

Public Records (Scotland) Act 2011

Commissioner for Children and Young People in Scotland Assessment Report

The Keeper of the Records of Scotland

21st August 2015

Contents

1. Public Records (Scotland) Act 2011 3
2. Executive Summary 4
3. Authority Background 5
4. Assessment Process 6
5. Model Plan Elements: Checklist 7
6. Keeper’s Summary 19
7. Keeper’s Determination 19
8. Keeper's Endorsement.....20

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 **Commissioner for Children and Young People in Scotland** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **29th April 2015**.

The assessment considered whether the RMP of Commissioner for Children and Young People in Scotland 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 Commissioner for Children and Young People in Scotland complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

The Commissioner for Children and Young People in Scotland's main task is to promote and safeguard the rights of children and young people. The position was established by the Commissioner for Children and Young People (Scotland) Act of 2003. The Commissioner must review law, policy and practice relating to the rights of children and young people with a view to assessing their adequacy and effectiveness. Specific regard must be had to any relevant provisions of the United Nations Convention on the Rights of the Child, especially those requiring that the best interests of the child be a primary consideration in decision-making, and that due account be taken of the views of affected children and young people. After an investigation the Commissioner can make recommendations to the Scottish Parliament on what action they feel is deemed appropriate.

The Commissioner's duties apply to all children and young people under 18, and all children and young people up to 21 who have been in care or looked after by a local authority, and are living in Scotland.

<http://www.sccyp.org.uk/>

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 Commissioner for Children and Young People in Scotland’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.
----------	--	--	----------	--	--	----------	--

5. Model Plan Elements: Checklist

Commissioner for Children and Young People in Scotland (For simplicity described as 'The Commissioner' in this assessment)

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	G	G	<p>The Commissioner has identified Stephen Grounds, Head of Corporate Services, as the individual with overall responsibility for records management in the authority</p> <p>This is confirmed by a covering letter from Mr Grounds, dated 27th April 2015 and by section 5 of the <i>Information and Records Management Policy</i> (see element 3). That delegates responsibility from the Commissioner to the Head of Corporate Services.</p> <p>Mr Grounds sits on the Commissioner's Management Team.</p> <p>The Keeper agrees that the Commissioner has identified an appropriate individual to this role as required by the Act.</p>
2. Records Manager <i>Compulsory element</i>	G	G	<p>The Commissioner has identified Gillian Munro, Information Officer, as the individual with day-to-day responsibility for implementing the records management plan.</p> <p>This is confirmed by a covering letter from Mr Grounds (see element 1), dated 27th April 2015 and by the <i>Information Officer's Job Description and Person Specification</i></p>

			<p>(submitted as evidence 12.1) (see element 12). The Information Manager reports to the Head of Corporate Services.</p> <p>The Information Officer created the <i>Records Management Plan</i> (RMP), the <i>Records Management Policy</i> (see element 3) and the <i>Data Protection Policy</i> (see element 9). This shows that the individual identified at element 2 has an understanding of the records management provision in the authority.</p> <p>The <i>Operational Plan</i> supplied as evidence 13.1 shows that the Information Officer has responsibilities that include compliance with PRSA (and FOI and DP).</p> <p>The Keeper agrees that the Commissioner has identified an appropriate individual to this role as required by the Act.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The Commissioner has an <i>Information and Records Management Policy</i> submitted as evidence 3.1. This is the first version of this policy created by the Information Officer (see element 2) and approved by the Commissioner on 23rd April 2015.</p> <p>The <i>Policy</i> is supported by a covering letter from Mr Grounds (see element 1), dated 27th April 2015.</p> <p>The <i>Policy</i> is published on the Commissioner’s website at http://www.sccyp.org.uk/ufiles/Information-and-Records-Management-Policy.pdf it provides, at section 1, a good explanation of the value of good records management to the authority.</p> <p>The <i>Information and Records Management Policy</i> is available to the Commissioner’s staff on the website and on their document system ‘TRIM’.</p> <p>The Keeper agrees that the Commissioner has in place an authorised and</p>

