

Public Records (Scotland) Act 2011

**Social Care and Social Work Improvement Scotland
(The Care Inspectorate)
Assessment Report**

The Keeper of the Records of Scotland

10th October 2014

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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 **Social Care and Social Work Improvement Scotland** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **9th July 2014**.

The assessment considered whether the RMP of Social Care and Social Work Improvement Scotland 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 Social Care and Social Work Improvement Scotland complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

The Scottish Government set up the Care Inspectorate to provide assurance and protection for people who use care, social work and child protection services in Scotland. They operate out of offices across Scotland, from the Borders to the Islands. They are accountable to Ministers at Scottish Government.

The Care Inspectorate is scheduled by the Public Records (Scotland) Act 2011 as 'Social Care and Social Work Improvement Scotland' which is the Inspectorate's formal name. For the purposes of this report, they will be referred to as the Care Inspectorate.

<http://www.scswis.com/>

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 Social Care and Social Work Improvement Scotland (hereafter the Care Inspectorate)’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>Gordon Weir, the Care Inspectorate’s Director of Corporate Services has been identified as the individual with overall strategic responsibility for records management.</p> <p>This is confirmed by a <i>Covering Letter</i> from Mr Weir sent with the submitted RMP and by a letter by Annette Bruton, Chief Executive, dated 25th September 2014 (Appendix 19)</p> <p>The Keeper agrees that the Care Inspectorate have identified an appropriate individual to this role as required by the Act.</p>
2. Records Manager <i>Compulsory element</i>	G	G	<p>Amanda Wright, Information Governance Manager at the Care Inspectorate, has been identified as the individual who has operational responsibility for implementing the records management plan.</p> <p>This has been confirmed by a <i>Covering Letter</i> from Gordon Weir, Director of Corporate Services (see element 1) dated June 2014.</p> <p>Ms Wright is the author of the <i>Information Governance Policy</i> (evidence 9).</p> <p>Ms Wright’s job description has been supplied (see element 12) demonstrating that she has specific records management objectives.</p> <p>The Keeper agrees that the Care Inspectorate 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>The Care Inspectorate has a current <i>Records Management Policy</i> (version 1.0 dated 2011) prepared by the Information Governance Team. This has been supplied to the Keeper (evidence 2). The copy supplied seems to be lacking Appendices 2 & 3. This omission is immaterial for the Keeper’s agreement. The page numbering is also slightly skewed at the start.</p> <p>The <i>Records Management Policy</i> is strongly supported by the <i>Information Governance Policy</i> (evidence 9). Both policies map well against the statements in the submitted RMP.</p> <p>The <i>Records Management Policy</i> is endorsed by the Director of Corporate Services (see element 1) in a covering letter submitted with the plan.</p> <p>The <i>Policy</i> is available to staff through the Care Inspectorate’s intranet and it is planned that it will be available to the public through their website when this is redeveloped (early 2015).</p> <p>The Care Inspectorate intends to review its <i>Records Management Policy</i> by the end of December 2014. There is a commitment, in a covering letter from Amanda Wright (see element 2), to provide the Keeper with an updated version when available. The Keeper welcomes this commitment.</p> <p>The Keeper agrees that the Care Inspectorate has an approved and operational <i>Records Management Policy</i> as required by the Act and that it is available to all appropriate staff in the authority.</p>

