

Public Records (Scotland) Act 2011

**David MacBrayne Ltd (registered number SC015304)
Assessment Report**

The Keeper of the Records of Scotland

21st July 2015

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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 **David MacBrayne Ltd (registered number SC015304)** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 12th March 2015.

The assessment considered whether the RMP of David MacBrayne Ltd 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 David MacBrayne Ltd complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

David MacBrayne Limited, which is wholly owned by Scottish Ministers, is the parent company of the David MacBrayne Group. The Group's principal subsidiary is CalMac Ferries Limited, which operates the Clyde and Hebrides ferry services. In addition, the passenger-only Gourock/Dunoon ferry service is operated by another subsidiary, Argyll Ferries Limited. These services are provided under public service contracts with the Scottish Government, for which a grant is received.

<http://www.david-macbrayne.co.uk/>

N.B. The schedule to the Public Records (Scotland) Act 2011 lists the Scottish public authorities that are required to submit records management plans for the Keeper of the Records of Scotland's agreement. The schedule is very specific that the authority in this case is David MacBrayne Ltd (registered number SC015304). The Keeper's agreement is with the

business that has that registration number, not with CalMac Ferries or Argyll Ferries or any part of the David MacBrayne Group that has a separate company registration.

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 David MacBrayne Ltd’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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5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	G	G	<p>David MacBrayne Ltd. Have identified Robbie Drummond, Finance Director as the individual with overall responsibility for records management in the authority.</p> <p>This is confirmed by a <i>Statement Relating to Responsibility for Records Management</i> from Martin Dorchester, Chief Executive (evidence 1). It is also confirmed by a <i>Covering Letter</i> from Mr Drummond (evidence 25).</p> <p>The RMP shows the responsible officer for Mr Drummond’s appointment is the Chief Executive.</p> <p>Mr Drummond is also responsible for high level oversight of Freedom of Information and Data Protection in the authority.</p> <p>Mr Drummond is responsible for the destruction of records in the authority and for information security (see elements 6 and 8).</p> <p>The Keeper agrees that David MacBrayne Ltd. have identified an appropriate individual to undertake this role as required by the Act.</p>
2. Records Manager <i>Compulsory element</i>	G	G	<p>David MacBrayne have identified Alan Redhead as the individual with day-to-day responsibility for records management in the authority.</p> <p>Mr Redhead’s appointment is confirmed by a <i>Statement Relating to Responsibility for Records Management</i> from Martin Dorchester, Chief Executive (evidence 1).</p>

			<p>Alan Redhead also has responsibility for Freedom of Information and Data Protection in David MacBrayne Ltd.</p> <p>David MacBrayne Ltd. are currently unable to provide person specific objectives or a job description for Mr Redhead but the <i>Records Management Policy</i> (see element 3) makes clear that the Records Manager is responsible for Guidance, coordinating issues and ensuring each department engages with records management. See element 12 for more on the steps the authority is taking in this issue.</p> <p>The Keeper agrees that David MacBrayne Ltd have identified an appropriate individual to take on this role , as required by the Act.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The introduction to the RMP at 1.2 (page 4) commits David MacBrayne Ltd. to having a <i>Records Management Policy</i>. The Policy has been provided to the Keeper as evidence 2. It is dated 17 February 2014.</p> <p>This policy is authorised by David MacBrayne’s Chief Executive.</p> <p>The <i>Records Management Policy</i> is supported by a separate <i>Information Management Policy</i> which has also been provided to the Keeper (evidence 6).</p> <p>The <i>Records Management Policy</i> contains sections on retention and disposal (see elements 5 and 6), vital records; (see element 10), archive material (see element 7) and review and revision (see element 12).</p> <p>Policies are available to staff on their intranet ‘Gangway’. A screen shot showing the information management front page has been provided to the Keeper as evidence 27.</p>