			operational records management policy statement as required by the Act.
4. Business Classification	G	G	<p>Commissioner for Children and Young People in Scotland has a <i>Business Classification Scheme</i> which has been provided to the Keeper as evidence 4.1. This provides an overview of the functions of the Commissioner and the record types created during the activities the authority undertake to carry out those functions.</p> <p>The Commissioner’s classification scheme is based on a functional analysis of the business. This must remain a business decision for the Commissioner, but the Keeper acknowledges that a functional scheme is currently considered best practice.</p> <p>The Commissioner creates and holds records on an EDM system ‘TRIM’. However, evidential documents from other bodies are held on a separate ‘Filemaker’ system. Financial records are held on a third electronic system ‘Sage’. The Commissioner also creates and holds hard copy records. These are either scanned (see <i>Policy</i> page 6 for more) into one or other of the electronic systems or are maintained in paper format with metadata entered into TRIM to enable tracking (see element 11). This arrangement is explained in the text of element 6 (RMP page 9).</p> <p>The text against element 11 (RMP page 17) refers to difficulties tracking personnel records. These are very limited in number and held, hard copy, with the Head of Corporate Services (see element 1).</p> <p>Under ‘Action Required’ for this element the Commissioner commits to review the <i>Business Classification Scheme</i> after the full roll-out of the <i>Retention Schedule</i>. He has confirmed that any revised BCS will be forwarded to the Keeper in order that the submission can be kept up-to-date.</p> <p>The Keeper agrees that the Commissioner has a business classification scheme</p>

			that is available for appropriate staff.
5. Retention schedule	A	G	<p>The Commissioner is in the process of creating a retention schedule for the entire business and has, so far, rolled out that for the Finance and Investigation departments. The part retention schedule for these departments has been provided to the Keeper as evidence 5.1.</p> <p>The commitment to complete this project appears in the RMP at page 8 under 'Action Required'. RMP page 16 suggests that the new retention plan will feature vital records as a category. The timescale quoted for this work is June – October 2015. The Commissioner has confirmed that the Keeper will be informed when this action has been completed and when appropriate will be provided with a full retention schedule.</p> <p>Page 3 of the RMP is a statement from Tam Baillie, Scotland's Commissioner for Children and Young People. In this he states "The plan identifies a number of gaps in the provision of good records management; however it does make firm commitments to address them."</p> <p>The commitments above, combined with the Finance and Investigations 'pilot', can be taken as evidence that the Commissioner intends to introduce retention decisions for all record classes.</p> <p>The Keeper agrees this element of the Commissioner's Records Management Plan on 'Improvement Model' terms. This means that the Commissioner has acknowledged a gap in records management provision (the retention schedule is not imposed on all record types) and the Keeper has seen evidence that processes are in place to close that gap. In agreeing this element, the Keeper, requests updates on progress as they become available.</p>

<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p><u>Paper</u> : Paper records are securely destroyed under contract with Changeworks Recycling. A destruction certificate has been provided as evidence that this arrangement is in operation. TRIM is used to identify when paper records are due for destruction.</p> <p><u>Electronic</u> : Both TRIM and Filemaker operate secure disposal systems automatically. The destruction in TRIM will be applied directly from the retention schedule (when fully rolled-out – see element 5). The Filemaker system “contains an archiving component to enable the orderly disposal and destruction of records.”</p> <p><u>Hardware</u> : Records are purged from Hardware under contract with the Commissioner’s IT supplier Dunedin IT. Relevant pages from the contract with Dunedin IT have been supplied as Evidence 6.6</p> <p><u>Back-Ups</u> : <i>Business Continuity and Vital Records</i> page from the <i>Business Continuity Plan</i> (see element 10) makes it clear that back-up copies of records are kept for the purposes of business continuity. IT support company, Dunedin IT, are contracted to manage the Commissioner’s backup process. This is undertaken via a backup and recovery software solution, Storage Craft Product Suite. This solution enables onsite and offsite backups to automatically run and be deleted in line with the Commissioner’s retention cycle for backups. Details of the backup process, including the back-up cycle and record destruction is provided in section 2.6.3 of the <i>Information and Records Management Policy</i> (see element 3).</p> <p>The Keeper agrees that the Commissioner for Children and Young People in Scotland has arrangements in place to ensure the irretrievable destruction of records when appropriate, as required by the Act.</p>
--	-----------------	-----------------	--

