

20 December 2011

Summary of third meeting of the Public Records (Scotland) Act 2011 Stakeholder Forum held on 20th December 2011

New Register House, West Register Street, Edinburgh

The following organisations were represented:

Archivists of Scottish Local Authorities Working Group (ASLAWG); The Association of Chief Police Officers in Scotland (ACPOS); Audit Scotland; Barnardo's Scotland; Children 1st; Clackmannanshire Council; Dumfries and Galloway Council; Glasgow City Council; Grampian Police; Improvement Service; Kibble; Looked After Children and Young People; Lothian and Borders Police; Midlothian Council; National Museums of Scotland; Northern Constabulary; Office of the Scottish Charity Regulator (OSCR); Registers of Scotland; Scottish Council on Archives; Scottish Court Service; Scottish Environmental Protection Agency (SEPA); Scottish Government Health and Social Care; Scottish Government Information Systems and Information Services (ISIS); Scottish Legal Complaints Commission; Scottish Parliament Corporate Body; Strathclyde Fire Service; West Lothian Council (28 bodies)

Apologies were received from:

Aberlour; Action for Children Scotland; Care Inspectorate (SCSWIS); City of Edinburgh Council; David MacBrayne Limited; East Ayrshire Council; Information and Records Management Society; Loch Lomond & Trossachs National Park; Mental Health Tribunal for Scotland/Scottish Tribunals Service; Moray Council; National Convenor of Children's Hearings Scotland; NHS Education for Scotland; Quarriers; Scottish Children's Reporter Administration; Scottish Enterprise; Scottish Government Getting It Right for Every Child (GIRFEC); Scottish Natural Heritage; Scottish Women's Aid; South Ayrshire Council; South Lanarkshire Council; Strathclyde Police

The National Records of Scotland was represented by:
George MacKenzie, Keeper of the Records of Scotland
Bruno Longmore, Head of Government Records;
Hugh Hagan, Senior Public Records Officer;
Pete Wadley, Public Records Officer;
Andy Wells, Public Records Assistant

Susan Corrigan, Head of Electronic Records Unit
John Simmons, E-Records Advisor

1. Welcome and Introduction

Bruno Longmore, Head of Government Records at the National Records of Scotland (NRS) initially welcomed Forum members to the meeting, including those who were attending a Stakeholder's meeting for the first time. He spoke about the historic building and the vital events recorded there.

The Keeper then spoke about his responsibilities under the Public Records (Scotland) Act 2011 (PRSA) including publishing a model records management plan and guidance on that plan. These documents are to be prepared in consultation with interested parties. He explained that this was the 3rd meeting of the Stakeholder Forum which has been set up to aid this consultation. He reminded delegates that the purpose of the process in which they

are all engaged is to make consistent and durable improvements to record keeping in Scotland. He stated that the mechanism of the Forum was working well. It was facilitating positive collaboration and was tapping into its members' expertise. Bringing together the experience of colleagues in the public sector and particularly in the records and archives community has driven the shape and content of the draft plan and guidance.

The Implementation Team has been continuing to develop the draft model RMP and guidance, since the last meeting on 27 October 2011 and is now on the 3rd draft version of the RMP. The Keeper is keen to keep the dialogue open and will reconvene the Forum later in 2012 to consider responses received under the formal consultation.

NRS has set up an online discussion board for Forum members through the Communities of Practice system and established three separate Forum sub-groups, all of which have been very successful. The sub-groups were set up in response to the inaugural Stakeholder Forum meeting on 30th June 2011 which felt that face to face meetings were essential to help discussion and develop guidance on specific themes.

A brief resume of the themes of the sub-groups was provided, namely 'Shared Information'; 'Functions' and 'Guidance/Products'.

The Keeper has also written to all the CEOs of the Public Authorities scheduled under the Act requesting nominations of staff from each organisation to extend the membership of the discussion board and there have been 18 new organisations joining that month. The extension of membership is purely to the discussion board rather than the face to face meetings.

NRS has acted upon a number of suggestions from the discussion board and used them in the development of the model plan. The implementation team at NRS are still receiving emails and telephone calls with suggestions that they may incorporate into the model plan and guidance.

