

Public Records (Scotland) Act 2011

Healthcare Improvement Scotland and Scottish Health Council Assessment Report

The Keeper of the Records of Scotland

30 October 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 Healthcare Improvement Scotland and Scottish Health Council by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 29 April 2015.

The assessment considered whether the RMP of Healthcare Improvement Scotland and Scottish Health Council 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 Healthcare Improvement Scotland and Scottish Health Council complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

HIS are the national healthcare improvement organisation for Scotland and part of NHSScotland. They work with staff who provide care in hospitals, GP practices, clinics, NHS boards and with patients, carers, communities and the public. Their work drives improvements in the quality of healthcare people receive by:

- supporting and empowering people to have an informed voice in managing their own care and shaping how services are designed and delivered
- delivering scrutiny activity which is fair but challenging and leads to improvements for patients
- providing quality improvement support to healthcare providers
- providing clinical standards, guidelines and advice based upon the best available evidence.

Their work programme supports the healthcare priorities of the Scottish Government, in particular those of NHSScotland's *Healthcare Quality Strategy* and the *2020 Vision*.

<http://www.healthcareimprovementscotland.org/>

The Scottish Health Council was established by the Scottish Executive in April 2005 to promote public involvement in the NHS in Scotland to achieve a "mutual NHS" - where the NHS works in partnership with patients, carers and the public.

The Scottish Health Council is a committee of Healthcare Improvement Scotland but has a distinct identity. The Committee is responsible for agreeing the overall strategic direction of the organisation.

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 Healthcare Improvement Scotland and Scottish Health Council'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>Angiolina Foster, Chief Executive of HIS, has been appointed as the individual with senior management responsibility for records management. This has been confirmed by a covering letter from Ms Foster (evidence 1.1).</p> <p>The covering letter also confirms that the Records Management Plan (RMP) sets out the arrangements for the management of the records of the Scottish Health</p>

			<p>Council. Although the two authorities are separately listed on the schedule to the Public Records (Scotland) Act 2011, the letter confirms that the Scottish Health Council is a committee within HIS, albeit with a distinct identity. The covering letter is also co-signed by Richard Norris, Director of the Scottish Health Council and is therefore evidence of their commitment to abide by the records management policies and procedures of HIS.</p> <p>The Records Management Policy (evidence 1.2, section 2.1) also states that the Chief Executive has overall responsibility for records management and highlights the importance of records management in delivering business outcomes.</p> <p>The Keeper agrees that an appropriate individual has been identified as having senior management responsibility for records management as required by the Act.</p>
<p>2. Records Manager <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The individual designated as having operational responsibility for records management is Alison Winning, Knowledge Management Team Lead/Information Governance Co-ordinator. This is confirmed in the covering letter from the Chief Executive (evidence 1.1, see Element 1) and also in the Records Management Policy (evidence 1.2).</p> <p>The job description for the Knowledge Management Team Lead has also been provided (evidence 2.1) which states that Ms Winning is responsible for ensuring compliance with the Public Records (Scotland) Act 2011.</p> <p>Also submitted are the minutes of the inaugural meeting of the Records Management Working Group (evidence 2.3). The aim of the group is to share information about records management, discuss the RMP and discuss responsibilities and resourcing around any actions. Ms Winning is the Chair of this Group. This meets the requirements of one of the actions identified by HIS in this Element of the RMP. The Keeper commends the approach of involving colleagues from across the organisation in discussing records management requirements.</p>

