

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

### **Community Justice Scotland**

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

**27<sup>th</sup> March 2019**

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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 Community Justice Scotland by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 5<sup>th</sup> October 2018.

The assessment considered whether the RMP of Community Justice 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 Community Justice Scotland complies with the Act can be found under section 7 of this report with relevant recommendations.

## **3. Authority Background**

Community Justice Scotland is the national body for community justice in Scotland. Launched on 1 April 2017 by the Community Justice (Scotland) Act 2016, their aim is to create a more robust and effective community justice system based on local planning and delivery by a range of statutory and other partners, supported and guided by national leadership and oversight. Community Justice Scotland is a non-departmental public body (NDPB) based in Edinburgh. However, it is a national body with responsibilities across the whole of Scotland.

Community Justice Scotland have an independent Board which provides governance and oversight of their activities and also provides arrangements to support and oversee planning, delivery and reporting.

Operationally Community Justice Scotland is led by a Chief Executive supported by an expert, professional and experienced team. As an executive NDPB, Scottish Government sets the strategic framework but Community Justice Scotland retains independence and carries out its duties without political interference.

## 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 Community Justice 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:

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|----------|--|--|----------|--|--|----------|--|
| <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<br><i>Compulsory element</i>  | <b>G</b> | <b>G</b> | <p>Community Justice Scotland have identified Karyn McCluskey, Chief Executive as the individual with overall responsibility for records management in the authority.</p> <p>This is confirmed by a <i>Covering Statement</i> contained in the Community Justice Scotland Records Management Plan (the <i>Plan</i>).</p> <p>The Chief Executive is the Senior Information Risk Owner (SIRO) for Community Justice Scotland.</p> <p>The Keeper agrees that Community Justice Scotland has identified an appropriate individual to this role as required by the Public Records (Scotland) Act 2011 (the Act).</p> |
| 2. Records Manager<br><i>Compulsory element</i> | <b>G</b> | <b>G</b> | <p>Community Justice Scotland have identified Dorothy Smith, Business Manager, as the individual with day-to-day responsibility for implementing the <i>Plan</i>.</p> <p>The drafting and reviewing of the <i>Records Management Plan</i> is specifically mentioned in the <i>Business Manager Job Description</i> which has been shared with the Keeper.</p> <p>The Keeper agrees that Community Justice Scotland has identified an appropriate individual to this role as required by the Act.</p>  |

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| <p>3. Policy Compulsory element</p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>Community Justice Scotland has adopted the <i>Records Management Policy</i> of the Scottish Government (version dated May 2015 supplied in evidence). As the authority's public records are held on the Scottish Government EDRM (<b>see element 4</b>), the Keeper agrees this is appropriate.</p> <p>The Keeper agrees that the <i>Plan</i> supports the objectives of the <i>Records Management Policy</i>.</p> <p>The Keeper accepts that, as it has been adopted from the Scottish Government, parts of the <i>Records Management Policy</i> used by Community Justice Scotland do not apply. The areas covering paper records for example.</p> <p>Community Justice Scotland have supplied a screen-shot showing how staff access this policy through its file plan on ERDM.</p> <p><b>The Keeper agrees that Community Justice Scotland have a records management policy statement as required by the Act.</b></p> |
| <p>4. Business Classification</p>   | <p><b>G</b></p> | <p><b>G</b></p> | <p>Community Justice Scotland's public records are entirely held in digital format on the Scottish Governments EDRM system (Objective).</p> <p>Community Justice Scotland commit to following the file plan of the Scottish Government, with which the Keeper is familiar. They state (<i>Plan</i> page 8): "The SG Business Classification Scheme aims to provide the framework for managing records and information. The scheme has four levels of classification, with the first three being subject based, the fourth describes the activity undertaken. Every file created has a specific retention and disposal attached to it." The Keeper agrees this description. The Keeper acknowledges that evidence of the operation of the SG EDRM has been supplied.</p>  |

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|                              |                 |                 | <p>The Keeper accepts that, as a fairly new authority, Community Justice Scotland does not have legacy records unaccounted for on Objective.</p> <p>Community Justice Scotland manage their e-mail using the Scottish Government Enterprise Vault system with which the Keeper is familiar.</p> <p>The Keeper agrees that Community Justice Scotland has a 'business classification scheme', in the form of the SG File Plan, that appropriately reflects the functions of the authority.</p>   |
| <p>5. Retention schedule</p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>Community Justice Scotland's public records are held on the Scottish Government's EDRM (<b>see element 4</b>) and are allocated retention decisions in line with those of that system.</p> <p>The <i>Plan</i> states "The retention periods are determined by statutory and legislative obligations, as well as business needs. The files created within eRDM have standard retention schedules that all SG and non-ministerial bodies use." (<i>Plan</i> page 9). The Keeper is familiar with the operation of the Scottish Government's system and of the allocation of retention decisions in that system. He agrees that it is appropriate. He furthermore accepts that, as a fairly new authority, Community Justice Scotland have no legacy public records that remain unaccounted for on Objective and therefore that no public records exists without retention decisions allocated. He acknowledges that retention actions are applied automatically in this particular EDRM system.</p> <p>The operation of a retention schedule is supported by the <i>Records Management Policy</i> (<b>see element 3</b>) – for example <i>Policy</i> page 5.</p> <p>The Keeper agrees that Community Justice Scotland have a retention schedule that allocates retention decisions to the record types expected of a public authority.</p> |



