

Public Records (Scotland) Act 2011

Police Investigations and Review Commissioner Assessment Report

The Keeper of the Records of Scotland

20th August 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 **Police Investigations and Review Commissioner** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **29th April 2015**.

The assessment considered whether the RMP of the Police Investigations and Review Commissioner 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 Police Investigations and Review Commissioner complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

On 1 April 2013, the Police and Fire Reform (Scotland) Act 2012 brought together Scotland's eight police services and the Scottish Crime and Drug Enforcement Agency into the single Police Scotland. At the same time, the remit of the Police Complaints Commissioner for Scotland (PCCS) expanded to include investigations into the most serious incidents involving the police. To mark this change, the PCCS was renamed the Police Investigations & Review Commissioner (PIRC).

The Police Investigations & Review Commissioner (PIRC) is an independent organisation not connected to the police. Their service is free and impartial.

The role of the PIRC is to undertake independent investigations into the most serious incidents involving the police and to provide independent scrutiny of the way police bodies operating in Scotland respond to complaints from the public. The Commissioner employs around 50 staff.

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 Police Investigations and Review Commissioner'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>The individual nominated to take senior management responsibility for records management within the Police Investigations and Review Commissioner (PIRC) is Barry Mackay, Director of Corporate Services. This is confirmed in the <i>Responsibilities</i> section (page 10) of the Records Management Policy (evidence 1).</p> <p>The Records Management Plan (RMP) states that the RMP also has the backing of the Commissioner and the Senior Management Team. The Keeper welcomes this statement of support.</p> <p>A minute from a Senior Management Team meeting on 19 March 2015 (evidence 38) shows agreement of the RMP as a formally approved document.</p> <p>Also submitted as evidence is a letter from Mr Mackay, dated 24 March 2015 (evidence 39) confirming that he has senior management responsibility for records management within PIRC.</p> <p>The Keeper agrees that an appropriate individual has been nominated to take strategic responsibility for records management within PIRC.</p>
2. Records Manager <i>Compulsory element</i>	G	G	<p>The individual appointed to take operational responsibility for records management within PIRC is Janice Carter, Policy and Performance Officer. This is confirmed in a letter from Mr Mackay (evidence 39). Ms Carter reports to Mr Mackay (see Element 1).</p>

			<p>Ms Carter is also Chair of the Records Management Group within PIRC. Included as evidence are the minutes of the meetings of the Records Management Group (evidence 12), which appears to meet on a monthly basis and shows the issues that have been discussed regarding records management.</p> <p>Also submitted as evidence is Ms Carter’s job description (evidence 25) which shows that she is responsible for information management and reporting, as well as dealing with Freedom of Information and Data Protection requests. Number 11 of her <i>Principal Accountabilities</i> shows that she is the key contact within PIRC for ensuring that record keeping policies and procedures are developed, implemented and adhered to.</p> <p>Evidence 24 shows that Ms Carter is a qualified Data Protection Practitioner and has completed the Cabinet Office’s training in Protecting Information at levels 1 and 2.</p> <p>The Keeper agrees that an appropriate individual has been appointed to take day-to-day responsibility for records management within PIRC.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>PIRC has submitted their Records Management Policy (evidence 1) which was approved in December 2014 and is due for review in November 2015.</p> <p>The Policy sets out PIRC’s corporate approach to records management and staff responsibilities in this regard. It also details the practical procedures in place for dealing with the different categories and formats of records created and held by PIRC. The appendices to the policy contain the retention and disposal actions to be taken with regards to the types of records created by PIRC.</p> <p>Also submitted as evidence are examples of internal communications from the</p>

	G	G	<p>Commissioner in the form of a series of news articles (evidence 11). These articles include information on progress towards projects relating to the development of the RMP. The Keeper commends this approach of communicating progress to staff.</p> <p>Similarly, the minutes of the Records Management Team meetings (evidence 12) show the development of records management policies and procedures and the RMP over time.</p> <p>PIRC have also submitted screenshots of their Intranet 'insite' (evidence 34) which shows that the Records Management Policy is available to all staff.</p> <p>The Keeper agrees that PIRC have in place an operational records management policy which outlines their corporate approach to records management and that staff are aware of their responsibilities.</p>
4. Business Classification	G	G	<p>PIRC has submitted its Business Classification Chart (BCC) (evidence 3). It is based on the Local Government Classification Scheme (LGCS) but amended to suit the particular needs of the organisation. It is structured in three tiers, with the top level functions supported by further levels detailing the activities performed within these functions and the transactions or processes that are carried out for each activity. The BCC was developed by the Records Management Group which comprises representatives from all business areas of PIRC.</p> <p>PIRC has also submitted a copy of its directory structure (evidence 9). Access to some of these directories are restricted for business purposes.</p> <p>No <u>function</u> of PIRC is carried out by a third party.</p> <p>The Keeper agrees that PIRC has in place a method for classifying the records created by its business activities.</p>

