

Public Records (Scotland) Act 2011

NHS Borders Assessment Report

The Keeper of the Records of Scotland

9th September 2016

Contents

1. Public Records (Scotland) Act 2011	3
2. Executive Summary	4
3. Authority Background	4
4. Assessment Process	5
5. Model Plan Elements: Checklist.....	6
6. Keeper's Summary	24
7. Keeper's Determination	24
8. Keeper's Endorsement.....	25

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 **NHS Borders** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 26 January 2016.

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

3. Authority Background

NHS Borders is responsible for providing health care services to protect and improve the health of the people of the Borders and plan services for the local population. Other roles include to:

- focus on health outcomes and people's experience of their local NHS system;
- promote integrated health and community planning by working closely with other local organisations; and
- provide a single focus of accountability for the performance of the local NHS system.

Throughout its work, NHS Borders links with partners in care, such as patients, staff, local communities and disadvantaged groups, so that their needs and views are included in the design and delivery of local health services.

Borders NHS Board functions include:

- Strategy development: to develop a single local health plan which addresses health priorities;
- Resource allocation to address local priorities and determining how Borders resources are deployed to meet strategic objectives;
- Implementation of the local health plan;
- Performance management of the NHS Borders health system.

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 NHs Border’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.
----------	--	--	----------	--	--	----------	--

5. Model Plan Elements: Checklist

NHS Borders

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	G	G	<p>NHS Borders have identified June Smyth, Director of Workforce and Planning, as the individual with overall responsibility for records management in the authority.</p> <p>This is confirmed by a <i>Covering Letter</i> from Mrs Smyth which appears as appendix 1 of the <i>Records Management Plan</i> (the <i>Plan</i>).</p> <p>The <i>Policy</i> (see element 3) states at 4.1 “The Chief Executive has overall responsibility for records management in the Board.” An e-mail, from the Chief Executive, has been provided to the Keeper confirming that she has delegated her responsibility in this area to Mrs Smyth.</p> <p>Mrs Smyth is noted as the ‘Document Owner’ of the <i>Plan</i> which she has signed.</p> <p>Mrs Smyth sits on the Board’s Strategy & Performance Committee (see element 13).</p> <p>Mrs Smyth is the ‘owner’ of <i>Managers Guidance Inappropriate Access to Health Records(Including FairWarning alerts)</i>.</p> <p>Assuming that NHS Borders can confirm that overall responsibility for records management has been delegated by the CEO to Ms Smyth, the Keeper should be</p>

			able to agree that the authority has identified a suitable individual to this role as required by the Act.
2. Records Manager <i>Compulsory element</i>	G	G	<p>NHS Borders has identified George Ironside, Senior Health Information Manager, as the individual with day-to-day responsibility for implementing the <i>Plan</i> in the authority.</p> <p>This is confirmed in a <i>Covering Letter</i> from Ms Smyth (see element 1) which appears as appendix 1 of the <i>Plan</i>.</p> <p>The <i>Plan</i> states (page 7) that NHS Borders is considering appointing a Corporate Records Manager. The Keeper welcomes this and notes that NHS Borders have committed to inform him if this post is created. Similarly if a Corporate Records Team (page 17) is created, the Keeper should be informed.</p> <p>George Ironside is the author of the <i>Records Management Policy (see element 3)</i> and <i>Records Management Strategy</i>. He is also 'owner' of the <i>Disposal of Confidential Waste</i> procedure (see element 6).</p> <p>The Keeper agrees that NHS Borders have identified an appropriate individual to this role as required by the Act.</p>
3. Policy <i>Compulsory element</i>	G	G	NHS Borders have a <i>Records Management Policy (the Policy)</i> which has been supplied to the Keeper. This is version 2.1, approved by the Information Governance Committee in December 2015.