			<p>Staff have to acknowledge they have read the relevant policies (such as this one) before they can access the corporate records system.</p> <p>The Keeper agrees that David MacBrayne Ltd has an approved and operational records management policy as required by the Act.</p>
<p>4. Business Classification</p>	<p>A</p>	<p>G</p>	<p>The RMP lists 15 records management principles (page 4). These include the principle that records are stored within record keeping systems.</p> <p>David MacBrayne Ltd. operate a hybrid system of paper and electronic records. Regarding this, the RMP (page 5) states “All records management systems are subject to the records management policy, procedures and elements of this plan.”</p> <p>A full information audit is being carried out in David MacBrayne in order to develop a robust business classification. “The BCS is currently under development and is expected to be completed in late 2015” (RMP page 9). The Keeper agrees this timescale as reasonable.</p> <p>The above commitment is agreed by Mr Drummond (see element 1) in a <i>Covering Letter</i> submitted with the plan (evidence 25). In this letter he also commits the authority to update the Keeper on progress. This commitment is repeated in the RMP itself (RMP page 9).</p> <p>The Business Classification Scheme is being developed in conjunction with ‘representatives from all departments’. The Keeper commends the inclusion of different service areas in the development of a business classification as likely to create a stronger business tool. The Keeper has seen a sample of the survey form used in this development (evidence 26) and agrees that this seems a suitable way of collating the required information.</p>

			<p>The information survey conducted to inform the <i>Business Classification Scheme</i> will, in turn, help populate the vital records section of David MacBrayne’s business continuity arrangements (see element 10).</p> <p>David MacBrayne includes a commitment under this element to keep the Keeper informed of progress.</p> <p>The Keeper agrees this element of David MacBrayne’s RMP on ‘Improvement Model’ terms. This means that he acknowledges that an authority has recognised a gap in records management provision and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>
<p>5. Retention schedule</p>	<p>A</p>	<p>G</p>	<p>The RMP lists 15 records management principles (page 4). These include the principle that records should be managed by retention schedules.</p> <p>An information audit is underway (see element 4 above) and “retention schedules of the business will be identified and draft schedules will be developed” (RMP page 10). A copy of the survey form used to create the audit has been provided to the Keeper (evidence 26). This is a good indication of the process undertaken.</p> <p>The above commitment is agreed by Mr Drummond (see element 1) in a <i>Covering Letter</i> submitted with the plan. In this letter he also commits to update the Keeper on progress (evidence 25). The commitment to keep the Keeper up-to-date with progress is repeated in the RMP itself (page 10). The Keeper thanks David MacBrayne Ltd. for this commitment.</p> <p>The retention schedules when completed will be constantly assessed and formally reviewed annually.</p>

			<p>The <i>Records Management Policy</i> contains sections on retention and disposal (see element 3).</p> <p>The Keeper agrees this element of David MacBrayne’s RMP on ‘Improvement Model’ terms. This means that he acknowledges that an authority has recognised a gap in records management provision [lack of formal retention schedules] and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>A</p>	<p>G</p>	<p>David MacBrayne Ltd is in the process of creating a <i>Records Disposal Policy</i>. This is confirmed by a covering letter from Robbie Drummond (see element 1) submitted with the plan. David MacBrayne have also confirmed that this policy will be made available to staff on ‘Gangway’ (their Intranet). It is important that this is forwarded to the Keeper at the first available opportunity.</p> <p>Paper: Paper records are destroyed under contract with a third party shredding company. A customer service agreement, proving that these arrangements are operational, has been supplied as evidence 24 and 28.</p> <p>David MacBrayne Ltd destroys redundant electronic media using a contract with a third party. “Under the regulations [WEE], a SEPA approved contractor uplifts and destroys redundant IT equipment. A <i>System Outline</i>, explaining how these arrangements operate, has been provided to the Keeper as evidence 14, SEPA approval of the contractor has been provided as evidence 15.</p> <p>Electronic: The irretrievable destruction of electronic records will be covered by the <i>Records Disposal Policy</i> when available. This is confirmed by a covering letter from Robbie Drummond (see element 1) submitted with the plan.</p> <p>Back-ups: David MacBrayne keeps back-ups for business continuity reasons</p>

