

Public Records (Scotland) Act 2011

Scottish Prison Service (Part of Scottish Ministers) Assessment Report

The Keeper of the Records of Scotland

23 September 2014

Contents

1. Public Records (Scotland) Act 2011 3
2. Executive Summary 4
3. Authority Background 4
4. Assessment Process 5
5. Model Plan Elements: Checklist 6
6. Keeper’s Summary 15
7. Keeper’s Determination 15
8. Keeper’s Endorsement 16

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 the **Scottish Prison Service (Part of Scottish Ministers)** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **3rd February 2014**.

The assessment considered whether the RMP of the **Scottish Prison Service (Part of Scottish Ministers)** 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 the **Scottish Prison Service (Part of Scottish Ministers)** complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

The Scottish Prison Service (SPS) is an Agency of the Scottish Government and was established in 1993. The purpose of the Service is to maintain secure custody and good order within prisons, whilst caring for prisoners with humanity and delivering opportunities which give the best chance to reduce reoffending once a prisoner returns to the community. SPS has 13 publicly managed prisons and 2 privately managed prisons. These prisons are managed by the Chief Executive who chairs an internal board which comprises Non-Executive Directors appointed by Scottish Ministers and Executive Directors. The Executive Board supports the Chief Executive in providing leadership, direction and control.

<http://www.sps.gov.uk/home/home.aspx>

N.B. The Scottish Prison Service (SPS) appears on the schedule to the Public Records (Scotland) Act 2011 under the umbrella body ‘Scottish Ministers’. However, SPS have chosen to submit their records management plan separately and the Keeper is entitled to consider and agree the plan in isolation from the rest of Scottish Ministers.

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 *[named public authority’s]* 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:

G	The Keeper agrees this element of an authority’s plan.		A	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.		R	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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**Scottish Prison Service
Part of ‘Scottish Ministers’
(Hereafter SPS)**

5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	G	G	<p>The Act permits several plans to be submitted from one scheduled authority. In this case the SPS submission is part of that for Scottish Ministers. It is our opinion that the Act allows for a separate part of Scottish Ministers to identify a different senior officer from that identified by the main Scottish Ministers plan.</p> <p>The Scottish Prison Service have named Catherine Topley, their Director of Corporate Services, as the individual who has ‘senior responsibility for all aspects of records management in SPS.</p> <p>The Keeper agrees that an appropriate person has been identified to take on the senior responsibility for the records management plan.</p>
2. Records Manager <i>Compulsory element</i>	G	G	<p>Allan Anderson, Head of Records Management has been identified as the individual with day-to-day implementation of the records management plan and this is specifically mentioned in his job description (dated January 2014) which has been supplied in evidence.</p> <p>The RMP specifically charges Mr Anderson with the items detailed in the <i>Action Plan</i> section. His job description commits Mr Anderson to deliver the records management improvement project (See element 4 below).</p>

			<p>The Keeper agrees that a suitable individual has been identified for the role of day-to-day implementation of the RMP.</p>
3. Policy <i>Compulsory element</i>	G	G	<p>SPS have submitted a records management policy statement that explains the importance of records to their business. It explains responsibilities of staff and the role of the SIRO. The policy is signed by Catherine Topley, SIRO.</p> <p>This is version 1.1 dated 29th August 2014 and approved by the executive group in September 2014. It was issued to staff as an action notice in September 2014.</p> <p>The SPS records management policy includes a section on information security and on staff training.</p> <p>The policy indicates that it applies to any third party carrying out the function of SPS (See <i>Third Parties</i> under <i>General Comments</i> below).</p> <p>The Keeper agrees that SPS has an approved and operational <i>Records Management Policy</i> as required by the Act.</p>
4. Business Classification	A	A	<p>SPS have a draft business classification scheme that covers the operation of the authority under 13 top level functions. The BCS is divided by Function, activity and process. This business classification is being rolled out through the various SPS sites. The Keeper requires regular updates on the progress of this project.</p> <p>The layout of a BCS must remain a business decision for an authority but the Keeper acknowledges that a functional scheme as used by SPS is currently considered best practice.</p> <p>The introduction to the BCS document explains the rationale behind this decision.</p>