			<p>The <i>Policy</i> is specifically endorsed by June Smyth, Director of Workforce and Planning (see element 1) in a <i>Covering Letter</i> which appears as appendix 1 of the <i>Plan</i>.</p> <p>The principles of the <i>Policy</i> are repeated in the text of the <i>Plan</i> (page 8)</p> <p>The Keeper agrees that the <i>Plan</i> supports the objectives of the <i>Policy</i>.</p> <p>The <i>Policy</i> explains the purpose of good records management (sections 1 and 2.2).</p> <p>The <i>Policy</i> specifically mentions the Public Records (Scotland) Act 2011.</p> <p>Mrs Smyth (see element 1) states in her <i>Covering Letter</i>: "As part of the plan, I endorse the Records Management Policy for corporate and health records as required in Element 3. This policy is circulated throughout the organisation and senior management teams are responsible for its dissemination and implementation locally."</p> <p>The Keeper agrees that NHS Borders have a approved and operational <i>Records Management Policy</i>.</p>
4. Business Classification	A	G	<p>In line with a commitment in the <i>Records Management Policy</i> (<i>Policy</i> section 6), NHS Borders have a <i>Business Classification Scheme</i> which has been provided to the Keeper. This is based on NHS National Services Scotland's template. The Keeper is familiar with this template and agrees that it is an appropriate model for a territorial health board.</p>

			<p>It features a three-level structure (function/Activity/Transaction) for example: Public Health/Screening/Clinical Lists Hardcopy.</p> <p>It is the intention for NHS Borders to populate the Business Classification Scheme with retention information (see element 5), vital records (see element 10) and other information provided by business units. This would create a useful 'information asset' style business tool. The Keeper would commend the development of such a tool. NHS Borders have agreed to provide the Keeper with a copy of the master Business Classification Spreadsheet as part of the periodic update/progress report.</p> <p>On this future development the <i>Plan</i> states (page 9): "Fully populating the Business Classification Scheme is considered a long term item and will take several years to complete." (page 9)</p> <p>The <i>Plan</i> also states "All Board directors have provided their assurance that the Scheme, once fully developed and rolled-out corporately, will be implemented throughout their directorate." (page 9). Clearly the <i>Business Classification Scheme</i> is a work in progress. The Keeper accepts that this major piece of work will take some time to complete and asks that he is routinely updated on progress.</p> <p>The <i>Plan</i> recognises the importance of efficient and systematic storage of records (for example page 2). The link between an efficient business classification system and control document naming is noted (see element 11).</p> <p>The Board have submitted a copy of their <i>User Guide for E-Mail</i> leaflet.</p>
--	--	--	--

			<p>The <i>Plan</i>, page 8 and the Policy, S1.4 show that some records are “deposited with a 3rd party organisation specifically contracted to store information on behalf of NHS Borders.” The Keeper acknowledges that he has been supplied with operating procedures for destruction of records held in an out-store (see element 6).</p> <p>The Keeper agrees this element of NHS Borders’ <i>Records Management Plan</i> on ‘improvement model’ terms. This means that the Keeper acknowledges that the authority has identified a gap in their records management provision (the Business Classification Scheme is not fully rolled out) and has put processes in place to close that gap. The Keeper’s agreement is conditional on his being kept up-to-date with progress.</p>
<p>5. Retention schedule</p>	<p>G</p>	<p>G</p>	<p>NHS Borders maintain records according to the NHS Scotland code. This is robust provision and meets with the Keeper’s agreement.</p> <p>Retention schedules are available to staff on the NHS Borders’ intranet.</p> <p>The Keeper agrees that NHS Borders has approved and operation retention schedules that reflect the business activities of the authority.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>NHS Borders state in their <i>Records Management Policy</i> (section 3.1) that one of the aims of the records management system is that “records are retained and disposed of appropriately – using consistent and documented retention and disposal procedures...”</p> <p>The <i>Plan</i> states that “The Board has procedures for managing the confidential destruction of expired records in all formats, in a way that is auditable and</p>

