

**Public Records (Scotland) Act 2011  
Assessment Report  
The Keeper of the Records of Scotland  
5<sup>th</sup> June 2017**

**Scottish Courts and Tribunals Service  
Additional Support Needs Tribunals For Scotland  
Court of Session  
Criminal Courts Rules Council  
High Court of Justiciary**

**Justice of the Peace Advisory Committee – Glasgow and Strathkelvin  
Justice of the Peace Advisory Committee – Grampian, Highlands and Islands  
Justice of the Peace Advisory Committee – Lothian and Borders  
Justice of the Peace Advisory Committee – North Strathclyde  
Justice of the Peace Advisory Committee – South Strathclyde, Dumfries and Galloway  
Justice of the Peace Advisory Committee – Tayside, Central and Fife**

**Justice of the Peace Courts  
Lands Tribunal for Scotland  
Panel appointed under regulation 90C of the Council Tax Reduction (Scotland) Regulations 2012 (the Council Tax  
Reduction Review Panel)  
Private Rented Housing Panel  
Scottish Charity Appeals Panel  
Scottish Civil Justice Council  
Scottish Land Court  
Scottish Sentencing Council  
Sheriff Courts**

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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 Courts and Tribunals Service and the 19 other public authorities named on page 1** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 1<sup>st</sup> March 2016.

The assessment considered whether the RMP of the **Scottish Courts and Tribunal Service and the 19 other public authorities named on page 1** 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 Courts and Tribunal Service and the 19 other public authorities named on page 1** complies with the Act can be found under section 7 of this report with relevant recommendations.

## 3. Authority Background

Scottish Courts and Tribunals Service: The Scottish Courts and Tribunals Service (SCTS) is an independent body-corporate established by the Judiciary and Courts (Scotland) Act 2008. Its function is to provide administrative support to Scottish courts and tribunals and to the judiciary of courts, including the High Court of Justiciary, Court of Session, sheriff courts and justice of the peace courts, and to the Office of the Public Guardian and Accountant of Court. The Scottish Courts and Tribunals Service Board is chaired by the Lord President, the most senior judge in Scotland. Eric McQueen is the Chief Executive.

<https://www.scotcourts.gov.uk/>

Additional Support Needs Tribunals For Scotland: The Additional Support Needs Tribunals for Scotland (ASNTS) were established in November 2005 by Education (Additional Support for Learning) (Scotland) Act 2004. The Additional Support Needs Tribunals for Scotland consider appeals (references) made by parents and young people against decisions of Education Authorities regarding the provision of educational support.

<https://www.asntscotland.gov.uk/>

Court of Session: The Court of Session, Scotland's supreme civil court, sits in Parliament House in Edinburgh as a court of first instance and as a court of appeal. The court is headed by the Lord President. The court is divided into the Outer House and the Inner House. The Outer House consists of 22 Lords Ordinary sitting alone or, in certain cases, with a civil jury. They hear cases at first instance on a wide range of civil matters, including cases based on delict (tort) and contract, commercial cases and judicial review. The judges cover a wide spectrum of work, but designated judges deal with intellectual property disputes. Special arrangements are made to deal with commercial cases. The Inner House is in essence the appeal court, though it has a small range of first instance business. The origins of the court can be traced to the early sixteenth century.

<https://www.scotcourts.gov.uk/the-courts/supreme-courts/about-the-court-of-session>

Criminal Courts Rules Council: The Criminal Courts Rules Council was established under section 304 of the Criminal Procedure (Scotland) Act 1995. It has a responsibility to keep under general review the procedures and practices of the courts exercising criminal jurisdiction in Scotland. Furthermore it must consider and comment on any draft Act of Adjournal submitted to it by the High Court.

<https://www.scotcourts.gov.uk/rules-and-practice/rules-councils/criminal-courts-rules-council>

High Court of Justiciary: The High Court of Justiciary is Scotland's supreme criminal court. When sitting at first instance as a trial court, it hears the most serious criminal cases. A single judge hears cases with a jury of 15 people. At first instance, it sits in cities and larger towns around Scotland and has a permanent base in Edinburgh. As an appeal court, it sits only in Edinburgh. The High Court is presided over by the Lord Justice General and the Lord Justice Clerk. They usually sit as chairpersons in the courts of criminal appeal. The other full time judges, who are also Senators of the College of Justice, are known as Lords Commissioners of Justiciary when sitting in the High Court.

<https://www.scotcourts.gov.uk/the-courts/supreme-courts/high-court/about-the-high-court>

Justice of the Peace Advisory Committees (6): As part of a reform to the lay justice system in Scotland in 2007, Statutory Justice of the Peace Advisory Committees (JPACs) were established in each of the six sheriffdoms in Scotland. JPACs recommend to Scottish Ministers appropriate candidates for appointment as Justices of the Peace within each sheriffdom. Members of the JPAC are appointed for a term of five years, with a possibility of re-appointment for one further five year term.