			<p>Another of the actions is to appoint a network of Information Asset Owners (IAOs) across HIS in order to ensure the implementation of relevant policies and procedures. In support of this action, an Information Asset Owner Handbook has been developed (evidence 2.2) which sets out the roles and responsibilities of the IAO. These are further outlined in the Information Security Policy (evidence 2.5). The creation of this network of IAOs is part of the Information Governance strategy action plan, as is implementing the RMP (evidence 2.4).</p> <p>The Keeper agrees that an appropriate individual has been identified to take operational responsibility for records management as required by the Act.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>HIS has supplied their Records Management Policy (evidence 1.2) which sets out the relevant roles and responsibilities for records management within the organisation. The Policy is supported by a series of other policies, such as the Document Storage and Retention Policy and Version Control Policy. The Policy is due for review in March 2016.</p> <p>The Policy is available to staff through the Information Governance section of the Intranet. A screenshot showing the Records Management Policy and other policies has been submitted (evidence 3.3).</p> <p>The Records Management Policy shows a commitment to training. It states that all new staff will receive training in records management delivered and monitored through an electronic training module. This is included as an action in the RMP and is due for completion in December 2015. The Keeper would be interested to see an example of this training module once it has been implemented.</p> <p>The Keeper agrees that there is an operational records management policy in place which outlines the corporate approach to records management and also contains a firm commitment to staff training as required by the Act.</p>

<p>4. Business Classification</p>	<p>A</p>	<p>G</p>	<p>The RMP states that HIS has initiated work to develop a Business Classification Scheme (BCS) and has submitted the current version (evidence 4.1). It consists of three levels (Function, Activity, Tasks) and is based on the NHSScotland corporate function template. Work on finalising the functions to be included in the BCS is anticipated to be completed by October 2015. The migration of the completed functions will take place between October and December 2015, with the timescale still currently to be determined for the remaining functions to be migrated.</p> <p>The roll out will involve migration of content to the new structure and also staff training in the use of the new BCS. The Keeper requests that he is informed when this project has been completed.</p> <p>The RMP explicitly states that no function of HIS or the Scottish Health Council is carried out by a third party.</p> <p>The Keeper can agree this element on an ‘improvement model’ basis. This means that HIS have identified a gap in provision (the BCS is not fully operational in the organisation) and have made a firm commitment to closing this gap.</p>
<p>5. Retention schedule</p>	<p>G</p>	<p>G</p>	<p>HIS has developed a Retention Schedule (evidence 3.1) which sets out the retention and disposal actions to be taken against the classes of records created by or maintained by HIS. It is based on the Scottish Government Records Management: NHS Code of Practice document. It was approved in June 2015 and is due to be reviewed in June 2017.</p> <p>Also submitted is HIS’s Retention and Disposal Policy (evidence 3.2) which governs the operation of the Schedule. This was reviewed in June 2015 and is due to be reviewed again in June 2017. The appendices to the Policy set out the practical arrangements for adhering to the Schedule, including the template for document disposal and procedures for dealing with records stored offsite.</p>

			<p>Both the Schedule and the Policy are available to staff on the Intranet (evidence 3.3).</p> <p>HIS stores semi-current business records offsite. It has procedures in place to ensure that these are destroyed at the end of their retention periods. HIS has submitted a destruction certificate (evidence 5.1) showing that the arrangements are operational. These arrangements were due for review in August 2015, but this has now been delayed. The Keeper would be interested in seeing the results of the review once available.</p> <p>The Keeper agrees that appropriate retention and disposal schedules are in place to ensure that the appropriate actions are taken at the right times.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>G</p>	<p>A</p>	<p>HIS has set out its arrangements for the secure destruction of records.</p> <p><u>Paper and electronic</u></p> <p>The Retention and Disposal Policy (evidence 3.2) states that it applies to records in any format. The Policy states (section 4) that all staff are responsible for ensuring compliance with the periods set out in the retention schedule. The Retention Schedule (evidence 3.1) states that each business area will have an ‘identified records lead’ who will be responsible for the destruction/deletion of records at the end of their retention periods. They will also act as a point of contact with Knowledge and Information. Section 2.4 of the Policy states the requirement for staff to complete the Document Disposal Register (Appendix C of the Policy) to record the fact that records have been destroyed/deleted. Individual business areas maintain their own Document Disposal Registers which are collated on an annual basis by the Information Governance Team, showing that there is an overall control over destruction.</p> <p>Paper records are placed into secure bins and shredded on-site. The</p>

