

**Public Records (Scotland) Act 2011**

**West Lothian Integration Joint Board**

**The Keeper of the Records of Scotland**

**21st May 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 West Lothian Integration Joint Board by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 7<sup>th</sup> November 2018.

The assessment considered whether the RMP of West Lothian Integration Joint Board 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 West Lothian Integration Joint Board complies with the Act can be found under section 7 of this report with relevant recommendations.

## **3. Authority Background**

Legislation to implement health and social care integration came into force on April 1, 2016, following the Public Bodies (Joint Working) (Scotland) Act 2014. Under these new arrangements the West Lothian Council and NHS Lothian delegated some functions to a new body; the West Lothian Integration Joint Board (IJB). The West Lothian IJB is a separate and distinct legal entity from West Lothian Council and NHS Lothian. The IJB is responsible for local joint strategic commissioning of delegated health and social care services and for overseeing the delivery of services on its behalf. The arrangements for the operation, remit and governance of the IJB are set out in the Integration Scheme for West Lothian.

## 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 West Lothian Integration Joint Board'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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**West Lothian Integration Joint Board**  
(Referred to as 'The IJB' in the assessment below)

**5. Model Plan Elements: Checklist**

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>West Lothian Integration Joint Board (the IJB) have identified Jim Forrest, Director of West Lothian Health and Social Care Partnership, as the individual with overall responsibility for records management in the authority.</p> <p>Mr Forrest responsibility for the operation of the IJB generally is confirmed by the <i>Terms Of Reference For West Lothian Integration Joint Board</i> which are publically available at: <a href="http://www.westlothianchcp.org.uk/hsci">http://www.westlothianchcp.org.uk/hsci</a></p> <p>The Keeper notes that West Lothian IJB have chosen to use the term 'Director' rather than the more common 'Chief Officer'. He acknowledges that the roles are the same and, therefore:</p> <p>The Keeper agrees that West Lothian Integration Joint Board have identified an appropriate individual to this role as required by the Public Records (Scotland) Act 2011(the Act).</p>
2. Records Manager <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>West Lothian Integration Joint Board have identified Carol Dunn, West Lothian Council Records Manager as the individual responsible for the implementation of the <i>Plan</i>.</p> <p>The records of the IJB are held entirely on the records management systems of</p>

			<p>West Lothian Council (<b>see element 4</b>) so it is appropriate for Ms Dunn to be identified in this role.</p> <p>The Keeper has already agreed that the West Lothian Council Records Manager is an appropriate individual to implement the Council RMP and therefore:</p> <p>The Keeper agrees that West Lothian Integration Joint Board have 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>As explained in the <i>IJB Plan</i> (page 9), West Lothian Integration Joint Board have adopted the <i>Records Management Policy</i> of West Lothian Council. This is available at <a href="http://www.westlothian.gov.uk/media/1599/Records-Management-Policy/pdf/InfoRecordsManagementPolicy.pdf">http://www.westlothian.gov.uk/media/1599/Records-Management-Policy/pdf/InfoRecordsManagementPolicy.pdf</a></p> <p>The Keeper has already agreed that the Records Management Policy of West Lothian Council is appropriate.</p> <p>Furthermore, the <i>IJB Plan</i> contains a detailed explanation of the purpose of robust records management in the introduction (pages 6 – 8). The principles outlined are entirely suitable and are supported by the <i>West Lothian Council Records Management Policy</i>.</p> <p>The Keeper agrees that West Lothian Integration Joint Board have a records management policy statement as required by the Act.</p>
<p>4. Business Classification</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The introduction to the <i>Plan</i> (page 6) commits the IJB to “...managing...information effectively and legally.”</p> <p>West Lothian Integration Joint Board’s public records are managed on the systems</p>