Justice of the Peace Courts: Justice of the peace courts (also known as JP courts) are part of Scotland's criminal justice system. A justice of the peace is a lay magistrate, appointed from within the local community and trained in criminal law and procedure. Justices sit either alone, or in a bench of three, and deal with the less serious summary crimes, such as speeding, careless driving and breach of the peace. In court, justices have access to advice on the law and procedure from lawyers, who fulfil the role of legal advisers or clerk of court. Justice of the peace courts have replaced the district courts that were established in 1975 under local authority administration.

<https://www.scotcourts.gov.uk/the-courts/jp-court/about-jp-courts>

Lands Tribunal for Scotland: The main areas of work are: The discharge or variation of title conditions; tenants' rights to purchase their public sector houses; disputed compensation for compulsory purchase of land or loss in value of land caused by public works; valuations for rating on non-domestic premises; appeals against the Keeper of the Registers of Scotland; appeals about valuation of land on pre-emptive purchase; voluntary or joint references in which the Tribunal acts as arbiter. The Tribunal has a President who has overall responsibility for the organisation of its work, and three Members who have recognised expertise in the fields of law and surveying. The current President of the Tribunal is the Hon. Lord Minginish.

<http://www.lands-tribunal-scotland.org.uk/contact/office-and-staff>

The Council Tax Reduction Review Panel: (N.B. This authority is scheduled by the Public Records (Scotland) Act 2011 as "Panel appointed under regulation 90C of the Council Tax Reduction(Scotland) Regulations 2012").The United Kingdom Welfare Reform Act 2012 abolished Council Tax Benefit from April 2013, removing support for council tax from the benefits system. In Scotland, providing support now falls to the Scottish Government. The Scottish Government's Council Tax Reduction scheme creates a schedule of means tested reductions to an individual's council tax liability. The Council Tax Reduction Review Panel was established by The Council Tax Reduction (Scotland) Amendment (No.2) Regulations 2013 from 1 October 2013. It provides an additional review service to safeguard an individual's rights to administrative justice when assessing an individual's Council Tax Reduction.

<http://counciltaxreductionreview.scotland.gov.uk/>

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Private Rented Housing Panel: The Private Rented Housing Panel (prhp) was formed from the former Rent Assessment Panel for Scotland and continues to carry out all the functions of the Rent Assessment Panel. The Rent Assessment Panel functions are contained in the Rent (Scotland) Act 1984 (“the 1984 Act”) and the Housing (Scotland) Act 1988 (“the 1988 Act”) and relate to determination of rent for regulated tenants and landlords who appeal against the decision of a Rent Officer (the 1984 Act), and determination on application by a tenant of a statutory Assured or Short Assured tenancy (the 1988 Act). When the prhp came into being it was to carry out functions under the Housing (Scotland) Act 2006 (“the 2006 Act”) allowing tenants to apply to have repair issues assessed that were not being resolved by their private landlord (commencement date 3 Sep 2007). It was set up to administer the legislation in the same manner as the former Rent Assessment Panel, by way of appointing Committees to determine individual applications at a Tribunal hearing.

<https://www.prhpscotland.gov.uk/>

Scottish Charity Appeals Panel: The Scottish Charity Appeals Panel (SCAP) was established by the Charities and Trustee Investment (Scotland) Act 2005. The Act came into force on 1 April 2006 and introduced new arrangements for the regulation of charities in Scotland and established the Office of the Scottish Charity Regulator (OSCR) as the regulator for charities in Scotland, independent of Scottish Ministers. The Act makes provision for organisations to appeal under certain circumstances about such decisions. Panels, to be known as the Scottish Charity Appeals Panel, are established by section 75 and schedule 2 of the Act to consider these appeals. SCAP is a Non-Departmental Public Body (NDPB).

<http://www.scap.gov.uk/contact/index.html>

Scottish Civil Justice Council: The Scottish Civil Justice Council was established on 28 May 2013 under the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013. It prepares draft rules of procedure for the civil courts and advises the Lord President on the development of the civil justice system in Scotland. The Scottish Civil Justice Council replaced the Court of Session Rules Council and the Sheriff Court Rules Council, taking over the rule drafting functions of those bodies and also has a wider role to advise and make recommendations on the civil justice system. The creation of a single civil rules council for Scotland was one of the recommendations of the Scottish Civil Courts Review. Many of the review recommendations require new rules of court and the Scottish Civil Justice Council, which has oversight of the entire civil justice system, is responsible for taking these forward. The Council is also responsible for keeping the civil justice system under constant review.

<http://www.scottishciviljusticecouncil.gov.uk/council>

Scottish Land Court: The Scottish Land Court is a Court of law. The Court's jurisdiction is set firmly within the context of Scottish farming. It has authority to resolve a range of disputes, including disputes between landlords and tenants, in agriculture and crofting. The Court is based in Edinburgh, but holds hearings throughout Scotland. The Court has a Chairman, who has the same status as a Court of Session judge, a Deputy Chairman, who is an advocate, and two Members of Court, who are experienced in farming and crofting matters. The current Chairman of the Court is Lord Minginish, who was installed at a ceremony at the Court on Friday 17 October 2014. The Deputy Chairman of the Court is Iain F Maclean, who took up office on 14 September 2015.