The Keeper also pointed out that, since the last meeting, Scottish Ministers have issued an updated section 61 code of practice under Freedom of Information and this cross-links to the Public Records (Scotland) Act 2011.

Delegates were also informed that the NRS Knowledge Base continues to be developed to assist authorities with the specific issues around the management and preservation of e-records. These would form part of the non-statutory guidance that the Keeper may produce under the Act.

As part of our outreach strategy to publicise information, outlined at the 27 October Stakeholders' Forum meeting, NRS have been placing regular information updates onto its website, and planning to extend this by publishing information on individual sites for specific sectors, such as Third Force News and children's services. NRS have also spoken at a child protection conference event.

The Keeper has therefore concluded the first phase of the implementation process which lasted 6 months. the next phase of implementation will see drafts of the model records management plan and guidance being submitted for formal public consultation in February 2012. At that point, every public authority affected will have an opportunity to comment. The Keeper aims for full commencement of the Act by January 2013.

The Keeper hopes that PRSA will change the culture of record keeping. For those concerned with costs, the Keeper will show that better record keeping is more effective, will give greater efficiency and swifter access to records. This is considered a once in a lifetime

opportunity and will be of long term benefit to future generations and help people for decades to come.

2. The draft model RMP and Guidance and the impact of the online discussion forum:

Version 3 of the Keeper's Model Plan was issued in paper form at the meeting. An electronic version of the same document was distributed later. Pete Wadley explained that stakeholder members had been asked to critically analyse Version 2 of the Keeper's Model Plan issued after the meeting on 27 October 2011. The response was good and these changes were now marked on Version 3 in green.

He reiterated that new scheduled authorities have recently joined the discussion board.

Although the latest version of the guidance document was not issued at the meeting, Subgroup 3 is currently working on it as a 'work in progress'. This will be informed by the agreed content of the model plan and therefore, as the model plan has not yet been finalised, the guidance document is also not complete.

Pete gave the group a preview of the style of the guidance document, using as an example, Element 14 'Shared Information'. This was an element which was added at the request of stakeholders. Pete showed the group that there will be a link from each element of the model records management plan which will take the stakeholder into the guidance for that particular element. Each element will be divided into 5 sections: At the top will be the Keeper's guidance as to why that particular element is important and what evidence will be necessary to satisfy the Keeper that an authority is carrying out that element appropriately.

The guidance will also feature extracts from published guidance documents relevant to each element, together with sample documents and policies that have been obtained from stakeholders. Pete mentioned how pleased the NRS is with how well this has been working. In the example shown Pete indicated that NRS had been supplied with sample data sharing protocols by stakeholders.

Pete reported that Subgroup 3 suggested creating a list of where we are short of samples and to send this to stakeholders. This will be done early in the New Year.

There will also be links to major guidance documents in full from each element. For example at the request of Stakeholders, the National Archives of Australia's methodology for designing and implementing recordkeeping systems (DIRKS) will be also be mapped into the document in the New Year.

At the 27 October meeting, the stakeholder group asked how NRS were going to ensure the guidance was up to date. Pete explained that we will check the links regularly and add in a line that "this guidance was updated on [date]".

Pete reiterated that key to its success, as far as the NRS implementation team are concerned, is that a wide range of stakeholders are contributing and that they are not all doing the same things. For example key delegates on the sub-groups who have been creating text and documents have chosen not to join the discussion board. Other people have been contributing only to the discussion board. A records manager for a local authority has not contributed to the discussion board and does not sit on any of the sub-groups but has been submitting many sample policy documents. On June 30th when this process was launched the Keeper said:

As Forum delegates, you have been drawn from a number of different organisations and sectors. You come to us with a range of expertise, knowledge and experience and we want to tap into that.

In the opinion of the implementation team the Stakeholder's Forum has very much lived up to that aspiration. Pete commented that it would be a shame if cross sector communication ceased with the termination of the discussion board, which will be closed and archived on 23 February 2012.

