

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

### **Scottish Housing Regulator Assessment Report**

**The Keeper of the Records of Scotland**

**13<sup>th</sup> 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 the **Scottish Housing Regulator** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **29<sup>th</sup> June 2015**.

The assessment considered whether the RMP of the Scottish Housing Regulator was developed with proper regard to the 14 elements of the Keeper's statutory Model Records Management Plan (the Model Plan) under section 8(3) of the Act, and whether in this respect it complies with it and the specific requirements of the Act.

The outcome of the assessment and the Keeper's decision on whether the RMP of the Scottish Housing Regulator complies with the Act can be found under section 7 of this report with relevant recommendations.

## 3. Authority Background

The Scottish Housing Regulator are an independent Non-Ministerial Department, directly accountable to the Scottish Parliament. Established on 1st April 2011 under the Housing (Scotland) Act 2010, they are the regulator of Registered Social Landlords (RSLs) and local authority housing services in Scotland. Their statutory objective is to "safeguard and promote the interests of current and future tenants of social landlords, people who are or may become homeless, and people who use housing services provided by RSLs and local authorities".

They regulate social landlords to protect the interests of people who receive services from them. They do this by assessing and reporting on:

- how social landlords are performing their housing services
- RSLs' financial well-being
- RSLs' standards of governance

They intervene to secure improvements where they need to.

The Scottish Housing Regulator also keep a register of all the RSLs in Scotland. The register holds information about each landlord and how they can be contacted.

The organisation is the successor to the previous Scottish Housing Regulator, an agency that exercised Scottish Ministers' powers under the Housing (Scotland) Act 2001.

<https://www.scottishhousingregulator.gov.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 the Scottish Housing Regulator’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:**

<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

### Scottish Housing Regulator

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The Scottish Housing Regulator have identified Iain Muirhead, Director of Strategy and Communications and SIRO, as the individual with overall responsibility for records management in the authority.</p> <p>This is confirmed by a letter from Mr Muirhead dated 29<sup>th</sup> June 2015, in which he states “I have overall responsibility for our records management and I can confirm that I endorse our records management plan as submitted” (evidence 2).</p> <p>Mr Muirhead’s role is explained on page 3 of the <i>Records Management Policy (see element 3)</i>.</p> <p>The Keeper agrees that the Scottish Housing Regulator has identified an appropriate individual (the SIRO) to this role as required by the Act.</p>
2. Records Manager <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The Scottish Housing Regulator has identified Susan Campbell, Head of Planning and Performance, as the individual with day-to-day responsibility for implementing the <i>Records Management Plan</i>.</p> <p>This is confirmed by an appointment letter, specifically mentioning the Act, written by Michael Cameron, Chief Executive, and dated 16<sup>th</sup> June 2015 (supplied as</p>

			<p>evidence 3).</p> <p>The appointment is supported by the <i>Objectives - Head of Planning &amp; Performance</i> document (evidence 4) which states as objective 8: “As Records Manager, I will lead the ongoing development, delivery and review of our Records Management Plan.”</p> <p>Ms Campbell’s role is explained on page 3 of the <i>Records Management Policy (see element 3)</i>.</p> <p>The Scottish Housing Regulator has provided its <i>Records Management Competency Framework</i> as evidence 24.</p> <p>The Head of Planning and Performance oversees the development and review of corporate information policies and systems. Her objectives make her responsible for ensuring “effective arrangements are in place to embed / further develop our corporate policies, strategies and systems”. She also attends the Audit &amp; Risk Assurance Committee, and the Operational Management Group.</p> <p>This would indicate that she has a detailed knowledge of information governance in the authority.</p> <p>Ms Campbell reports to Iain Muirhead (<b>see element 1</b>).</p> <p>The Keeper agrees that the Scottish Housing Regulator has identified an appropriate individual to this role as required by the Act.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Scottish Housing Regulator has a <i>Records Management Policy</i> which has been provided to the Keeper (evidence 1). This is the version dated June 2015. It is endorsed by a Policy Statement by the Regulator’s Executive Team. The Covering Letter from Iain Muirhead, SIRO (<b>see element 1</b>) confirms that the Executive Team</p>