<http://www.scottish-land-court.org.uk/>

Scottish Sentencing Council: The Council was established in October 2015 as an independent, advisory body. The Sentencing Council carry out a range of work concerning sentencing in Scotland. The Council is responsible for preparing sentencing guidelines for the courts, publishing guideline judgments issued by the courts and publishing information about sentences handed down by the courts. They can also publish information, conduct research, and provide general advice or guidance. We do not deal with individual sentences, which are a matter for the presiding judge in court.

<https://www.scottishsentencingcouncil.org.uk/>

Sheriff Courts: The majority of cases are dealt with in the country's sheriff courts unless they are of sufficient seriousness to go to the supreme courts at first instance. There are six sheriffdoms in Scotland. Each sheriffdom has a Sheriff Principal charged with a number of duties in respect of the courts for which they are responsible, including in particular a duty "to secure the efficient disposal of business in the sheriff courts of that Sheriffdom". Criminal cases are heard by a sheriff and a jury (solemn procedure), but can be heard by a sheriff alone (summary procedure). Civil matters are also heard by a sheriff sitting alone.

<http://www.scotcourts.gov.uk/the-courts/sheriff-court/about-sheriff-courts>



## 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 Courts and Tribunals Service RMP was developed with proper regard to the elements of the Model Plan and is compliant with the Act. The assessment also considered whether there was sufficient supporting evidence of such compliance.

**Key:**

<b>G</b>	The Keeper agrees this element of an authority’s plan.		<b>A</b>	The Keeper agrees this element of an authority’s plan as an ‘improvement model’. This means that he is convinced of the authority’s commitment to closing a gap in provision. He will request that he is updated as work on this element progresses.		<b>R</b>	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Keeper may choose to return the RMP on this basis.
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## 5. Model Plan Elements: Checklist

### Scottish Courts and Tribunals Service et al (see above)

(for simplicity all the 20 authorities listed above will be described as SCTS in the assessment below)

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The Scottish Courts and Tribunals Service etc. (SCTS) have identified Richard Maconachie, Chief Financial Officer and Senior Information Risk Officer, as the individual with overall responsibility for records management in the authorities.</p> <p>This is confirmed by a <i>Covering Letter</i> from Mr Maconachie.</p> <p>As SIRO, Mr Maconachie has a responsibility to “Lead and foster a culture that values, protects and uses information for the public good.” (Information Risk Management Policy section 5.6) The Keeper agrees that the <i>Records Management Plan</i> supports these objectives.</p> <p>Any potential security issues must be reported to Mr Maconachie (<i>Policy Statement see element 3</i> paragraph 35).</p> <p>As SIRO, Mr Maconachie must approve any amendments to the <i>Plan</i> after review by the Records Management Group (<b>see under General Comments below</b>).</p> <p>The Keeper agrees that SCTS have identified an appropriate individual to this role as required by the Public Records (Scotland) Act 2011 (the Act).</p>

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<p>2. Records Manager <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>SCTS have identified Iain Hockenull, Head of Information Handling &amp; Correspondence Branch as the individual with day-to-day responsibility for the implementation of the <i>Plan</i>.</p> <p>This is confirmed by the <i>SCTS Role Profiles on Records Management</i> which have been submitted in evidence (<b>see element 12</b>). Mr Hockenull's job profile specifically mentions ensuring SCTS' compliance with the Act.</p> <p>Mr Hockenull is the author of the <i>Plan</i>.</p> <p>Mr Hockenull also created the <i>SCTS Data Security Policy</i> (<b>see elements 8 and 9</b>) the <i>Information Asset Register Templates</i>, (<b>see element 4</b>) the <i>SCTS Security Classification Policy</i> (<b>see element 8</b>) and the new <i>SCTS e-learning</i> on information management (<b>see element 12</b>).</p> <p>Mr Hockenull sits on the Records Management Group (<b>see under General Comments below</b>), the SCTS Information Assurance Group and the PSN Project Board (<b>see element 8</b>). He reports directly to the SIRO (<b>see element 1</b>).</p> <p>The above indicates that Mr Hockenull has a detailed knowledge of records management provision in the authority.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>SCTS provide a <i>Records Management Policy Statement</i> (the <i>Policy Statement</i>) as part of the <i>Plan</i> rather than as a standalone document. The Act permits this.</p> <p>The Chief Executive's foreword commits SCTS to providing staff access to the <i>Plan</i> (and therefore the <i>Policy Statement</i>) through the authority's intranet. (<i>Plan</i> page 2, <i>Policy Statement</i> paragraph 26). Staff will be alerted to the <i>Plan</i>'s inclusion on the intranet by circular (a sample circular has been provided).</p> <p>The <i>Policy Statement</i> confirms that it applies to all the authorities listed above (para</p>

