

Public Records (Scotland) Act 2011

West Dunbartonshire Council and West Dunbartonshire Licensing Board

Assessment Report

The Keeper of the Records of Scotland

13th August 2015

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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 **West Dunbartonshire Council and West Dunbartonshire Licensing Board** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **2nd April 2015**.

The assessment considered whether the RMP of West Dunbartonshire Council and West Dunbartonshire Licensing Board 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 West Dunbartonshire Council and West Dunbartonshire Licensing Board complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

West Dunbartonshire Council was formed on 1 April 1996 from part of the former Strathclyde Region, namely the entire district of Clydebank and the Dumbarton district less the Helensburgh area. In the Local Government etc. (Scotland) Act 1994 that created the council area its name was 'Dumbarton and Clydebank'. The council, elected as a shadow authority in 1995, resolved to change the name of the area to West Dunbartonshire. The council is run by 22 councillors elected from 6 wards.

<https://www.west-dunbarton.gov.uk/>

Licensing is the responsibility of licensing boards under powers contained in the Licensing (Scotland) Act 2005. Local licensing boards have wide discretion to determine appropriate licensing arrangements according to local needs and circumstances and their own legal advice. Each local government area must have a licensing board. West Dunbartonshire Licensing Board is titled a Licensing 'Forum'.

<https://www.west-dunbarton.gov.uk/council/west-dunbartonshire-licensing-forum/>

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 West Dunbartonshire Council and West Dunbartonshire Licensing Board’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

West Dunbartonshire Council and Licensing Board (For simplicity, these two authorities are described below as 'The Council')

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	G	G	<p>The Council have identified Angela A. Wilson, their Executive Director of Corporate Services as the individual with overall responsibility for records management in the Council.</p> <p>Ms Wilson is also the authority's SIRO.</p> <p>The identification is confirmed by a letter from Ms Wilson (undated) supplied as evidence 002 with the RMP.</p> <p>Ms Wilson is the officer who approved the RMP.</p> <p>Ms Wilson approved the <i>Records Management Policy</i> (see element 3).</p> <p>Ms Wilson is 'owner' of the Council's Strategic Plan http://www.west-dunbarton.gov.uk/media/1801902/wdc_strategic_plan.pdf</p> <p>The Licensing Board have identified Peter Hessett, Head of Legal, Democratic and Regulatory Services at the Council, as the individual with overall responsibility for records management in the Licensing Board.</p>

			<p>This appointment is supported by a letter (undated) from Mr Hessematt submitted with the RMP as evidence 003.</p> <p>The Keeper agrees that West Dunbartonshire Council have identified an appropriate individual to this role as required by the Act.</p> <p>The Keeper agrees that West Dunbartonshire Licensing Board have identified an appropriate individual to this role as required by the Act.</p>
<p>2. Records Manager <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The Council have identified Michael Butler, Records Management Officer, as the individual with day to day responsibility for implementing the RMP.</p> <p>This responsibility is confirmed by the <i>Records Management Policy</i> (see element 3) and by the <i>Records Management Officer Job Profile</i> (evidence 005).</p> <p>Mr Butler is the author of the revised RMP.</p> <p>Mr Butler is responsible for reviewing the Records Management Policy and the BCS (see element 4).</p> <p>The Records Management Officer is working, with his ICT colleagues, to produce a directory structure for all file servers across the Council.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board 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 Council have provided the Keeper with their <i>Records Management Policy</i>. This is version 3.1, dated 'October 2013' approved November 2013. It is signed by the SIRO (see element 1).</p>

			<p>Staff at the Council have access to this policy through their Intranet. A screen-shot has been provided in evidence (evidence 007) (However, see Third Parties under General Comments below).</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have an approved and operational records management policy as required by the Act.</p>
<p>4. Business Classification</p>	<p>G</p>	<p>G</p>	<p>The Council has a full <i>Business Classification</i> (BCS) which has been supplied to the Keeper (evidence 008). This includes retention decisions for individual records types and an indication of whether records are 'vital' to the business.</p> <p>The combination of business classification, retention schedule and vital records creates a strong business tool and is to be commended.</p> <p>The scheme details records down to three levels function/activity/record type. For example under 04.005.00: the function is "Consumer Affairs", the activity "Registration, certification and licensing" and the record type is a register of entertainment and drinks licenses. These registers are held for 2 years after the license expires and then destroyed.</p> <p>There is a 'Future Development' to expand this to incorporate other information asset fields such as 'access rights'. The current thinking at the Council is that this will be done to coincide with an office relocation which should be completed by the Summer of 2017. A sample of how this structure will appear has been provided as evidence 009. The Council has committed to provide the Keeper with an updated version when it has been implemented to keep his records up-to-date. However he is happy to agree this element (and element 5 and the 'vital records' portion of element 10) on the basis of what the Council currently have in place.</p> <p>The RMP contains a commitment that the new expanded BCS will be 'signed off' by</p>