From 24 February 2012, a new separate response system will be available with the commencement of the formal Public Consultation on the model plan and guidance.

One of the major issues discussed on the board has revolved around electronic records and whether this important issue deserved a separate element in the model plan. Version 3 of the plan now says:

The scope of the Model Plan applies to all records irrespective of the technology used to create and store them or the type of information they contain.

It has been decided that the principles of the plan should apply to records in all formats and that adding a separate digital element might be confusing. This was the decision of the majority of the stakeholders who have engaged on this subject.

However the Keeper is permitted under the act to produce other guidance in support of the Act.

3. NRS e-Records Knowledge Base

Susan Corrigan, Head of NRS e-Records Unit spoke about the proposals for an e-records knowledge base. She reiterated that the guidance that the Keeper may produce for e-records is non-statutory and is therefore not part of the formal consultation.

The Knowledge Base will make use of existing guidance, and it will offer material relating to the creation, maintenance and preservation of digital records. It is hoped that it will evolve due to feedback from the stakeholder forum.

NRS are inclined towards having an FAQ for the areas they would like to cover, with guidance from a variety of different sources, but are open to feedback and other suggestions from stakeholders via the discussion board. (Other countries like Australia and the Netherlands have resources like this.)

For each FAQ question the e-Records Unit are thinking of having an introductory text and selected guidance relevant to public authorities in Scotland, and possibly pitching this towards different-sized organisations. The E-Records Unit is also hoping to develop case studies from the experience of Scottish public authorities. These case studies would probably be anonymized but put into context by using descriptions such as "a Scottish PA with a budget of". If you think your organisation could provide a case study, the Unit would be pleased to hear from you.

The first version of the knowledge base should be available at the end of March, with ongoing instalments. The e-Records Unit will ensure that the guidance is kept up-to-date and relevant.

Public Authorities were requested to send in any guidance, comments or contact NRS e-Records Unit if their organisation would like to be a case study. And, stakeholders were

encouraged to post comments on suitable guidance to the Communities of Practice discussion board.

4. The work of the Stakeholder Forum and sub-groups

Hugh Hagan explained that there are 3 Stakeholder sub-groups set up to discuss:

- 1 shared information
- 2 contracting out of public authority functions
- 3 reviewing and testing guidance

Sub-group 1 is considering issues relating to shared information, i.e. information and records created by public authorities and subsequently shared with other bodies or information and records born on a joint service platform involving collaboration between two or more authorities.

Although some authorities currently don't share information, the sub-group took the view that it's really only a matter of time before they all do, so the issue of shared information is therefore one that we should all be concerned with in the public sector.

The sub-group is currently reviewing accords, protocols and governance documents regarding personal (sensitive), and corporate information already in place and of proven value, to avoid duplication of effort.

The guidance must be manageable and not overly complicated.

Examples of guidance that the group has been considering include the UK Commissioner's Data Sharing Code of Practice and the Gold Standard.

New guidance to keep an eye on also includes SASPI (Scottish Accord for Sharing Personal Information), which has materialised from WASPI, the Wales Accord. SASPI is currently being piloted and chimes closely with other guidance e.g. Gold Standard. If SASPI gains momentum in Scotland it should be included in the guidance.

The group has also looked at local guidance e.g. by Glasgow City Council and NHS Glasgow and Clyde Health Boards, which they are keen to see added, as samples, to our guidance.

Due to the work of this group, Element 14 – Shared information, has now been added to the model RMP, with protocols to record ownership responsibility up front.

Sub-group 2 is concerned with issues around the common practice of contracting out public authority functions to private or voluntary bodies. A number of non-public organisations were represented on the sub-group. This issue was of particular importance being a direct response to one of Shaw's main recommendations.

Just as Scottish public authorities must consider the Freedom of Information (Scotland) Act 2002 and the Data Protection Act 1998 and other relevant sector specific legislation at the beginning of any procurement process, there must now also be appropriate consideration of whether there are Public Records (Scotland) Act (PRSA) issues to consider in relation to the function to be contracted out.

