

Public Records (Scotland) Act 2011

Scottish Public Services Ombudsman Assessment Report

The Keeper of the Records of Scotland

23 February 2016

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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 Public Services Ombudsman** 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 Scottish Public Services Ombudsman 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 Scottish Public Services Ombudsman complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

Description of Authority: The SPSO was set up by the Scottish Public Services Ombudsman Act 2002. They handle complaints about public services in Scotland including councils, the National Health Service, housing associations and cooperatives, universities and colleges, most water and sewage providers, prisons, the Scottish Government and its agencies and departments, and most other Scottish authorities.

<http://www.spsso.org.uk/>

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 **Scottish Public Services Ombudsman'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>SPSO have identified Niki Maclean, Director, as the individual with overall responsibility for records management in the authority</p> <p>This is confirmed by a covering letter from Jim Martin, the Ombudsman, dated 24th April 2015 and by the Director's job description (evidence 01).</p> <p>The Director is listed as lead officer for records management in the <i>Records Management Policy</i> (page 4) (see element 3).</p> <p>The Director is responsible for dealing with any 'records management issues and concerns' raised by the business areas (<i>Policy</i> page 4). She does this in conjunction with the Corporate Information Governance Officer (see element 2).</p> <p>Ms Maclean sits on the Senior Management Team and the Audit and Advisory Committee (evidence 4 and 5). Minutes have now been published on the website: http://www.spsso.org.uk/sites/spsso/files/communications_material/minutes/2014/AACMeetingNote141021.pdf.</p> <p>The Keeper agrees that SPSO have identified an appropriate individual to this role as required by the Act.</p>
2. Records Manager	G	G	<p>SPSO have identified Ellie Robertson, Corporate Information Governance Officer, as the individual with day-to-day responsibility for implementing the records</p>

<p><i>Compulsory element</i></p>			<p>management plan.</p> <p>Ms Robertson holds this post as a secondment during the absence of Helen Littlemore, the usual post holder. SPSO have committed, through a “carry-forward action”, to inform the Keeper when Ms Littlemore returns to her post.</p> <p>This appointment is confirmed by the <i>Records Management Policy</i> (page 4) (see element 3) and by the <i>Corporate Information Governance Officer’s Job Description</i> and <i>Person Specification</i> (submitted as evidence 02).</p> <p>The Corporate Information Governance Officer supports the Director (see element 1) (<i>Records Management Policy page 4</i>).</p> <p>The Corporate Information Governance Officer is responsible for dealing with any ‘records management issues and concerns’ raised by the business areas (<i>Policy page 4</i>). She does this in conjunction with the Director.</p> <p>The Information Governance Officer is responsible for training staff in Data Protection requirements. Information security breaches are reported to the Information Governance Officer.</p> <p>The Keeper agrees that SPSO have identified an appropriate individual to this role as required by the Act.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>SPSO have a <i>Records Management Policy</i> which makes up part of the <i>Information Governance Handbook</i> (section 2) . It is published on the SPSO website at http://www.spsso.org.uk/sites/spsso/files/communications_material/foi/corporate_documents/InformationGovernance(R.2017.04)W.pdf and on the Intranet can therefore be taken as accessible to staff.</p>

			<p>Minutes showing the approval of the <i>Policy</i> by Senior Management and the Audit Committee have been provided as evidence 4 and 5.</p> <p>The <i>Policy</i> “sets out a commitment to the development of an efficient and effective records management system”. The <i>Records Management Policy</i> fully supports the <i>Records Management Plan</i>.</p> <p>The introduction to the <i>Policy</i> (pages 2 and 3) recognises records as a corporate asset. The importance of keeping control of that asset is made clear. The introduction also mentions the Public Records Act and provides a good explanation of the importance of records management (page 3).</p> <p>The Keeper agrees that SPSO have in place an authorised and operational records management policy statement as required by the Act.</p>
<p>4. Business Classification</p>	<p>G</p>	<p>G</p>	<p>SPSO has a <i>Business Classification Scheme</i> which has been provided to the Keeper as section 3 of the <i>Information Governance Handbook (see General Comments below)</i>. Combined with the <i>Retention Schedule (see element 5)</i> this provides an overview of the functions of SPSO and the record types created during the activities the authority undertake to carry out those functions.</p> <p>The maintenance of a business classification scheme is a commitment in the <i>Records Management Policy (see element 3) (Policy page 3)</i>.</p> <p>The SPSO classification scheme is based on a functional analysis of the business. This must remain a business decision for SPSO, but the Keeper acknowledges that a functional scheme is currently considered best practice.</p> <p>Electronic case files are held on an in-house WorkPro system. Paper case files are</p>