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| <p>6. Destruction Arrangements<br/><i>Compulsory element</i></p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>The <i>Records Management Policy</i> (<b>see element 3</b>) requires Community Justice Scotland to “Dispose of records that are no longer required in an appropriate manner.” (<i>Policy Objectives</i> page 2) and that “Information and records shall be retained only as long as they are required to support [the authority] in its business requirements and legal obligations.” (<i>Policy</i> page 5)</p> <p>With this in mind they have the following procedures in place:</p> <p><u>Paper (Internal)</u>: No public records are held in paper format. Working copies of digital originals are shredded by a third-party. Details of this arrangement, and evidence that it is operational, have been supplied to the Keeper.</p> <p><u>Paper (External)</u>: Community Justice Scotland does not store records with an external storage contractor.</p> <p><u>Electronic</u>: The records of the authority are held on the Scottish Government’s EDRM system which imposes automatic destruction against retention on all material (<b>see element 5</b>). The Keeper is familiar with this arrangement and agrees that it is appropriately secure and controlled.</p> <p><u>Hardware</u>: Destruction of hardware is controlled through a contract with NVT and the equipment is destroyed by CCL North. The Scottish Government maintain a list of all assets passed for destruction and receive a certificate of destruction detailing all equipment that has been destroyed.</p> <p><u>Back-ups</u>: The Scottish Government do daily incremental backups and then at the weekend full back ups are taken of the system. The backups are then kept for four weeks and are then destroyed and the information then becomes irretrievable.</p> |
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|  |          |          | The Keeper agrees that Community Justice Scotland has procedures in place to ensure the secure and irretrievable destruction of their public records when appropriate, as required by the Act.   |
| 7. Archiving and Transfer<br><i>Compulsory element</i> | <b>A</b> | <b>G</b> | <p>Community Justice Scotland has identified the National Records of Scotland (NRS) as the repository to which they will transfer records selected for permanent preservation.</p> <p>The identification of NRS as the fitting repository for records of archival value is supported by statements in the <i>Records Management Policy</i> (<b>see element 3</b>). For example under ‘scope’ page 1 or ‘Disposal’ page 5.</p> <p>The Keeper notes that both in the main compliance text and in the ‘action required’ area of this element Community Justice Scotland commit to arranging a meeting with NRS client managers. He urges them to pursue this by contacting <a href="mailto:neil.miller@nrscotland.gov.uk">neil.miller@nrscotland.gov.uk</a></p> <p><b>The Keeper agrees this element of Community Justice Scotland’s <i>Records Management Plan</i> under ‘improvement model’ terms. This means that he acknowledges that the authority has identified a gap in provision (there is no formal transfer agreement with the archive) and have put processes in place to close that gap. The Keeper’s agreement is conditional on his PRSA Assessment Team being provided with a copy of the signed MOU when available. Community Justice Scotland have acknowledged this and will pursue.</b></p> |
| 8. Information Security<br><i>Compulsory</i>           | <b>G</b> | <b>G</b> | Community Justice Scotland’s public records are held on the Scottish Government’s EDRM system Objective. The security protocols of the Scottish Government are therefore imposed on these records including the secure ‘Scots Connect’ service.  |

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| <p><i>element</i></p>     |                 |                 | <p>The Keeper has seen documentary evidence of the arrangement between Community Justice Scotland and the Scottish Government. The Keeper is familiar with, and has agreed, the information security practices of the Scottish Government.</p> <p>Locally, Community Justice Scotland has arrangements for the secure handling of working-copy paper records (the formal corporate record is digital) such as a <i>Clear Desk Policy</i> (provided) and confidential waste destruction procedures. The Keeper has had sight of these and agrees them as appropriate.</p> <p>Community Justice Scotland have supplied a screen-shot showing how staff access this policy through its file plan on ERDM.</p> <p>The Keeper agrees that Community Justice Scotland have arrangements in place to ensure the security of their public records as required by the Act.</p>                             |
| <p>9. Data Protection</p> | <p><b>G</b></p> | <p><b>A</b></p> | <p>The public records of Community Justice Scotland are entirely digital and held on the Scottish Government's EDRM system. Records containing personal information are covered by the security embedded in that system.</p> <p>However, Community Justice Scotland remains a data controller and is required to manage subject access requests.</p> <p>They have, quite reasonably, chosen to create their own bespoke Data Protection Policy rather than just adopting that of the Scottish Government. The Keeper agrees this in principle as liable to encourage staff engagement and for the benefit of the authority's stakeholders. He would recommend that the Data Protection Policy, and details of how a subject access request can be made, are posted to the Community Justice Scotland website.</p> <p>In response to GDPR/DP2018 a number of procedures have been put in place</p> |

