

The Public Records (Scotland) Act 2011

Scottish Borders Council and Licensing Board

Progress Update Review (PUR) Report by the PRSA Assessment Team

1st July 2021

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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 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 recordkeeping 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. Progress Update Review (PUR) Mechanism

Under section 5(1) & (2) of the Act the Keeper may only require a review of an authority's agreed RMP to be undertaken not earlier than five years after the date on which the authority's RMP was last agreed. Regardless of whether an authority has successfully achieved its goals identified in its RMP or continues to work towards them, the minimum period of five years before the Keeper can require a review of a RMP does not allow for continuous progress to be captured and recognised.

The success of the Act to date is attributable to a large degree to meaningful communication between the Keeper, the Assessment Team, and named public authorities. Consultation with Key Contacts has highlighted the desirability of a mechanism to facilitate regular, constructive dialogue between stakeholders and the Assessment Team. Many authorities have themselves recognised that such regular communication is necessary to keep their agreed plans up to date following inevitable organisational change. Following meetings between authorities and the Assessment Team, a reporting mechanism through which progress and local initiatives can be acknowledged and reviewed by the Assessment Team was proposed. Key Contacts have expressed the hope that through submission of regular updates, the momentum generated by the Act can continue to be sustained at all levels within authorities.

The PUR self-assessment review mechanism was developed in collaboration with stakeholders and was formally announced in the Keeper's Annual Report published on 12 August 2016. The completion of the PUR process enables authorities to be credited for the progress they are effecting and to receive constructive advice concerning on-going developments. Engaging with this mechanism will not only maintain the spirit of the Act by encouraging senior management to recognise the need for good records management practices, but will also help authorities comply with their statutory obligation under section 5(1)(a) of the Act to keep their RMP under review.

3. Executive Summary

This Report sets out the findings of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for Scottish Borders Council and Licensing Board. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Scottish Borders is one of 32 council areas of Scotland. It borders Dumfries and Galloway, East Lothian, Midlothian, South Lanarkshire, West Lothian and, to the south and east, Northumberland in England. The administrative centre of the area is Newtown St Boswells.

<https://www.scotborders.gov.uk/site/>

The Scottish Borders Licensing Board ("the Board") is the Licensing Authority for the Scottish Borders Local Government Area for the Licensing (Scotland) Act 2005 as amended by the Criminal Justice and Licensing (Scotland) Act 2010 & Alcohol(Scotland) Act 2010.

https://www.scotborders.gov.uk/info/20025/licensing/491/licensing_board

5. Assessment Process

A PUR submission is evaluated by the Act's Assessment Team. The self-assessment process invites authorities to complete a template and send it to the Assessment Team one year after the date of agreement of its RMP and every year thereafter. The self-assessment template highlights where an authority's plan achieved agreement on an improvement basis and invites updates under those 'Amber' elements. However, it also provides an opportunity for authorities not simply to report on progress against improvements, but to comment on any new initiatives, highlight innovations, or record changes to existing arrangements under those elements that had attracted an initial 'Green' score in their original RMP submission.

The assessment report considers statements made by an authority under the elements of its agreed Plan that included improvement models. It reflects any changes and/or progress made towards achieving full compliance in those areas where agreement under improvement was made in the Keeper's Assessment Report of their RMP. The PUR assessment report also considers statements of further progress made in elements already compliant under the Act.

Engagement with the PUR mechanism for assessment cannot alter the Keeper's Assessment Report of an authority's agreed RMP or any RAG assessment within it. Instead the PUR Final Report records the Assessment Team's evaluation of the submission and its opinion on the progress being made by the authority since agreeing its RMP. The team's assessment provides an informal indication of what marking an authority could expect should it submit a revised RMP to the Keeper under the Act, although such assessment is made without prejudice to the Keeper's right to adopt a different marking at that stage.

