

Public Records (Scotland) Act 2011

**The Scottish Road Works Commissioner
Assessment Report**

The Keeper of the Records of Scotland

24th April 2017

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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 Road Works Commissioner** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **13th December 2016**.

The assessment considered whether the RMP of the Scottish Road Works 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 Scottish Road Works Commissioner complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

The purpose of the Scottish Road Works Commissioner is to work with the road works community to oversee improvements to the planning, co-ordination and quality of road works in Scotland.

The Scottish Road Works Commissioner is an independent public official established under section 16 of the Transport (Scotland) Act 2005 and is accountable to the Scottish Ministers and ultimately the Scottish Parliament.

The Commissioner's aim is to improve the planning, co-ordination and quality of road works throughout Scotland.

The Commissioner monitors performance, promotes and encourages good practice across both utility companies and roads authorities. The Commissioner also has powers to impose financial penalties on roads authorities who systematically fail in their duty to co-ordinate and upon utility companies who systematically fail to co-operate when undertaking road works.

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 Road Works 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 Scottish Road Works Commissioner has identified himself, Angus Carmichael, as the senior officer responsible for records management in the authority.</p> <p>The principle of an officer with the seniority of the Commissioner assuming the senior role is supported by the <i>Scottish Government Records Management Policy (see element 3)</i>.</p> <p>Mr Carmichael has signed the <i>Records Management Plan (the Plan)</i>.</p> <p>Mr Carmichael attends the monthly team meetings of the Office of the Scottish Road Works Commissioner at which records management is discussed. A sample of notes from one such meeting has been provided to the Keeper.</p> <p>The Keeper agrees that the Scottish Road Works Commissioner has identified an appropriate individual to this role as required by the Act.</p>
2. Records Manager <i>Compulsory element</i>	G	G	<p>The Scottish Road Works Commissioner has identified Nisha Bunting, Performance Manager, as the individual with day-to-day responsibility for implementing the <i>Plan</i> in the organisation.</p> <p>Ms Bunting has as one of her formal objectives: “Lead on the development and implementation of a Records Management Plan to comply with the Public Records (Scotland) Act 2011.”</p>

			<p>Ms Bunting attends the monthly team meetings of the Office of the Scottish Road Works Commissioner at which records management is discussed. A sample of notes from one such meeting has been provided to the Keeper.</p> <p>Ms Bunting is supported by the Commissioner’s Business Officer and reports directly to the Commissioner (see element 1).</p> <p>The Keeper agrees that the Scottish Road Works Commissioner has identified an appropriate individual to this role as required by the Act.</p>
3. Policy Compulsory element	G	G	<p>The Scottish Road Works Commissioner has adopted the <i>Scottish Government Records Management Policy</i> (May 2015).</p> <p>The adoption of this, and other, Scottish Government information management polices is confirmed by the Commissioner in the covering statement to his <i>Plan</i>.</p> <p>The Keeper is familiar with this Policy and agrees that it is appropriate for adoption by the Commissioner.</p> <p>The RMP commits the Scottish Government to review the <i>Records Management Policy</i> ‘regularly’ (see element 13).</p> <p>The Keeper agrees that the Scottish Road Works Commissioner has an operational and approved Records Management Statement as required under the Act.</p>
4. Business Classification	A	G	<p>The office of the Scottish Road Works Commissioner is based in a Scottish Government building and utilises Scottish Government ICT systems.</p>

			<p>The public records of the Scottish Road Works Commissioner’s office are entirely electronic. Paper records are scanned and destroyed (see element 6).</p> <p>The Commissioner has recently adopted the Scottish Government eRDM (Objective) system as the records management system for his office.</p> <p>The Keeper is familiar with this EDRM and agrees that it is an appropriate solution for the management of the Commissioners records.</p> <p>The Keeper has been supplied with a document <i>Scottish Government Business Classification Scheme</i>. This is not the scheme itself, but an explanation of why it was set up and how the various levels work. It is clearly stated in this document that ‘The Business Classification Scheme underpins the Corporate eRDM system’. The Scottish Road Works Commissioner’s records will shortly form part of that system.</p> <p>The covering statement from the Commissioner, which forms part of the <i>Plan</i>, notes the intention to move all records from shared drives to the Scottish Government eRDM in 2017.</p> <p>The Commissioner has written to the Keeper confirming this project is on course and that he will provide updates when requested.</p> <p>The Keeper agrees this element of the Commissioner’s <i>Plan</i> under improvement model terms. This means that the authority has identified a gap in provision (the office is not yet fully integrated into the eRDM system), but has clearly made a commitment to close that gap. The Keeper’s agreement is conditional on the eRDM project continuing and him being kept up-to-date with progress.</p>
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The Commissioner has written to the Keeper confirming this project is on course and that he will provide updates when requested.