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|  |                 |                 | <p>some are being developed (a screen-shot of the authority's GDPR folder in ERDM has been provided to the Keeper to show that progress is being made. The new <i>Data Protection Policy</i> will be submitted to the Community Justice Scotland Board for their approval in April . Community Justice Scotland have committed to supply the Keeper with a copy of this policy once it is formally signed off by the Board.</p> <p><b>The Keeper agrees this element of Community Justice Scotland's records management plan under 'improvement model' terms. This means that the authority has identified a gap in provision (the <i>Data Protection Policy</i> is not authorised), but the Keeper acknowledges that processes are in place to close that gap. The Keeper's agreement is conditional on his being updated when appropriate.</b></p>  |
| <p>10. Business Continuity and Vital Records</p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>Community Justice Scotland have a <i>Business Continuity Plan</i> which has been shared with Keeper. This is the version dated July 2018. The Keeper agrees this includes the recovery of records (through the Scottish Government).</p> <p>The Keeper is familiar with the record recovery process from the Scottish Government EDRM and agrees that they are appropriate:</p> <p>SCOTS main data centre is housed in the Scottish Government building at Saughton House. All Scottish Government electronic data and software applications are stored in this data centre and are simultaneously replicated at a disaster recovery centre based in Lanarkshire. In event of a disruption to the service in the Edinburgh data centre, the SG IT systems automatically switch to use the Lanarkshire disaster recovery data centre. No physical backup copies of electronic data are taken and stored, for example on magnetic tapes or CDS, and no SG electronic data is stored outside the servers in the these two data centres.</p> <p>The <i>Records Management Policy</i> (see element 3) states as one of its objectives the</p> |

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|                        |                 |                 | <p>protection of vital records (<i>Policy</i> page 2).</p> <p>The Community Justice Scotland <i>Business Continuity Plan</i> is available to all staff on ERDM (a screen-shot has been provided). Key personnel have both an electronic and hardcopy of the <i>Business Continuity Plan</i> which is tested annually.</p> <p>The Keeper agrees that Community Justice Scotland has processes in place to ensure the recovery of public records in an emergency.</p>  |
| <p>11. Audit trail</p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>In her <i>Covering Statement</i> which form part of the <i>Plan</i>, Karyn McCluskey, Community Justice Scotland’s CEO states that the organisation “seeks to create and manage all records efficiently...make them accessible when needed...” (<i>Plan</i> page 3)</p> <p>The Scottish Government’s EDRM on which all Community Justice Scotland’s public records are held has a document tracking/audit trail function.</p> <p>The Keeper has been provided with evidence that Community Justice Scotland uses the SG EDRM. This is also confirmed in the <i>Records Management Policy</i> (for example page 3) (<b>see element 3</b>).</p> <p>The Keeper is familiar with the operation of this system and agrees it is appropriate for the records management requirements of Community Justice Scotland.</p> <p>As Community Justice Scotland uses the SG records management system ERDM, it is required to adhere to the SG procedures, therefore they have 2 Information Management Support Officers (IMSOs), the Business Manager (see element 2) and the Business Team Leader. The IMSOs will approve a new folder request and this is sent to SG records management team who will add the folder in the Community Justice Scotland file plan (see element 4).</p> |

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|  |                 |                 | <p>Community Justice Scotland use SG guidance on naming conventions which have been provided in evidence.</p> <p>All staff a required to complete online training before access is given to ERDM (screen-shot of ERDM training provided).</p> <p>The Keeper agrees that Community Justice Scotland has processes in place to locate its records and identify the correct version of a record when located.</p>  |
| <p>12. Competency Framework for records management staff</p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>The <i>Business Manager Job Description</i> (supplied) confirms that Dorothy Smith is responsible for “Monitoring, reviewing, drafting and redrafting existing corporate policy documents; including ...Records Management Plan...”</p> <p>The Keeper agrees that for an organisation of the size of Community Justice Scotland (particularly where its public records are held entirely on the Scottish Government EDRM) it is not necessary for the individual identified at element 2 to be a professional, full-time records manager.</p> <p>The Keeper acknowledges that she has been trained on the use of the Scottish Government EDRM system.</p> <p>The <i>Plan</i> commits Community Justice Scotland as follows: “Any staff changes will not invalidate this plan as all records management responsibilities will be transferred to the incoming post holder and relevant training provided”. The Keeper agrees this principle.</p> <p>The <i>Covering Letter</i> from the authority’s Chief Executive which forms part of the <i>Plan</i> shows a clear commitment to training for all staff as appropriate and that “Supporting procedures and guidance are provided to staff to encourage compliance.” (<i>Plan</i> page 3).</p> |