			<p>have approved key policies (evidence 2).</p> <p>The <i>Policy</i> identifies records as a business resource (page 1) and mentions the Public Records (Scotland) Act 2011 and the Data Protection Act 1998 (<b>see element 9</b>).</p> <p>The <i>Records Management Policy</i> is made available to staff through the intranet. The Keeper has been provided with an intranet screenshot showing how this appears (evidence 6).</p> <p>The commitments in the <i>Policy</i> support the objectives of the <i>Plan</i>. It has sections on retention (<b>see element 5</b>), destruction (<b>see element 6</b>), information security (<b>see element 8</b>), business continuity and vital records (<b>see element 10</b>).</p> <p>The Keeper agrees that the Scottish Housing Regulator has an approved and operational records management policy as required by the Act.</p>
<p>4. Business Classification</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>A core records management principle introduced in the <i>Plan</i> (page 1 and 2) is: “records are stored within record keeping systems, rather than in personal filing.”</p> <p>To this end, the Scottish Housing Regulator has a <i>Business Classification Scheme</i> dated June 2015. This has been supplied to the Keeper as evidence 7</p> <p>The Regulator operates a hybrid system with</p> <ul style="list-style-type: none"> <li>• Paper records held internally</li> <li>• Corporate records on an established EDRM (the Scottish Government’s ‘Objective’ system provide this as a service) Evidence of this arrangement has been provided.</li> <li>• ‘Case files’ held on EDRM (which will in future be held on a new SharePoint</li> </ul>



			<p>system, currently in development.)</p> <p>Once the SharePoint system is fully operational, the Regulator will start to use it for information on regulated bodies. There will be some migration from the eRDM, but much of the historic information will be retained on the eRDM. They will update the business classification scheme to explain what is held where once the new systems are ready to go live. <b>The Keeper will require an update to this element when this work is complete.</b></p> <p>The Regulator is moving towards a predominantly electronic system, phasing out the use of paper. However they recognise the necessity of retaining paper for some of their activities, for example registration documents and contracts where original signatures are required for legal purposes.</p> <p>The Keeper agrees that the Scottish Housing Regulator has a business classification scheme that covers all the functions of the authority.</p>
<p>5. Retention schedule</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>A core records management principle introduced in the <i>Plan</i> (page 1 and 2) is: “Records are disposed of in accordance with approved Records Retention Schedules”.</p> <p>To this end, the Scottish Housing Regulator has a <i>Retention Schedule</i> covering their activities. This has been provided to the Keeper as evidence 13.</p> <p>The <i>Retention Schedule</i> includes the records held in the Regulators BI systems, which are yet to be incorporated in the <i>Business Classification Scheme</i> (<b>see element 4</b>). This is confirmed in the <i>Records Management Policy</i> (page 4), where the Regulator states: “The retention policies, whilst based on the eRDM structure are designed to be equally applicable to all of our records, irrespective of how and where the record is stored.”</p>

			<p>Retention decisions are supported by a <i>Records Retention Policy</i> dated June 2015 which has been supplied as evidence 10. The <i>Retention Policy</i> provides a good explanation of the necessity of retention decisions and mentions the Public Records (Scotland) Act.</p> <p>Both the <i>Schedule</i> and the <i>Retention Policy</i> are available on the staff intranet – they can be accessed through a link from the <i>Records Management Policy</i>.</p> <p>Reviews of the <i>Retention Schedule</i> are carried out with input from the various divisions. The Keeper commends the consideration of local experience in updating policy documents.</p> <p>The Keeper agrees that the Scottish Housing Regulator has a retention schedule that allocates retention decisions, both to the record types identified in the business classification scheme and to those currently outwith that scheme.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p><u>Paper:</u> The Scottish Housing Regulator destroys paper records either by using internal shredders or under contract with a third party supplier. The Keeper has seen staff instructions authorising internal destruction and for a record to be kept of material that has been destroyed (<i>Policy</i> page 4). The Regulator is covered by the SG’s contract with Shred-it. They have provided email confirmation from SG that they are able to access this arrangement.</p> <p><u>Electronic:</u> The <i>Records Management Policy</i> (page 4) explains that electronic records held on the EDRM will be deleted, as per the <i>Retention Schedule</i>, by the Scottish Government Records Management Team who provide the service (<b>see element 4</b>). This is supported by an explanation in the <i>Records Retention Policy</i> (page 2). The Regulator has provided a copy of the service definition, along with confirmation of how deletion operates in the SG system.</p>