			<p>18).</p> <p>The <i>Policy Statement</i> specifically mentions compliance with the Act (<i>Policy Statement</i> para 27 and 36).</p> <p>The Keeper agrees that the <i>Plan</i> supports the objectives set out in the <i>Policy Statement</i>.</p> <p>SCTS have submitted the Mental Health Tribunal for Scotland’s (MHTS) <i>Records Management Policy</i>. The MHTS RMP has been agreed by the Keeper separately.</p> <p>The Keeper agrees that SCTS have an approved <i>Records Management Policy Statement</i> as required by the Act.</p>
<p>4. Business Classification</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>Due to the size and complexity of the SCTS business classification, the Keeper has, unusually, agreed that he will accept an explanation of the structure of the overarching system and relevant sample pages from local area <i>Information Asset Registers</i>, rather than the business classification in full.</p> <p>The Plan itself contains a structured diagram of the SCTS core systems (Plan page 13) which incorporates Supreme Courts and Tribunal Operations.</p> <p>Vitaly, SCTS have provided a range of information asset register pages from the following authorities: The Operations Development Directorate, the High Court of Justiciary, Court of Session, Stirling Sheriff Court, Stirling JP Court, Additional Support Needs Tribunal for Scotland, Lands Tribunal for Scotland and Private Rented Housing Panel. These pages are created from an <i>Information Asset Register Template and Guidance</i> (supplied) created by the Head of Information Handling &amp; Correspondence Branch (<b>see element 2</b>). The Keeper accepts this as evidence that similar detail is available for all activities in all the scheduled authorities included in the <i>Plan</i>. (N.B. For Justice of the Peace Advisory Committees see comments under element 5).</p>

			<p>A sample entry shows the following information: Sheriff Court/Criminal Court/Solemn Petitions/10 years - then destroy (<b>see element 5</b>). This level of detail is sufficient under PRSA.</p> <p>“SCTS require all Courts/Tribunals/Units/Departments to develop, review and maintain their own individual IAR.” (Plan paragraph 121) (<b>see Information Asset Owners under General Comments below</b>). With this instruction in mind, SCTS have also supplied staff guidance on completing a entry in an information asset register. The Keeper thanks SCTS for sharing this. A screenshot has been provided as evidence that the <i>Information Asset Register Guidance</i> is available to staff on the authority’s intranet.</p> <p>SCTS also operate several line-of-business systems each of which offers its own functionality and operates under particular access/security/retention protocols. Examples of these would be ‘Case Handling’ or ‘Complaints and Correspondence’ databases. Line of business systems are explained succinctly in SCTS <i>Schedule to Information Risk Management Policy (Electronic Records)</i>- dated January 2014 - which has been supplied to the Keeper.</p> <p>The SCTS <i>Plan</i> explains that the authority provides storage for the personal papers of members of the Judiciary. It correctly notes that these are not ‘public records’ for the purposes of the Act.</p> <p>The Keeper agrees that SCTS have an approved and operational business classification scheme that covers the functions of the authorities listed above.</p>
5. Retention schedule	<b>G</b>	<b>G</b>	<p>Retention decisions, including review dates where applicable, form part of the information asset registers of each of the authorities covered by the <i>Plan</i> (<b>see element 4</b>).</p> <p>The Justice of the Peace Advisory Committees (JPACs) do not have an information asset register in the same style as the other authorities as their function is comparatively limited. Instead they have supplied the Keeper with a separate <i>Policy</i></p>

			<p><i>on the Secure Handling, Use, Storage and Retention of Disclosure Information</i> document. This explains retention decisions for their unique records. Other administrative records for the JPACs fall under the retention scheme of SCTS Corporate and feature in the appropriate information asset register.</p> <p>The <i>Schedule to Information Risk Management Policy (Electronic Records)</i> (<b>see element 4</b>) details the line-of-business systems operated by SCTS and confirms retention decisions imposed on these. The Keeper accepts that these retention decisions would be replicated in the appropriate information asset registers.</p> <p>The Keeper acknowledges that retention decisions for the Office of the Public Guardian have been supplied as part of their <i>Data Protection Policy</i> (<b>see element 9</b>).</p> <p>The Keeper agrees that SCTS can demonstrate retention decisions for the records created pursuing the functions of the authorities covered by the <i>Business Classification Scheme/Information Asset Registers</i> explained in element 4 above.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p><b>A</b></p>	<p><b>G</b></p>	<p>The <i>Policy Statement</i> (para 24) (<b>see element 3</b>) states “The SCTS will ensure that information is handled responsibly, that it will be stored securely, ... and that when the information is no longer required it will dispose of it appropriately and securely.”</p> <p>The <i>Policy Statement</i> also states (para 33) “All Information Assets which are not subject to a retention schedule and have outlived administrative usefulness will be destroyed in a secure manner.”</p> <p>The <i>Information Risk Management Policy</i> (<b>see element 8</b>) supports this statement regarding destruction (for example section 2.2).</p> <p>In response to these commitments, SCTS have the following arrangements in place:</p> <p><u>Paper</u>: The Court service has an arrangement with a third party to ensure the secure and irretrievable destruction of paper records. This includes that produced by</p>