<p>4. Business Classification</p>	<p>A</p>	<p>G</p>	<p>The Care Inspectorate is in the process of creating a new business classification scheme. When complete this will incorporate retention decisions and vital records (see element 5 and element 10). The description of the project to create this scheme shows clear commitment from senior management. This commitment is emphasised by a <i>Covering Letter</i> from Gordon Weir, Director of Corporate Services (see element 1) dated June 2014.</p> <p>The proposed business classification will be designed to facilitate adaption “to include any new categories of records as required” (RMP page 4).</p> <p>The estimated timescale for the creation of a business classification scheme shows a completion date in 2015.</p> <p>The Keeper accepts that the Care Inspectorate has committed to the creation of a full business classification along functional lines. The style of this classification must remain a business decision for the Care Inspectorate. However, the Keeper acknowledges that a functional system is currently considered best practice.</p> <p>The Inspectorate’s Business Classification Scheme will be imposed by structuring drives to map it. They also have a Practice Management System and Regulatory Management System that contain operational records. The Inspectorate is currently considering options for imposing the scheme on those systems. There is a commitment, in a covering letter from Amanda Wright (see element 2), to provide the Keeper with updates on this process as they become available. The Keeper welcomes this commitment.</p> <p>The Care Inspectorate operates a hybrid system (recognised in the <i>Records Management Policy Summary</i>). It holds records in electronic format on several different systems including a shared drive. It also holds records in paper format both</p>
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			<p>internally and in a commercial out-store 'Storage4U'.</p> <p>It is not thought that any <u>function</u> of the Care Inspectorate is carried out by a third party.</p> <p>The Keeper agrees this element of the Care Inspectorate's RMP on 'improvement model' terms. This means that he is convinced of the authority's commitment to implement the BCS fully over time, but would request that he is updated as this project progresses.</p>
5. Retention schedule	A	G	<p>The Care Inspectorate is currently creating a full Business Classification Scheme (see element 4) when this is complete it will include a retention schedule. The Keeper commends the principle of combining these two elements in order to create a stronger business tool for Inspectorate staff.</p> <p>The Keeper agrees this element of the Care Inspectorate's RMP on 'improvement model' terms. This means that he is convinced of the authority's commitment to implement a retention schedule fully over time as part of a business classification scheme, but would request that he is updated as this project progresses.</p>
6. Destruction Arrangements <i>Compulsory element</i>	G	G	<p>Paper Records: The Care Inspectorate hold paper records internally and with a storage contractor. The Keeper has seen evidence that two shredding companies are employed to irretrievably destroy records held on-site and that arrangements are in place with the storage provider to similarly destroy records held remotely.</p> <p>Hardware: The Care Inspectorate has arrangements in place with Re-Tek UK Limited to securely destroy hardware. The Keeper has seen a contract confirming this.</p>

			<p>Electronic: The Care Inspectorate is currently drafting staff guidance for the destruction of electronic records to match the implementation of the Business Classification Scheme (see element 4). There is a commitment, in a covering letter from Amanda Wright (see element 2), to provide the Keeper with a copy of this when it becomes available. The Keeper welcomes this commitment.</p> <p>In the meantime, the Inspectorate have provided the Keeper with a sample of the local instructions regarding the management of electronic information (appendix 20). The Keeper accepts that this guidance will shortly become redundant, but recognises that this is evidence that there is current awareness of the importance of properly controlling the destruction of records held electronically.</p> <p>Back-Ups: The Care Inspectorate have provided the Keeper with a statement regarding the irretrievable destruction of back-up tapes with a commitment to provide a fuller document when it is available (see <i>Back-Ups</i> under General Comments below).</p> <p>The Keeper agrees that the Care Inspectorate has appropriate procedures in place for the irretrievable destruction of records when required.</p>
<p>7. Archiving and Transfer <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The Care Inspectorate is currently in contact with the Client Management Team at National Records of Scotland (NRS) with the aim of developing a Memorandum of Understanding (MoU) to enable the transfer of records selected for permanent preservation from the Inspectorate to NRS.</p> <p>As evidence, the Inspectorate have submitted the draft MoU which is currently being used as the basis for discussions. The MoU appears as Appendix 21 to the RMP.</p> <p>The Keeper agrees that the Care Inspectorate is currently developing a MoU with</p>

