

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

### **West Lothian Council and West Lothian Licensing Board Assessment Report**

#### **The Keeper of the Records of Scotland**

**09 July 2013**

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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 Historic 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 **West Lothian Council** and **West Lothian Licensing Board** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 05 June 2013.

The assessment considered whether the RMP of **West Lothian Council** and **West Lothian 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 **West Lothian Council** and **West Lothian 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. 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.

### 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 **West Lothian Council** and **West Lothian 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.

## 5. Model Plan Elements: Checklist

| Element   | Present | Evidence | Notes   |
|---|---------|----------|---|
| 1. Senior Officer<br><i>Compulsory element</i>  | ✓       | ✓        | Graham Hope CEO of West Lothian Council (WLC) submitted the RMP indicating that Graeme Struthers, Head of Service, Corporate Services has overall strategic responsibility for records management. This is an appropriate individual in an organisation of the size and complexity of WLC.  |
| 2. Records Manager<br><i>Compulsory element</i> | ✓       | ✓        | Responsibility for implementation lies with heads of service but, to comply with the Act, WLC has provided the Keeper with the name of the Information Strategy and Security Manager as the point of contact for the operation of records management within the council.  |
| 3. Policy<br><i>Compulsory element</i>          | ✓       | ✓        | West Lothian Council publishes its records management policy as a PDF on its website. Abundant published policies have been provided in the evidence package that represent further evidence for element 3. WLC staff have access to a guide <i>Ten Steps Towards Best Practice Records Management</i> .  |
| 4. Business Classification                      | ✓       | ✓        | Full business classification provided. The council has adopted a business classification scheme organised by function. The deployment of an EDRMS (Moreq 2 compliant) has helped clarify this, but the Keeper notes that detailed and appropriate file plans exist for activities not included in the EDRMS including a column in the spreadsheet indicating whether paper records are suitable for scanning into the EDRMS. The Keeper is satisfied that the business classification submitted includes all the functions of the council and <b>West Lothian Licensing Board</b> |

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| 5. Retention schedule                                    | ✓ | ✓ | The submitted business classification includes retention periods for record types and identifies vital records. As further evidence, a separate retention schedule folder has been submitted broken down into 26 services along with plentiful examples of the guidance on managing records given to local records management officers in service areas.                          |
| 6. Destruction Arrangements<br><i>Compulsory element</i> | ✓ | ✓ | Destruction certificates and contracts supplied as evidence. Destruction certificates are scanned into EDRMS. Guidance for staff regarding the destruction of records was also supplied, as was sample destruction authorisation certificates. Proof has been provided that WLC has a robust system for the appropriate destruction of electronic back-ups (see element 10 below) |
| 7. Archiving and Transfer<br><i>Compulsory element</i>   | ✓ | ✓ | Archives and Records Management Policy published. Transfer procedures 'Archives Consignment Procedures' has been supplied as evidence.  |
| 8. Information Security<br><i>Compulsory element</i>     | ✓ | ✓ | Published policies – especially information handling and information security – provided as evidence  |
| 9. Data Protection                                       | ✓ | ✓ | Full explanation and ICO registration number given in plan. Further DP policy document also available.  |
| 10. Business Continuity and Vital Records                | ✓ | ✓ | Sample recovery plan and business continuity evidence supplied. Vital records indicated in business classification.<br>A routine back-up of electronic records is in place to support business continuity.  |
| 11. Audit trail  | ✓ | ✓ | Policies/guidance for paper records supplied as evidence. Screenshots from EDRMS supplied as evidence of version control.   |
| 12. Competency Framework for                             | ✓ | ✓ | There is good evidence of information management training   |

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| records management staff  |   |   | including examples of training videos in such topics as 'How to save e-mail to the File Plan'. Formal records management job outline and EDRMS project roles have been supplied.   |
| 13. Assessment and Review | ✓ | ✓ | Full explanation and governance structure given. Senior Officer sign off of this statement is appropriate evidence. There is evidence that the records management processes in WLC are reviewed annually and are subject to WLC internal audit. Local service area improvement plans have been submitted in evidence and show some projects still to be completed. |
| 14. Shared Information    | ✓ | ✓ | Appropriate Data Sharing Code of Practice is in place and published.   |

## 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 **West Lothian Council** and **West Lothian Licensing Board**. Policies and governance structures are in place to implement the actions required by the plan. Many of these policies are available for public scrutiny through the West Lothian Council website.

### Further comments

#### **Third Parties**

Some **Functions** of West Lothian Council are contracted out to third parties or arms length bodies. Clause 44.2 in the document entitled 381095 - Terms and Conditions which was submitted as evidence for element 14 sets out third party's contractual obligations if they are undertaking functions on behalf of the council. This makes it clear that WLC expects third parties to appropriately manage the records they create, with regard to the function they are undertaking on behalf of the council.

#### **Local Records Management 'Champions'**

Responsibility for implementation this RMP, lies with heads of each service area. The Keeper understands that local officers in these service areas are charged with maintaining the integrity of the file plan. The Keeper agrees that the use of local records management 'champions' is an efficient way of ensuring appropriate records management provision in a large and complex organisation.

#### **West Lothian Council's Evidence Package**

A large evidence package has been supplied to the Keeper, much of which is for internal WLC staff use only, but which demonstrates that records management and information security are recognised as key business activities. Evidence includes instructions on how to save CCTV, the council policy on the use of Social Media, how the EDRMS system works (in detail), the procedure for 'clearing out days' etc. The evidence package also includes local improvement plans 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'. Evidence of the process by which the submitted plan was created has been submitted in the form of 'PRSA Reporting Model (RAG Status Report) and project plan', all this is welcome and to be commended.

#### **EDRM**

Much of the WLC records management plan hangs on the use of an EDRMS and the appointment of RM champions in each service area. The Keeper has been provided with details of the EDRMS and is satisfied that it is appropriate as an electronic document management system.

### Training

All staff members undergo records management training. Each service area (if over 80 staff) has an appointed trainer although this is principally for the operation of the EDRMS. It is possible that training on the requirements of PRSA will be developed. The Keeper would be happy to review this before it is rolled out if that would be considered helpful.

### Sharing Experience

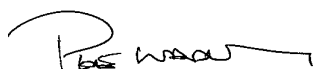
Finally, WLC has submitted a 72 page *Records Management Plan Evidence List* as part of its evidence package to the Keeper. This document represents a considerable piece of work on behalf of the council and would be an excellent resource for other large authorities undergoing this process. While the Keeper understands that it may not be deemed appropriate for this document to be published on the council's public-facing website, he wonders if there is some mechanism by which WLC would allow it to be circulated to other scheduled authorities. This is, of course, a matter for consideration by WLC only, and the Keeper will not make this document, or any other part of the evidence package available to any party outside the PRSA assessment team staff of NRS without the council's express permission.

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **AGREES** the RMP of **West Lothian Council** and **West Lothian Licensing Board**.

- The Keeper recommends that **West Lothian Council** and **West Lothian 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,



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

.....  
**Robert Fotheringham**  
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 **West Lothian Council** and **West Lothian Licensing Board**. In agreeing this RMP, the Keeper expects **West Lothian Council** and **West Lothian Licensing Board** to fully implement the agreed RMP and meet its obligations under the Act.



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