<p>5. Retention schedule</p>	<p>G</p>	<p>G</p>	<p>PIRC's Retention and Disposal has been incorporated into its Records Management Policy (evidence 1). The retention decisions have been included in the policy's appendices. The Policy sets out the practical procedures for creating files and for determining retention periods for different categories of records created by PIRC, such as case related records and general administrative records. The retention schedules appear to comprehensively cover the records created by PIRC.</p> <p>The Retention Schedule shows our vital records and records which will be archived after the retention period has elapsed.</p> <p>The RMP states that records earmarked for destruction are identified and monitored using a spreadsheet. Destruction takes place on a monthly basis but staff are consulted before destruction to ensure that no outstanding issues, such as FoI requests or Subject Access Requests, relating to the records remain.</p> <p>PIRC have also submitted screenshots of their Intranet 'insite' (evidence 34) which shows that the Records Management Policy, and therefore the retention schedules, is available to all staff.</p> <p>Also submitted as evidence are the minutes of a meeting of the Senior Management Team on 17 December 2014 (evidence 32) which approved the Records Management Policy, and by extension the retention and disposal schedules.</p> <p>A minute from a Senior Management Team meeting on 19 March 2015 (evidence 38) shows agreement of the RMP as a formally approved document.</p> <p>The Keeper can agree that PIRC has operational retention and disposal schedules in place to ensure the timely destruction of records.</p>
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<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>PIRC has set out its arrangements for the secure destruction of records.</p> <p><u>Paper and electronic</u> The Records Management Policy (evidence 1) sets out the procedures in place for the destruction or deletion of records. Case-related and administrative papers are both identified for destruction by means of a spreadsheet. A sample of the spreadsheet has been supplied as evidence (evidence 13). This is then presented to a senior staff member for authorisation. If any record needs to be retained longer than the period stated in the schedule, this needs to be justified and noted by a manager. The destruction of paper records is noted on the spreadsheet, thus maintaining a record of destroyed records. Paper is shredded mainly by the administrative team as part of Corporate Services although all staff have access to shredders in each office. Destruction forms are not completed for electronic records as they are deleted automatically as part of the back-up process.</p> <p><u>Back-ups</u> PIRC has provided details of the back-up procedures in place in the form of a Memorandum of Understanding with the Scottish Government’s Information Services and Information Systems Unit (evidence 14) .</p> <p>Back-up services are provided by the Scottish Government. These back-ups take place incrementally on a nightly basis with a full back-up taken on a Friday or Saturday. These are then retained for 4 weeks before being overwritten/deleted.</p> <p><u>Email</u> The RMP states that mailboxes and private folders of employees who have left the organisation are deleted after authorisation has been provided by the Director of Corporate Services.</p>
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			<p>Hardware</p> <p>PIRC has supplied a document from the Scottish Government's Records Manager, dated 2 October 2014, (evidence 35) stating that hardware is destroyed as part of the Scottish Government's contract with NVT and CCL North. The Scottish Government maintains a list of all hardware sent for destruction and receive a certificate once this has taken place. The Keeper has seen a sample of a destruction certificate for another authority which has the same arrangements for the destruction of hardware and is therefore assured that the appropriate procedures are in place.</p> <p>The Keeper agrees, provided he is given clarification of the status of evidence document 14, that appropriate measures are in place to ensure the secure destruction of records.</p>
7. Archiving and Transfer <i>Compulsory element</i>	G	G	<p>PIRC has identified the National Records of Scotland as the repository to which they will transfer records selected for permanent preservation.</p> <p>The authority has a <i>Memorandum of Understanding</i> with the Keeper to support the transfer arrangements. This has been provided as evidence FE03.</p> <p>The Keeper agrees that the Police Investigations and Review Commissioner has appropriate archiving arrangements in place and that are with a suitable repository.</p>
8. Information Security <i>Compulsory element</i>	G	G	<p>PIRC has provided details about their information security arrangements.</p> <p><u>Paper records and physical security</u></p> <p>PIRC are based over two locations in Hamilton, Bothwell House and Hamilton House. There are secure cabinets across both locations for storing sensitive information which are locked at the end of the day and the keys stored in a safe.</p>