			NRS to facilitate the transfer of records selected for permanent preservation. The Keeper requests that once the MoU has been agreed he is sent a copy of the MoU for inclusion in the Inspectorate’s evidence package.
8. Information Security <i>Compulsory element</i>	G	G	<p>The Care Inspectorate has an <i>Information Security Policy</i> and an <i>ICT Security Policy</i> both of which have been provided to the Keeper (evidence 9 and 10). These combine to demonstrate an appreciation of the necessity of securely protecting information assets in the authority.</p> <p>These policies are available to staff on the authority’s intranet. Security training is an objective under 6.1 of the <i>Information Governance Policy</i> (evidence 9).</p> <p>The <i>ICT Security Policy</i> is endorsed by the Director of Corporate Services in a Covering Letter submitted with the plan.</p> <p>The Care Inspectorate intends to implement the 2014 Government Protective Marking Scheme. This is confirmed in the <i>Covering Letter</i>. The Keeper would appreciate being provided notice when this has been adopted.</p> <p>The Keeper agrees that the Care Inspectorate has properly considered the security of their records.</p>
9. Data Protection	G	G	<p>The Care Inspectorate has a <i>Data Protection Policy</i> which is available to the public through a link from their website The policy is available to staff on the authority’s intranet. It is planned that it will also be available to the public through their website when this is redeveloped (early 2015).</p> <p>The policy has been provided to the Keeper (version 1.0 dated 2011 approved by the Inspectorate’s Chief Executive).</p>

			<p>The <i>Data Protection Policy</i> is endorsed by the Director of Corporate Services in a covering letter submitted with the plan.</p> <p>The Inspectorate is registered with the Information Commissioner under: Z2582022</p> <p>Data Protection responsibilities are explained in the Care Inspectorate’s Code of Conduct (evidence 15)</p> <p>The Keeper agrees that the Care Inspectorate properly recognise their responsibilities under the Data Protection Act 1998.</p>
10. Business Continuity and Vital Records	A	G	<p>The Care Inspectorate is currently updating their business continuity plan and the Keeper agrees that sufficient commitment exists for him to agree this element.</p> <p>The Inspectorate commits to including vital records in the revised <i>Business Continuity Plan</i>.</p> <p>If for reasons of business continuity copies of electronic records are routinely created, the Keeper requires to know how these copies are deleted when appropriate (see element 6).</p> <p>The Keeper agrees this element of the Care Inspectorate’s RMP on ‘improvement model’ terms. This means that he is convinced of the authority’s commitment to implement a business continuity plan fully over time, but would request that he is updated as this project progresses.</p>
11. Audit trail	A	G	<p>The Care Inspectorate is developing version control and naming convention guidance for staff in line with the new business classification scheme (see element 4).</p>

			<p>The <i>Covering Letter</i> from Gordon Weir specifically recognises the work being done on ‘Audit Trail’ and this represents a commitment from senior management. The letter states “...the Care Inspectorate is committed to issuing updated guidance in relation to the naming and saving conventions for records...” It is important that these guidance documents are provided to the Keeper when available to keep the Inspectorate’s submission up-to-date.</p> <p>Currently the various electronic systems feature an element of audit trail and records retrieval. Paper records are logged in and out of storage.</p> <p>The Keeper agrees this element of the Care Inspectorate’s RMP on ‘improvement model’ terms. This means that he is convinced of the authority’s commitment to create a suitable audit trail process (and guidance to that process) fully over time, as part of an update of the core records management systems. The Keeper requests that he is updated as this project progresses.</p>
<p>12. Competency Framework for records management staff</p>	<p>G</p>	<p>G</p>	<p>The Care Inspectorate has provided the job description for the individual identified at element 2.</p> <p>There is frequent mention of training in the plan, in the <i>Records Management Policy</i> and in the <i>Information Governance Policy</i>. Staff responsibilities regarding security of records features in the organisation’s Code of Conduct, which has been supplied to the Keeper (evidence 15). The <i>Covering Letter</i> also commits the Inspectorate to information governance training for its staff.</p> <p>The Keeper agrees that the individual identified as having day-to-day responsibility for implementing the RMP has appropriate skills for the role. Furthermore, the Keeper acknowledges that the Care Inspectorate considers records management</p>