	<b>G</b>	<b>G</b>	<p>E-Mails are archived and deleted using the Scottish Government Enterprise Vault system. The Keeper is familiar with the system and considers it appropriate.</p> <p><u>Hardware:</u> Hardware destruction is also a service provided by the Scottish Government through their contract with CCL North. The Keeper is familiar with this arrangement and agrees that it is appropriate.</p> <p><u>Back-ups:</u> Electronic records held in the Scottish Government Objective system are backed-up according to the processes stipulated by that system. These processes are explained in the <i>Plan</i> (page 9) and the <i>Policy</i> (page 5).</p> <p>The Keeper agrees that the Scottish Housing Regulator has arrangements in place to securely and irretrievably destroy records when appropriate as required by the Act.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<b>G</b>	<b>G</b>	<p>A core records management principle introduced in the <i>Plan</i> (page 1 and 2) is: “Records that are identified as of historical significance are preserved”.</p> <p>To this end, the Scottish Housing Regulator has identified the National Records of Scotland as the repository for records considered appropriate for permanent preservation. This has been confirmed by the Keeper’s client managers.</p> <p>The identification of the National Records of Scotland conforms to the Regulator’s <i>Records Management Policy</i>.</p> <p>The Regulator has an MOU with the Keeper that details transfer arrangements (evidence 15).</p> <p>The Keeper agrees that the Scottish Housing Regulator has arrangements in place</p>

			to properly archive records when appropriate.
8. Information Security <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>A core records management principle introduced in the <i>Plan</i> (page 1 and 2) is: “Records are appropriately secured”.</p> <p>To this end, the Scottish Housing Regulator has an <i>Information Risk and Security Policy</i> dated 2015 -2017. This has been supplied to the Keeper as evidence 27.</p> <p>The Covering Letter from Iain Muirhead, SIRO (<b>see element 1</b>) confirms that the Executive Team have approved key policies (evidence 2).</p> <p>The Information Risk and Security Policy is made available to staff through the corporate intranet ‘The Residence’ – also through a link from the <i>Records Management Policy</i>.</p> <p>The <i>Policy</i> is supported by an <i>Information Security Policy Statement</i> (evidence 16). This <i>Statement</i> confirms that the Regulator considers records as a business asset.</p> <p>The Keeper agrees that the Scottish Housing Regulator has an approved and operational information security policy that is available to appropriate staff.</p>
9. Data Protection	<b>G</b>	<b>G</b>	<p>The Scottish Housing Regulator has a <i>Data Protection Policy</i> dated 2015 -2017. This has been supplied to the Keeper as evidence 18.</p> <p>The Covering Letter from Iain Muirhead, SIRO (<b>see element 1</b>) confirms that the Executive Team have approved key policies (evidence 2).</p> <p>The Regulator is registered with the Information Commissioner: ZA119141. This registration is in-date.</p>

			<p>Guidance for staff on processing subject access requests is available on the Intranet. A screen-shot of the relevant page has been provided in evidence (evidence 20).</p> <p>The Introduction on page 1 of the <i>Plan</i> highlights the connection between effective records management and an ability to properly fulfil data protection responsibilities.</p> <p>The 8 Data Protection principles are shown in the <i>Records Management Policy</i> (page 6).</p> <p>The Keeper agrees that the Scottish Housing Regulator has properly considered their responsibilities under the Data Protection Act 1998.</p>
<p>10. Business Continuity and Vital Records</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Scottish Housing Regulator has a <i>Business Continuity Plan</i>, dated 2015-2017. This has been provided to the Keeper as evidence 21.</p> <p>The <i>Business Continuity Plan</i> reflects a commitment made in the <i>Information Security Policy Statement</i> (<b>see element 8</b>).</p> <p>A core records management principle introduced in the <i>Plan</i> (page 1 and 2) is: “Records that are identified as vital are protected”</p> <p>The importance of protecting “vital records” is also made clear in the <i>Records Management Policy</i>, page 5 (<b>see element 3</b>). The <i>Policy</i> indicates that the <i>Business Continuity Plan</i> identifies vital records. This appears as part of the “Priority Areas” section at Annex 1 of the <i>Continuity Plan</i>.</p> <p>Much of the business continuity and disaster recovery arrangements regarding records lie with the Scottish Government. A good explanation of how this system</p>