			<p>abovementioned destruction policy will be amended to outline procedures in this regard and efforts will be made to standardise practice in this area. One business area will be used to test their adherence to the policy and procedures before this is rolled out across the rest of the organisation.</p> <p>Destruction certificates have been provided which show that contracts are in place with external providers for on-site (evidence 6.1) and off-site (evidence 5.1) destruction of records at the end of their retention periods. The latter provides evidence that semi-current records stored off-site are destroyed when appropriate.</p> <p>Responsibility for complying with relevant policies and procedures for the destruction of records lies at the individual business areas but practice varies across the organisation. Also described is one business area's (Inspectorate) practices in the Inspection Procedures document (attached as part of the response). Also included as evidence is the document GDEV011, which is a Standard Operating Procedure for archiving documents used in the development of guidelines.</p> <p><u>Hardware</u> Submitted as evidence is a sample destruction certificate (evidence 6.2) which shows that hardware is disposed of securely at the end of its useful life.</p> <p><u>Back-ups</u> The RMP itself describes the back-up procedures in place to ensure that all copies of deleted obsolete electronic information are disposed of. Electronic records are backed up to a server which is then copied to another server on a different site. A full back-up is taken on a weekly basis as well as daily incremental back-ups which are copied to the server. The data is overwritten every 154 days.</p> <p>The Keeper can agree this element on an 'improvement model' basis. This means that HIS has identified a gap in provision (the consistent destruction of electronic</p>
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			and paper records across the organisation) and has outlined how it intends to close this gap. This agreement is conditional based on the Keeper being kept informed as work progresses.
7. Archiving and Transfer <i>Compulsory element</i>	G	G	<p>HIS has identified National Records of Scotland (NRS) as a repository for the archiving of records selected for permanent preservation. Submitted as evidence is the Memorandum of Understanding (MoU) agreed with the Keeper's client managers (evidence 7.1)</p> <p>The Keeper can agree that Healthcare Improvement Scotland has identified an appropriate archive repository for records selected for permanent preservation and have set up formal arrangements for transfer as required by the Act.</p>
8. Information Security <i>Compulsory element</i>	G	G	<p>HIS has submitted their <i>Information Security Policy</i> (evidence 2.5) which sets out their corporate approach to managing risks associated with information. The <i>Policy</i> aims to follow the requirements of the Information Security standard ISO 27001. It clearly sets out scope and responsibilities and states that it applies to both physical and electronic records. It also covers the use of mobile devices and access by third parties to HIS systems. Information security is also built into the annual programme of work for HIS's internal auditors. The <i>Policy</i> is due for review in February 2017.</p> <p>Also submitted is a <i>ICT Systems Acceptable Use Policy</i> (evidence 6.3), version 1.0 approved in July 2015. This document shows the proposed procedures for the appropriate use of the internet and email, the use of social media and maintaining security of HIS ICT systems.</p> <p>Also provided is the HIS <i>ICT Software Policy</i> (evidence 8.2) which details the organisational policy towards the use and acquisition of software.</p> <p>HIS are currently developing an <i>Information Asset Register</i>. This requires each business area to complete a spreadsheet (evidence 8.3) detailing the Information</p>

			<p>Assets being used. These will then be collated into the <i>Register</i> by the records manager (see Element 2). This project is due for completion by December 2015. The Keeper would be interested to see a sample of the completed register.</p> <p>Also submitted is a template form for reporting information governance incidents (evidence 8.4). The Information Governance Group agenda for a meeting on 16 January 2015 (evidence 8.5) suggests that the Records Manager (see Element 2) is responsible for reporting incidents to this group. The agenda also shows that Information Risk is also reported to this Group.</p> <p>The Keeper agrees that Healthcare Improvement Scotland has and approved and operational information security policy as required by the Act.</p>
9. Data Protection	G	A	<p>HIS has supplied its <i>Data Protection Policy</i> (evidence 9.1) which sets out its approach to processing personal and sensitive information. It also states staff responsibilities and highlights the importance of adhering to the 8 principles. The <i>Policy</i> is available to staff through the intranet. The Data Protection Policy is currently being reviewed to ensure it is up-to-date. It will be presented to the Policy Sub-Group in November 2015. The Keeper requests that he is sent the new version once it has been approved in order to keep the submission up-to-date.</p> <p>The RMP states that staff are provided with data protection training at induction and are also given an annual update. The Keeper commends this commitment to training.</p> <p>The privacy section of the website is being revised and will include an updated privacy notice and Subject Access Request form. This work will be completed by the end of 2015. The Keeper requests that he is sent the URL of the page once work on the privacy section has been completed.</p> <p>HIS is registered as a data controller with the Information Commissioner's Office</p>