<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The Commissioner has identified the National Records of Scotland as the repository to which they will transfer records selected for permanent preservation.</p> <p>The authority has a <i>Memorandum of Understanding</i> with the Keeper to support the transfer arrangements. This has been provided as evidence 7.1.</p> <p>The Keeper agrees that the Commissioner for Children and Young People in Scotland has appropriate archiving arrangements in place and that are with a suitable repository.</p>
<p>8. Information Security <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The Commissioner has an <i>Information Security Policy</i> which appears as Section 3 of the <i>Information and Records Management Policy</i>. It is available to the Commissioner's staff on the website http://www.sccyp.org.uk/ufiles/Information-and-Records-Management-Policy.pdf and on their internal document management system TRIM.</p> <p>The RMP (pages 12 -13) introduces the general security measures applied to public records including the use of locked cabinets for paper records, access controls on electronic systems and password protection for PCs. The RMP states particularly that "The principal electronic document and records management system, HP TRIM... users can only perform tasks necessary for their day-to-day work."</p> <p>The <i>Policy</i> is supported by a suite of information security guidance which has been supplied to the Keeper. For example the 'confidentiality' section of the <i>Employee Handbook</i> submitted as evidence 9.3</p> <p>Staff training on the requirements of data protection is provided (see element 9).</p> <p>The Keeper agrees that the Commissioner has an approved and operational information security policy, which is available to appropriate staff, as required by the</p>

			Act.
9. Data Protection	G	G	<p>The Commissioner has a <i>Data Protection Policy</i> which appears on his website: http://www.sccyp.org.uk/ufiles/data-protection-policy.pdf.</p> <p>The <i>Policy</i>, prepared by the Information Officer (see element 2) was approved by the Management Team in December 2014.</p> <p>The Commissioner is registered with the Information Commissioner (ref# Z8626786). By chance, this registration was due for renewal during this assessment. The Keeper is pleased to note from the ICO website that this was done.</p> <p>Subject access information is available on the Commissioner's website as part of the <i>Policy</i> and in a <i>Privacy Statement</i>: http://www.sccyp.org.uk/footer/privacy</p> <p>Page 3 of the RMP is a statement from Tam Baillie, Scotland's Commissioner for Children and Young People. In this he acknowledges the benefits of good record management for robust Data Protection Act compliance.</p> <p>Staff training on the requirements of data protection is provided (see element 12).</p> <p>The Commissioner is planning to create new staff guidance for processing subject access requests June – September 2015. The Commissioner has confirmed that he will forward the guidance when available, to keep the submission current.</p> <p>The Keeper agrees that the Commissioner has properly considered the authority's responsibility under the Data Protection Act 1998.</p>

<p>10. Business Continuity and Vital Records</p>	G	G	<p>The Commissioner has a <i>Business Continuity Plan</i>. The part of this policy that refers to records has been supplied to the Keeper as evidence 10.1. The Keeper thanks the Commissioner for providing this.</p> <p>The Policy refers to the recovery of ‘vital records’ in the event of a disaster. It also takes into account the relocation of the Commissioner’s office to new premises in November 2014.</p> <p>For back-ups see element 6</p> <p>Under the text of element 8 the Commissioner gives the Action Required: “Consider the option of server virtualisation during 2015-2016 to enhance our disaster recovery strategy...” The Commissioner will ensure that the Keeper is informed of any decision taken regarding server virtualisation.</p> <p>The submission includes an outstanding action to create a vital records list for the retention schedule (see element 5). The Keeper will be informed when this action has been completed.</p> <p>The Keeper agrees that the Commissioner has business continuity arrangements that acknowledge the importance of the recovery of records and that specifically refers to vital records.</p>
<p>11. Audit trail</p>	G	G	<p>The Commissioner has audit trail facilities for most electronic records which are kept on the TRIM system. TRIM provides access logs and imposes version control. The Commissioner’s paper records are also monitored on TRIM.</p> <p>Financial records are tracked on the Commissioner’s Sage system. This system has tracking functionality automatically available.</p>

			<p>The evidential records held on the Filemaker system are structured in such a way that they are easily searched and specific case work records identified.</p> <p>There is an action indicated in the <i>Plan</i> (page 18) to make small changes to improve the efficiency of the audit trail element as regards Filemaker. This is, of course, welcomed particularly as the Commissioner has committed to informing the Keeper when these changes are made. However, for the purposes of this element the Keeper is satisfied that the Commissioner can locate the current version of a record on the file maker system.</p> <p>The Keeper agrees that the Commissioner for Children and Young People in Scotland has procedures in place to ensure that the correct version of a record can be located.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>As a small organisation (16 staff) it is perfectly acceptable that the Information Manager (see element 2) is also the Records Manager and the Data Protection Officer.</p> <p>Ms. Munro is a member of the Information and Records Management Society.</p> <p>The Commissioner has provided the job description for the Information Manager which shows that she is properly authorised to undertake the implementation of the RMP.</p> <p>The RMP specifically states that the Commissioner “provides appropriate opportunities for training and development to support the Information Officer in fulfilling their records management responsibilities”. The Keeper commends this commitment.</p> <p>Staff training on the requirements of data protection is provided (see element 9).</p>