			<p>irreversible.” (<i>Plan</i> 6.1) Generally it recognises the importance of efficient and systematic disposal of records (for example <i>Plan</i> page 2).</p> <p>In order to achieve these objectives NHS Borders has the following procedures in place:</p> <p><u>Paper</u>: destroyed using in-house shredders and by third party disposal contractors. Detailed guidance is provided to staff in the <i>Disposal of Confidential Waste Procedure</i> document which has been supplied as Appendix 9 of the <i>Plan</i>. Sample destruction certificates have been supplied to demonstrate that this arrangement is operational. NHS Borders have supplied the Keeper with a copy of the destruction procedures in operation when paper records are held in an outstore by a third party contractor (appendix 11 of the <i>Plan</i>).</p> <p><u>Hardware</u>: Redundant IT equipment is cleared of records by a third party disposal contractor. Detailed guidance is provided to staff in the <i>Standard Operation Procedure IT Destruction</i> document which has been supplied as Appendix 12 of the <i>Plan</i>. Sample destruction certificates have been supplied to demonstrate that this arrangement is operational.</p> <p><u>Back-ups</u>: Network back-up tapes are held for 1 year, at two separate sites, for business continuity purposes and then irretrievably overwritten.</p> <p><u>Electronic</u>: The <i>Code of Conduct - Information Governance</i> (appendix 5 of the <i>Plan</i>) under Disposal of Information “11.3 Computer Files with confidential information which are no longer needed should be deleted from both the server and the PC, if necessary”. Also the <i>Plan</i> refers to the emptying of network ‘recycle bins’ and</p>
--	--	--	---

			<p>Outlook ‘deleted items’ folders from 2017 onwards. An explanation has been provided as to that 2017 date.</p> <p>Section 6.2 in the <i>Plan</i> states: “The Records Management Policy states in Section 1.2 that a record is recorded information in paper OR electronic format. Managers are responsible for having operational procedures within their department to manage electronic records in accordance with the Policy.” These departmental operational procedures will be managed by the Local Records Managers (see element 12).</p> <p>The Keeper agrees that staff are given guidance on the management/deletion of electronic records and that this may become an automatic function next year. The Keeper request that he is informed when the new functionality becomes available.</p> <p>The Keeper agrees that NHS Borders have procedures in place top securely and irretrievably destroy records when appropriate.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p>A</p>	<p>G</p>	<p>At several places NHS Borders recognise the importance of managing the “protection of vital and historically important records” (for example <i>Plan</i> page 2, <i>Policy</i> 3.1).</p> <p>However, a formal agreement with ‘Live Borders’ regarding the transfer of records has yet to be established. The Keeper urges NHS Borders to pursue such an agreement with urgency.</p> <p>Currently historical records are held internally at the NHS Border’s Education Centre where storage and access is managed. An explanation of the Education Centre’s</p>

			<p>archiving provision has been provided to the Keeper and he agrees this is a suitable <u>temporary</u> solution while negotiations with 'Live Borders' progress.</p> <p>The Keeper agrees this element of NHS Borders <i>Records Management Plan</i> under 'improvement model' terms. This means that he acknowledges the authority has identified a gap in provision (the Education Centre, although secure, may not be suitable for the <u>permanent</u> preservation of historical records) and has put processes in place to close that gap. The Keeper's agreement is conditional on a formal agreement being reached between NHS Borders and Live Borders regarding the transfer of historically significant records and him being provided with a copy of that agreement.</p>
<p>8. Information Security <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>NHS Borders state as an aim of their Records Management Policy (see element 3): that "records are secure - from unauthorised or inadvertent alteration or erasure, that access and disclosure are properly controlled..." (<i>Policy 3.1</i>)</p> <p>NHS Borders has an <i>IT Security Policy</i> which has been supplied to the Keeper. This is version 2.1 approved in October 2012 and reviewed in October 2014.</p> <p>It is available online at: http://www.nhsborders.scot.nhs.uk/media/155429/it_security_policy_2013.pdf</p> <p>NHS Borders has a <i>Information Governance Code of Conduct</i> which has been supplied to the Keeper. This is version 2.1 approved in April 2015.</p> <p>It is available online at:</p>