	G	G	<p>and has provided its registration details (evidence 9.3).</p> <p>Privacy notices for both HIS and the Scottish Health Council have been provided (evidence 9.4 and 9.5) showing how both authorities treat personal data. Privacy statements are available on the websites of both authorities.</p> <p>HIS has also provided a data processor template (evidence 9.6) which sets out the obligations on each side in the event of entering into an agreement which requires the sharing of information.</p> <p>Also submitted is a template <i>Privacy Impact Assessment Questionnaire</i> conducted as part of the Volunteer Information System project (evidence 9.7) and the data collected for that project.</p> <p>The <i>System Security Policy</i> for the Volunteer Information System database (evidence 9.8) detailing the measures in place to protect the data contained within the database has been supplied.</p> <p>Also provided is a <i>Data Processing Agreement</i> between HIS and a third party contractor (evidence 9.9) for data in the Volunteer Information System database.</p> <p>Also submitted is a copy of an email regarding training of staff in information security and data protection (evidence 9.10). The Keeper commends this commitment to training in information governance issues.</p> <p>Provided he receives the updated <i>Data Protection Policy</i> the Keeper can agree that HIS have appropriate measures in place to protect personal and sensitive information.</p>
10. Business Continuity	G	G	<p>HIS has supplied their <i>Business Continuity Strategy</i> (evidence 10.1) which sets out the high level approach to be taken in responding to an interruption to normal</p>

<p>and Vital Records</p>			<p>business activities. In order to deal with an organisation-wide incident a Crisis Management Group has been established, chaired by the Chief Executive.</p> <p>A business impact analysis has been conducted and has identified the areas where risk is the greatest. These areas now have area-specific business continuity plans. A draft plan has been submitted for the Human Resources Unit (evidence 10.2) which shows the specific actions to be taken and priorities in the event of a disaster occurring. The Keeper requests that he is sent a copy of a final approved version once it is operational.</p> <p>Vital records have not been specifically identified but the systems used for managing them have been. The action plan included in the RMP is to identify these and to review the procedures in place. Work on developing procedures around vital records has been delayed and has been incorporated into the workflow for developing the corporate information asset register. Progress will be reviewed by the Information Governance Group in November 2015, after which the Keeper will be updated.</p> <p>The Keeper agrees that Healthcare Improvement Scotland has an approved and operational business continuity plan that considers recovery of records.</p>
<p>11. Audit trail</p>	<p>A</p>	<p>A</p>	<p>Most electronic records managed by HIS are done so in a shared drive environment. These will be managed by complying with the Version Control and Document Naming Policy (version 4.0), dated August 2017. This Policy sets out the procedures in place for the consistent naming of documents and for ensuring that each version of a document is numbered appropriately and is supported by the use of corporate templates. There are also guidelines and standard operating procedures for the consistent creation of certain types of documents and these have been submitted as evidence showing that some business areas have better processes in place than others. The implementation of the BCS and subsequent training is intended to standardise practice within HIS.</p>