			training for appropriate staff.
13. Assessment and Review	G	G	<p>The Care Inspectorate operates an in-house performance management system using that system. The <i>Information Governance Policy</i> (evidence 9) states at 8.1 http://www.covalentsoftware.com/ and the plan includes a commitment to review using that system. The <i>Information Governance Policy</i> (evidence 9) states at 8.1 “The Care Inspectorate aims to undertake or commission annual assessments and audits of its information quality and records management arrangements.” The Inspectorate have provided a statement clarifying that the submitted plan falls under ‘records management arrangements’ and is therefore subject to annual assessment.</p> <p>The Care Inspectorate intends to review its <i>Records Management Policy</i> by the end of December 2014. There is a commitment, in a covering letter from Amanda Wright (see element 2), to provide the Keeper with an updated version when available. The Keeper welcomes this commitment.</p> <p>The Keeper agrees that the Care Inspectorate has arrangements in place to properly review their RMP and other key records management policies.</p>
14. Shared Information	G	G	<p>In the introduction to their <i>Information Governance Policy</i> (evidence 9) the Care Inspectorate state: “The Care Inspectorate aims to work collaboratively with partner agencies to ensure any information governance issues which span more than one organisation are handled effectively and appropriately.”</p> <p>To this end, they have created memoranda of understanding and information sharing agreements which will be published on the Inspectorate’s website when that is redeveloped (early 2015).</p> <p>The Inspectorate has an <i>Information Sharing Protocol</i> which explains the allocation of RAG status to data.</p>

			<p>The Keeper has been provided with a copy of this <i>Protocol</i> (evidence 18) and with a sample of both a <i>Memorandum of Understanding</i> and an <i>Information Sharing Agreement</i> (evidence 16 and 17).</p> <p>The Keeper agrees that the Care Inspectorate have considered the records management implications of information sharing as appropriate.</p>
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General Comments:

The assessed RMP, is version 2.0, dated 29 September 2014. There is a clear statement regarding the importance of records management in the introduction section. This matches statements in the *Records Management Policy (see element 3)*. The introduction specifically states that it covers all records in every format.

Intranet

The RMP mentions, in several elements, that guidance is available to staff through the Intranet. The Keeper has seen a screen dump of the records management home page as evidence of this.

Information Governance Team

The RMP, *Records Management Policy (see element 3)* and *Information Governance Policy* (evidence 9) mention the 'Information Governance Team' The Keeper has been provided with a hierarchical diagram of the makeup of this Team. The Records Management Policy contains, in Appendix 1, a list of key contacts and their roles.

Back-Ups

The Keeper understands that the Care Inspectorate is currently reviewing the destruction of back-up tapes. To some extent this must remain a business decision for the Inspectorate. He accepts that there may be particular issues in any authority that must be addressed by that authority (statutory requirements for example). The Keeper looks forward to seeing the results of the Inspectorate's review when they are available.

6. Keeper's Summary

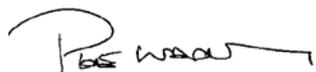
Elements 1-14 that the Keeper considers should be in a public authority records management plan have been properly considered by Social Care and Social Work Improvement Scotland. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **Agrees** the RMP of **Social Care and Social Work Improvement Scotland**.

- The Keeper recommends that Social Care and Social Work Improvement Scotland 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 Social Care and Social Work Improvement Scotland. In agreeing this RMP, the Keeper expects Social Care and Social Work Improvement Scotland to fully implement the agreed RMP and meet its obligations under the Act.

A handwritten signature in black ink on a light-colored background. The signature is written in a cursive style and appears to read 'Tim Ellis'. The signature is centered within a rectangular area.

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