<p>5. Retention schedule</p>	<p>A</p>	<p>G</p>	<p>The Scottish Road Works Commissioner has recently adopted the Scottish Government eRDM (Objective) system as the records management system for his office.</p> <p>Files created within eRDM have standard retention schedules. The Commissioner must allocate these considering the business and regulatory requirements of his authority. Once this is done the Keeper will require notification of what these decisions are in relation to the documents created by the Commissioner while undertaking the activities required to fulfil his functions.</p> <p>The covering statement from the Commissioner, which forms part of the <i>Plan</i>, notes that the adoption of the Scottish Government eRDM enhances records retention. The Keeper concurs.</p> <p>The Keeper agrees this element of the Commissioner’s <i>Plan</i> under improvement model terms. This means that the authority has identified a gap in provision (the Commissioner’s records have not yet allocated retention decisions using the standard periods imposed by the eRDM system). However, the Commissioner has clearly made a commitment to close that gap. The Keeper’s agreement is conditional on the eRDM project continuing and him being kept up-to-date with progress and receiving a retention schedule for the Commissioner’s records when available.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>A</p>	<p>G</p>	<p>The Commissioner has the following procedures in place for the destruction of his records:</p> <p><u>Paper</u>: Confidential paper records are scanned into the electronic system and then destroyed under contract by the Scottish Government (utilising a third party</p>

			<p>destruction company). The Keeper has been provided with a copy of the <i>Memorandum of Terms of Occupation</i> between the Commissioner and the Scottish Government and with a copy of a <i>Destruction Certificate</i> from the third party record destruction supplier.</p> <p><u>Hardware</u>: Computer media is disposed of securely through approved procedures using the Scottish Government contract with NVT. The equipment is destroyed by CCL North. A certificate of destruction from the latter has been supplied to show that these arrangements are in operation.</p> <p><u>Back-Ups</u>: Back-up and destruction procedures have been supplied and state ‘The Scottish Government do daily incremental backups and then at the weekend full back ups are taken of the system. The backups are then kept for four weeks and are then destroyed and the information then becomes irretrievable’.</p> <p><u>Electronic</u>: The Scottish Government eRDM system which is being adopted by the Commissioner (see element 4) automatically pursues the deletion of records at the end of their retention period.</p> <p>E-mail’s are automatically archived by the Enterprise Vault and destroyed after 1 year. The procedure for this operation is explained to staff in <i>Scottish Government Email Archiving Enterprise Vault</i> (January 2014) which has been supplied. This guidance document features screen shots showing how the Vault works in practice.</p> <p>The Keeper agrees that once fully implemented the Scottish Government’s eRDM system will securely and irretrievably destroy the Commissioner’s records as required by the Act.</p> <p>The Keeper agrees this element of the Commissioner’s <i>Records Management Plan</i> under ‘improvement model’ terms. This means that the authority has</p>
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			<p>identified a gap in provision. (The controlled destruction of electronic records according to the assigned retention decisions is not yet fully operational) and has put processes in place to close that gap. The Keeper's agreement is conditional on his being kept up-to-date as the eRDM project progresses.</p>
7. Archiving and Transfer <i>Compulsory element</i>	A	G	<p>The Scottish Road Works Commissioner has identified the National Records of Scotland (NRS) as the appropriate repository for records identified as suitable for permanent preservation.</p> <p>A Memorandum of Understanding regarding the transfer of records from the Commissioner to NRS is being negotiated at the time of this assessment. This is confirmed by the NRS Client Management Team.</p> <p>The Commissioner has made the following statement in the "List of Actions Required" in the <i>Plan</i>: "Meet with Client Manager at NRS to identify records suitable for transfer".</p> <p>The Keeper confirms that this meeting has taken place.</p> <p>The Keeper agrees this element of the Commissioner's <i>Records Management Plan</i> under 'improvement model' terms. This means that he acknowledges that the authority has identified a gap in provision (there is no formal transfer agreement with the archive) and have put processes in place to close that gap. The Keeper's agreement is conditional on his PRSA Assessment Team being provided with a copy of the signed MOU when available.</p>
8. Information Security <i>Compulsory</i>	G	G	<p>The office of the Scottish Road Works Commissioner is based in a secure Scottish Government building and utilises Scottish Government <i>IT Security, Code of Conduct, Clear Desk</i> and other security procedures.</p>