Key:

G	The Assessment Team agrees this element of an authority's plan.	A	The Assessment Team agrees this element of an authority's progress update submission as an 'improvement model'. This means that they are convinced of the authority's commitment to closing a gap in provision. They will request that they are 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 Assessment Team may choose to notify the Keeper on this basis.
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6. Progress Update Review (PUR) Template: Scottish Borders Council and Licensing Board

Element	Status of elements under agreed Plan 25OCT17	Progress status 03APR20	Progress status 01JUL21	Keeper's Report Comments on Authority's Plan 25OCT17	Self-assessment Update 08JAN20	Progress Review Comment 03APR20	Self-assessment Update as submitted by the Authority since 03APR20	Progress Review Comment 01JUL21
1. Senior Officer	G	G	G	Update required on any change.	Brian Frater is retiring and Nuala McKinlay (Legal Chief Officer has been appointed the roles of SIRO and DPO.	The Assessment Team thanks Scottish Borders Council for this update which we have noted.	As of February 2020 Nuala McKinlay is the Council's SIRO and DPO.	The Keeper's Assessment Team has noted this update with thanks.
2. Records Manager	G	G	G	N.B. The Keeper understands that, since the <i>Plan</i> was submitted for his agreement, Teresa Maley has left Scottish Borders Council. As stated in the Keeper's guidance to his <i>Model Plan</i> , a change of personnel does not invalidate the <i>Plan</i> . On this issue the Council have now stated: "Jaimie Taylor has been appointed as the interim Information Manager to lead a project focussed on the GDPR. However, this role will not assume all duties previously undertaken by Ms Maley and responsibility for these duties will sit with the Chief Legal Officer, Nuala McKinlay (see element 1) with assistance from the Interim Manager and Information Officers." An update is required on any change.	Jaimie Taylor has been appointed to the post of Information Manager on a permanent basis.	The Assessment Team thanks Scottish Borders Council for this update which we have noted. Congratulations Jaimie and apologies for calling you 'Mr Taylor' in the last PUR.	Jaimie Taylor left the Council May 2020. Jenna Waldie has been appointed to the post of Information Manager on a permanent basis in November 2020.	The Keeper's Assessment Team has noted this update with thanks.
3. Policy	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.	There is ongoing work around policies and handling notes to be completed such as security classification for 0365 which will include the following options Official, Official – Sensitive and Unclassified.	The Assessment Team is grateful for this update on ongoing policy work. It is positive to see that the Scottish Borders Council and Licensing Board are working hard to keep their policies up to date and in line with their business functions.
4. Business Classification	A	A	A	The Plan states (page 8): "Scottish Borders Council has not yet adopted a global business classification scheme for records because of the diversity of systems deployed in services. Most service systems have a local business classification or file plan. The Council ... will be moving shared drives to Office 365 from	At present work is underway on the initial migration of data stored within the Shared drives onto the platform. An audit has been undertaken to give an understanding of the number of documents;	The development of an Information Asset Register was a target for the authority and the Assessment Team is pleased to acknowledge that this has been achieved. The migration of the diverse systems operated by a local	The Council have migrated all operational and active IT user, home drive and their email accounts to E3 licensed, Office 365. Users have been given access to the standard Office 365 applications and a select number of other 365	The Assessment Team welcomes the update regarding the account migration process to Office 365. While there is still work to be done, it appears the Scottish Borders Council and Licensing Board are