			<p>http://www.nhsborders.scot.nhs.uk/media/155425/nhsb_code_of_conduct.pdf.</p> <p>These two core security policies are supported by a suite of other policies and guidance such as an <i>Internet & E-Mail Security</i> guidance document and a <i>Social Media Policy</i>, which have also been supplied to the Keeper.</p> <p>NHS Borders matches its security provision with the <i>NHS Scotland Information Assurance Strategy</i> - http://www.sehd.scot.nhs.uk/mels/CEL2011_26.pdf</p> <p>Staff access these policies and guidance document on the NHS Borders intranet. A screen-shot has been provided in evidence.</p> <p>NHS Borders subscribe to the Fairwarning system designed to protect electronic patient information. The Keeper has been provided with a guide to the operation of this system in NHS Borders.</p> <p>The Keeper agrees that NHS Borders has procedures in place to appropriately ensure the security of their records as required by the Act.</p>
9. Data Protection	G	G	<p>NHS Borders has a <i>Data Protection Policy</i> which has been supplied to the Keeper. This is version 1.3 approved in February 2014.</p> <p>It is available online at: http://www.nhsborders.scot.nhs.uk/media/155427/data_protection_policy_2014.pdf</p> <p>The <i>Data Protection Policy</i> was created by Ian Merritt, Information Governance</p>

			<p>Lead and Data Protection Officer.</p> <p>This policy states: “A policy to ensure that the security and confidentiality of staff and patient-identifiable information is maintained at all time is...essential”.</p> <p>NHS Borders is registered with the Information Commissioner: Z772810X.</p> <p>Subject access information is made available to the public through an online policy (designed for staff guidance): http://www.nhsborders.scot.nhs.uk/media/155428/subject_access_request_policy_2013.pdf and a leaflet (designed for public information) <i>How to See your Health Records</i>. This leaflet is available at: http://www.nhsborders.scot.nhs.uk/patients-and-visitors/know-your-rights/</p> <p>The <i>Data Protection Policy</i> explains the (current) 8 principles of Data Protection (appendix A).</p> <p>NHS Borders’ staff are required to sign the <i>Code of Conduct</i> confidentiality statement every two years.</p> <p>NHS Borders subscribe to the Fairwarning system: https://www.fairwarning.com/wp-content/uploads/2015/08/2011-05-WP-HIE-NHS-SCOTLAND2.pdf designed to protect electronic patient information. The Keeper has been provided with a guide to the operation of this system in NHS Borders.</p> <p>The <i>Records Management Policy</i> specifically mentions compliance with the Data Protection Act 1998.</p>
--	--	--	--

			The Keeper agrees that NHS Borders has properly considered their responsibilities under the Data Protection Act 1998.
10. Business Continuity and Vital Records	G	G	<p>The <i>Plan</i> recognises the value of records management in providing “continuity in the event of a disaster”.</p> <p>Under NHS Borders’ <i>Resilience Policy</i> each department operates their own <i>Business Continuity Plan</i>.</p> <p>Both the <i>Resilience Policy</i> and a sample <i>Continuity Plan</i> have been provided to the Keeper. The Keeper agrees that the <i>Continuity Plan</i> features records recovery including the ‘recall’ of back-up tapes.</p> <p>NHS Border recognise the importance of managing “protection of vital...records” (<i>Plan</i> page 2) and have acknowledged that the identification of vital records should be a feature of the expanded <i>Business Classification Scheme</i> (see element 4).</p> <p>As a Director, Ms Smyth (see element 1) is “responsible for the co-ordination, development, monitoring and review of all matters relating to Resilience matters within their areas of responsibility”.</p> <p>The Keeper agrees that NHS Border has approved business continuity plans in place and that they properly consider the recovery of records.</p>
11. Audit trail	A	G	The <i>Plan</i> recognises the importance of efficient and systematic location and retrieval