Rather than defining a public authority's functions, the sub-group agreed that, where a public authority considers there is a public records issue under a proposed procurement, the standard paragraph on PRSA obligations should be invoked to apprise contractors of their obligations. This should be accompanied by guidance to advise contractors on what will be practically expected of them by the authority. This would include benchmarking to a minimum standard of records management.

Dr Irene O'Brien, chair Scottish Council on Archives, has been working with the sub-group to develop a records management framework document based on the Scottish Council on Archives Records Retention Schedule project (SCARRS) that will allow private and voluntary bodies to assess their compliance against a minimum standard. This will allow authorities to have the same schedules and provides a solution to the concern that contractors may have to comply with many different demands. The framework is called the "Contractor Framework on Records Management".

Dr Kenny Meechan of Glasgow City Council has drafted a statement in conjunction with the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR). The group is currently considering this statement to be included in contractual agreements and/or procurement papers to reflect the new obligation to manage records created under certain public sector contracts. The sub-group is keen to emphasise that the Act is not concerned with routine administration such as contracts for the procurement of stationery.

Sub-group 3 has met twice to look at and assess established records management guidance for possible inclusion in the Keeper's suite of guidance supporting the model RMP. The sub-group has considered a substantial number of published guidance documents and in-house records management guidance and solutions.

The sub-group agreed that a comprehensive glossary should be compiled to support the model RMP and guidance. The sub-group also discussed how best to link the guidance to the model RMP.

Hugh also reported that the Keeper's guidance will be subject to constant updating and NRS will inform the user when the guidance was last updated.

While sub group 3 is coming to a conclusion, Hugh stated that the NRS is almost certainly going to form a fourth sub group, to look at Business Classification. With the help of this new sub-group NRS will consider how this element of the plan might be considered practically. However, Hugh encouraged delegates to remember that during the consultation period there will of course be an opportunity to address the issue further. NRS will invite stakeholders to join the new sub group early in the New Year.

5. A Framework for Contractors

Dr Irene O'Brien, Chair of the Scottish Council on Archives (SCA), explained the proposed contractors' framework document.

The SCA is developing guidance for contractors in the form of a minimum standard framework which will be derived from the Archives and Records Management Services framework (ARMS). ARMS is a quality improvement framework helping to define relevant performance indicators for the sector. ARMS aims to support integration and co-operation between archives and records management services and will serve as a vital and practical tool for archive and records management professionals.

The contractors' minimum standard framework being derived from ARMS will seek to assist contractors in respect of their relationship with public authorities when creating and managing public records under contract.

The framework will draw on some of the indicators from ARMS to create a minimum standard, which most contractors should be able to comply with in relation to records management. There will also be a clear underpinning description to ensure the indicators are easy to understand. These quality indicators focus on the creation and management of records; the protection of rights and interests (including compliance with existing regulations); and the requirement to ensure that records are kept as long as they are required.

Members from sub-group 2, which include representatives from the private and voluntary sectors, agreed that this framework meets all aspects of responsibility under the Act without placing unreasonable burdens on contracted bodies.

Overall, Dr O'Brien stated that the guidance has been designed with small contractors in mind, so organisations would have a practical toolkit to support improvement.

In addition, the draft clauses for contractors approved by SOLAR will also provide a consistency of demand which will help to improve trust and support efficient service delivery.

6. Summary of Main Points

Bruno Longmore summarised the main points:

The Keeper is currently taking stock, and will produce version 4 of the Model RMP to be issued to public consultation on 24th February 2012. The guidance document will appear on the same day once it has been agreed by Stakeholder Sub-Group three.

The NRS e-Records Unit will continue to develop guidance for digital records management.

The sub-groups have been working on various issues and are reaching their conclusions but a fourth group will be set up in the New Year to look more closely at the issue of Business Classification.

The NRS is considering other methods of continuing the dialogue to assist organisations developing their RMPs once the Keeper's Model Records Management Plan is out to consultation, e.g. the possibility of setting up a short series of surgeries held across the country.

The Keeper wishes to continue to liaise with colleagues throughout 2012, and will continue to welcome the views of stakeholders in the months leading up to formal implementation in January 2013.

