

**Public Records (Scotland) Act 2011**  
**Standards Commission for Scotland**  
**Assessment Report**

**The Keeper of the Records of Scotland**

**15<sup>th</sup> September 2015**

**Contents**

1. Public Records (Scotland) Act 2011 ..... 3  
2. Executive Summary ..... 4  
3. Authority Background ..... 5  
4. Assessment Process ..... 6  
5. Model Plan Elements: Checklist ..... 7  
6. Keeper’s Summary .....19  
7. Keeper’s Determination .....19  
8. Keeper’s Endorsement.....20

## 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 **Standards Commission for Scotland** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **29<sup>th</sup> June 2015**.

The assessment considered whether the RMP of the Standards Commission for 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 the Standards Commission for Scotland complies with the Act can be found under section 7 of this report with relevant recommendations.

### 3. Authority Background

**Description of Authority:** The Standards Commission for Scotland was established under the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The Standards Commission's functions as provided for by the 2000 Act are to:

- Issue guidance to councils and devolved public bodies to assist them in promoting high standards of conduct.
- Receive reports from the Commissioner for Ethical Standards (CES) on the outcome of his investigations and determine whether to direct the CES to carry out further investigations, to hold a Hearing or to take no action.

Where the Standards Commission decides to hold a Hearing, its functions are to:

- Determine whether a councillor or member of a devolved public body has contravened the Councillors' or the Members' Code.
- Determine the sanction to be applied where, following a Hearing, the Panel find that a councillor or member has breached the relevant Code.

The Scottish Parliamentary Commission and Commissioners etc. Act 2010 provided that, with effect from 1 April 2011, the Standards Commission is supported by the Scottish Parliamentary Corporate Body.

The Standards Commission is independent of government when considering alleged contraventions of the codes and in its decisions.

<http://www.standardscommissionscotland.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 the Standards Commission for Scotland'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:

<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

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The Standards Commission for Scotland has identified Lorna Johnston, Executive Director, as the individual responsible for records management in the authority.</p> <p>The submission was accompanied by a letter to the Keeper from Ms. Johnston dated 25<sup>th</sup> June 2015.</p> <p>The Commission have provided the <i>Executive Director Job Description</i> (Annex 2A). The Executive Director has a responsibility for managing the assets of the Commission. Records are specifically identified as assets in the Policy Statement (<i>Plan 4.8</i>).</p> <p>The <i>Job Description</i> specifically mentions Records Management as a responsibility of the role.</p> <p>The Executive Director's duties also include staff training, monitoring and 'adjusting' plans. The Executive Director is also the authority's Accountable Officer.</p> <p>The Business Manager (<b>see element 2</b>) reports directly to the Executive Director.</p> <p>The Keeper agrees that the Standards Commission for Scotland has identified an appropriate individual to the role, as required by the Act.</p>
2. Records Manager	<b>G</b>	<b>G</b>	<p>The Standards Commission for Scotland has identified Elaine McLean, Business Manager, as the individual with day-to-day responsibility for implementing the <i>Plan</i>.</p>

<p><i>Compulsory element</i></p>			<p>The Commission have provided the <i>Business Manager Job Description</i> (Annex 3A). Records management is listed as a ‘main responsibility’ in this document. More specifically there is a duty to develop and maintain the Standard Commission’s ‘National Records Plan’.</p> <p>The Business Manager is responsible for responding to all data protection requests <b>(see element 9)</b>.</p> <p>The Commission have also provided the <i>Business Manager Competency Framework and Objectives</i> (annex 10A and 13A). Objective 3 confirms Ms. Mclean’s responsibility for the <i>Records Management Plan</i>. The Keeper would like to thank Ms. Mclean for sharing this document with him.</p> <p>The Business Manager reports directly to the Executive Director <b>(see element 1)</b>.</p> <p>The Business Manager leads staff induction training on records management issues <b>(see element 12)</b>.</p> <p>The Keeper agrees that the Standards Commission for Scotland have identified an appropriate individual to this role as required by the Act.</p>
<p>3. Policy <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Standards Commission for Scotland have included a records management policy statement as part of the <i>Records Management Plan</i> (section 4).</p> <p>Staff will be able to access this <i>Policy</i> when the <i>Plan</i> is published.</p> <p>The <i>Policy Statement</i> mentions the Public Records (Scotland) Act and identifies records as an “asset”.</p>