			<p>of records (for example page 2). Furthermore the <i>Policy (see element 3)</i> states as one of its aims “records and the information within them can be located and displayed in a way consistent with its initial use, and that the current version is identified where multiple versions exist” (<i>Policy 3.1</i>).</p> <p>Clinical records are tracked using a bespoke patient administration system. However, corporate records held electronically require a “robust manual system to be devised”.</p> <p>In the text for this element NHS Borders explain: “NHS Borders will adopt naming conventions and version control...This work is scheduled to commence late 2016 and is expected to be fully implemented by 2020.” The Keeper agrees that this is a reasonable target for an organisation of the size and complexity of NHS Borders.</p> <p>The Keeper has been provided with the authority’s <i>Naming Convention & Version Control</i> guidance document. At the moment, this is in draft form only, but the Keeper acknowledges that it provides evidence that NHS Border’s has begun the work described above. The Plan sets a target of 2016 for a consultation on naming conventions with approval of the guidance to follow.</p> <p>NHS Borders agrees to include the progress of the Naming Convention and Version Control procedures in the periodic reports to the Keeper.</p> <p>The Keeper agrees this element of NHS Borders’ <i>Records Management Plan</i> under ‘improvement model’ terms. This means that he acknowledges that the authority has identified a gap in their records management provision (version control and naming convention arrangements are in their infancy) but has</p>
--	--	--	--

			<p>established a process to close that gap. The Keeper’s agreement is conditional on his receiving updates as this project progresses.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>The <i>Keeper’s Model Plan</i> states against this element “The Keeper will expect an authority’s RMP to detail a competency framework for person(s) designated as responsible for the day-to-day operation of activities described in the elements in the authority’s RMP.”</p> <p>An excerpt of George Ironside’s agreed Annual Objectives for 2016/17 has been provided showing that he is responsible for (among other relevant objectives) “Publication of NHS Borders Records Management Plan and lead action plan to secure progress with the outstanding elements of the Plan”.</p> <p>The Records Management Policy (see element 3) specifically makes the following commitment: “All Board staff will be made aware of their responsibilities for record-keeping and record management through generic and specific training programmes and guidance.” (<i>Policy</i> section 9).</p> <p>To this end, training has been made a is a key-strategy in the <i>Board’s Records Management Strategy</i> (section 4.1.7)</p> <p>All staff are trained in information security at induction (<i>Plan</i> 8.6) and are required to sign the <i>Code of Conduct</i> confidentiality statement.</p> <p>All staff must complete data protection training (online) every two years. Course content has been shared with the Keeper.</p>

			<p>There are future plans to train staff on naming convention and version control requirements (<i>Plan</i> page 9). This will be done as the system is rolled-out corporately (see elements 4 and 11).</p> <p>The Keeper agrees that NHS Borders have ensured that the individual identified at element 2 has the required authority and skills to implement the <i>Plan</i>. They also consider training opportunities for other members of staff when appropriate.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>The Act requires a scheduled public authority to “keep its records management plan under review” (part 1 5.1 (a)).</p> <p>Responsibility for carrying out this review falls to the Records Manager (see element 2) and he must report annually to the authority’s Performance and Strategy Committee.</p> <p>A sample report has been provided to help the Keeper understand the methodology of review in NHS Borders.</p> <p>Under this arrangement, the NHS Borders <i>Plan</i> is due for review by January 2017. However, between major reviews the Information Governance Committee will be provided with quarterly updates regarding the implementation of the <i>Plan</i> as it is a standing agenda item for their meetings.</p> <p>Progress on the implementation of the <i>Plan</i> will also be reviewed by NHS Borders Internal Audit Service. The Keeper strongly commends the use of an authority’s internal audit facilities where available. The NHS Borders Internal Audit programme regularly includes audits on Information Governance, IT Security and Records</p>