			<p>individual service heads when appropriate. The Keeper commends the engagement with local services during a project of this type.</p> <p>The BCS does not differentiate between paper and electronic records. There is a commitment that the council intends to move away from paper records over the next few years (RMP page 17).</p> <p>Licensing is clearly included in the BCS (section 4). (However, see Third Parties under General Comments below).</p> <p>The Council has supplied a screen-shot of their intranet as evidence that appropriate staff have access to the BCS (evidence 10).</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have a business classification scheme that covers the functions of the authorities.</p>
5. Retention schedule	G	G	<p>See Element 4 above</p> <p>The Council has adopted the well-regarded Scottish Council on Archives SCARRS retention scheme. The Keeper agrees this is appropriate for a Scottish local authority.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have an approved and operational retention schedule covering the records detailed in the <i>Business Classification Scheme</i>.</p>
6. Destruction Arrangements <i>Compulsory element</i>	G	G	<p>Paper: Paper records are destroyed securely by two third-party service providers: Greenlight and Shredall. A SLA and a confidential waste certificate have been provided as evidence that these arrangements are in operation (evidence 011 and 012).</p>

			<p>Electronic: Staff are issued guidance on the importance of destruction of electronic records. Samples of this guidance have been provided to the Keeper (evidence 015 and 030 – e-mails).</p> <p>Hardware: The Council has an <i>Obsolete Equipment Procedure</i> document which has been provided to the Keeper as evidence 013. This is supported by section 7 of the <i>Acceptable Use and Information Security Policy</i> (see element 8). This shows that the irretrievable destruction of ‘drives’ containing records has been properly considered.</p> <p>Backups: The Council have provided the following comprehensive statement regarding the destruction of backup copies: Data stored on network file servers or within database systems are backed up on a daily basis (full and incremental backups). Backup tapes are stored off-site by WDC for an agreed period of time in both a 4 weekly and annual tape backup cycle and these tapes are then reintroduced into the backup cycle on an on-going basis once the retention date has expired. Physical tapes that become obsolete are initially degaussed and then the tape media is spliced. The tapes are then transported by ICT to our secure off-site computer disposal and WEEE recycling supplier, the tapes are subsequently put through a mechanical shredder and this operation is fully witnessed on the suppliers premises by a WDC IT staff member. Schedules for backup and overwriting of records are created within the backup software through backup policies which then manages the backup and deletion of data past their expiry date.”</p> <p>The Keeper agrees that the Council has arrangements in place that ensure the irretrievable destruction of records when appropriate.</p>
7. Archiving and Transfer Compulsory	G	G	<p>The Council uses its own in-house archive service based at Clydebank and Dumbarton as a place of permanent preservation. http://www.west-dunbarton.gov.uk/libraries/archives-family-history/archives-collections/</p>

<p><i>element</i></p>			<p>They have provided the Keeper with their Archive policy (evidence 016) which shows suitable arrangements as expected by PRSA.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have arrangements in place to permanently preserve records of historical significance as required by the Act.</p>
<p>8. Information Security <i>Compulsory element</i></p>	<p>G</p>	<p>G</p>	<p>The Council have an <i>Acceptable Use and Security Policy</i> which has been provided to the Keeper as evidence 019. This is the version 4.8 dated March 2013. The Keeper thanks the Council for providing this document.</p> <p>In a recent (2013) report (supplied as evidence 026) the Information Commissioner stated: “The Council has a comprehensive information security policy which is regularly updated to incorporate new developments. It details a number of standards and practices for staff including physical access, computer misuse and social media. The security policy applies to all Council employees and employees or agents of other organisations using or supporting Council systems.”</p> <p>As this report suggests, the policy is supported by a suite of security guidance including training.</p> <p>As with other elements a screen-shot has been given (evidence 020) showing that Information Security features on the Council’s intranet.</p> <p>Minutes of the first meeting of the Information Security and Data Protection Quarterly Forum have been included (evidence 022) showing that the Records Manager at the time and Mr Butler (see element 2) (in his previous role) are involved in Information Security briefings. This forum reports to the SIRO (see element 1) and a sample briefing note has been provided as evidence of this procedure (evidence 023).</p>