			<p>The Keeper agrees that the Standards Commission for Scotland have an approved records management policy statement as required by the Act.</p>
<p>4. Business Classification</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Standards Commission for Scotland has provided the Keeper with their <i>Business Classification Scheme</i> as Annex 5. 5A being explanation and guidance and 5B being an information asset register in the form of a spreadsheet.</p> <p>Both 5A and 5B cover the full functions of the authority under the general headings of ‘Corporate Governance and Management’, ‘Stakeholder and Casework’ and ‘Personnel’.</p> <p>5A gives a good introduction into the purpose of the <i>Scheme</i> at section 3. It also introduces the naming conventions used in the authority (<b>see element 11</b>). The Keeper supports the principle of including this guidance in a <i>Business Classification Scheme</i>.</p> <p>5B is a combined <i>Business Scheme</i> and <i>Retention Schedule</i> (<b>see element 5</b>). This must remain a business decision for the Standards Commission, but the Keeper commends the integration of these two elements as likely to create a stronger business tool for the authority.</p> <p>As an example: The <i>Scheme</i> shows that under the activity ‘Standards Commission Meetings’ minutes and papers are kept for permanent retention under ‘statutory’ authority. The entry goes on to describe the content of the record type and states that they are published to the website. This is, in short, a very detailed <i>Scheme</i> and to be commended.</p> <p>The <i>Scheme</i> also denotes access rights and security markings (<b>see element 8</b>).</p> <p>The Standards Commission operates a hybrid system: All paper documents received by the Commission are scanned and thereafter saved into the appropriate</p>

			<p>electronic file(s) within the folder structure. However, some documents are also held in paper format for ease of reference (for example Hearing Case Files). These are destroyed as detailed within the Retention Schedule.</p> <p>The Keeper agrees that the Standards Commission for Scotland has a full business classification scheme that covers all the functions of the authority.</p>
5. Retention schedule	<b>G</b>	<b>G</b>	<p><b>See element 4</b></p> <p>The <i>Records Management Policy Statement (see element 3)</i> places a responsibility on staff to ensure “timely review of records”. (section 4.11)</p> <p>To this end they have allocated retention decisions to the record types that feature in the <i>Business Classification Scheme</i>. These decisions have been included in the same information asset register style tool that appears as Annex 5B to the <i>Plan</i>.</p> <p>The Keeper agrees that the Standards Commission for Scotland has a retention schedule that applies retention decisions to all the record types that feature in the <i>Business Classification Scheme</i>.</p>
6. Destruction Arrangements <i>Compulsory element</i>	<b>G</b>	<b>G</b>	<p>The <i>Records Management Policy Statement (see element 3)</i> places a responsibility on staff to ensure “confidential destruction or recycling” of records (section 4.11).</p> <p>The <i>Records Management Plan</i> (section 7.2) states: “The Standards Commission recognises the importance of ensuring personal data that is no longer required is destroyed safely. The Standards Commission further recognises the importance of following correct procedures when destroying business information in order to minimise the risk of an information security incident and to ensure that the Standards Commission meets its obligations in relation to the effective management of its records throughout their lifecycle.”</p>