			<p>(through a third party). A statement explaining how these back-ups are destroyed/overwritten has been provided in a covering letter signed by Robbie Drummond (see element 1).</p> <p>The Keeper commends the identification of a senior staff member (see element 1) as the responsible officer for record destruction.</p> <p>The <i>Sample Contract</i> provided as evidence for element 14 (evidence 18) deals with back-ups in third parties (section 4).</p> <p>The Keeper can agree this element in Improvement Model terms on the condition that David MacBrayne Ltd. supply him with the <i>Records Disposal Policy</i> as soon as it is operational.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p>A</p>	<p>A</p>	<p>The RMP lists 15 records management principles (page 4). These include the principle that records identified as of historical significance are preserved.</p> <p>David MacBrayne Ltd. have identified the National Records of Scotland (NRS) as the repository for records of permanent value.</p> <p>An MOU with NRS is being negotiated at the time of assessment. This is confirmed by the Keeper's Client Managers.</p> <p>The Keeper requires a copy of the final, signed, MOU when available.</p> <p>The Keeper agrees that David MacBrayne Ltd. have identified a suitable repository for the permanent preservation of selected records. He can agree this element under 'Improvement Model' terms. This means that he accepts that the authority has identified a gap in provision (no formal agreement with the archive) and have put processes in place to close that gap. His agreement</p>

			is dependent on the approved MOU being provided when available.
8. Information Security <i>Compulsory element</i>	G	G	<p>The RMP lists 15 records management principles (page 4). These include the principle that records are appropriately secured.</p> <p>David MacBrayne Ltd. have supplied the Keeper with its <i>Information Security Policy</i> as evidence 4. This is dated 20 November 2013.</p> <p>This policy is authorised by David MacBrayne’s Chief Executive. Responsibility for this element rests with the Group Finance Director (see element 1).</p> <p>Policies are available to staff on their intranet ‘Gangway’. A screen shot showing the information management front page has been provided to the Keeper as evidence 27.</p> <p>Staff have to acknowledge they have read the relevant policies (such as this one) before they can access the corporate records system.</p> <p>David MacBrayne have provided the Keeper with their <i>Data Classification Rules</i> (evidence 20).</p> <p>The <i>Sample Contract</i> provided as evidence for element 14 (evidence 18) has a section of information security (section 4).</p> <p>The Keeper agrees that David MacBrayne Ltd has an approved and operational information security policy as required by the Act.</p>
9. Data Protection	G	G	David MacBrayne Ltd have a <i>Data Protection Policy</i> and this has been supplied to the Keeper as evidence 7.

			<p>David MacBrayne Ltd are registered with the Information Commissioner at Z9867148.</p> <p>David MacBrayne have committed to publish subject access information on their website and to inform the Keeper when this has been done. The Keeper thanks the authority for this consideration.</p> <p>Alan Redhead (see element 2) has responsibility for data protection in David MacBrayne Ltd.</p> <p>The RMP includes a commitment to train staff to “be aware of their obligations and responsibilities in dealing with personal data...” (page 14).</p> <p>The <i>Sample Contract</i> provided as evidence for element 14 (evidence 18) makes clear the data protection risks involved in information sharing (section 1).</p> <p>The Keeper agrees that David MacBrayne has properly considered its responsibility under the Data Protection Act 1998.</p>
<p>10. Business Continuity and Vital Records</p>	<p>A</p>	<p>G</p>	<p>The RMP lists 15 records management principles (page 4). These include the principle that records identified as vital are protected.</p> <p>A <i>Corporate Business Continuity Plan</i> with a supporting <i>Vital Records Policy</i> is currently being created in David MacBrayne Ltd. The <i>Corporate Business Continuity Plan</i> is expected in 2015 and the Keeper requests that he is provided with a copy, redacted as necessary. However, the Keeper would like to assure David MacBrayne that all documents submitted in evidence are held securely by NRS and access is strictly limited to the PRSA Assessment Team, the Head of Government Records and himself.</p>