			<p>inventoried on WorkPro using a reference number system. SPSO intends to become 'paperless' for case work. Guidance on the WorkPro system, issued by the Scottish Government, has been provided as evidence 6.</p> <p>Corporate records are created on a SharePoint platform (see <i>SharePoint</i> under <i>General Comments</i> below) and for the purpose of this assessment can be taken to be wholly electronic in format.</p> <p>Because it makes up part of the <i>Information Governance Handbook</i>, the <i>Business Classification Scheme</i> appears on the SPSO website and Intranet.</p> <p>The introduction to the <i>Business Classification Scheme</i> introduces the staff to principles of good electronic records management such as providing links rather than copies. This is important for audit trail (see element 11).</p> <p>The Keeper agrees that SPSO has a business classification scheme that is available for appropriate staff.</p>
5. Retention schedule	G	G	<p>SPSO has a <i>Records Retention Schedule</i> which has been provided to the Keeper as section 4 of the <i>Information Governance Handbook</i> (see <i>General Comments</i> below). Combined with the <i>Business Classification Scheme</i> (see element 4) this identifies retention decisions for the record types created when the authority carries out activities in pursuance of their functions. It should be noted, however, that the <i>Retention Schedule</i> does not directly mirror the <i>Business Classification Scheme</i> so they cannot be easily combined into a single 'information asset' style document. They remain separate sections of the <i>Handbook</i>.</p> <p>Because it is part of the <i>Information Governance Handbook</i>, the <i>Retention Schedule</i> appears on the SPSO website and Intranet.</p>

			<p>Guidance on retention is a commitment in the <i>Records Management Policy</i> (see element 3) (<i>Policy</i> page 3). That guidance appears at the start of the <i>Handbook</i> section 4.</p> <p>The link between a complete business classification scheme and a solid retention schedule is noted in the introduction to the Business Classification Scheme (see element 4).</p> <p>The introduction to the <i>Retention Schedule</i> section of the <i>Handbook</i> recognises the purpose of records management as being control over an asset.</p> <p>The Keeper agrees that SPSO has a retention schedule that is available for appropriate staff.</p>
<p>6. Destruction Arrangements <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p><u>Paper records</u>: Paper case file records are destroyed under third party contract with Paper Shredding Services (PSS). A certificate of destruction (evidence 13) and a link to the PSS website have been provided as evidence that this arrangement is in operation.</p> <p><u>Electronic Records</u> are destroyed in-house using the electronic file management arrangements contained within WorkPro (case work) and SharePoint (corporate). E-mails are destroyed following the Scottish Government Enterprise Vault system with which the Keeper is familiar. A WorkPro destruction log has been provided (evidence 11).</p> <p>Similarly, <u>Hardware</u> is destroyed as a service by Scottish Government ISIS through approved procedures using a contract with NVT. The equipment is destroyed by CCL North. The Keeper has seen, separate from the SPSO submission, a certificate of destruction to show that this arrangement is in operation in the SG.</p>

	G	G	<p>The MOU with the Scottish Government (evidence 17) states “[SG] performs regular <u>backups</u> of [SPSO]’s data on SCOTS. Incremental backups are taken between Monday and Thursday each week and a full backup is taken on a Friday or Saturday. Backups are retained at the Saughton House Data Centre with a copy duplicated to our Lanarkshire Data Centre. The Provider operates a four weekly backup cycle. After this period the data is destroyed and the data becomes irretrievable.”</p> <p>Guidance on destruction is a commitment in the <i>Records Management Policy</i> (see element 3) (<i>Policy</i> page 3).</p> <p>Records destruction is overseen by the SPSO ‘Compendium Officer’ who reports to the Senior Personal Assistant. The Compendium Officer’s job description has been provided (evidence 10).</p> <p>The close connection between retention decisions (see element 5) and records destruction is highlighted in the introduction to the <i>Retention</i> section of the <i>Handbook</i>.</p> <p>The Keeper agrees that SPSO can irretrievably destroy records in any format as required by the Act.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	G	G	<p>The <i>Records Management Policy</i> (section 2 of the Information Governance Handbook) (see element 3) commits SPSO to “to protect and make available the corporate memory of the organisation to all stakeholders and for future generations.”</p> <p>SPSO have identified the National Records of Scotland (NRS) as the repository for records of permanent value.</p> <p>A signed Memorandum of Understanding (MoU) has been provided to the Keeper</p>