				<p>2017.” And goes on “The move to Office 365 presents an opportunity to assist services in using business classification to structure their information and promote use of the retention schedules more consistently than it has in the past.” The Keeper agrees this improvement principle.</p> <p>The Keeper agrees this element of Scottish Borders Council and Scottish Borders Licensing Board’s <i>Records Management Plan</i> under ‘improvement model’ terms. This is in acknowledgement that the authority is in the process of ‘embedding’ <i>Information Asset Register</i> (see above) and populating the <i>Business Classification Scheme</i> throughout the organisation. He is convinced of the commitment to complete this work, however his agreement is conditional on his being updated as the project progresses.</p>	<p>the age of each document; duplication; links contained within each document and explicit permissions. Using this information, the Council is considering its approach to the migration. Alongside this, work continues on the design and implementation of Information Governance processes within O365. However, this continues to be challenging due to the complexity of the functionality within O365 and how this can be best implemented taking a pragmatic approach.</p> <p>The Information Asset Register has been developed within SharePoint Online creating a user friendly version and is due to be rolled out and refreshed in January 2020.</p>	<p>authority to a single solution is bound to be incremental. However, it appears that Scottish Borders Council is pursuing this objective in a systematic and practical way.</p> <p>Many Scottish Public authorities are migrating their records management provision to a SharePoint/Office 365 Cloud solution and the Keeper has noted that it might be useful for him to facilitate a forum to allow experience to be shared. If this goes ahead in 2020 the Assessment Team commits to informing our Key Contact at the Council.</p> <p>The Assessment Team acknowledges the planned migration. They look forward to being kept updated on this work in subsequent PURs.</p> <p>This element remains at ‘amber’ for the moment as the work progresses.</p>	<p>applications such as Forms and Teams as well as their personal, user account specific OneDrive for Business. Our legacy data has not yet been migrated from our existing shared drive servers to Office 365.</p> <p>The Council have a pilot planned for January 2021 which will be used to finalise business classification.</p> <p>The Information Asset Register was rolled out in SharePoint January 2020. Information Asset Owners were asked to carry out a review of their assets at the same time. A manual reminder is scheduled for early 2021.</p> <p>The Information Management Team are working with the Council’s Programme Office Manager to build in automatic reminders within SharePoint. The idea is to set reminders every 11 months after the owner has confirmed within SharePoint that a review has been carried out.</p>	<p>making commendable progress. It is recognised that the process will take time to complete.</p> <p>The Assessment Team looks forward to hearing about the outcome of the January 2021 pilot to finalise business classification, as well as the implementation of SharePoint Information Asset Register rolled out the previous year. The Assessment Team would welcome an update (in consecutive PURs) on how the system devised for regular review, including annual reminder, is working in practice.</p> <p>While the Team is satisfied that progress towards Green is being made, this element will remain in Amber while Office 365 is being rolled out. This is not a minor endeavour, and the Council and Licensing Board is to be commended for their ongoing efforts to ensure appropriate business classification processes are in place, especially to manage born-digital records.</p>
5. Retention Schedule	G	G	G	Update required on any change.		<p>No immediate action required. Update required on any future change.</p>	<p>The January 2021 pilot will be used to finalise retention schedules. It is likely that the Council will be implementing the following retentions from date last modified for O365:</p> <ul style="list-style-type: none"> • Email servers – 3 years • SharePoint – all documents 7 years (in certain circumstances this can be changed by a particular user to 10 years) • One drive – 3 years 	<p>The Keeper’s Assessment Team thanks for this update, which shows the issues relating to records retention are diligently considered. It looks forward to hearing about the finalisation of retention schedules following the January 2021 pilot.</p>

							<ul style="list-style-type: none"> • 0365 groups – 7 years • Teams/channels/messages – 2 years • Team chats – 14 days <p>Other applications, systems including paper records will continue to adhere to SCARRS.</p>	
6. Destruction Arrangements	A	A	A	The Keeper agrees this element of the Council's records management plan under 'improvement model' terms. This means that the Authority has identified a gap in their records management provision (destruction of electronic records held on shared drives) and has put processes in place to close that gap. The Keeper's agreement would be conditional on his being updated as this project progresses.	Please refer to the commentary provided in Element 4.	<p>This is clearly still a work in progress as it is for many Scottish public authorities whose digital records are held on shared drives.</p> <p>However, the Assessment Team acknowledges the work Scottish Borders Council is pursuing to migrate their public records on to system where destruction of digital records can be better controlled (or automated).</p> <p>The Keeper has already agreed (October 2017) that Scottish Borders Council has processes in place to ensure the controlled, secure and irretrievable destruction of hard-copy records (including those held by a third party storage company), hardware and back-ups.</p> <p>This element remains at 'amber' for the moment as the work on the Office 365 solution progresses. The Assessment Team look forward to being kept updated on this work in subsequent PURs.</p>	The January 2021 pilot will be used to finalise destruction arrangements.	The Assessment Team thanks for this update, and would be keen to hear of the pilot's outcome in consecutive PURs.
7. Archiving and Transfer	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.	No update at this time.	No immediate action required. Update required on any change.
8. Information Security	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.	No update at this time.	No immediate action required. Update required on any change.
9. Data Protection	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.	No update at this time.	No immediate action required. Update required on any change.