			<p>the Justice of the Peace Advisory Committees but not the tribunals. Use of secure shredding facilities is emphasised in the SCTS <i>Security Policy and Procedures Manual</i> (<b>see element 8</b>). A sample destruction certificate has been provided in evidence.</p> <p>The Tribunals Service also has arrangements for secure destruction of records with a third party (a different one from the Courts). A sample destruction certificate has been provided in evidence.</p> <p><b><u>Electronic:</u> The Plan states at 78.80: "Destruction of electronic records – and in particular the deletion of material stored in email inbox folders - is under review". The Keeper should be informed when this review is completed and details of the proposed programme of improvement in this area.</b></p> <p><u>E-Mail:</u> Retention of e-mail is limited and deletion automatic. At the expiry of 12 months, emails will be automatically purged from the "live" system and held in archives for a further period of 12 months. After a total period of 24 months from receipt, emails are deleted from the systems. The Keeper commends this practice.</p> <p><u>Hardware:</u> Staff guidance on the destruction of hardware has been provided to the Keeper. Specific arrangements for the destruction of redundant hardware are confirmed by the SCTS <i>Security Policy and Procedures Manual</i> (<b>see element 8</b>). A sample destruction certificate has been provided.</p> <p><u>Back-Ups:</u> Backup procedures for electronic records held by SCTS are produced by the IT Dept. This is for reasons of business continuity (<b>see element 10</b>). SCTS have provided the Keeper with details of the back-up schedule.</p> <p>Records destruction guidance is available to staff in the relevant authorities. A screenshot has been provided as evidence that the <i>Preservation and Destruction of Sherriff Court</i> records guidance document is available to staff on the authority's intranet. A copy of this document has been provided to the Keeper.</p>
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			<p><b>The Keeper agrees this element of the SCTS Records Management plan under ‘improvement model’ terms. This means that an authority has recognised a gap in provision (the controlled destruction of records held electronically is not universally imposed), but have put processes in place to close that gap. The Keeper’s agreement is conditional on his being updated as this situation is addressed.</b></p>
7. Archiving and Transfer <i>Compulsory element</i>	<b>A</b>	<b>G</b>	<p>The Chief Executive’s Foreword to the <i>Plan</i> (page 2) refers to the importance of permanently preserving “critically important information”.</p> <p>This commitment is confirmed in the Policy Statement (<b>see element 3</b>) paragraph 34.</p> <p>To this end SCTS is in the process of finalising arrangements that will formalise transfer of records to the National Records of Scotland (NRS). A Memorandum of Understanding is being negotiated between SCTS Head of Information Handling &amp; Correspondence Branch (<b>see element 2</b>) NRS Court, Legal &amp; Private Records Branch and NRS Government Records Branch. That negotiations are taking place is confirmed by the NRS Client Management Team.</p> <p><b>The Keeper agrees this element of SCTS’ <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.</b></p>
8. Information Security <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The <i>Policy Statement</i> (para 24) (<b>see element 3</b>) states “The SCTS will ensure that information is handled responsibly, that it will be stored securely, that it will think carefully about the benefits and risks of sharing the information with others and that when the information is no longer required it will dispose of it appropriately and securely.”</p>