			<p>Vital records are being identified as part of the information survey (see element 4) and will be included as part of the business continuity arrangements. The <i>Vital Records Policy</i> that will be created to support the <i>Business Continuity Plan</i> should be forwarded to the Keeper when available.</p> <p>The commitment to create the above documents is agreed by Mr Drummond (see element 1) in a <i>Covering Letter</i> submitted with the plan (evidence 25).</p> <p>The <i>Records Management Policy</i> contains a section on vital records (see element 3).</p> <p>The <i>Sample Contract</i> provided as evidence for element 14 (evidence 18) deals with disaster recovery (section 4).</p> <p>The Keeper agrees this element of David MacBrayne’s RMP on ‘Improvement Model’ terms. This means that he acknowledges that an authority has recognised a gap in records management provision (vital records not included in recovery plans) and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>
11. Audit trail	A	G	<p>The RMP lists 15 records management principles (page 4). These include the principle that records are easily accessible.</p> <p>David MacBrayne has staff guidance on naming conventions, which has been provided to the Keeper as evidence 19. The imposition of this guidance alongside the <i>Data Classification Rules</i> (see element 8) is likely to be vital in the development of document tracking facilities.</p> <p>David MacBrayne Ltd states (RMP page 16) that it does not have a corporate</p>

			<p>system in place which allows the tracking of records. A robust system for tracking and identifying records is dependent on developments in the <i>Business Classification Scheme</i> (see element 4) and <i>Retention Schedule</i> (see element 5). It is hoped that audit trail facilities will be in place, at the same time as the other elements, by the end of 2015. The Keeper accepts this target. However, the Keeper would suggest that issues such as staff training (recognised in the RMP on page 16) might delay the full implementation of this element until later. The Keeper will follow progress with interest.</p> <p>As with several other elements, the RMP contains a commitment to keep the Keeper up-to-date with progress. This is welcomed.</p> <p>The commitment to install a robust tracking system is agreed by Mr Drummond (see element 1) in a <i>Covering Letter</i> submitted with the plan (evidence 25).</p> <p>This policy is authorised by David MacBrayne’s Chief Executive.</p> <p>Policies are available to staff on their intranet ‘Gangway’. A screen shot showing the information management front page has been provided to the Keeper as evidence 27.</p> <p>The RMP states (page 16) “It will be expected that a system is in put in place [sic] which provides evidence that any changes to documents are correctly recorded.” There are perfectly sensible business reasons why an authority might wish to record such detail. However, the Keeper would like to reassure David MacBrayne that recording every <u>change</u> to a document is not a requirement of PRSA.</p> <p>The Keeper agrees this element of David MacBrayne’s RMP on ‘Improvement Model’ terms. This means that he acknowledges that an authority has recognised a gap in records management provision [difficulty tracking</p>
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			<p>records] and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>
<p>12. Competency Framework for records management staff</p>	<p>A</p>	<p>G</p>	<p>David MacBrayne has yet to develop a <i>Competency Framework, Job Description or Person Specification</i> for their Records Manager. But have committed to do so in the RMP (page 17) and in a <i>Covering Letter</i> from Mr Drummond (see element 1) submitted with the plan (evidence 25).</p> <p>The Keeper requests sight of these once they have been approved by the authority.</p> <p>David MacBrayne have supplied the Keeper with their <i>Records Management Policy (see element 3)</i> which makes clear that the Records Manager is responsible for Guidance, coordinating issues and ensuring each department engages with records management. The RMP also states that the Records Manager is responsible for providing guidance and advice to staff (page 17).</p> <p>The RMP lists 15 records management principles (page 4). These include the principle that records management procedures should be understood by staff.</p> <p>The <i>Covering Letter</i> (evidence 25) indicates that staff training in records management related topics ‘such as Data Protection, Information Security and Freedom of Information’ is available to appropriate staff. An acknowledgement of the importance of staff training is also appears in the RMP itself (page 17). Specifically the RMP (page 14) includes a commitment to train staff to “be aware of their obligations and responsibilities in dealing with personal data...”.</p> <p>The Keeper can agree this element of David MacBrayne Ltd.’s record management plan on ‘Improvement Model’ terms. This means that he is convinced that David MacBrayne Ltd. has identified a gap in their records</p>