			<p>Hamilton House contains a secure room which houses highly sensitive records and information. Access to the room is controlled through an alarmed door opened by a programmable key fob. Both buildings and PIRC offices are alarmed and access is through use of a staff key fob. Hamilton House also requires a code to be entered on a key pad.</p> <p><u>Electronic records</u> Electronic records are maintained on PIRC’s computer system, access to which is by individual staff passwords. PIRC has submitted its Security Policy (evidence 2,) which contains a section on information security (section 4). The RMP states that this policy was approved on 19 November 2014 and is due for review on 19 November 2015.</p> <p>PIRC has provided details of the security procedures in place in the form of a Memorandum of Understanding with the Scottish Government’s Information Services and Information Systems Unit, who provide PIRC’s IT systems (evidence 20).</p> <p>Evidence documents 18 and 19 show that information management forms part of the internal audit programme and also features in the Annual Report 2013-14 showing that PIRC takes its information governance responsibilities seriously.</p> <p>The Keeper agrees that the Police Investigations and Review Commissioner has an approved and operational information security policy, made available to appropriate staff, as required by the Act.</p>
<p>9. Data Protection</p>	<p>G</p>	<p>G</p>	<p>PIRC is registered with the Information Commissioner’s Office as a Data Controller. Their registration number is Z9820772. This shows that they are aware of their responsibilities under the Data Protection Act 1998.</p>

			<p>PIRC has supplied its Privacy Statement (evidence 5 and also published on its website). This document highlights how it deals with personal information collected by them.</p> <p>Also submitted is PIRC's Security Policy (evidence 2) which outlines the security procedures in place to protect paper and electronic records as well as the physical security of staff. The appendices include a form for reporting a security breach and also the Government's revised Security Classifications.</p> <p>The Data Protection Policy (evidence 6 and also published on its website) sets out its corporate approach to complying with the Data Protection Act. It includes sections on data security, staff's responsibilities and the procedures for dealing with Subject Access Requests. The Keeper commends PIRC's outward facing approach by publishing the policy on their website.</p> <p>The RMP states that online training on Data Protection was provided to all staff in 2013. It also states that staff will be provided with quarterly briefings using the internal newsletter 'Team Talk' to highlight the importance of Data Protection in the work of PIRC. All staff also attended a half day training session on Data Protection at Queen Margaret University.</p> <p>An external audit on Freedom of Information and Data Protection (evidence 19) has been provided which shows that sufficient controls are in place to reduce the risks of breaches occurring under either piece of legislation.</p> <p>PIRC have also submitted screenshots of their Intranet 'insite' (evidence 34) which shows how staff access policies.</p> <p>PIRC's website also provides information on how applicants can lodge Freedom of Information and Subject Access Requests.</p>
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			<p>The Keeper agrees that PIRC is aware of its responsibilities under the Data Protection Act 1998 and that there are robust policies and procedures in place to protect personal information.</p>
10. Business Continuity and Vital Records	G	G	<p>PIRC has submitted their Business Continuity Plan (evidence 8). This sets out the processes in place should an interruption to normal business activities occur and also the individuals and their responsibilities. The individual named in Element 1 is also the Leader of the Crisis Management Team. The steps to resume normal business activity have been set out and the key priorities highlighted. The RMP states that these procedures will be tested annually.</p> <p>The case management systems Centurion and CLUE as well as the G Drive sit on a virtual server so can be accessed remotely in the event of a loss of access to premises. Most files exist in electronic format.</p> <p>PIRC has provided details of the procedures in place for retrieving vital records in the form of a Memorandum of Understanding with the Scottish Government's Information Services and Information Systems Unit (evidence 20).</p> <p>The Keeper agrees that the Police Investigations and Review Commissioner has an approved and operational business continuity policy, which is made available to appropriate staff. The <i>Business Classification</i> includes records identified as 'vital'.</p>
11. Audit trail	G	G	<p>PIRC have outlined their procedures for monitoring changes to documents. Their case management systems, Centurion and CLUE, are accessed by unique passwords and reference numbers and any actions taken within these systems can be attributed to individual users.</p>