			<p>The Commission has made the following provisions to ensure this:</p> <p>Paper: Destroyed in-house under supervision with a log kept, or, when more appropriate, by the Scottish Parliament Corporate Body under an SLA (provided as Annex 9A).</p> <p>Electronic: Conducted by Standards Commission staff according to the <i>Retention Schedule</i>. Disposal log kept.</p> <p>Back-Ups: Operated by the Scottish Parliament Corporate Body under SLA (Annex 9A). <i>SPCB Records Management Plan</i> submitted to detail how this operates (Keeper has already agreed this arrangement).</p> <p>Hardware: Provided and destroyed by arrangement with the Scottish Parliament Corporate Body. Arranged through the SLA (under section 'IT Equipment') and is processed according to the <i>SPCB Records Management Plan</i>.</p> <p>The above is explained the Commission's <i>Disposal Policy</i> which has been provided to the Keeper as Annex 7A of the <i>Plan</i>.</p> <p>The Standards Commission's Disposal Policy is available to all staff and is held within the G/drive/OfficeManagement/Policies&amp;Procedures folder.</p> <p>The Keeper agrees that the Standards Commission for Scotland has procedures in place to irretrievably destroy records when appropriate.</p>
<p>7. Archiving and Transfer Compulsory</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The <i>Records Management Policy Statement (see element 3)</i> places a responsibility on staff to ensure, when appropriate, the permanent preservation of records (section 4.11).</p>

<p><i>element</i></p>			<p>To this end the Standards Commission for Scotland has identified the National Records of Scotland as the repository to which they will transfer such records.</p> <p>The Commission has supplied the <i>Memorandum of Understanding</i> between the Standards Commission and NRS as evidence that these arrangements are in place (Annex 7D).</p> <p>The Keeper agrees that the Standards Commission for Scotland has in place arrangements to transfer records to a permanent archive as required by the Act.</p>
<p>8. Information Security <i>Compulsory element</i></p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Standards Commission for Scotland is located in the Scottish Parliament. Its paper records are housed in an office maintained by the Scottish Parliament Corporate Body. The Commission's electronic records are hosted on servers operated by the SPCB.</p> <p>Therefore the Standards Commission for Scotland adopts the Scottish Parliament's <i>Information Security Policy</i> and procedures wholesale. These are explained in the Scottish Parliament Records Management Plan (supplied) which the Keeper has already agreed.</p> <p>Security support is a feature of the SLA between the Commission and the Scottish Parliament's Business Information Technology Services (supplied as Annex 9A).</p> <p>Access to records remains the responsibility of the Standards Commission. For example the <i>Business Classification Scheme</i> (see element 4) explains (par 2.5) that some record types are only accessible by the Executive Team.</p> <p>The Keeper agrees that the Standards Commission for Scotland has approved and operational information security processes in place.</p>

<p>9. Data Protection</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Standards Commission for Scotland has a <i>Data Protection Policy</i> which has been supplied to the Keeper as Annex 9A of the <i>Plan</i>.</p> <p>Staff are provided with a copy of this policy at induction (<b>see element 12</b>).</p> <p>The Commission is registered with the Information Commissioner: Z6948478. This registration is in-date.</p> <p>The Business Manager (<b>see element 2</b>) is responsible for responding to all data protection requests.</p> <p>The <i>Records Management Policy Statement</i> (<b>see element 3</b>) mentions the Data Protection Act 1998 (section 4.6).</p> <p>Staff received data protection training on induction (<b>see element 12</b>)</p> <p>The Keeper agrees that the Standards Commission for Scotland properly considers its 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>The Standards Commission for Scotland has a <i>Business Continuity Plan</i> which has been provided to the Keeper as Annex 7C of the <i>Records Management Plan</i>.</p> <p>Because the Commission operates from within the Scottish Parliament and because their electronic records are hosted on Scottish Parliament systems, business recovery is dependent on the operation of the Scottish Parliament's own continuity arrangements. These are explained in the Scottish Parliament's <i>Records Management Plan</i> which has previously been agreed by the Keeper and which has been supplied by the Commission as Annex 7B.</p>