			<p>management provision (there is no formal job description or person specification for their Records Manager), but have committed to close that gap. The Keeper agrees this element on the understanding that he will be informed when the relevant documents have been approved.</p>
<p>13. Assessment and Review</p>	<p>A</p>	<p>G</p>	<p>Once the plan has been agreed by the Keeper, David MacBrayne commits to review it on an annual basis (RMP page 3). A space has been left on the RMP to insert this date subsequent to agreement being achieved (page 3).</p> <p>However, a strategy has yet to be developed to ensure continuity of policy review. This must be done in 2015 to allow David MacBrayne to fulfil its commitment to review all policies and procedures connected with the plan at the end of the year (RMP page 18).</p> <p>The results of this review will be assessed at senior management level.</p> <p>The Keeper will need to be informed if this policy review results in any changes and new version provided. This must be done in order that the Keeper may keep David MacBrayne’s submission up-to-date.</p> <p>The commitment to develop an assessment strategy and senior management involvement in reviewing the results is agreed by Mr Drummond (see element 1) in a <i>Covering Letter</i> submitted with the plan (evidence 25). The strategy should clearly show who is going to carry out the review, how often and what methodology they will use.</p> <p>The RMP commits David MacBrayne to review the Records Management Policy (see element 3), <i>Business Classification Scheme</i> (see element 4) and retention schedules (see element 5) annually (RMP page 8, 9 and 10). A minimum annual review will also apply to the Business Continuity/Vital Records Plan when created</p>

			<p>(see element 10).</p> <p>The Keeper agrees this element of David MacBrayne’s RMP on ‘Improvement Model’ terms. This means that he acknowledges that an authority has recognised a gap in records management provision (they need to create a formal review strategy and procedures) and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>
<p>14. Shared Information</p>	<p>G</p>	<p>G</p>	<p>As part of their business David MacBrayne share information with third parties under contract.</p> <p>A <i>Sample Contract</i> (redacted) has been sent for the Keeper’s consideration (evidence 18). The Keeper agrees this represents a good example of the governance put in place by David MacBrayne Ltd. when sharing information.</p> <p>The <i>Sample Contract</i> makes clear the data protection risks involved in information sharing (section 1).</p> <p>The <i>Sample Contract</i> has a section of information security (section 4).</p> <p>The <i>Sample Contract</i> deals with disaster recovery and back-ups (section 4).</p> <p>The <i>Sample Contract</i> deals with information governance (section 4).</p> <p>The Keeper agrees that David MacBrayne Ltd has provided evidence that they consider records governance when engaging in information sharing projects.</p>

General Notes on RMP, Including Concerns:

Version

This assessment is on the version of the RMP labelled 'Records Management Plan 2015'

The RMP is accompanied by a *Covering Letter* from Robbie Drummond, David MacBrayne's Finance Director (**see element 1**). This letter is dated 26th June 2015. In this letter Mr Drummond states "We will provide you with regular updates as we progress with the evidence for the remaining elements, and will submit each completed piece of evidence as they receive senior management approval." The Keeper thanks Mr Drummond for this important commitment. **N. B. Several pieces of signed-off evidence have been forwarded since the initial submission.**

The RMP is accompanied by a *Statement Relating to Responsibility for Records Management* from Martin Dorchester, Chief Executive. (Evidence 1).

There is a statement in the RMP to the effect that policies and procedures were developed in consultation with 'all relevant staff and management'. The Keeper commends this sort of business-wide engagement when instigating a records management system.

The RMP refers to records as a business asset (page 4). This is an important recognition and the Keeper commends it.

The RMP lists 15 records management principles (page 4) that show a good understanding of the provision necessary to create a robust system. The Keeper finds that the ideas expressed in the principles match the objectives of the improvement plans that make up much of the submitted RMP.

The RMP contains an Annex showing potential evidence documents. Those still in draft or otherwise not completed (for example the *Records Manager Person Specification* (**see element 12**)) have not been provided at this point. The Keeper understands this annex to imply that more documents are to follow and welcomes this.

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>.

Third Parties

The RMP states on page 4 "In line with the Act, all records created in the carrying out of the Group's functions (whether directly or by third parties) are public records. The RMP goes on to clarify that 'No function of DML is contracted out to a third party'.

6. Keeper's Summary

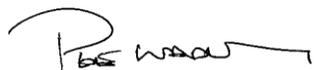
Elements 1 – 14 that the Keeper considers should be in a public authority records management plan have been properly considered by David MacBrayne Ltd. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of **David MacBrayne Ltd (registered number SC015304)**.

- The Keeper recommends that David MacBrayne Ltd. 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 **David MacBrayne Ltd (registered number SC015304)**. In agreeing this RMP, the Keeper expects the authority 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