7. Conclusion

The Keeper addressed the meeting and thanked stakeholders for their continued support. He indicated that we are at a crucial stage in the development of agreed records management principles becoming embedded in the public sector in Scotland. He added that it would be wonderful if in 50 years' time, people could look back on this period as one in which we began to make a serious change for the better.

The Act is clear that the Keeper has statutory obligation to publish guidance that will help authorities to compile their own RMPs. This does not preclude any specific kind of guidance.

The Act is deliberately neutral on media so as to future proof its aims against technological change, so e-records are considered for the purposes of the Act. It is also true that the Act and the model RMP is silent on EDRMs because Ministers remain keen not to be seen to advocating the procurement of bespoke e-records systems at a time of financial hardship in the public sector. Stakeholders believe however that there needs to be more in the way of clear general guidance on the management of e-records.

The Keeper will invoke the option under section 9 of the Act to publish separate guidance and is pleased with the work of the NRS e-Records Unit in developing this.

7. Questions and Matters Raised

Comments from the floor: SCA and ARA are happy to work with authorities to facilitate or advice or training around records management.

Question: Under FOISA section 61, our organisation has to have a RM Policy. Would the RM Policy under PR(S)A be the same one, or a different one?

NRS: Re FOISA section 61: No, a records management policy is simply that, regardless of the legislation under which it has been developed. If an authority has a robust policy already in place there will be no need to revisit this under the PRSA.

Question: There is often no correlation between an authority's business functions and the functions registered under the ICT systems. Business functions and computer systems often develop separately and bear no relation.

The hardest thing for organisations to do is for organisations to remodel their IT systems around their business functions,

NRS: Stakeholders have raised issues around business classification and the Keeper will set up a sub-group to consider this in the New Year. It is recognised that business classification is a core principle of any robust records management system. The Keeper recognises, however, that many authorities have yet to travel this road and it can be a complex and resource intensive one. The new group will consider these issues and identify solutions to suit the differing levels of preparedness that currently exists in the public sector.

Comments from the floor:

"An authority must know what records it has before it can develop robust retention schedules. A business classification plan will therefore be essential to any robust Records Management Plan."

"SCARRS maps out a great deal of what any small or mid-range local authority might need by way of a business classification scheme and it will prove the basis of a more complex solution."

"Some organisations do need to change. Some organisations are going to have to make major changes in their records management provision, but that's a good thing, and the reason for the Act - we need to change for the better."

"We do need to improve, but it has to be gradual - everyone needs to recognise that."

NRS: The Keeper is required to submit an annual report to Scottish Ministers. He can use this as the vehicle to report on authorities that consistently fail to meet their obligations under the Act. However, the report is also a vehicle for good news stories and the Keeper would seek to stress the good over the bad. He is therefore encouraging authorities to assess honestly where they are in relation to the plan highlighting levels of non-compliance within and across elements with a view to continuous improvement. Improvement over time would indicate that the legislation is working and would constitute a good news story in the Keeper's annual report to Ministers.

Question: After 18 months on eRDM, there are 1800 people on it out of 18000 in my organisation, and it will be another 2 years before it is fully implemented. But after 18 months the PR(S)A will be fully in force in January 2013. How prescriptive is it – how fast do we have to get our plans into the Keeper?

NRS: RMPs will need to be submitted to the Keeper in line with an as yet undetermined timetable, but if clear, demonstrable progress is shown under the plan in relation to improvement or compliance, then authorities will not be told they need to be faster in meeting their records management goals. There is an interesting balance between placing no extra burden on authorities and also needing to see visible signs of improvement. Strategies that recognise shortcomings and can be proven to show a commitment to continuous improvement will be noted by the Keeper as positive outcomes and a strong indicator that the Act is working.

Comment from the floor:

“Not many organisations will have all 14 elements in place soon after implementation. The Keeper will have to look at people producing plans over time – most authorities will have a process of work to complete and will need time.

The Keeper closed the meeting by again thanking stakeholders for their continued and invaluable support and wishing everyone a very merry Christmas and a Happy New Year.