

The Public Records (Scotland) Act 2011

Food Standards Scotland

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

7th June 2019

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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 Food Standards Scotland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Food Standards Scotland (FSS)'s primary responsibility is to ensure that information and advice on food safety and standards, nutrition and labelling is independent, consistent, evidence-based and consumer-focused. Its primary concern is consumer protection – making sure that food is safe to eat and ensuring consumers know what they are eating and improving nutrition. With that in mind, their vision is to deliver a food and drink environment in Scotland that benefits, protects and is trusted by consumers.

FSS develops policies, provides policy advice to others, is a trusted source of advice for consumers and protects consumers through delivery of a robust regulatory and enforcement strategy.

FSS was established by the Food (Scotland) Act 2015 as a non-ministerial office, part of the Scottish Administration, alongside, but separate from, the Scottish Government. It is mainly funded by government but also charges fees to recover costs for regulatory functions.

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) : Food Standards Scotland

Element	Status of elements under agreed Plan, Jan 2018	Status of evidence under agreed Plan, Jan 2018	Progress assessment status, Apr 2019	Keeper's Report Comments on Authority's Plan, Jan 2018	Self-assessment Update as submitted by the Authority since Jan 2018	Progress Review Comment, Apr 2019
1. Senior Officer	G	G	G	Update required on any change	No change to personnel, however, job title is updated as Head of Strategy and Policy, and Deputy Chief Executive Officer. SIRO responsibilities remain the same.	The Assessment Team thanks Food Standards Scotland for this update which we have noted.
2. Records Manager	G	G	G	Update required on any change	No change to personnel, however, job description reviewed to include additional responsibilities for GDPR, Information Security, and Open Data following recent job evaluation exercise. Evidence : E04: Records Manager's Job description and responsibilities.	The Assessment Team thanks Food Standards Scotland for this update which we have noted.
3. Policy	G	G	G	Update required on any change	No change - Document reviewed and updated	In their original submission Food Standards Scotland committed to updating

					during annual policy review process.	relevant policy documents on a regular basis. The Assessment Team appreciates the confirmation that this is being done.
4. Business Classification	G	G	G	Update required on any change	No change – FSS Information Asset Register is now available on our Open Data Portal	The Keeper of the Records of Scotland commends the publication of key information governance documents. This is a good example of this and the Assessment Team thanks Food Standards Scotland for this update.
5. Retention Schedule	G	G	G	Update required on any change	No change – FSS retention schedules are reviewed and updated annually.	In their original submission Food Standards Scotland committed to updating relevant policy documents on a regular basis. The Assessment Team appreciates the confirmation that this is being done. This is a recognition that a Retention Schedule is a 'living document'.
	G	G	G	Update required on any change	There is a change in how our paper records (on-site)	The Assessment Team thanks Food Standards

6. Destruction Arrangements					are securely disposed of. We now have a new contractor Ecoclean/Paper Shredding Services. Evidence: E70	Scotland for this update which we have noted.
7. Archiving and Transfer	G	G	G	Update required on any change	No change	No immediate action required. Update required on any future change.
8. Information Security	G	G	G	Update required on any change	No change, however, FSS policies and procedures have been reviewed to ensure compliance with the GDPR, DPA 2018 and Public Sector Cyber Resilience Action Plan. The review is to ensure that FSS has appropriate technical and security measures in place to protect the personal data that we hold. We have further introduced the completion of a Business Impact Level Assessment for all our information assets as an integral part of the annual report that our Information Assets Owners (IAOs) send to our SIRO	As with all other Scottish public authorities Food Standards Scotland have been required to review and update their data protection procedures in light of the 2018 legislation. The Assessment Team acknowledge and commend the introduction of Business Impact Assessments. The Assessment Team thanks Food Standards Scotland for the inclusion of supplementary evidence around this element which they have saved in order to keep the submission up-to-date.

					Evidence: <ul style="list-style-type: none"> • E50_FSS Data Protection Policy (updated to reflect GDPR requirements) • E71_FSS Cybersecurity Incident Response Plan • E72_Annual IAOs report to SIRO Communication • E73_Business Impact Assessment - SMS 	
9. Data Protection	G	G	G	Update required on any change	<p>No change, however FSS Data Protection Policy and procedures have been reviewed and updated to ensure compliance with the GDPR, DPA 2018.</p> <p>Evidence:</p> <ul style="list-style-type: none"> • E50_FSS Data Protection Policy • E74 GDPR May 2018 Board Paper available on FSS Website 	<p>As with all other Scottish public authorities Food Standards Scotland have been required to review and update their data protection procedures in light of the 2018 legislation.</p> <p>The Assessment Team acknowledges that the public facing Food Standards website has been updated appropriately: https://www.foodstandards.gov.scot/privacy/stakeholder-contact-details-privacy-notice</p>
	G	G	G	Update required on any change	FSS continues to operate a Business Continuity Plan (BCP) that is periodically	The Assessment Team thank Food Standards Scotland for this update and note that the