			<p>as evidence of an agreement between SPSO and NRS regarding the transfer of records selected for permanent preservation.</p> <p>The close connection between retention decisions and archiving is highlighted in the introduction to the <i>Retention</i> section of the <i>Handbook</i>.</p> <p>The Keeper agrees that SPSO have identified a suitable repository for the permanent preservation of selected records and that they have, in conjunction with NRS, agreed a MoU to formalise the transfer arrangements.</p>
<p>8. Information Security <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>SPSO use the Scottish Government (SG) systems such as GSI and Scots as their security standard. The Keeper is obviously familiar with these systems and agrees they represent appropriate security standards for a Scottish public authority.</p> <p>Specifically, they utilise the <i>Scottish Government Administrative and Procedural Security Policy</i> (provided as evidence 15) supported by a suite of other in-house policies and guidance which make up sections 5 – 8 of the <i>Information Governance Handbook</i> (see General Comments below). Both the <i>Handbook</i> and the <i>SG Policy</i> are available by Intranet. Similarly staff have access to the <i>SG Physical and Environmental Security</i> guidance (screen-shot provided as evidence 14). <i>Handbook</i> sections 5 – 8 are publically available from the SPSO website.</p> <p>SPSO have provided their MOU with the SG (evidence 17). They have also provided an audit report that shows the SG systems were implemented in 2013. The Keeper thanks SPSO for providing these.</p> <p>When paper case files are transported outwith the SPSO office a courier is used and the security clauses in the tender for the courier contract have been supplied to the Keeper (evidence 32).</p>

			<p>A review of information security procedures is a commitment in the <i>Records Management Policy (see element 3)</i> (Policy page 4).</p> <p>Each year SPSO run an audit on case file tracking (WorkPro) and this audit is reported to Senior Management. Results of the 2015 audit (April) have been shared with the Keeper (evidence 30). A physical check of office cabinets, desks and other storage facilities is also carried out annually.</p> <p>SPSO staff are all certified by Disclosure Scotland. Guidance on what this entails has been supplied to the Keeper as evidence 18. They have also supplied a screenshot of their intranet access control policy (evidence 21).</p> <p>The link between a complete business classification scheme and information security is noted in the introduction to the Business Classification Scheme (see element 4).</p> <p>The Keeper agrees that SPSO has an approved and operational security policy properly supported by guidance and is available to all staff.</p>
9. Data Protection	G	G	<p>SPSO have a <i>Privacy Policy</i> published at http://www.spsso.org.uk/disclaimer-and-privacy-policy</p> <p>They are registered with the Information Commissioner: Z7336887.</p> <p>SPSO have an information leaflet called 'Your Information Rights and SPSO'. This leaflet explains the information laws that apply in Scotland and about a person's rights in relation to recorded information held by the SPSO.: http://www.spsso.org.uk/sites/spsso/files/communications_material/leaflets_public/subject_factsheets/2012_02_22_your%20information%20rights%201.pdf</p>

			<p>The Data Protection principles are explained in the <i>Complying with Information Legislation</i> section of the <i>Handbook</i> (section 8, page 11).</p> <p>The RMP commits SPSO to create a separate <i>DP Policy Statement</i> and notes that this project has been delayed due to the absence of Ms. Littlemore (see element 2). SPSO have committed to inform the Keeper when we have a DP policy statement in place.</p> <p>SPSO have provided the Keeper with a copy of their <i>What We Do When We Get Your Complaint</i> leaflet (evidence 29), which has a section on privacy.</p> <p>They have also provided their <i>Sharing Information User Guide</i> (evidence 31), which deals with public requests for information. This touches on FOI and DP, but is outside the scope of element 14 which refers to the routine sharing of information between authorities for business purposes.</p> <p>The Corporate Information Governance Officer (see element 2) is responsible for training staff in Data Protection requirements.</p> <p>A review of data protection procedures is a commitment in the <i>Records Management Policy</i> (see element 3) (<i>Policy</i> page 4).</p> <p>The Keeper agrees that SPSO properly considers its responsibilities under the Data Protection Act 1998.</p>
<p>10. Business Continuity and Vital Records</p>	<p>G</p>	<p>G</p>	<p>SPSO has a <i>Business Continuity Plan</i> which is published on the website at: http://www.spsso.org.uk/sites/spsso/files/communications_material/foi/corporate_documents/SPSO%20Business%20Continuity%20Plan%202013June.pdf</p> <p>The Business Continuity Plan was subject to Internal Audit review in 2015 and</p>