			<p>The RMP mentions on pages 14 and 15 the value of training feedback. A sample evaluation sheet has been provided.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have an information security policy as required by the Act.</p>
<p>9. Data Protection</p>	<p>G</p>	<p>G</p>	<p>The Council explains data protection to its users on its website https://www.west-dunbarton.gov.uk/council/data-protection-ripsa-and-freedom-of-information/data-protection/ This page includes details of how to make a subject access request.</p> <p>The similar intranet page has been provided as evidence 026.</p> <p>Privacy impact assessments are carried out when the Council undertakes information sharing with third parties (see element 14).</p> <p>The Council is registered with the Information Commissioner: Z6969445. This registration is current. The Licensing Board is registered with the Information Commissioner ZA128858. This registration is current.</p> <p>The Keeper thanks the Council for sight of the Information Commissioner’s report on DP compliance. This notes improvement in provision between March and November 2013. The areas for improvement are noted, but the Keeper assumes that those relating to retention have already been addressed (see element 5).</p> <p>Michael Butler (see element 2) is the Council’s Data Protection Officer.</p> <p>The Keeper agrees that the Council have properly considered their responsibilities under the Data Protection Act 1998.</p>

<p>10. Business Continuity and Vital Records</p>	<p>G</p>	<p>G</p>	<p>For vital records, see element 4 above.</p> <p>The Council has a <i>Business Continuity Plan</i> as evidenced by a screen-shot of the relevant intranet page (evidence 028). Each service area is represented by a local plan.</p> <p>The Council has decided for reasons of sensitivity not to submit the <i>Business Continuity Plan</i> as part of its evidence package. <u>The Keeper accepts this</u>, while assuring the Council that all documents submitted in evidence are held securely by NRS and access is strictly limited to the PRSA Assessment Team, the Head of Government Records and himself.</p> <p>For continuity backups of records, see element 6 above.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board has an operational business continuity plan that properly considers the recovery of records in an emergency. He also agrees that consideration has been given to the identification of ‘vital records’.</p>
<p>11. Audit trail</p>	<p>G</p>	<p>G</p>	<p>Electronic records are automatically tracked by the Council’s EDRM using the structure of the <i>Business Classification Scheme</i> (see element 4). This provides a record of when documents are viewed, modified and deleted. This is commended.</p> <p>Similarly paper records can be tracked using paper record inventories. As evidence, the Keeper has been provided with a sample page from one of these inventories.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have mechanisms in place that allow them to locate records and to identify the correct version of a record when found.</p>
<p>12.</p>	<p>G</p>	<p>G</p>	<p>The Council have supplied the records manager <i>Job Profile</i> and <i>Job Advert</i>. Both of</p>

<p>Competency Framework for records management staff</p>			<p>these make it clear that the individual identified at element 2 has responsibilities that are appropriate to implementing the RMP.</p> <p>Information Security training is provided to service areas. An example of a PowerPoint presentation has been provided as evidence 015.</p> <p>A similar presentation has been provided that targets a particular service area on the subject of Data Protection (evidence 027).</p> <p>The Keeper agrees that the individual with day-to-day responsibility for implementing West Dunbartonshire Council's and West Dunbartonshire Licensing Board's RMP has the proper skills and responsibilities to carry out that task. He also agrees that training, particularly around security, has been made available for appropriate staff.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>The RMP is scheduled for review in November 2015.</p> <p>Section 6 of the Records Management Policy (see element 3) explains the review procedure.</p> <p>The Introduction to the RMP highlights the importance of reviewing the plan (page 4).</p> <p>The Records Management Policy is due for review in December 2015. The BCS (see element 4) is reviewed every 6 months. The Archive Policy (see element 7) is due for review in July 2016. Although not a requirement of the Act, the Council has committed to providing the Keeper with any revised documents that result from these reviews in order to keep the Council's submission up-to-date.</p> <p>The Business Continuity Plan (see element 10) is due for review in the Summer of 2015. Obviously, the Keeper does not expect to receive any revised copy.</p>