			<p>Record recovery is covered under 'Business Continuity' in the SLA between the Commission and the Parliament's Business IT department (supplied as Annex 9A).</p> <p>The Standards Commission's <i>Business Continuity Plan</i> is provided to all staff (section 2.1).</p> <p>In case of an emergency disrupting the business of the Commission the Executive Director (<b>see element 1</b>) has lead responsibility for the efficient resumption of service.</p> <p>The Commission's vital records are listed in the <i>Records Management Plan</i> (section 11.3).</p> <p>The Keeper agrees that the Standards Commission for Scotland has an approved and operational Business Continuity Plan that deals with the recovery of records and that the Commission have identified their vital records.</p>
11. Audit trail	<b>G</b>	<b>G</b>	<p>The <i>Records Management Policy Statement</i> (<b>see element 3</b>) places a responsibility on staff to ensure that records can be accessed, tracked and stored (section 4.11).</p> <p>The <i>Records Management Plan</i> states (section 12.2) "All changes to the Standards Commission's casework will be reflected on the paper file and/or the electronic record in the shared drive folders." The <i>Plan</i> goes on to explain the processes by which this is achieved (sections 12.2 – 12.3).</p> <p>The Commission has provided the Keeper with its naming conventions guidance, which is included as part of the Business Classification Scheme (<b>see element 4</b>).</p> <p>Training on naming conventions and version control is provided at induction. The Business Manager (see element 2) is responsible for periodically reviewing files</p>

			<p>held on the shared drive to ensure the instructions are being correctly followed when staff name files.</p> <p>The Keeper agrees that the Standards Commission have processes in place that should allow them to locate a record when necessary and to identify the current version of that record.</p>
<p>12. Competency Framework for records management staff</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Standards Commission for Scotland have provided the Keeper with the <i>Competencies</i> and <i>Objectives</i> of the individual identified at element 2. The Keeper thanks Ms. McLean for sharing these documents.</p> <p>These documents make clear that the Business Manager has the relevant authority, skills and access to training to carry out the implementation of the <i>Records Management Plan</i>.</p> <p>The <i>Records Management Policy Statement (see element 3)</i> states that staff receive training on records management issues as part of their induction (section 4.12 of the <i>Policy Statement</i>). Details of the induction process have been provided to the Keeper as Annex 4A of the <i>Plan</i>. This shows the explanation of the Commission's policies on FOI, data protection and records management lead by the Business Manager <b>(see element 2)</b>.</p> <p>The induction process shows that this <i>Records Management Plan</i>, the <i>Data Protection Policy (see element 9)</i> and the <i>FOI Policy</i> are all provided to staff at induction.</p> <p>The Standards Commission state in their <i>Plan</i> (Para 4.12): "Training on the RMP, including the policies and procedures for records creation and the policies and procedures in place to manage those records properly form part of the induction programme for staff and Members of the Standards Commission. Changes made to</p>

			<p>the RMP, and any other policies and procedures, will be brought to the attention of Members and staff by the Business Manager. An email will be issued to staff and Members to signpost what changes have been made to policies or procedures, confirm the updated version number, and provide a brief outline of the changes for ease of reference.</p> <p>The Executive Director’s <b>(see element 1)</b> duties include staff training. The Business Manager <b>(see element 2)</b> is responsible for arranging training courses.</p> <p>The Keeper agrees that the individual identified in element 2 has the appropriate responsibility and access to training to undertake this role. Furthermore the Keeper notes that appropriate training on records management issues is made available to relevant Commission staff.</p>
<p>13. Assessment and Review</p>	<p><b>G</b></p>	<p><b>G</b></p>	<p>The Public Records (Scotland) Act places a duty on the Standards Commission for Scotland to “keep its records management plan under review” (Part 1 5.1.a)</p> <p>The Executive Director’s <b>(see element 1)</b> duties include reviewing plans and the Standards Commission’s <i>Plan</i> makes a commitment at section 14.2 that the Executive Director will review the <i>Plan</i> as part of yearly ‘Operation Plan’.</p> <p>The Standard Commission has committed to providing the Keeper with any developments resulting from this review. The Keeper welcomes this commitment.</p> <p>The Executive Director of the Standards Commission will conduct an annual review of the RMP as provided for within the organisation’s business plan (to commence April 2016) to ensure all provisions remain accurate, up to date and in line with policies and procedures. The review will involve the Executive Director reading each provision and, where appropriate, cross referencing these to any relevant provisions in the supporting annexes. The Executive Director will also review the</p>