10. Business Continuity and Vital Records	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.	No update at this time.	No immediate action required. Update required on any change.
11. Audit Trail	A	A	A	<p>The Council have made the following statement about record tracking in the authority: "There is no centralised procedure for tracking files within the Council, however the majority of paper files are working files and officers within the services should be able to locate with ease. Services with regulatory requirements hold file registries such as the legal team who utilise the Profess time management system that has an inbuilt file registry and the Planning service who track files using a system called Uniform. Other departments such as Social work hold no paper files as all information is uploaded to their case management system and the paper copy is destroyed.</p> <p>Again, there is no central process in place for tracking and identifying records within shared drives. The Council recognises that this requires to be addressed and is committed to improving this through the implementation of Office 365. Office 365 will produce an audit trail of amendment/variations to any document/record and the Council recognises the value in promoting a consistent approach to version control and will produce guidelines for staff to be published along side the introduction of Office 365."</p> <p>The Keeper agrees this element of the Council's records management plan under 'improvement model' terms. This means that the Authority has identified a gap in their records management provision (tracking of records in paper format or held on shared drives) and has put processes in place to close that gap. The Keeper's agreement would be conditional on his being updated as this project progresses.</p>	Please refer to element 4.	<p>The Keeper agreed the original submission on 'improvement model' grounds. That is to say the authority had recorded a gap in provision and was taking steps to close that gap.</p> <p>This was bound to be incremental and the Assessment Team is pleased to acknowledge that steps have been taken as agreed (Office 365 project – see element 4 above).</p> <p>It is important that any organisation can be confident that they can find a record when required and identify the correct version of that record. The Assessment Team acknowledge that Scottish Borders Council are pursuing this objective. The creation of an Information Asset Register (see element 4) is a significant step now completed.</p> <p>The Assessment Team looks forward to updates on progress in subsequent PURs.</p> <p>This element remains at Amber.</p>	The January 2021 pilot will be used to finalise audit trail within the Microsoft 365 Compliance Centre for our new SharePoint online data sites in collaboration with our IT partners, CGI.	This update is noted with thanks. The Assessment Team would be keen to hear of the pilot's outcome regarding audit trails in consecutive PURs.
	G	G	G	Update required on any change.	Please see comment provided for Element 2.	The Assessment Team thanks Scottish Borders Council for	Jenna Waldie attained her Data Protection Practitioner Certificate in August 2016 and	Thank you for this update regarding the Information Manager's qualifications.

12. Competency Framework					Jaimie Taylor attained her Post Graduate Certificate in Information Governance and Data Protection Law in July last year.	this update which we have noted. Congratulations on your qualification Jaimie.	Practitioner Certificate in FOI(S)A 2002 in May 2017. The Council is working to identify further training opportunities to strengthen professional development.	The Assessment Team commends the efforts of the Council and Licensing Board to identify continuing professional development opportunities.
13. Assessment and Review	G	G	G	The <i>Information Asset Register (see element 4)</i> is re-surveyed annually. The <i>Plan</i> shows a 'future development' in element 4 to re-survey the Information Asset Register in 2018 to ensure business classification and retention schedules are fully integrated. The Keeper would be pleased to know the result of this work.		No immediate action required. Update required on any future change.	No update at this time.	No immediate action required. Update required on any change.
14. Shared Information	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.	The Council continues to develop as and when required. An exercise was rolled out Council wide to determine whose personal data is shared outside the UK and where. Where personal data is shared outside the UK responses have been collated and added to a central spreadsheet. The idea is to incorporate questions and responses into the Information Asset Register to ensure this is captured on a yearly basis. Initial work was carried out by the Council's IT department in regards to Corporate systems such as our Financial and Social Work system, and applications provisioned within an on premise server by CGI or is cloud hosted.	The Assessment Team notes this update and commends the Scottish Borders Council and Licensing Board on their continuing focus on shared data and privacy.

7. The Public Records (Scotland) Act Assessment Team's Summary

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 11 January 2021. The progress update was submitted by Jenna Waldie, Information Manager.

The progress update submission makes it clear that it is a submission for **Scottish Borders Council and Licensing Board**.

The Assessment Team has reviewed Scottish Borders Council and Licensing Board's Progress Update submission and agrees that the proper record management arrangements outlined by the various elements in the authority's plan continue to be properly considered. The Assessment Team commends this authority's efforts to keep its Records Management Plan under review.

General Comments

Scottish Borders Council and Licensing Board continues to take its records management obligations seriously and is working to bring all elements into full compliance.

Section 5(2) of the Public Records (Scotland) Act 2011 provides the Keeper of the Records of Scotland (the Keeper) with authority to revisit an agreed plan only after five years has elapsed since the date of agreement. Section 5(6) allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates.

The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

8. The Public Records (Scotland) Act Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that Scottish Borders Council and Licensing Board continue to take their statutory obligations seriously and are working hard to bring all the elements of their records management arrangements into full compliance with the Act and fulfil the Keeper's expectations.

- The Assessment Team recommends authorities consider publishing PUR assessment reports on their websites as an example of continued good practice both within individual authorities and across the sector.

This report follows the Public Records (Scotland) Act Assessment Team's review carried out by



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