			<p>The Keeper commends this explanation.</p> <p>See <i>Third Parties</i> under General Comments below.</p> <p>The Keeper agrees this element of SPS’s RMP on ‘improvement model’ terms. This means that he is convinced of the authority’s commitment to implement the business classification fully over time, but would request that he is updated as this project progresses.</p>
5. Retention schedule	A	A	<p>SPS has a retention schedule that is not fully developed across all functions of the business (submitted as E08). However, the RMP and the Head of Records Management Job Description show a clear commitment to close this gap.</p> <p>Positive statements such as ‘minimum retention periods <u>will</u> be defined...’ encourage the Keeper to believe that action will be forthcoming to develop the retention schedule so that it covers the entire operation of the Scottish Prison Service.</p> <p>The Keeper agrees this element of SPS’s RMP on ‘improvement model’ terms. This means that he is convinced of the authority’s commitment to implement the retention fully over time, but would request that he is updated as this project progresses.</p>
6. Destruction Arrangements <i>Compulsory element</i>	G	G	<p>Staff instructions in the form of a Governors and managers bulletin have been supplied showing proper recognition of the importance of secure destruction (evidence 09). This document refers to paper records and to IT hardware. The Keeper commends this document.</p> <p>Paper Records are destroyed either in house or in bulk by an external contractor ‘Shred-it’ The Keeper has been provided with proof that this contract is in place.</p>

			<p>Electronic records have an automatic destruction schedule imposed by the EDRM system and retention schedule.</p> <p>Hardware is disposed of by a third party 'TES-AMM Europe'. This is also mentioned in the suite of information security policies submitted as evidence as E13. The Keeper has seen evidence of this arrangement.</p> <p>In its statement regarding business continuity (element 10) SPS says: 'All records and data held on the SPS IT network are subject to regular back up and associated recovery procedures'. SPS have provided a statement describing how back up electronic data for the purposes of disaster recovery. In this statement the processes for overwriting back-up tapes are explained.</p> <p>The Keeper agrees that SPS has properly considered the irretrievable destruction of records as required by the Act.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p>A</p>	<p>A</p>	<p>SPS actively transfer records to the National Records of Scotland. However, this long-standing arrangement is not supported by a formal agreement and appears to exist on a prison by prison basis. The Keeper would wish to create a memorandum of understanding with SPS that applies to all sites. SPS do have informal arrangements in place to deposit records for permanent preservation.</p> <p>SPS has submitted a draft Archives Guidance policy.</p> <p>There is a commitment in the RMP to engage in discussions with the Keeper regarding archiving and that a more detailed policy will be developed.</p> <p>Even though the current arrangement is quite informal, the Keeper is willing to agree this element of the SPS plan on the understanding that steps will be taken to formalise these procedures with his client managers.</p>

8. Information Security <i>Compulsory element</i>	G	G	<p>SPS has a set of policies relating to information security which have been supplied to the Keeper (as E13).</p> <p>The information security policy 10A-12, dated 2012, deals with the secure destruction of documents and IT hardware.</p> <p>Each prison has a dedicated Information Security Officer, with an information governance forum meeting regularly.</p> <p>The RMP has been signed by Catherine Topley, Senior Information Risk Officer (SIRO) for the Scottish Prison service.</p> <p>Security issues are brought to the attention of SPS staff through 'Info Flash' messages. SPS has provided the Keeper with examples of these messages.</p> <p>It is SPS stated policy that information security training will be made available to all staff. In order to meet this requirement SPS has installed the Cabinet Office Protecting Information e-learning course on the SPS eLearning platform. SPS staff are required to undertake training on protecting information and then take bi-annual refreshers.</p> <p>The SPS records management policy includes a section on information security and on staff training.</p> <p>The Keeper agrees that the Scottish Prison Service properly considers information security.</p>
9. Data Protection	G	G	<p>SPS have submitted their <i>Data Protection Policy</i> as staff action notices.</p>

			<p>SPS has been registered with the Information Commissioner's Office since February 2005. The Registration Number is Z8921638.</p> <p>The Information Commissioner audited SPS in 2012 (published 2013). The audit has been provided to the Keeper and it would appear that SPS properly consider the security of information. Staff are issued with guidance on how to process subject access requests and this guidance has been shared with the Keeper.</p> <p>SPS staff are required to undertake training on protecting information and then take bi-annual refreshers.</p> <p>Guidance is in place for staff on how to respond to subject access requests. Guidance and a SAR request form are available on the SPS website. http://www.sps.gov.uk/FreedomofInformation/SubjectAccess.aspx.</p> <p>The Keeper agrees that SPS are aware of their responsibilities under the Data Protection Act 1998.</p>
<p>10. Business Continuity and Vital Records</p>	<p>A</p>	<p>A</p>	<p>In its statement regarding business continuity (element 10) SPS says: 'All records and data held on the SPS IT network are subject to regular back up and associated recovery procedures'.</p> <p>Several policy documents have been submitted in evidence that IT recovery is firmly in place throughout the various systems operated by SPS. The Keeper agrees that SPS has proper systems in place to recover its electronic information from a 'disaster'.</p> <p>However, the continuity plans for those record series that are held solely on paper has not yet been fully developed. The Keeper agrees that there is a commitment to do this as the terms in the action plan are positive 'plans will be developed'.</p>