			<p>RMP any time a change is proposed to a Standards Commission policy or procedure that forms part of, or relates to, the RMP. Furthermore the Executive Director will conduct other reviews, as necessary, to reflect any staff changes and also external changes such legislative amendments or changes or alterations to the Service Level Agreement with the SPCB. Actions made against progress are recorded in the annual business plan so this will be updated to record the annual review as and when it is undertaken. The annual review task will be included as a fixed task in the annual Business Plan. The inclusion of the RMP in the Business Plan will ensure that a review process exists during the business year.</p> <p>Standards Commission &amp; Committee Meetings Workplan – Schedule for 2015/16 is attached for information (Annex 14B). This provides confirmation of content of the Agenda and indicative timetable for the Commission meetings and those of the Audit &amp; Risk Committee.</p> <p>The Executive Director will include, in the process, all supporting documents which support the RMP. The outcome of the review will be reported to the Audit and Risk Committee (June) and thereafter reported to the Standards Commission by the Executive Director highlighting any recommendations and updates to the RMP for their consideration and agreement.</p> <p>The minutes showing the agreement of the Plan by the Commission also authorise its inclusion on the authority’s risk register. The Keeper welcomes this.  <a href="http://www.standardscommissionscotland.org.uk/content/minutes-and-meetings-2015-2016">http://www.standardscommissionscotland.org.uk/content/minutes-and-meetings-2015-2016</a> (April 27th item 7)</p> <p>The Commission’s registration with the Information Commissioner (<b>see element 9</b>) is due for renewal by July 2016.</p> <p>The Keeper agrees that the Standards Commission has arrangement in place to</p>
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			ensure that the Plan (and supporting policy/guidance documents) are reviewed regularly as required by the Act.
14. Shared Information	N/A	N/A	It would appear, from the text of the Records Management Plan, that the Standards Commission for Scotland does not routinely share information with third parties as a requirement of carrying out its <u>functions</u> .

**General Notes on RMP, Including Concerns:**

**Version:** This assessment is of the *Records Management Plan* of the Standards Commission for Scotland approved by the Commission 27<sup>th</sup> April 2015. This is version 2 dated 02/09/2015.

Minutes showing that the plan was approved are published <http://www.standardscommissionscotland.org.uk/content/minutes-and-meetings-2015-2016> (April 27th item 7).

The *Plan* is accompanied by a letter from Lorna Johnston, Executive Director (**see element 1**) to the Keeper dated 25<sup>th</sup> June 2015.

It appears that the Commission intends to publish its *Plan* once agreed:

<http://www.standardscommissionscotland.org.uk/content/information-published-commission> Complete publication scheme section 5.

The Keeper welcome this.

The *Plan* follows the structure of the Keeper’s *Model Plan*: <http://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan>

**Third Parties:** The Standards Commission state in the *Plan* (Para 15.4) “In relation to the Standards Commission’s statutory functions as provided for by the 2000 Act there are no contractor’s involved in carrying out these Standards Commission’s functions.”

## 6. Keeper's Summary

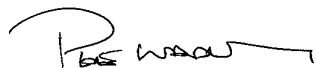
Elements 1 - 13 that the Keeper considers should be in a public authority records management plan have been properly considered by the Standards Commission for Scotland. Policies and governance structures are in place to implement the actions required by the plan.

## 7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of the **Standards Commission for Scotland**.

- The Keeper recommends that the Standards Commission for 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 the Standards Commission for Scotland. In agreeing this RMP, the Keeper expects the Standards Commission for Scotland to fully implement the agreed RMP and meet its obligations under the Act.



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