			<p>As well as the statement above, the <i>Policy Statement</i> devotes a specific section to information security (cultural, physical and technical) in paragraphs 28 – 32.</p> <p>In support of this objective, SCTS have a <i>Data Security Policy</i> that has been supplied to the Keeper. This is version 1.0 dated February 2016.</p> <p>SCTS have also supplied their <i>Security Policy and Procedures Manual</i> (update 6 dated April 2015), their <i>Information Risk Management Policy</i> (dated June 2013 and endorsed by SCTS CEO Eric McQueen) and their <i>Schedule to Information Risk Management Policy (Electronic Records)</i> (<b>see element 4</b>). This latter describes principles relating to access/security and retention of electronic records held in line of business systems.</p> <p>The <i>Information Risk Management Policy</i> succinctly explains the necessity for information security (for example section 2.3)</p> <p>The above noted policy documents are further supported by a suite of other policies and guidance, such as the SCTS <i>Security Classifications Policy</i> and the <i>Clear Desk Policy</i>, which have also been provided.</p> <p>SCTS is a PSN accredited public authority. Mr Hockenhill sits on the PSN Project Board (<b>see element 2</b>).</p> <p>A screenshot has been provided as evidence that both the <i>Data Security Policy</i> and the <i>Classifications Policy</i> are available to staff on the authority's intranet.</p> <p>Incidents of potential information security breaches are reported to the SIRO (<b>see element 1</b>) using a incident reporting tool. A screen shot, showing how this tool appears, has been provided to the Keeper.</p> <p>Staff are required to undertake records management e-learning (<b>see element 12</b>) which includes modules on information security and data protection.</p>
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			<p>The Keeper agrees that the Scottish Courts and Tribunals Service has procedures in place to appropriately ensure the security of their records as required by the Act.</p>
<p>9. Data Protection</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The <i>Policy Statement</i> (para 23) (<b>see element 3</b>) states “...the SCTS is guardian to large amounts of personal data and sensitive information on members of the public...and its own staff. Protecting that information...is of vital importance to members of the SCTS...”</p> <p>The <i>Information Risk Management Policy</i> (<b>see element 8</b>) supports this statement and refers specifically to compliance with data protection legislation (for example section 3.3).</p> <p>For most sections of the organisation, the <i>Data Security Policy</i> (<b>see element 8</b>) serves as the authority’s data protection policy with the exception of the Office of the Public Guardian (OPG), which is part of the Scottish Court and Tribunals Service for the purposes of the Act (rather than a separately scheduled authority). OPG has its own <i>Data Protection Policy</i> which has been supplied to the Keeper (version January 2012). As well as ‘objective’, ‘processing’ etc., this <i>Policy</i> features retention decisions for OPG and a full explanation of the destruction of their records (<b>see element 6</b>).</p> <p>The SCTS is registered with the Information Commissioner: <b>Z6928535</b></p> <p>The eight (current) principles of data protection are explained in the <i>Plan</i> (paragraph 103) and the <i>Information Risk Management Policy</i> (section 3.3). The Chief Executive’s foreword commits SCTS to providing staff access to the <i>Plan</i> (and therefore the data protection paragraphs) through the authority’s Intranet. (<i>Plan</i> page 2).</p> <p>Subject access information is made available to the public on-line  <a href="http://www.scotcourts.gov.uk/about-the-scottish-court-service/contact-us/data-protection">http://www.scotcourts.gov.uk/about-the-scottish-court-service/contact-us/data-protection</a></p>

			<p>The <i>Policy Statement</i> specifically mentions compliance with the Data Protection Act 1998 (<i>Policy Statement</i> para 27) as does the <i>SCTS Security Policy and Procedures Manual</i> (<b>see element 8</b>).</p> <p><i>Schedule to Information Risk Management Policy (Electronic Records)</i> (<b>see element 4</b>). This latter describes principles relating to access/security and retention of electronic records held in line of business systems.</p> <p>Staff are required to undertake records management e-learning (<b>see element 12</b>) which includes modules on information security and data protection.</p> <p>The <i>SCTS Schedule to Information Risk Management Policy (Electronic Records)</i> (<b>see element 4</b>) describes principles relating to restricted access/security of electronic records held in line of business systems.</p> <p>A screenshot has been provided as evidence that data protection guidance is available to staff on the authority's intranet.</p> <p>The Keeper agrees that the Scottish Courts and Tribunals Service of Scotland have properly considered their responsibilities under the Data Protection Act 1998.</p>
<p>10. Business Continuity and Vital Records</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>SCTS have an overarching <i>Business Strategy and Guidance</i> document which has been supplied to the Keeper. This is version 1.4 dated July 2015. It requires the separate business units covered by SCTS to apply a local business continuity policy. A sample of one of these policies - <i>Business Continuity Plan Sheriffdom of Tayside, Central and Fife</i> - has been supplied. This Continuity Plan has been partially redacted. The Keeper agrees that this step is entirely appropriate.</p> <p>The recovery of records has been considered: SCTS has provided its <i>Security Policy and Procedures Manual</i> (<b>see element 8</b>). It states that "IT plans are to include appropriate measures for backup of systems on-site, supported by copies at remote locations. Disaster recovery requires appropriate arrangements to be in</p>

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			<p>place to continue operations should there be a complete failure of the main IT Computer Systems.”</p> <p>The recovery of vital records is referenced in the <i>Plan</i> paragraph 110. On this subject SCTS is working in collaboration with the Keeper.</p> <p>The Keeper agrees that the Scottish Courts and Tribunals Service has business continuity arrangements that consider the recovery of records.</p>
11. Audit trail	<b>G</b>	<b>G</b>	<p>SCTS do not operate an EDRM that might offer a tracking facility as part of its functionality nor are naming conventions always <u>automatically</u> imposed at time of document creation.</p> <p>Because of this it is vital that the Board operates a naming convention/version control regime for all record creators. A sample of such has been provided to the Keeper separate from the <i>Plan</i>.</p> <p>SCTS note the importance of version control. For example in their <i>Schedule to Information Risk Management Policy (Electronic Records)</i> (<b>see element 4</b>) they state “It is the responsibility of the author of a document, or relevant policy lead, to ensure the integrity of information held, by applying robust version control mechanisms. This ensures that the most recent version of the document can be readily identified”.</p> <p>This applies to the administrative records of SCTS only. “Version control is not applicable to court records. Live criminal court records are filed under their next calling (hearing) date and closed (finished) criminal court records are filed numerically under the year of registration. Live civil court records are either filed under their next calling date or by type in alphabetical order. Closed civil files are stored in numerical order divided by the type of action and year of registration” (<i>Plan</i> section 118) .</p>