<p><i>element</i></p>			<p>The Commissioner's <i>Plan</i> indicates that his office complies with the Scottish Government's information security and IT policies. The Keeper is familiar with these policies and agrees that they are appropriate for a public authority embedded in the Scottish Government building. The Keeper has been provided with evidence that Scottish Government ISIS provide the IT Services for the Commissioner.</p> <p>The public records of the Scottish Road Works Commissioner's office are managed entirely in electronic format.</p> <p>The Commissioner's staff undertake mandatory e-learning on information security and data protection. The Keeper has been provided with a sample e-learning log and staff instruction as evidence of this.</p> <p>The Keeper agrees that the Scottish Road Works Commissioner has arrangements in place to ensure the security of his public records as required by the Act.</p>
<p>9. Data Protection</p>	<p>G</p>	<p>G</p>	<p>The Commissioner has a statement regarding data protection on his website at: http://www.roadworksscotland.gov.uk/home/privacy.aspx</p> <p>The Commissioner is registered as a data controller with the Information Commissioner: Z178396X</p> <p>The Commissioner has adopted the <i>Scottish Government Data Protection Policy</i>. The Keeper is familiar with these policies and agrees that they are appropriate for a public authority utilising Scottish Government systems.</p> <p>The Keeper agrees that the <i>Scottish Government Data Protection Policy</i> explains the 8 (current) principles of the Data Protection Act 1998. The policy guidance explains the subject access procedure and is available to the public at:</p>

			<p>http://www.gov.scot/resource/doc/1066/0006064.pdf</p> <p>The covering statement from the Commissioner, which forms part of the <i>Plan</i>, notes that the adoption of the Scottish Government eRDM assists the organisation comply with statutory obligations under the Data Protection Act. The Keeper concurs.</p> <p>The Commissioner’s staff undertake mandatory e-learning on information security and data protection. The Keeper has been provided with a sample e-learning log and staff instruction as evidence of this.</p> <p>The Keeper agrees that the Scottish Road Works Commissioner has properly considered his responsibilities under the Data Protection Act 1998.</p>
<p>10. Business Continuity and Vital Records</p>	<p>G</p>	<p>G</p>	<p>The Scottish Road Works Commissioner has a <i>Business Continuity Plan</i> which has been provided to the Keeper. This is the version dated October 2015.</p> <p>However, this policy is limited in detail as the office of the Commissioner sits entirely within a Scottish Government building and utilises Scottish Government IT systems.</p> <p>The public records of the Scottish Road Works Commissioner’s office are managed entirely in electronic format. The Scottish Government’s <i>Back Up Procedures</i> have been provided (see element 6).</p> <p>Recovery of records in the case of an emergency is therefore a matter for the Scottish Government and the <i>Business Continuity Plan</i> notes liaison with the Scottish Government as a key action in the implementation of the Commissioner’s <i>Continuity Plan</i>.</p> <p>The Keeper has already agreed that the Scottish Government has appropriate business continuity procedures in place that will allow for the recovery of records in</p>

			<p>the case of an emergency.</p> <p>As all the Commissioner’s public records are held in electronic format, and the Scottish Government recovery system should return all records at once, there is no need for the Commissioner to prioritise the recovery of ‘vital’ records as part of his <i>Business Continuity Plan</i>.</p> <p>The Keeper agrees that the Scottish Road Works Commissioner has procedures in place to ensure the recovery of records in an ‘emergency’ situation.</p>
11. Audit trail	A	G	<p>The Scottish Government eRDM system provides an electronic audit trail as evidence of viewing, modifying and deletion of records. It also has a powerful search tool to allow location of records and imposes a version control system on all document creation.</p> <p>The <i>Scottish Government Audit Trail Guidance</i> has been supplied to the Keeper.</p> <p>The Keeper agrees that the functionality of the Scottish Government’s eRDM system (Objective) promotes record location and identification.</p> <p>The covering statement from the Commissioner, which forms part of the <i>Plan</i>, notes that the adoption of the Scottish Government eRDM enhances records retrieval. The Keeper concurs.</p> <p>However, the Commissioner’s record are not yet fully integrated on the eRDM system (see element 4). The Keeper acknowledges a clear commitment to continue this integration in the form of statements provided in a letter from the Commissioner (7th April 2017) specifically on this point.</p> <p>For this reason, the Keeper agrees this element of the Commissioner’s <i>Plan</i></p>