			<p>SPSO have provided the Keeper with a copy of the report when it is available. The Keeper commends the use of auditors to measure levels of compliance with internal procedures.</p> <p>Vital records are held electronically by the Scottish Government. Vital records are not identified specifically in the business classification scheme.</p> <p>A review of business continuity procedures is a commitment in the <i>Records Management Policy (see element 3) (Policy page 4)</i>.</p> <p>The Keeper agrees that SPSO has systems in operation to recover records in the case of a disaster and that vital records are considered in the business continuity process.</p>
11. Audit trail	G	G	<p>SPSO tracks its records using the in-built systems that are a feature of their WorkPro and SharePoint electronic records systems. The paper case files are linked by reference number to WorkPro.</p> <p>A screen-shot has been provided to assist the Keeper’s understanding of how SPSO staff track files electronically (evidence 30). A WorkPro destruction log has also been supplied as evidence 11.</p> <p>A review of tracking procedures is a commitment in the <i>Records Management Policy (see element 3) (Policy page 4)</i>.</p> <p>Occasionally, due to the nature of the SPSO’s work, paper files are removed from the Office for business purposes. Records taken off-site are logged by team assistants and on WorkPro (<i>Handbook</i> section 9, page 4 - see Information Governance Handbook under General Comments below).</p>

			<p>Each year SPSO run an audit on case file tracking (WorkPro) and this audit is reported to Senior Management. Results of the 2015 audit (April) have been shared with the Keeper (evidence 30).</p> <p>The introduction to the <i>Business Classification Scheme</i> (see element 4) instructs staff on version control and naming conventions and provides other electronic records guidance such as sending links rather than copies (storage conventions).</p> <p>The Keeper agrees that SPSO has systems in place that allows them to locate a record and, when located, can be confident in they have the correct version.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>The Keeper has been provided with the <i>Job Description</i> and <i>Person Specification</i> for the post identified at element 2 (evidence 02). This shows that the Information Governance Officer is properly empowered to implement the RMP and that the authority recognises that records management is a separate skill.</p> <p>All SPSO staff undergo training on information security and data protection. The Corporate Information Governance Officer (see element 2) is responsible for training staff in Data Protection requirements. An e-mail confirming the mandatory nature of this training and the training manual itself have been provided in evidence (evidence 25).</p> <p>There is a commitment in the <i>Records Management Policy</i> (page 4) (see element 3) that states “The identification of records management as a distinct stream within the organisation’s training portfolio, with dedicated training provided to all staff”. The Keeper commends this commitment and request that any training material relevant to this RMP should be sent to him when available.</p> <p>The Keeper agrees that the person identified at element 2 has the skills and authority to carry out the day-to-day implementation of the RMP as expected by the</p>

			<p>Act. Furthermore, he agrees that SPSO consider the training of its staff in matters of information governance as appropriate.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>SPSO commit to review the <i>Records Management Plan</i> after two years.</p> <p>This review will be carried out by the Information Governance Officer (see element 2) using a self-assessment mechanism (<i>Policy</i> page 4) and will be reported up to Senior Management and to the Audit and Advisory Committee. The review will be assisted by representatives from business areas. The Keeper commends this local involvement as conducive of a stronger business tool.</p> <p>The self-assessment of the RMP is a commitment in the <i>Records Management Policy</i> (page 4) (see element 3).</p> <p>SPSO intend to use The National Archives of Scotland 'Complying with the Records Management Code' Evaluation workbook to review their records management.</p> <p>The Internal Audit strategic plan for 2015-18 includes elements of records management, including Case Management, IS Installation and bulk electronic document sharing, Risk Management and Business Continuity. If required, there is contingency for audit of a further key risk area.</p> <p>SPSO commit to providing the Keeper with an update after the first review (2017).</p> <p>The <i>Records Management Policy</i> (see element 3) is reviewed biennially.</p> <p>Each year SPSO run an audit on case file tracking (WorkPro) and this audit is reported to Senior Management. Results of the 2015 audit (April) have been shared with the Keeper (evidence 30). A physical check of office cabinets, desks and other storage facilities is also carried out annually.</p>