			<p>The Keeper acknowledges that the line-of-business systems operated by SCTS (<b>see element 4</b>) are likely to impose controls on record creation that would serve to locate data when required.</p> <p>The <i>Plan</i> notes the procedure for filing live court records in paper format (paragraph 117) and for administrative records (119-121): “Physical records held at Headquarters are filed in storage folders and housed in a central registry. Staff members within the registry section of HQ have an electronic registration and tracking system that allows files to be registered sequentially and by subject area. It also enables files to be tracked both by date of release and officer receiving. An electronic file index is available to all staff.”</p> <p>The Keeper agrees that SCTS have procedures in place to track records and to identify the correct version of a document when tracked.</p>
<p>12. Competency Framework for records management staff</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>SCTS have submitted the job profile for the Head of Information Handling &amp; Correspondence Branch (and his assistant). This shows that he has clear responsibility for the creation of the <i>Plan</i> and its implementation going forward.</p> <p>In the <i>Information Risk Management Policy</i> (<b>see element 8</b>), Eric McQueen, SCTS CEO states: “the management of information risk must continue to be integrated into the mainstream business of the organisation. This can be done through the training of people...”</p> <p>All staff are required to complete an information management e-learning package. This includes ‘Protecting Information’ modules at different levels depending on seniority of staff. An extract of course content has been shared with the Keeper.</p> <p>Information security is appraised as part of every staff member’s performance appraisal (<b>see element 8</b>). It is the responsibility of managers to ensure new staff are trained in “local information and data handling and security processes” (<i>Information Risk Management Policy</i> section 4.4)</p>

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			<p>The Keeper agrees that the individual identified at element 2 has the relevant authority to undertake the implementation role and that, furthermore, information governance training is made available to SCTS staff when appropriate.</p> <p>SCTS have supplied details of the professional development opportunities afforded Mr Hockenhill (<b>see element 2</b>). The Keeper thanks them for sharing these as evidence that information governance training is available when appropriate.</p> <p>The Keeper agrees that the individual</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 Plan explains that responsibility for reviewing the implementation of the Plan falls to the SCTS Records Management Group (<b>see under General Comments below</b>). They report to the SIRO (<b>see element 1</b>).</p> <p>The remit of the Records Management Group (provided) states at 3: “To monitor the SCTS Records Management Plan, and any current action plans, and to refer back to the Group any elements of the plan which have been, or are likely to be, affected by changes in local or general practice or legislative requirement, reporting as appropriate to the Chief Executive and Senior Information Risk Owner, including providing assurance of compliance with the relevant terms of the Public Records (Scotland) Act 2011.”</p> <p>Regarding the methodology to be employed by SCTS in the review of their <i>Plan</i> they have made the following statement: “Any amendments identified through the review process will be debated at the Records Management Group, with a consultation exercise to consult and engage affected areas undertaken if deemed necessary. Proposals for change will then be formally submitted to the Senior Information Risk Owner for consideration and approval. Amendments deemed substantial by the SIRO will be submitted to the SCTS Executive Team for consideration and approval. If accepted, a new version of the RMP will be</p>

			<p>published on the SCTS intranet and changes highlighted to staff through staff notices and direct communication as appropriate.” The Keeper commends the principle of consultation with ‘affected areas’ as liable to promote local buy-in for new procedures.</p> <p>The Office of the Public Guardian Data Protection Policy (<b>see element 9</b>) is due for review in January 2017.</p> <p>Local <i>Business Continuity Plans</i> (<b>see element 10</b>) are updated annually (<i>Plan</i> paragraph 108).</p> <p>The SCTS registration with the Information Commissioner (see element 9) must be renewed by July 2016.</p> <p>The Keeper agrees that SCTS have determined a review date for the Plan as required by the Act. He agrees that the authority has identified personnel responsible for the review and the method to be pursued. He agrees that reporting structures are in place.</p>
<p>14. Shared Information</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The <i>Policy Statement</i> (para 24) (<b>see element 3</b>) states “The SCTS will ensure that information is handled responsibly, that it will be stored securely, that it will think carefully about the benefits and risks of sharing the information with others ....”</p> <p>The <i>Information Risk Management Policy</i> (<b>see element 8</b>) supports this statement (for example section 2.2)</p> <p>To this end SCTS create information sharing protocols that can be utilised when they routinely share information with other bodies while carrying out their functions.</p> <p>A sample <i>Information Sharing Protocol</i> has been provided in a redacted form. The Keeper accepts this redaction is appropriate. The <i>Protocol</i> contains clauses considering information governance.</p>

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			<p>SCTS have also provided the Keeper with a template <i>Data Disclosure Agreement</i>. This also considers the management of data (particularly section 6).</p> <p>SCTS is currently creating a new centralised <i>Information Sharing Register</i>. <b>The Keeper commends this idea and asks that he is informed when this register is operational.</b></p> <p>The Keeper agrees that the Scottish Courts and Tribunals Service properly considers information governance when implementing information sharing arrangements with third parties.</p>
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### **Scottish Courts and Tribunals Service et al (see above)**

**(for simplicity all the 20 authorities listed above will be described as SCTS in the assessment below)**

#### Version

This assessment is on the *Records Management Plan* (the *Plan*) of the Scottish Courts and Tribunals Service (including all the scheduled authorities listed on page 1 of this report) version 1.1 dated March 2017.

