responsibilities of the relevant staff, that the RMP and associated policies and procedures are reviewed and amended regularly and appropriate safeguards are in place for protecting the security of information shared with other bodies

## 6. Keeper's Summary

Elements **1 – 14** that the Keeper considers should be in a public authority records management plan have been properly considered by **Midlothian Council** and **Midlothian Licensing Board**. Policies and governance structures are in place to implement the actions required by the plan.

## 7. Keeper's Determination

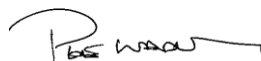
Based on the assessment process detailed above, the Keeper **agrees** the RMP of **Midlothian Council** and **Midlothian Licensing Board**.

- The Keeper recommends that **Midlothian Council** and **Midlothian Licensing Board** should publish its agreed RMP as an example of good practice within the authority and the sector.

This report follows the Keeper's assessment carried out by,



.....  
**Robert Fotheringham**  
Public Records Officer



.....  
**Pete Wadley**  
Public Records Officer

## 8. Endorsement of Report by the Keeper of the Records of Scotland

The report has been examined and is endorsed under the signature of the Keeper of the Records of Scotland as proof of compliance under section 1 of the Public Records (Scotland) Act 2011, and confirms formal agreement by the Keeper of the RMP as submitted by **Midlothian Council** and **Midlothian Licensing Board**. In agreeing this RMP, the Keeper expects **Midlothian Council** and **Midlothian Licensing Board** to fully implement the agreed RMP and meet its obligations under the Act.



.....  
**Tim Ellis**  
Keeper of the Records of Scotland