			<p>Arrangements for information sharing (see element 14) are due for review by the end of the business year.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board have mechanisms in place and a date targeted for a review of the RMP.</p>
<p>14. Shared Information</p>	<p>G</p>	<p>G</p>	<p>The Council operates routine information sharing with third parties as part of its functions.</p> <p>Sample protocols have been provided that show records governance is part of these sharing agreements. The Greater Glasgow and Clyde Protocol is a good example. The other, featuring 'Strathclyde Police', is clearly out of date, but the Keeper agrees that despite this it provides further evidence that the proper consideration of records governance forms part of the information sharing planning process.</p> <p>The Council have made a statement that they share personal information with regard to the Data Protection Act 1998 and undertake privacy impact assessments when considering an information sharing agreement (see element 9). Although not only about personal information, this element clearly is strengthened by a consideration of the Information Commissioner's code of practice. The Keeper thanks the Council for supporting data protection evidence.</p> <p>This element is due to be reviewed by the Records Management Officer and partner agencies at the end of this year. The Council has committed to providing the Keeper with any revised documents that result from these reviews in order to keep the Council's submission up-to-date.</p> <p>The Keeper agrees that West Dunbartonshire Council and West Dunbartonshire Licensing Board properly consider records governance when implementing</p>

			information sharing agreements.
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West Dunbartonshire Council and Licensing Board
(For simplicity, these two authorities are described below as ‘The Council’)

General Notes on RMP, Including Concerns:

Version

This assessment is on the Records Management Plan of West Dunbartonshire Council and West Dunbartonshire Licensing Board version 1.2 dated August 2015. This is an updated version of that approved by the Council’s SIRO (**see element 1**) in February 2015 (v1.1).

The Introduction to the RMP (page 4) clearly sets out the benefits of robust records management and the requirements of the Act. The plan itself (page 18) also emphasises the engagement of Local Service Areas in RM policy formulation. These are both to be commended.

The RMP acknowledges records as a business asset to the authorities. This is to be commended. Robust record keeping furthers the values explained in the Council’s corporate plan https://www.west-dunbarton.gov.uk/media/732686/corporate_plan_2011-15.pdf For example “Openness and accountability”.

The Council’s RMP is structures around 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 Council makes the following statement in the *RMP* (page 9):

“Where the Council has contracted out a function to a third party the Scheme will not be affected as we will ensure this function remains in the Scheme. If a third party would like to use the scheme, then the appropriate function, activities and transactions for that specific function can be provided to the contractor to assist with their records management. Where the Council has functions contracted out at present, we will address the issue and agree that they will use the full Scheme.”

The Keeper is not completely clear as to the meaning of the term ‘Scheme’ in the second part of this statement and has taken it to equate to the West Dunbartonshire Council *Records Management Plan*. He is concerned that the statement, “If a third party would like to use the scheme ...”, suggests this element might not be as robust as it should be. Section 3 of the Act makes it clear that records created by a third party when contracted to provide a function of a public authority are ‘public records’ for the purposes of the Act. An authority must therefore be satisfied when contracting a third party to provide a function that it has appropriate records management arrangements in place and is able to meet the commissioning authority’s requirements. The Keeper, therefore, expects proposed RMPs to include evidence, such as procurement documentation and contractual clauses, clearly setting out the detail of the records management requirement to potential contractors. Such evidence makes it clear that a commitment to ensure that third party contractors can comply with the authority’s requirements is embedded in the authority’s policies and procedures and is accounted for under the *Plan*.

West Dunbartonshire Council have also supplied sample contractual clauses from their standard SLA with third parties. These cover the data protection issues around controller/processor and clearly indicate that any records processed by these third parties remain the records of the Council. In a case when the third party is fulfilling a function of the Council, these clauses correspond to the requirements of PRSA as regards to Data Protection. However, the Keeper will require further submissions that demonstrate how other elements of the plan are imposed on third party contractors.

The Keeper reserves the right to follow up on this statement going forward to ensure that the Council, where appropriate, is imposing adequate records management standards on contractors. In essence, he is agreeing that the Council has considered the issue of third parties carrying out the functions of the Council, and has provisions covering data protection, but will expect additional

evidence to be provided against the authority's obligations under PRSA. This element of the plan is therefore agreed under Improvement Model (amber) terms until evidence of contractual clauses (or similar) can be provided.

6. Keeper's Summary

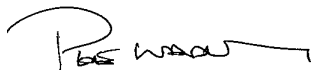
Elements **1 - 14** that the Keeper considers should be in a public authority records management plan have been properly considered by West Dunbartonshire Council and West Dunbartonshire Licensing Board. Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of West Dunbartonshire Council and West Dunbartonshire Licensing Board.

- The Keeper recommends that West Dunbartonshire Council and West Dunbartonshire Licensing Board 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 West Dunbartonshire Council and West Dunbartonshire Licensing Board. In agreeing this RMP, the Keeper expects West Dunbartonshire Council and West Dunbartonshire Licensing Board to fully implement the agreed RMP and meet its obligations under the Act.



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Tim Ellis
Keeper of the Records of Scotland