The *Plan* includes a foreword, endorsing the plan, provided by Eric McQueen, Chief Executive. It is supported by a *Covering Letter* from Richard Maconachie, SCTS SIRO and Chief Financial Officer (**see element 1**). The Chief Executive's foreword commits SCTS to providing staff access to the *Plan* through the authority's Intranet. (*Plan* page 2).



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The Plan and evidential documents refer to records as business 'assets' for example *Policy Statement* para 25, *Data Security Policy* page 3 or *Information Risk Management Policy* section 3. The Keeper welcomes this recognition.

The SCTS makes reference to some bodies that are not separately scheduled authorities under PRSA, such as the Accountant of Court or the Lord President. The Keeper thanks SCTS for the information about the situation in these bodies and has noted it. However, his agreement can only be on those parts of SCTS formally scheduled.

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>

### SCTS – SCS

For the purposes of this assessment the Keeper accepts that documents denoted 'Scottish Court Service' will now apply to the Scottish Courts and Tribunals Service. The Keeper expects they will be rebranded at the next update. For example the *Schedule to Information Risk Management Policy (Electronic Records)* (**see element 4**).

### SCTS Records Management Group

SCTS operate a Records Management Group based in different business units. The Keeper commends the use of records management 'champions' in an organisation of the size and complexity of SCTS. This group has a responsibility for monitoring the implementation of the *Plan* (**see element 13**). They also have a responsibility to consider improvements that can be made to current records management provision. The group reports to the SIRO (**see element 1**). The Records Management group are responsible for "providing assurance of compliance with the relevant terms of the Public Records (Scotland) Act 2011". It is clear that the Records Management Group have fundamental oversight of the records management provision in the authority and the Keeper thanks SCTS for detailing their role.

### Information Asset Owners (IAOs)

Each record type in a business area is allocated to a senior local officer, designated an "Information Asset Owner". "An IAO is responsible for information within his/her remit (business area) (*Information Risk Management Policy* section 5.7). The allocations of IAOs to record series are noted in the Information Asset Registers (**see element 4**). Information asset owners are responsible for reviewing and updating their local area *Information Asset Register* quarterly and are also responsible for investigating and reporting any potential information security issues to the authority's SIRO (**see element 1**). Information Asset Owners have a responsibility for advising local staff on managing information (*Information Risk Management Policy* (**see element 8**) section 4.4). They must also approve any information sharing arrangements (**see element 14**).

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Third Parties

SCTS has confirmed that no function of any of the scheduled authorities listed on page one is carried out by a third party under contract.

## 6. Keeper's Summary

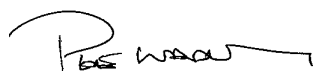
Elements 1 -14 that the Keeper considers should be in a public authority records management plan have been properly considered by the Scottish Courts and Tribunals Service and the 19 other authorities listed on page 1. Policies and governance structures are in place to implement the actions required by the plan.

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper agrees the RMP of the Scottish Courts and Tribunals Service and the 19 other authorities listed on page 1.

- The Keeper recommends that the Scottish Courts and Tribunals Service 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 following public authorities:

### **Scottish Courts and Tribunal Service**

#### **Additional Support Needs Tribunals For Scotland**

#### **Court of Session**

#### **Criminal Courts Rules Council**

#### **High Court of Justiciary**

#### **Justice of the Peace Advisory Committee – Glasgow and Strathkelvin**

#### **Justice of the Peace Advisory Committee – Grampian, Highlands and Islands**

#### **Justice of the Peace Advisory Committee – Lothian and Borders**

#### **Justice of the Peace Advisory Committee – North Strathclyde**

#### **Justice of the Peace Advisory Committee – South Strathclyde, Dumfries and Galloway**

#### **Justice of the Peace Advisory Committee – Tayside, Central and Fife**

#### **Justice of the Peace Courts**

#### **Lands Tribunal for Scotland**

#### **Panel appointed under regulation 90C of the Council Tax Reduction (Scotland) Regulations 2012 (the Council Tax Reduction Review Panel)**

#### **Private Rented Housing Panel**

#### **Scottish Charity Appeals Panel**

#### **Scottish Civil Justice Council**

#### **Scottish Land Court**

#### **Scottish Sentencing Council**

#### **Sheriff Courts**

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In agreeing this RMP, the Keeper expects these authorities to fully implement the agreed RMP and meet its obligations under the Act.

A handwritten signature in black ink, appearing to read 'Tim Ellis', written in a cursive style.

.....

**Tim Ellis**

Keeper of the Records of Scotland