			<p>of West Lothian Council.</p> <p>The Keeper has been provided with a screen-shot showing how the IJB records sit on that system.</p> <p>West Lothian Council employ an EDRMs as the corporate records management system for the council.</p> <p>The Keeper agrees that this arrangement supports the IJB's records management principles explained in the plan at section 1.7 (page 7): "Records are stored within record keeping systems, rather than in personal filing" and "Records are stored in a consistent manner that reflects the functions of the Board".</p> <p>In principle, the public records the IJB are maintained in electronic format. Where paper records are required, these are logged within paper records inventories and maintained against approved records retention schedules.</p> <p>Monitoring and compliance is detailed within the council's <i>Records Management Policy (see element 3)</i>.</p> <p>The Keeper has already agreed that the 'business classification' provision of West Lothian Council is appropriate and his assessment team acknowledges that they have been regularly updated as the EDRM has developed.</p> <p>The IJB section of the EDRM is maintained by an IJB Project Officer (<b>see under General Comments below</b>). The Keeper commends the use of local staff in developing records management provision (<b>see also element 5</b>).</p> <p>The Keeper agrees that West Lothian Integration Joint Board have arrangements in place to ensure that public records are managed within a business classification</p>
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			<p>scheme, a file plan or an information asset register and that this structure includes all records and information managed by the authority.</p>
5. Retention schedule	<b>G</b>	<b>G</b>	<p>Although managed on West Lothian Council systems, retention decisions are allocated by the IJB Project Officer (<b>see under General Comments below</b>). The Keeper commends the involvement of local staff in the design of records management provision. In particular the Project Officer's understanding of IJB business requirements is liable to be relevant to the creation of the retention schedule.</p> <p>The Keeper agrees that this arrangement supports the IJB's records management principles explained in the plan at section 1.7 (page 7): " Records are disposed of in accordance with approved Records Retention Schedules "</p>
6. Destruction Arrangements <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The introduction to the <i>Plan</i> (page 3) commits the IJB to "...disposing...information effectively and legally."</p> <p>West Lothian Integration Joint Board use the records management systems of West Lothian Council.</p> <p>Records held in digital format will be destroyed by imposing the retention decisions (see element 5) on the West Lothian Council EDRM.</p> <p>West Lothian Council also provide bulk paper-records destruction under contract although the Plan explains that the IJB itself has access to an on-site shredder. The specifications of this shredder have been supplied.</p> <p>Hardware is destroyed through a third party under contract to West Lothian Council.</p>

			<p>Back-ups of digital records are taken by West Lothian Council and destroyed under a pre-determined lifecycle.</p> <p>The Keeper has previously agreed that the destruction processes of West Lothian Council are suitable and can furthermore agree that the IJB shredding process for paper-records seems appropriate.</p> <p>The Keeper agrees that these arrangement support the IJB’s records management principles explained in the plan at section 1.7 (page 7): " Records are disposed of in accordance with approved Records Retention Schedules "</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>A</b></p>	<p>In the introduction to the <i>Plan</i> West Lothian Integration Joint Board identify that: “Good recordkeeping practices lead to greater productivity as less time is taken to locate information. Well managed records will help.....Preservation of vital and historical records.”</p> <p>To this end the IJB plan to utilise the archive facility of West Lothian Council as a repository for records selected for permanent preservation.</p> <p>As the majority of the public records of the IJB are ‘born digital’ it is unlikely that an operational archiving system is in place. Digital archiving functionality is in very early stages in Scotland. As the IJB is a relatively new body, with no legacy material, it is also unlikely that there is an immediate requirement to transfer public records to archive.</p> <p><b>The IJB notes that a formal agreement is required between the authority and the archive service and will pursue this.</b></p> <p>The arrangements to permanently accession IJB public records in West Lothian</p>

			<p>Archive supports statements elsewhere in the <i>Plan</i> (such as under section 2.11 page 13) and particularly the records management principle explained in the plan at section 1.7 (page 7): “Records that are identified as of historical significance are preserved”.</p> <p><b>The Keeper agrees that West Lothian Integration Joint Board have identified a suitable repository for the permanent preservation of public records. He agrees this element of the Records Management Plan under an improvement model awaiting sight of a formal agreement between the authority and the archive.</b></p>
<p>8. Information Security <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The introduction to the <i>Plan</i> (page 3) commits the IJB to “...protecting...information effectively and legally.”</p> <p>As explained in the IJB <i>Plan</i> (page 11), West Lothian Integration Joint Board have adopted the <i>Information Security Policy</i> of West Lothian Council. This is available at <a href="https://www.westlothian.gov.uk/media/1598/Information-Security-Policy/pdf/InfoSecurityPolicy1.pdf">https://www.westlothian.gov.uk/media/1598/Information-Security-Policy/pdf/InfoSecurityPolicy1.pdf</a></p> <p>This policy is supported by a suite of guidance including the Council's <i>Information Handling Procedures</i>: <a href="https://www.westlothian.gov.uk/media/1597/Information-Handling-Procedure/pdf/infohandling1.pdf">https://www.westlothian.gov.uk/media/1597/Information-Handling-Procedure/pdf/infohandling1.pdf</a></p> <p>“The council operate an Information Security Management System (ISMS) in accordance with the international standard ISO27001. The council’s Information Security Policy complies with this standard and provides a framework for all services.” (<i>Plan</i> page 11).</p> <p>The Keeper has already agreed that the information security procedures in West Lothian Council are appropriate.</p>