			<p>Each functional team has their own space on the G drive and access to this is controlled by password and changes to documents can be assigned to the individuals making them.</p> <p>Evidence documents 10, 21, and 22 shows how this tracking takes place in practice.</p> <p>The RMP states that naming conventions are in place and screenshots have been submitted (evidence 36) that these are operational.</p> <p>PIRC have submitted a <i>Version Control Procedures</i> document as evidence FE05. This is version 1 approved by the Director of Corporate Services (see element 1) in December 2014. The Procedures document was created by Janice Carter (see element 2).</p> <p>Paper records are maintained in a secure cupboard within a locked room. These are theoretically accessible to all staff but in practice only to those with a legitimate need to do so. The RMP also outlines the procedures in place for locating these records.</p> <p>The Keeper agrees that the Police Investigations and Review Commissioner have procedures in place to ensure that the correct version of a record can be located.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>PIRC has submitted Ms Carter’s job description (evidence 25) which shows that she is responsible for information management and reporting, as well as dealing with Freedom of Information and Data Protection requests. Number 11 of her <i>Principal Accountabilities</i> shows that she is the key contact within PIRC for ensuring that record keeping policies and procedures are developed, implemented and adhered to.</p> <p>Evidence 24 shows that Ms Carter is a qualified Data Protection Practitioner and has completed the Cabinet Offices training in Protecting Information at levels 1 and</p>

			<p>2.</p> <p>The RMP states that all staff must complete mandatory training in Data Protection and Freedom of Information. An example of Freedom of Information training and its subsequent evaluation has been submitted (evidence 28 and 29). Training in Data Protection took place in January 2015 and was provided by Queen Margaret University.</p> <p>PIRC has also submitted its Learning and Development Policy (evidence 37) which shows its commitment to ensuring that staff have the correct skills to undertake their responsibilities. A screenshot has been supplied (evidence 40) showing that this policy is accessible to staff on the Intranet. Staff are also regularly advised about training opportunities through a fortnightly training bulletin (evidence 33).</p> <p>The Keeper agrees that the individual identified as having operational responsibility for records management has the appropriate skills for the post. There is also evidence of a commitment to provide staff with relevant training to allow them to meet their information management responsibilities.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>PIRC have outlined their assessment and review procedures in the text of the RMP. The records manager (see Element 2) will lead the process by preparing spreadsheets which will be distributed to each team for completion. Their responses will be collated into a master spreadsheet by the records manager and this will determine PIRC's level of compliance with their RMP. This will then be presented to the Senior Management Team and also to the Keeper.</p> <p>Evidence 26 shows that Information and Records Management issues are reported to the Senior Management Team.</p> <p>Also supplied is the Risk Register/Action plan for 2014/15 (evidence 27) showing</p>

			<p>that information security has been considered. The Keeper considers this a good way of communication areas for development to the Senior Management Team and wonders whether this could be used along with the results of the self-evaluation spreadsheets as a way of implementing any necessary actions.</p> <p>The Keeper agrees that there are appropriate steps in place to ensure that the RMP is regularly assessed and kept up to date.</p>
<p>14. Shared Information</p>	<p>G</p>	<p>G</p>	<p>The RMP states that PIRC will not share information with third parties unless it is necessary for the performance of its functions under the Police, Public Order and Criminal Justice (Scotland) Act 2006, amended by the Police and Fire Reform (Scotland) Act 2012, or by any other legislation which legally obliges PIRC to provide information.</p> <p>Provided as evidence is a Memorandum of Understanding between PIRC, The British Transport Police Authority and the British Transport Police (evidence 30) which provides a framework to allow the bodies to work together.</p> <p>PIRC have separately supplied the Keeper with the following statement regarding information it receives from thirds parties (section 10 of the MOU) :</p> <p>“We can confirm that all information provided to the PIRC is treated equally under our policies which relate to information, such as Security, Records Management, Data Protection, etc.”</p> <p>The Keeper agrees that the Police Investigations and Review Commissioner properly consider information governance when embarking on a data sharing exercise.</p>

6. Keeper's Summary

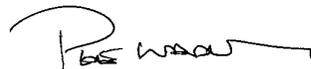
Elements 1 -14 that the Keeper considers should be in a public authority records management plan have been properly considered by the Police Investigations and Review Commissioner. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Police Investigations and Review Commissioner**.

- The Keeper recommends that the Police Investigations and Review Commissioner 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,



.....
Robert Fotheringham
Public Records Officer

.....
Pete Wadley
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 Police Investigations and Review Commissioner. In agreeing this RMP, the Keeper expects the Police Investigations and Review Commissioner 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