			<p>works has been included in the text of the <i>Plan</i> (page 15). The Keeper is familiar with the Scottish Government system and considers it suitable.</p> <p>The Keeper agrees that the Scottish Housing Regulator has an approved and operational <i>Business Continuity Plan</i> that considers the recovery of records and that this plan identifies 'vital records'.</p>
11. Audit trail	<b>A</b>	<b>G</b>	<p>The Scottish Housing Regulator is able to track the records held on the Scottish Government EDRM using the in-built functionality of that system.</p> <p>They can locate paper records using a paper records catalogue. A sample page has been provided in evidence of this arrangement.</p> <p>The paper records catalogue does not allow detailed analysis of record movement and the Regulator states in the <i>Plan</i> "We plan to develop a paper filing system, to track the movements of the record, if files have been destroyed or if the files have been passed to NRS" (page 17). This work is confirmed in the 'Further Development' action plan accompanying the element. <b>The Keeper requests that he is kept up-to-date regarding this project.</b></p> <p><b>The Keeper agrees this element of the Scottish Housing Regulator's plan on 'Improvement Model' terms. This means that he acknowledges that the Regulator have identified a gap in their records management provision (paper records catalogue does not track movement, destruction etc.). The Keeper agrees that the Regulator have committed to projects that seem likely to close that gap. The Keeper agrees this element on condition that he is kept updated as the project continues.</b></p>
12.	<b>G</b>	<b>G</b>	<p>The Scottish Housing Regulator has a <i>Records Management Competency</i></p>

<p>Competency Framework for records management staff</p>			<p><i>Framework</i> (undated). This has been provided to the Keeper as evidence 24.</p> <p>The <i>Framework</i> conforms to a commitment made in the <i>Records Management Policy</i> (page 3).</p> <p>The <i>Framework</i> makes it clear that the Head of Planning and Performance (<b>see element 2</b>) has appropriate responsibility and skills to be identified in the role at element 2.</p> <p>There is a commitment in the <i>Records Management Policy</i>: “We will ensure that our Records Manager has the relevant skills and training to carry out their role to a reasonable standard and will have access to the latest thinking in the field.” (<i>Policy</i> page 3).</p> <p>A core records management principle introduced in the <i>Plan</i> (page 1 and 2) is: “Records management procedures are understood by all staff, and all staff are appropriately trained”.</p> <p>Communication with staff on records management issues, including training, is instigated on the intranet ‘The Residence’.</p> <p>Staff are required to undertake training on the ERDM ‘Objective’ system before engaging with it.</p> <p>Staff undergo mandatory information security “Protecting Information” and data protection training.</p> <p>Disaster Recovery training for staff is embedded in the <i>Business Continuity Plan</i> (section 17) (<b>see element 10</b>).</p>
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			<p>The Keeper agrees that the individual identified in element 2 of the <i>Records Management Plan</i> has the relevant skills and authority to implement the <i>Plan</i> once agreed. He notes that consideration has been given to staff training on information governance issues.</p>
<p>13. Assessment and Review</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The <i>Records Management Plan</i> will be reviewed every two years (<i>Plan</i> page 1).</p> <p>This review will be carried out by the SIRO (<b>see element 1</b>) and reported to the Executive Team.</p> <p>A project plan has been provided.</p> <p>Information Management generally may appear as part of the internal audit programme for 2016/17. The current programme has been provided (evidence 23). This states that an ‘information assurance review’ will be carried out in 2016/17. This will look at compliance with information management standards. Normal practice is for the detailed terms of reference for each review to be agreed a few months prior to its commencement. The Housing Regulator has agreed to provide the Keeper with a copy of these terms once agreed- likely to be in autumn 2016.</p> <p>The <i>Records Management Policy</i> (<b>see element 3</b>) is due to be reviewed by June 2017.</p> <p>The <i>Information Risk and Security Policy</i> and the supporting <i>Information Security Policy Statement</i> (<b>see element 8</b>) are due for review in 2017.</p> <p>The <i>Data Protection Policy</i> (<b>see element 9</b>) is due to be reviewed by June 2017.</p> <p>The <i>Business Continuity Plan</i> (<b>see element 10</b>) is reviewed annually as instructed by the Audit risk Accounts Committee (<i>Continuity Plan</i> section 19).</p>