			<p>The Keeper agrees that the adoption of West Lothian Council’s security procedures supports the IJB’s records management principle explained in the plan at section 1.7 (page 7): “Records are appropriately secured”</p> <p>The Keeper agrees that West Lothian Integration Joint Board have arrangements in place to properly ensure that their public records are protected against unauthorised access, destruction, alteration or removal.</p>
9. Data Protection	<b>G</b>	<b>G</b>	<p>As explained in the <i>IJB Plan</i> (page 12), West Lothian Integration Joint Board have adopted the <i>Data Protection Policy</i> of West Lothian Council. This is available at: <a href="https://www.westlothian.gov.uk/dataprotectionandprivacy">https://www.westlothian.gov.uk/dataprotectionandprivacy</a></p> <p>The Keeper has already agreed that the data protection procedures in West Lothian Council are appropriate.</p> <p>The IJB’s named Data Protection Officer is the Project Officer, Lorna Kemp (<b>see under General Comments below</b>).</p> <p>The Keeper agrees that Midlothian Integration Joint Board have appropriately considered their responsibilities under the Data Protection Act 2018.</p>
10. Business Continuity and Vital Records	<b>G</b>	<b>G</b>	<p>“West Lothian Council’s business continuity arrangements apply to records of the Board”. In light of the majority of the IJB’s public records being held in the Council’s EDRM (<b>see element 4</b>), the Keeper agrees this is appropriate.</p> <p>The IJB also note that vital records have been identified, including when they exist in paper format.</p>

			<p>To carry out their functions, the IJB utilise records belonging to partner organisations. These records are not managed by the IJB and are not covered by the submitted <i>Plan</i>. However, the IJB takes the opportunity (page 13) to reassure the Keeper that these records are also covered by business continuity arrangements. The Keeper has previously agreed that the business continuity arrangements of West Lothian Council and of NHS Lothian are appropriate.</p> <p>The Keeper agrees that this arrangement supports the IJB's records management principle explained in the plan at section 1.7 (page 7): " Records that are identified as vital are protected".</p> <p>The Keeper agrees that there are appropriate procedures in place to resume business in the event of a disaster and that consideration has been given to vital records.</p>
11. Audit trail	<b>G</b>	<b>G</b>	<p><b>(see element 4)</b></p> <p>West Lothian Integration Joint Board's public records are managed on the systems of West Lothian Council.</p> <p>The Keeper agrees that managing the public records of the IJB through the EDRM of West Lothian Council supports the records management principle explained in the plan at section 1.7 (page 7): "Records are easily accessible for as long as they are required".</p> <p>The IJB also manages a limited number of paper records. The <i>Plan</i> states: "Where paper records of an operational nature are maintained on site these are identified within the paper records inventories. Movement of these paper records are controlled through a method of check-out/in deployed by the Board."</p>

			<p>Specifically on the subject of hard-copy records the IJB have explained to the Keeper, separate from their <i>Plan</i>, that there is currently only one confidential record series (containing special category personal information) that is held hard-copy. This series has access limited to one senior officer in the authority. They are confident that this record series is controlled and securely held. The IJB have described the security measures for this record series to the Keeper and he is content that they are adequately managed.</p> <p>The Keeper agrees that the Board have procedures in place to locate and identify records when necessary.</p>
<p>12. Competency Framework for records management staff</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Keeper has already agreed that West Lothian Council's Records Manager (<b>see element 2</b>) has the appropriate skills and access to training to allow her to take day-to-day responsibility for the implementation of the Council's <i>Records Management Plan</i>. By extension, he can also agree that Ms. Dunn has the required attributes to implement the IJB <i>Plan</i>.</p> <p>The IJB <i>Plan</i> goes on to confirm the availability of training for other IJB staff members:</p> <p>"All staff receive information security awareness training and are reminded of the importance of security via direct emails and local awareness sessions." (<i>Plan</i> page 11).</p> <p>"All officers are required to undertake data protection and information security training to ensure that personal data is processed in accordance with the data protection principles." (page 12)</p> <p>Online training modules have been developed and rolled out to all staff covering:</p>