			<p>Management and so progress on the implementation plan will be picked up through these audits.</p> <p>Audit of the implementation of the <i>Records Management Plan</i> is a key-strategy in the <i>Board's Records Management Strategy</i> (section 4.1.6).</p> <p>The <i>Data Protection Policy</i> (see element 9) was due for review at the time of this assessment.</p> <p>The <i>Hard Disk Destruction Process</i> is due for review by July 2016.</p> <p>The <i>IT Security Policy</i> (see element 8) is due for review by October 2016.</p> <p>The <i>Disposal of Confidential Waste</i> procedure (see element 6) is due for review by December 2016.</p> <p>The <i>Information Governance Code of Conduct</i> (see element 8) is due for review by April 2017.</p> <p>The <i>Records Management Strategy</i> is due for review by December 2017.</p> <p>The <i>Records Management Policy</i> (see element 3) is due for review by end 2017.</p> <p>The <i>Human Resources Policy Use of Social Media</i> is due for review by November 2018.</p> <p>The <i>Resilience Policy</i> (see element 10) review is due by August 2018</p> <p>NHS Borders' registration with the Information Commissioner must be renewed by 20 March 2017.</p> <p>The Keeper agrees that NHS Borders have arrangements in place to review their RMP as required by the Act. Furthermore he acknowledges that key information governance documents have appropriate review periods allocated to them.</p>
--	--	--	--

<p>14. Shared Information</p>	<p>G</p>	<p>G</p>	<p>As is the case with all Scottish Health Boards, NHS Borders routinely shares information with other bodies while carrying out its functions.</p> <p>The Board is a partner agency in the <i>Pan Lothian/Borders Data Sharing Group</i>. The Keeper is familiar with this arrangement and agrees that it features information governance among the Protocol's clauses (for example 11.3).</p> <p>The Board commits to following the Information Commissioners <i>Data Sharing Code of Practice</i>: https://ico.org.uk/about-the-ico/consultations/data-sharing-code-of-practice/</p> <p>The Keeper agrees that NHS Borders properly considers information governance when implementing information sharing arrangements with third parties.</p>
-------------------------------	-----------------	-----------------	--

NHS Borders

General Notes on RMP, Including Concerns:

Version

This assessment is on the *Records Management Plan* (the *Plan*) of NHS Borders. Version 1.2 created by Ian Merritt, Information Governance Lead and Data Protection Officer and approved by the Information Governance Committee in August 2016. It is to be effective from 1st April 2016. The Plan has been 'signed off' (page 3) by June Smyth (**see element 1**).

The *Plan* recognises records as an asset of NHS Borders (for example *Plan* page 8, *Policy* section 1.6, 2.5).

The *Plan* explains the purpose of records management (page 2).

The *Plan* refers to the Public Records (Scotland) Act and follows the 14 element structure of the Keeper's Model Plan <http://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan>

PRSA is a standing agenda item on the Information Governance Committee.

N.B. The Plan and supporting evidence has been provided to the Keeper as a single document. However, the Keeper's agreement can only be to the Plan itself and, while he has considered the evidential documents, the Act does not permit him to formally 'agree' these. For example, he has no authority to agree the terms of the Board's Information Governance Code of Conduct (appendix 5)

NHS Borders have committed that "The current Action Plan will be included in the periodic progress reports to the Keeper" The Keeper thanks the authority for this consideration as likely to prove very useful going forward.

Third Parties:

As a Territorial Health Board, NHS Borders contracts out some of its functions to third parties, such as private hospitals. The Act makes it clear that records created by these third parties when carrying out these functions are subject to the Act. It is the responsibility of the scheduled authority (the Health Board) to ensure that procedures are in place to satisfy themselves that third parties are carrying out records management appropriately (Part 1 section 3(1)(b) “records created by or on behalf of a contractor in carrying out the authority’s functions”).

NHS Borders have provided the following statement: “It has become apparent through the preparatory work for the PR(S)A project that agreement documentation with private healthcare providers requires strengthening. We commit to strengthening Records Management with any private healthcare provider over the next 12 months.” The Keeper accepts this commitment but will require a sample of contractual clauses when available.

6. Keeper's Summary

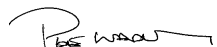
Elements 1 - 14 that the Keeper considers should be in a public authority records management plan have been properly considered by NHS Borders. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of **NHS Borders**.

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



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