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|  |                 |                 | <p>Community Justice Scotland have adopted the <i>Records Management Policy</i> of the Scottish Government (<b>see element 3</b>). It states (page 5): "...staff must be appropriately trained so they are aware of their responsibilities as individuals with respect to record keeping and management and that they are competent to carry out their designated duties. This should include training in the use of eRDM. It should be done through generic and specific training programmes, complemented by organisational policies and procedures and guidance documentation".</p> <p>All employees are required to complete mandatory annual e-learning training regarding protecting information and data protection, to ensure there is an awareness of the importance of data security and associated risks (Plan page 12).</p> <p>The Keeper has seen a screen-shot of the mandatory training required by Community Justice Scotland staff and agrees it includes an appropriate information governance element.</p> <p>The Keeper has also been provided with a copy of the <i>Community Justice Scotland New Entrant Induction Plan</i> he agrees this includes training on the EDRM records management system, on Freedom of Information and on Data Protection (<b>see element 9</b>).</p> <p>The Keeper agrees that the individual identified at element 2 has the relevant support and authority to fulfil the role and that relevant training is provided for all staff.</p> |
| <p>13.<br/>Assessment<br/>and Review</p> | <p><b>G</b></p> | <p><b>G</b></p> | <p>The Act requires a scheduled public authority to "keep its records management plan under review" (part 1 5.1 (a)).</p> <p>Reviewing the <i>Records Management Plan</i> is specifically mentioned in the <i>Business</i></p>   |

|                        |            |            |   |
|------------------------|------------|------------|---|
|                        |            |            | <p><i>Manager Job Description</i> which has been shared with the Keeper.</p> <p>Community Justice Scotland state “The Scottish Government Records Management Plan is formally reviewed on an annual basis CJS will be led by this any associated documents relating to the Plan will be reported to CJS and any updates will be signed off as authorised to ensure compliance with the Public Records (Scotland) Act 2011.” As much of the <i>Plan</i> rests on systems and policies provided by the Scottish Government (such as the <i>Records Management Policy</i>) this arrangement seems appropriate.</p> <p>Implementation of the <i>Plan</i> is a standing agenda item in Community Justice Scotland’s Senior Management Team meetings. The Keeper commends this.</p> <p>Community Justice Scotland commit to review the <i>File Plan</i> every six months to ensure that it reflects current business.</p> <p>The <i>Business Continuity Plan</i> will be fully tested at least annually.</p> <p>The <i>Data Protection Policy</i> has a scheduled review date of April 2019 (<b>However see element 9 above</b>).</p> <p>The Keeper agrees that Community Justice Scotland have processes in place to keep the <i>Plan</i> under review as required by the Act.</p> |
| 14. Shared Information | <b>N/A</b> | <b>N/A</b> | <p>Community Justice Scotland does not currently undertake data sharing exercises with other organisations. CJS is familiar with the Information Commissioner's Data Sharing Code of Practice and would apply this in relevant circumstances. (<i>Plan</i> page 18).</p>  |



## General Notes on RMP, Including Concerns:

### Version:

This assessment is on the *Records Management Plan* (the *Plan*) of Community Justice Scotland dated October 2018.

The *Plan* includes a *Covering Statement* from Karyn McCluskey, Chief Executive of Community Justice Scotland (**see element 1**) dated October 2018.

Community Justice Scotland acknowledge records as a business asset (for example *Plan* page 12 or *Records Management Policy* Introduction). The Keeper commends this recognition.

The *Plan* 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>

### Third Parties:

The Act makes it clear that records created by a contractor in carrying out a scheduled authority's functions are public records (Part 1 section 3.1 (b)).

The authority has confirmed that they do not contract out any of its functions to a third party.

## 6. Keeper's Summary

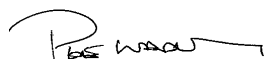
Elements 1 - 14 that the Keeper considers should be in a public authority records management plan have been properly considered by Community Justice Scotland. Policies and governance structures are in place to implement the actions required by the plan.

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of **Community Justice Scotland**.

- The Keeper recommends that Community Justice 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 Community Justice Scotland. In agreeing this RMP, the Keeper expects Community Justice Scotland to fully implement the agreed RMP and meet its obligations under the Act.



.....  
**Paul Lowe**  
Keeper of the Records of Scotland