			<p>The Keeper agrees this element of the Scottish prison service RMP on ‘improvement model’ terms. This means that he is convinced of the service’s commitment to implement the continuity plan fully over time, but would request that he is updated as this project progresses.</p>
11. Audit trail	G	G	<p>The SPS <i>Records Creation and Maintenance Guidance</i> document (submitted as E05) sets out staff instructions on the naming and storage of records with a mind to their future discovery.</p> <p>SPS have also submitted a document <i>Audit Trail</i> (E26) which explains the necessity for robust tracking of records and how this will be facilitated by the retro scanning of paper documents and the automatic functionality of SharePoint.</p> <p>SPS headquarters operates a registry system for the issuing of files. Metadata regarding paper files is logged in SharePoint.</p> <p>The Keeper agrees that audit trail provisions are in place.</p>
12. Competency Framework for records management staff	G	G	<p>The Head of Records Management job description has been supplied to the Keeper as evidence of the appropriateness of Mr Anderson’s appointment to implement the SPS RMP. This document, dated January 2014, includes a reporting structure and the development of the records management procedures required to close the gap in provision highlighted by the maturity model programme (See element 4 above). The job description specifically mentions the implementation of records management policies.</p> <p>SPS are developing records management competencies (evidence 28) which the Keeper considers to be appropriate to the role of implementing the RMP. He requires an updated version when these competencies are approved.</p>

			<p>SPS staff are required to undertake training on protecting information and then take bi-annual refreshers.</p> <p>The <i>SPS Records Management Policy</i> includes a section on information security and on staff training. However, see element 3 above.</p> <p>The Keeper agrees that the person named in Element 2 as having operational responsibility for SPS's RMP has the appropriate skills and objectives to undertake this role.</p>
13. Assessment and Review	G	G	<p>The Records Management Plan, the Head of Records Management Job Description, and the SPS Records Management Policy will all be reviewed in January 2015 and January 2016 and thereafter every two years.</p> <p>As Evidence SPS has submitted its Records Management Maturity Model (Evidence 29), which shows how SPS intends to comply with the provisions of its RMP.</p> <p>The Keeper agrees that proper consideration of the periodic assessment of records management policies is in place at SPS.</p>
14. Shared Information	G	G	<p>SPS Operate data sharing under the <i>Information Commissioners Data Sharing Code of Practice</i>: http://ico.org.uk/Global/~media/documents/library/Data_Protection/Detailed_specialist_guides/data_sharing_code_of_practice.ashx</p> <p>A sample agreement has been provided to the Keeper.</p> <p>Staff guidance in data sharing has been supplied in the form of a Governors and Managers bulletin.</p> <p>The Information Commissioner audited SPS in 2012 (published 2013) and</p>

			<p>acknowledged that 'Information Sharing Agreements (ISAs) follow a standardised template, are signed off at a senior level and are uploaded to the intranet site.'</p> <p>The text of the RMP refers to a 'SPS information sharing agreement template'. The Keeper has been provided with a copy of this template.</p> <p>The Keeper agrees that SPS properly considers records governance when undertaking data sharing projects.</p>
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General Comments including concerns:

The assessed records management plan is version, 1 approved by Catherine Topley in January 2014, supported by later evidence.

Third Parties

The SPS contracts out functions to third parties. Specifically they have contractual arrangements with two private prisons. Minutes of agreement with these prisons have been provided. The agreements ensure that the two privately run prisons are contractually obliged to comply with all SPS records management policies and procedures.

Progress

Much of the SPS records management plan is a work in progress and as such the Keeper would wish to see evidence that the issues raised in the 'Action Plan' are being pursued. He notes that one of the Head of Records Management's objectives (listed in the job description – see element 12 above) is to provide SPS senior management with progress reports. He thanks SPS for forwarding two of these reports and looks forward to following the development of the SPS record management provision.

6. Keeper's Summary

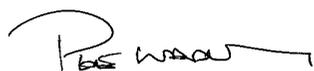
Elements 1 - 14 that the Keeper considers should be in a public authority records management plan have been properly considered by the Scottish Prison Service (part of Scottish Ministers). Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Scottish Prison Service (Part of Scottish Ministers)**.

- The Keeper recommends that the Scottish Prison Service (Part of Scottish Ministers) 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,

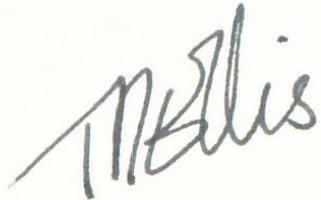


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Pete Wadley
Public Records Officer

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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 the **Scottish Prison Service (Part of Scottish Ministers)**. In agreeing this RMP, the Keeper expects the Scottish Prison Service 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