10. Business Continuity and Vital Records					<p>reviewed and kept up to date.</p> <p>We ran a table-top scenario exercise to test the BCP on the 19th of November 2018.</p>	<p>Business Continuity Plan has been tested. This confirms a commitment in the original submission that “The Business Continuity Plans to be reviewed regularly.”</p>
11. Audit Trail	G	G	G	Update required on any change	<p>No change - we are still using eRDM as our primary corporate records management system and SharePoint for our field/operational delivery records. The two systems both have appropriate audit mechanism to support Freedom of Information requests and any other legal or regulatory compliance requests.</p> <p>The G drive is retained for document types that are incompatible with eRDM (e.g., access databases and large excel linked databases).</p>	<p>No immediate action required. Update required on any future change.</p>
	G	G	G	Update required on any change	<p>Updated job description for Records Manager -</p> <p>Evidence : E04: Records</p>	<p>The Assessment Team thanks Food Standards Scotland for the inclusion of</p>

<p>12. Competency Framework</p>					<p>Manager's Job description and responsibilities.</p> <p>The Records Manager is now certified as a GDPR Practitioner. He is a member of the Information and Records Management Society (IRMS) and member of the International Association of Privacy Professionals (IAPP). The Records Manager takes advantage of these networks to identify and attend courses, webinars, conferences and to learn and share best practices with peers.</p> <p>The Records Manager provides regular updates and refresher training to FSS staff on key elements of the RMP.</p> <p>Evidence: E75: GDPR – The DPA – Staff Update - 06 December 2018</p> <p>The Records Manager will undertake the BCS</p>	<p>supplementary evidence around this element which they have saved in order to keep the submission up-to-date.</p> <p>The Keeper commends the support provided for records managers to pursue their professional development. This appears to be a good example of such support.</p> <p>Similarly the Keeper commends the records management training which new staff undergo at induction.</p>
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					<p>Information Security Management Principles CISMP course in February 2019 to acquire further information security management skills.</p> <p>eRDM and DPA training is incorporated into staff induction programme to ensure that new staff are aware of the vital role that good information and records management play in the organisation as well as to protect any personal identifiable information that we hold. The induction including the training is completed within one month of starting.</p> <p>We are currently working with Scottish Government eRDM training consultants to upskill our Information Management Support Officers (IMSOs) by completing an eLearning course around the 7 principles of Information and records management. The</p>	
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					<p>course will equip our IMSOs with requisite tools to support the Knowledge and Information Management (KIM) remit of the organisation.</p> <p>All FSS staff and contractors complete the mandatory training on data protection (Scottish Government e-learning) and managing information (Civil Service Learning).</p>	
13. Assessment and Review	G	G	G	Update required on any change	<p>No change.</p> <p>There is a strong commitment to annual review of our RMP, Records Management Policy, and other Knowledge and Information Management (KIM) policies and procedures.</p> <p>The Records Manager regularly updates SIRO and DPO on any information management, information security or privacy concerns in the organisation. The</p>	<p>The Assessment Team acknowledge evidence that the Records Management Plan has been reviewed as scheduled and a report passed to the Board.</p> <p>The completion of this Progress Update Review can also be considered as evidence of the 'strong commitment to annual review' mentioned in the previous column.</p>

					<p>update and any recommendations feed into (where necessary) to further discussions at Board Level, Senior Management Team meeting, Corporate Leadership Group meeting and at all staff meeting. The content of the presentations is centred around one of the elements of RMP.</p> <p>Evidence: E74 GDPR May 2018 Board Paper available on FSS Website</p> <p>Annual review/update of all KIM policies and procedures to maintain compliance with statutory legislation is a standing objective for the Records Manager.</p>	
14. Shared Information	G	G	G	Update required on any change	No change, however GDPR Compliance Project necessitated the review and update of FSS policies and procedures to ensure compliance with the GDPR, DPA 2018 and Public Sector Cyber Resilience Action	As with all other Scottish public authorities Food Standards Scotland have been required to review and update their data protection procedures in light of the 2018 legislation.

					<p>Plan to satisfy the security principle of the GDPR.</p> <p>The project further brought our contracts and data sharing agreements to the level required for GDPR compliance.</p> <p>FSS was the first pathfinder organisation under the Scottish government to trial eRDM Connect, a collaborative tool to share information up to OFFICIAL-SENSITIVE. eRDM Connect is FSS corporate tool to share information and collaborate on documents with stakeholders and key delivery partners.</p> <p>Evidence: E76_Objective Collaboration Tour Presentation - Edinburgh - 14 November 2018</p>	<p>The Assessment Team acknowledge the information Food Standards Scotland have provided about information sharing using Objective Connect. The NRS has recently investigated this platform and the Assessment Team considers it appropriate for the document sharing purposes explained.</p>
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7. PRSA Assessment Team's Summary

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 4th February 2019. The author of the progress update submission is Tigan Daspan, Records Manager.

The progress update submission makes it clear that it is a submission for **Food Standards Scotland**.

The Assessment Team has reviewed **Food Standards Scotland's** Progress Update submission and agrees that the proper record management arrangements outlined by the fourteen 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

Food Standards Scotland continues to take its records management obligations seriously and is working to maintain 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.

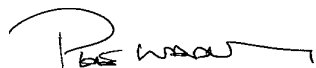
Where 'no change' has been recorded under the update on provision by the authority, the Assessment Team is happy to agree that these elements require no further action for the time being.

8. PRSA Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that **Food Standards Scotland** continue to take their statutory obligations seriously and are working hard to maintain 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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Pete Wadley
Public Records Officer