			<p>The Keeper agrees that the Scottish Housing Regulator has arrangements in place to review the <i>Plan</i> as required by the Act. He also notes that supporting policies and guidance have appropriate review dates allocated.</p>
<p>14. Shared Information</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Introduction to the <i>Plan</i> (page 1) explains the importance of effective records management to information sharing.</p> <p>The Scottish Housing Regulator shares information with other authorities, particularly other regulators, as part of its business. It does this using MOU's which it then publishes: <a href="https://www.scottishhousingregulator.gov.uk/memoranda-understanding">https://www.scottishhousingregulator.gov.uk/memoranda-understanding</a></p> <p>The Keeper, taking the MOU with the Care Inspectorate as a sample, can confirm records/information governance is a feature of the joint working section of the MOU.</p> <p>The Keeper agrees that there is evidence that the Scottish Housing regulator considers records governance when undertaking data sharing as part of its activities.</p>

## Scottish Housing Regulator

### General Notes on RMP, Including Concerns:

#### Version

This assessment is on the *Records Management Plan* of the Scottish Housing Regulator June 2015 – 17. The *Plan* was endorsed by the Regulator's SIRO (**see element 1**) by letter dated 29<sup>th</sup> June 2015. He confirms that the Regulator's Executive Team approve the supporting policies and this has been further confirmed by the inclusion of Executive Team minutes (evidence 5).

The *Plan* is also accompanied by a letter of appointment (evidence 3) from Michael Cameron, Chief Executive Officer of the Regulator dated 16<sup>th</sup> June 2015 confirming both the identification of Susan Campbell as the Officer with "operational responsibility" for complying with the *Plan* (**see element 2**) and the *Records Management Competency Framework* (**see element 12**).

The *Plan* identifies records as a business asset and gives a practical example of how robust records management supports the work of the authority.

The *Plan* states that, once agreed, the Regulator will publish it on the staff intranet 'The Residence'.

The *Records Management Plan* follows the structure of the *Keeper's Model Records Management Plan*:

<http://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan>

#### Third Parties

Although the *Records Management Policy* (page 3) refers to "work delivered on our behalf", it has been confirmed that the Scottish Housing Regulator does not contract out any of its functions to a third party.

### Electronic Management System

The Scottish Housing Regulator is currently creating a new document management system using SharePoint. This system, when in place, will provide administrative control of those electronic record series, described in the *Plan* as “regulatory casework and other regulatory information”. The *Records Management Policy* (page 4) confirms the existence of this project and **the Keeper has asked to be updated as the project progresses**. There is a commitment to publish the *Records Management Plan* publically once the electronic management system project is complete (*Plan* page 2). The Keeper thanks the Scottish Housing Regulator for this commitment. When this has been done, it would be helpful if you could inform [public\\_records@nrscotland.gov.uk](mailto:public_records@nrscotland.gov.uk)

### Information Management Support Officers

The Scottish Housing Regulator has identified staff in each division to be Information Management Support Officers. The Keeper commends the principle of involving local champions when implementing the *Plan*.

## 6. Keeper's Summary

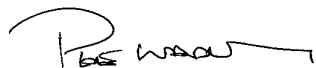
Elements **1 - 14** that the Keeper considers should be in a public authority records management plan have been properly considered by the Scottish Housing Regulator. Policies and governance structures are in place to implement the actions required by the plan.

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Scottish Housing Regulator**.

- The Keeper recommends that the Scottish Housing Regulator 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 **Scottish Housing Regulator**. In agreeing this RMP, the Keeper expects the Scottish Housing Regulator to fully implement the agreed RMP and meet its obligations under the Act.



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