			<ul style="list-style-type: none"> <li>• Data Protection Act 1998,</li> <li>• Freedom of Information (Scotland) Act 2002</li> <li>• End User Security Awareness</li> <li>• IT Staff Security Awareness</li> </ul> <p>These modules are mandatory and access permissions can be withdrawn for non compliance.</p> <p>The Keeper agrees that the individual identified at element 2 has the proper training, responsibilities and support to fulfil the role. Furthermore he acknowledges that West Lothian Integration Joint Board properly consider information governance training for all staff as appropriate.</p>
<p>13. Assessment 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>The <i>Plan</i> commits to an annual review using West Lothian Council’s ‘standard governance, monitoring and review process’ (<i>Plan</i> section 2.13, page 13). The Keeper has already agreed that West Lothian Council’s monitoring and review procedures are appropriate.</p> <p>The Project Officer is responsible for the annual review, supported by the council’s Records Manager. The Reporting structure is explained.</p> <p>The Project Officer’s <i>Job Description</i> has been supplied in evidence.</p> <p>Therefore the Keeper can agree that that West Lothian Integration Joint Board have processes in place to review their <i>Plan</i> as required by the Act and have determined a time when this will take place. The responsibility for undertaking the review and the review reporting procedure are also clearly laid out.</p>

14. Shared Information	<b>G</b>	<b>G</b>	<p>As part of its function an IJB must utilise the records of other partners and, therefore, information sharing is a key part of its business. In the case of West Lothian Integration Joint Board the record of the Board itself are managed by a third party (the Council). For these reasons the Keeper must be satisfied that robust data sharing agreements are in place.</p> <p>The Plan commits the IJB to pursuing all data sharing exercises using formal documentation such as Memoranda of Understanding, Data Sharing Agreements or Data Processing Agreements.</p> <p>As an example of this, the Keeper has been provided with a copy of the West Lothian Council/West Lothian Integration Joint Board Memorandum of Understanding (MOU) on “Sharing of information for the purposes of the integration of health and social care services in West Lothian area.”</p> <p>The Keeper agrees that this MoU considers information governance throughout. For example 'Role of Data Controller' (section 1.9) or 'Records Management and Publication Scheme' (8.7)</p> <p>The Keeper can agree that West Lothian Integration Joint Board properly considers records governance when undertaking information sharing programmes.</p>

**West Lothian Integration Joint Board**  
(Referred to as 'The IJB' in the assessment below)

**General Notes on RMP, Including Concerns:**

Version

This assessment is on the *Records Management Plan* of the Midlothian Integration Joint Board version 2.0 approved on 24<sup>th</sup> September 2018 and submitted to the Keeper of the Records of Scotland for his agreement on 7<sup>th</sup> November 2018 (the *Plan*).

The *Plan* contains a detailed introduction/summary and records management statement (pages 1 – 8).

The *Plan* explains the purpose and principles of records management (pages 6 and 7).

The IJB acknowledge records as a business asset (for example *Plan* Foreword page 7). The Keeper commends this recognition.

The *Plan* mentions the Act and 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 Public Records (Scotland) Act 2011 (PRSA) makes it clear that records created by third parties when carrying out the functions of a scheduled authority should be considered 'public records' - PRSA Part 1 3 (1)(b). The authority has stated that, currently, it does not contract out any of its functions to third-parties.

Project Officer

The liaison between the IJB and the Council appears to be a Project Officer. The *Plan*/evidence sheet indicates this person has day-to-day responsibility for the management of the 'fileplan' and acts as the named Data Protection Officer for the IJB. The Project Officer is responsible for ensuring the appropriate design, approval and application of appropriate retention schedules for IJB records. The Project Officer is also responsible for ensuring IJB staff have undertaken the appropriate training (*Model Records Management Plan Evidence List* supplied with *Plan* page 30). The Keeper notes that the Project Officer is currently the 'Key Contact' in the IJB for all matters concerning the Act. The Keeper thanks the IJB for explaining this officer's role as it relates to the *Plan*.

## 6. Keeper's Summary

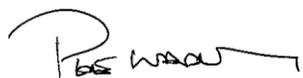
Elements 1 - 14 that the Keeper considers should be in a public authority records management plan have been properly considered by West Lothian Integration Joint Board. Policies and governance structures are in place to implement the actions required by the plan.

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of **West Lothian Integration Joint Board**.

- The Keeper recommends that West Lothian Integration Joint Board 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 West Lothian Integration Joint Board. In agreeing this RMP, the Keeper expects West Lothian Integration Joint Board to fully implement the agreed RMP and meet its obligations under the Act.



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