			<p>under ‘improvement model’ terms. As with elements 4, 5 and 6 his agreement is conditional on his being kept up-to-date as the eRDM project progresses.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>The Scottish Road Works Commissioner has provided the Keeper with the <i>Job Descriptions</i> for the Performance Manager (see element 2) and the Business Officer. Together these individuals are responsible for the development implementation and review of the <i>Records Management Plan</i>.</p> <p>The Keeper accepts that in an organisation of the size of the office of the Scottish Road Works Commissioner it would not be necessary (or practical) to have a full-time records manager. The Keeper has received assurances that the Performance Manager and Business Officer can access information governance training as part of their personal learning and development, when appropriate.</p> <p>The Keeper notes that both the individuals identified above are members of a peer-to-peer network group that shares information governance experience.</p> <p>The covering statement from the Commissioner, which forms part of the <i>Plan</i>, confirms that all his staff are trained on using the Scottish Government eRDM system. Evidence of this training has been supplied.</p> <p>A note from a monthly team meeting attended by the Commissioner (see element 1) has been provided. This shows that Data Protection and Information Handling training is required by the Commissioners’ staff. To this end the Keeper has been provided with a sample e-learning log and staff instruction as evidence that this is undertaken.</p> <p>The Keeper agrees that the individual identified at element 2 has the relevant responsibilities and skills to implement the Plan. Furthermore, the Keeper agrees that the Commissioner has considered information governance training for</p>

			appropriate staff.
13. Assessment and Review	G	G	<p>It is a requirement of the Public Records (Scotland) Act 2011 that “An authority must— (a) keep its records management plan under review” (PRSA Part 1 5.1.a.)</p> <p>The covering statement from the Commissioner, which forms part of the <i>Plan</i>, states that “Process and practices will be reviewed regularly to ensure that it continues to be relevant”. (<i>Plan</i> page 3).</p> <p>With this in mind the <i>Plan</i> commits the Commissioner to an annually review of the <i>Plan</i> (<i>Plan</i> page 4) with each staff member responsible for “reviewing their records every six months.”</p> <p>Responsibility for review within the office of the Commissioner falls to the Performance Manager (see element 2). The Commissioner has submitted his <i>Recurrent Actions 2016-2017</i> document. This shows an action “Review to ensure RMP still current and fit for purpose” has been allocated to the Performance Manager and Business Officer.</p> <p>The Commissioner has indicated (<i>Plan</i> page 17) that his office will follow the review structure set out by the Scottish Government on whose systems the public records of the Commissioner sit. He has provided a copy of <i>Scottish Government Assessment and Review Process</i> in evidence.</p> <p>The <i>Business Continuity Plan</i> (see element 10) is due for review by April 2017. The Keeper would appreciate receiving a revised version (if the review results in such a version) in order to keep the Commissioner’s submission up-to-date.</p> <p>The Commissioner’s registration with the Information Commissioner is due for renewal by July 2017.</p>

			The Keeper agrees that the Scottish Road Works Commissioner has procedures in place to keep their record management plan under review as required by the Act.
14. Shared Information	N/A	N/A	The <i>Plan</i> states (page 18): The Commissioner does not currently undertake data sharing exercises with other organisations.”

Scottish Road Works Commissioner

(for simplicity this authority will be described as ‘the Commissioner’ in the assessment below)

General Notes on RMP, Including Concerns:

Version: This assessment is on the *Records Management Plan* (the *Plan*) of the Scottish Road Works Commissioner dated 9th December 2016.

The *Plan* contains a covering statement from Angus Carmichael, the Commissioner, also dated 9th December 2016.

The Commissioner recognises records as a business asset (for example in his covering statement and *Plan* page 7 and *Policy* page 1). The Keeper welcomes 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>.

The covering statement from the Commissioner, which forms part of the *Plan*, notes that records management is a standing agenda item on his office's monthly team meetings. The Keeper welcomes this. A sample agenda has been provided in evidence.

Third Parties:

The Act makes it clear that records created by a contractor in carrying out a scheduled authority's functions are public records (Part 1 section 3.1 (b)).

The Keeper has received a clear statement from the Commissioner that, currently, no function of the Scottish Road Works Commissioner is carried out by a third party.

6. Keeper's Summary

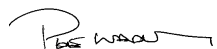
Elements 1 - 13 that the Keeper considers should be in a public authority records management plan have been properly considered by the Scottish Road Works Commissioner. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Scottish Road Works Commissioner**.

- The Keeper recommends that the Scottish Road Works 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,



.....
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 Road Works Commissioner. In agreeing this RMP, the Keeper expects the Scottish Road Works Commissioner to fully implement the agreed RMP and meet its obligations under the Act.



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