			<p>This is done at induction and thereafter annually.</p> <p>Records Management training for administrative staff should be created over the next year. The provision of this training is an objective of the <i>Records Management Policy</i> 1.3.1 (see element 3). The Commissioner has confirmed that he will provide the Keeper with these training materials when available.</p> <p>The Keeper agrees that the Commissioner has ensured that the individual identified at element 1 has the relevant skills and authority to undertake the role. Furthermore, the Keeper acknowledges that the Commissioner considers records management training for appropriate staff.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>The RMP includes a statement from the Commissioner (page 3) in which he commits to regularly review the plan. The RMP also carries a cover sheet showing that the plan is due for review in January 2016.</p> <p>The Information Manager (see element 2) is required to undertake a six monthly review of the RMP post-agreement and submit an annual report to the Management Team. This agrees with the Commissioner’s <i>Operational Plan 2015-2016</i> which states “The RMP to be reviewed every 6 months” evidence 13.1).</p> <p>This will be done with the support of the Head of Corporate Services (see element 1).</p> <p>This is confirmed by the <i>Information and Records Management Policy</i> (see element 3) section 6.</p> <p>The Commissioner makes the following statement: “A records management improvement plan will be implemented by the Information Officer and the Head of Corporate Services, who has overall strategic accountability for records</p>

			<p>management. This plan will initially focus on drawing together actions identified in appendix 1 of the RMP and NRS comments from the interim report. A meeting will be held every 4 weeks to review progress against the improvement plan. A follow up self-assessment of records management practices and procedures, using the ARMS framework will be completed in August 2016. This timescale will allow for the actions identified in the improvement plan to be undertaken and implemented.”</p> <p>The Keeper has previously endorsed the ARMS self-Assessment tool.</p> <p>The Keeper agrees that the Commissioner for Children and Young People in Scotland has installed a formal review procedure as part of their records management plan as required by the Act.</p>
<p>14. Shared Information</p>			<p>The Commissioner does not currently undertake any data sharing with third parties as a routine part of his function.</p> <p>The text of the RMP (page 21) indicates an understanding of information sharing records governance and gives a commitment to produce a code of practice towards the end of the year.</p> <p>The Commissioner has stated that “The information sharing code of practice will be forwarded to the Keeper when available.”</p>

Commissioner for Children and Young People in Scotland (For simplicity described as ‘The Commissioner’ in this assessment)

Version

This assessment is on the Records Management Plan dated April 2015 (revised 19 August 2015). This is V2 - revision 19 August 2015. V1 was prepared by the Information Officer (**see element 2**) and approved by the Management Team (which includes the Officer identified at element 1) on 27th April 2015. The plan is due for review in January 2016.

The responsible officer for the plan is the Head of Corporate Services, Stephen Grounds (**see element 1**). The RMP is supported by an endorsing letter from Mr. Grounds dated 27th April 2015 confirming the support of the Management Team, which includes Mr Grounds, for the plan. The RMP includes a statement from the Commissioner (page 3) which gives a good introduction of the value of records and commits to a regular review. The Commissioner also notes that “the plan identifies a number of gaps” and commits to close these gaps.

The Commissioner has submitted a single document containing the RMP and the supporting evidence. The Keeper has considered the entire submission when making his determination. However, legally, he can only agree the *Records Management Plan* section of the document (pages 1 – 26 and control sheet at end).

The RMP is based on the Keeper’s, 14 element Model Plan <http://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan>. Consideration has been given to the FOISA *Code of Practice on Records Management*.

Third Parties

No function of the Commissioner is contracted out to a third party. This is stated in the ‘Statement of Compliance’ for Element 3 (RMP, p.6).

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 Commissioner for Children and Young People in Scotland, although element 14 does not apply in this case.

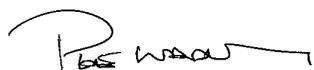
Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the Commissioner for Children and Young People in Scotland.

- The Keeper recommends that the Commissioner for Children and Young People in Scotland 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 the **Commissioner for Children and Young People in Scotland**. In agreeing this RMP, the Keeper expects Commissioner for Children and Young People in Scotland to fully implement the agreed RMP and meet its obligations under the Act.



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