			<p>Further information is also provided relating to bespoke IT systems. A Customer Relationship Management (CRM) system is in place in one business area and this has full audit trail capabilities. The roll out of this system to other business areas is currently being reviewed. Other electronic systems are used within HIS (in HR and Finance) which also have audit trail functionality.</p> <p>The RMP states that a review of paper storage is due to take place by August 2015 with a view to minimising physical storage requirements and duplication. Following on from this review, policy and guidance will be developed by October 2015 including advice on organising and labelling records, closing files and processes for tracking records removed from storage.</p> <p>The Keeper can agree this element on an 'improvement model' basis. This means that HIS has identified a gap in provision and has outlined how it intends to close this gap. This agreement is conditional based on the Keeper being kept informed as work progresses.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>HIS follows the style of the <i>NHSScotland Information Governance Competency Framework</i> (evidence 12.1) as the basis for the continuing professional development of staff with records and information management responsibilities.</p> <p>The job description and personal objectives for the Knowledge Management Team Lead have also been provided (evidence 2.1 and 2.2) which states that the records manager is responsible for ensuring compliance with the Public Records (Scotland) Act 2011.</p> <p>All new members of HIS staff undergo information governance training and existing staff undergo an annual refresher course in Data Protection and Information Security (evidence 9.10). On demand sessions covering Freedom of Information and Data Protection are organised as required. The Keeper commends this</p>

			<p>commitment to on-going training for staff.</p> <p>An action point identified for this Element is the development and implementation of a records management training and awareness raising programme for all staff by December 2015. The Keeper would be interested to see a sample of this once it has been implemented.</p> <p>The Keeper agrees that records and information management has been identified as a key responsibility for relevant staff and that this is reflected in their competencies.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>The RMP states that records management is currently governed by the Information Governance Group (evidence 13.1), which in turn reports to the Audit and Risk Board Sub-Committee. Implementation of the RMP and the supporting policies and procedures will be taken forward by a newly constituted Records Management Working Group, which will report to the Information Governance Group. The proposed membership of the working group has also been supplied (evidence 13.3). The agendas and minutes for the meetings in May and June 2015 have also been submitted as evidence.</p> <p><i>The Terms of Reference for the Information Governance Group</i> (evidence 13.2), dated July 2015, has been provided which shows the remit and membership of the group and the responsibilities for its members.</p> <p>HIS has also stated that it will use the ARMS methodology for assessing compliance with its RMP. This will begin in November 2015 and will be carried out by the Records Management Working Group. The Keeper recognises the ARMS tool as a wholly appropriate method for ensuring records management provision is properly assessed.</p> <p>The Keeper can agree that HIS has identified the methodology and the reporting</p>

			<p>structure by which it intends to assess and review its RMP.</p>
<p>14. Shared Information</p>	<p>G</p>	<p>G</p>	<p>Information sharing is a key part of HIS's activities. HIS has provided a data processor template (evidence 9.6) which sets out the obligations on each side in the event of entering into an agreement which requires the sharing of information.</p> <p>Also submitted is a template <i>Privacy Impact Assessment Questionnaire</i> conducted as part of the Volunteer Information System project (evidence 9.7) and the data collected for that project.</p> <p>Also provided is a <i>Data Processing Agreement</i> between HIS and a third party contractor (evidence 9.9) for data in the Volunteer Information System database.</p> <p>Standard terms of contract have been created for the purchase of goods and service (evidence 14.1 and 14.2) which include clauses about confidentiality and Data Protection.</p> <p><i>A Data Sharing Protocol</i> for the Suicide Reporting and Learning System (evidence 14.3) has also been provided. This shows that there are controls in place to protect information being shared incorrectly.</p> <p>By December 2015, HIS intends to develop guidance on information sharing protocols. The Keeper would be interested to see this guidance once completed. Additionally, HIS intends to raise awareness of policy and procedure across the organisation by utilising its series of Information Asset Owners. The Keeper commends this approach.</p> <p>The Keeper agrees that robust procedures are in place to ensure that the governance of shared information is considered.</p>

6. Keeper's Summary

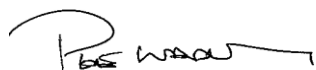
Elements 1-14 that the Keeper considers should be in a public authority records management plan have been properly considered by Healthcare Improvement Scotland and Scottish Health Council. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper agrees the RMP of Healthcare Improvement Scotland and Scottish Health Council.

The Keeper recommends that Healthcare Improvement Scotland and Scottish Health Council 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 Healthcare Improvement Scotland and Scottish Health Council. In agreeing this RMP, the Keeper expects Healthcare Improvement Scotland and Scottish Health Council 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