			<p>There is a commitment in the RMP (page 6 – Also <i>Policy</i> page 4) to review the <i>Business Classification Scheme</i> biennially.</p> <p>The Keeper agrees that the Scottish Qualifications Authority has installed a formal review procedure as part of their records management plan as required by the Act, and that clear review dates have been allocated to each of the supplied policy documents.</p>
14. Shared Information			<p>The RMP states, “The SPSO does not routinely share information with other bodies as we conduct our investigations in private.” The Keeper accepts that this element does not apply to SPSO.</p> <p>SPSO have also provided their Sharing Information User Guide (evidence 31), which deals with public requests for information. This touches on FOI and DP, but is outside the scope of element 14 which refers to the routine sharing of information between authorities for business purposes.</p>

General Notes on RMP, Including Concerns:

Version

This assessment is on the SPSO Records Management Plan that makes up part of the *Information Governance Handbook v1.0 (see below)*. The author is Fiona Paterson, Senior Personal Assistant to the Ombudsman. It is dated April 2015.

Minutes showing the approval of the plan by Senior Management and the Audit Committee have been provided as evidence 4 and 5.

As noted above, the Records Management Plan is part of a more wide-reaching *Information Governance Handbook*. Although the assessment is on the whole document, the Keeper's agreement can only be on the Records Management Plan (section 1). He has no authority to formally agree any other section of the document.

The plan is accompanied by a letter of support from Jim Martin, the Ombudsman, dated 24th April 2015.

The *Information Governance Handbook* is published on the SPSO website at:

[http://www.spsso.org.uk/sites/spsso/files/communications_material/foi/corporate_documents/InformationGovernance\(R.2017.04\)W.pdf](http://www.spsso.org.uk/sites/spsso/files/communications_material/foi/corporate_documents/InformationGovernance(R.2017.04)W.pdf)

The RMP 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>. Consideration has been given to the FOISA *Code of Practice on Records Management*.

Information Governance Handbook

SPSO have taken the opportunity to unify records management guidance into a single published document the *Information Governance Handbook*.

The *Information Governance Handbook* is v1.0. The author is Fiona Paterson, Senior Personal Assistant to the Ombudsman. It is dated April 2015.

This document includes the *Records Management Plan* in section 1 and the *Records Management Policy* in section 2. The Keeper commends the creation and publication of the *Handbook*. Many of the security principles are explained in the Handbook including a section on 'Managing Personal Data'. The *Information Governance Handbook* is published on the SPSO website at: [http://www.spsso.org.uk/sites/spsso/files/communications_material/foi/corporate_documents/InformationGovernance\(R.2017.04\)W.pdf](http://www.spsso.org.uk/sites/spsso/files/communications_material/foi/corporate_documents/InformationGovernance(R.2017.04)W.pdf)

Third Parties

SPSO confirms that no function of the SPSO is contracted to a third party.

SharePoint

Many Scottish public authorities have opted for the SharePoint solution. The Keeper would remind SPSO that SharePoint is not in itself a records management system and for full functionality, particularly relating to ensuring that metadata travels with the record when extracted from the system – for the purposes archiving for example – a records management bolt-on may be required.

6. Keeper's Summary

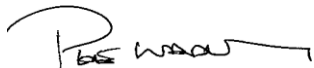
Elements 1 - 14 that the Keeper considers should be in a public authority records management plan have been properly considered by the Scottish Public Services Ombudsman. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Scottish Public Services Ombudsman**.

- The Keeper recommends that the Scottish Public Services Ombudsman 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 Public Services Ombudsman. In agreeing this RMP, the Keeper expects the Scottish Public Services Ombudsman to fully implement the agreed RMP and meet its obligations under the Act.



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