

# **The Public Records (Scotland) Act 2011**

## **Crown Estate Scotland**

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

**6<sup>th</sup> August 2020**

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

### 4. Authority Background

Crown Estate Scotland manages land and property owned by the Monarch in right of the Crown. They are required to work with people and organisations to ensure that the assets are managed in a sustainable way that creates prosperity for Scotland and its communities.

The business was set up following the Scotland Act 2016 and pays all revenue profit to the Scottish Consolidated Fund.

Crown Estate Scotland is responsible for managing a range of rural, coastal and marine assets, as well as some commercial property. It leases land and property to 2000 individuals and businesses. It supports aquaculture, farming, forestry, tourism and offshore renewables through leasing, research and other activities. It invests in marine leisure facilities to support coastal communities.

Crown Estate Scotland is a public corporation which manages the assets on an interim basis until new legislation sets out permanent arrangements. It is led by a board and managed by a staff team of approximately 50 (FTE), supported by agents who provide specialist advice and local support.

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

## 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	R	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Assessment
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				authority's commitment to closing a gap in provision. They will request that they are updated as work on this element progresses.			Team may choose to notify the Keeper on this basis.
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**Progress Update Review (PUR) Template: Crown Estate Scotland**

Element	Status of elements under agreed Plan 27MAR19	Status of evidence under agreed Plan 27MAR19	Progress assessment status 06AUG20	Keeper's Report Comments on Authority's Plan 27MAR19	Self-assessment Update as submitted by the Authority since 27MAR19	Progress Review Comment 06AUG20
1. Senior Officer	G	G	G	Update required on any change.	Changed: Esther Black – Director of Corporate Operations	The Keeper's Assessment Team thanks Crown Estate Scotland for this update which has been noted.
2. Records Manager	G	G	G	Update required on any change.	Changed to Renée Lefrançois, Information Co-ordinator.	The Keeper's Assessment Team thanks Crown Estate Scotland for this update which has been noted.
3. Policy	G	G	G	<b>The Keeper notes that Crown Estate Scotland are currently reviewing their <i>Records Management Policy</i>. He requests that any new version resulting from this review is forwarded to him in order that he may keep</b>	Crown Estate Scotland's Policy is still in draft form. It has been reviewed by the Chief Executive and Executive Team (2 July 2019) but not approved due to the plan to switch our ERDM systems. The policy will need a re-write to reflect the new	Thanks you for this update it make perfect sense that the new Records Management Policy is delayed so that it can properly reflect the eDRM system. For the moment the Assessment



				<p>the authority's submission up-to-date.</p>	<p>processes and changes the new system will bring.</p>	<p>Team can accept that the authority is operating on the Policy version submitted with their original plan.</p> <p>However, if this were a formal resubmission it is possible this element would be graded with an amber RAG status on the grounds that the Policy did not fully indicate the operational systems in the authority.</p>
4. Business Classification	G	G	G	<p>Crown Estate Scotland plan to engage with all teams who hold records on the drive to begin a cleansing exercise of all files identified which can be destroyed. Following this they will complete a migration of records from the home drive to the EDRMS system. However it is expected that the drive will remain in use for certain records, in particular financial and accounting related data. Their expectation would be to have most of the migration completed by 2020. <b>The Keeper looks forward to an update on this work over the next year or so.</b></p>	<p>As the system migration work stream commences, members of all teams are beginning a tidy exercise of identifying which files can be destroyed. We are also Identifying areas of the file plan in our existing ERDM system that are unorganised. We will migrate unorganised areas of the ERDM and data in our other server drives in an 'archive' area of Share Point and apply a limited retention policy, encouraging members of staff to review and migrate necessary documents into the newly organised system. The server drive that is used by Finance will be migrated into SharePoint and the old drive removed. The migration begins in July and concludes in</p>	<p>The Assessment Team notes and commends the data cleansing/restructuring taking place during the migration. This work was agreed by the Keeper in March 2019 and seems to be progressing appropriately.</p> <p>The Assessment Team looks forward to updates in subsequent PURs.</p>

					September; and organising the newly established 'archive' area of SharePoint will be ongoing from late 2020 and throughout 2021.	
5. Retention Schedule	A	G	G	<p><b>Crown Estate Scotland have identified that this version of the <i>Retention Schedule</i> is no longer appropriately detailed and have not been able to use it to populate the IAR (see element 4). Instead they are reviewing the Retention Schedule and will then use the improved version to support the IAR and firm-up the destruction processes in the organisation (see element 6).</b></p> <p><b>The current <i>Retention &amp; Disposal Policy</i> also notes that not all public records are covered (section 4).</b></p> <p><b>Regarding a new version of the <i>Retention Schedule</i> Crown Estate Scotland state in their <i>Plan</i>: "Crown Estate Scotland's current retention policy is no longer appropriate for business need and is being updated." (<i>Plan</i> section 6.2(1)); "Data within Crown Estate Scotland does currently hold retention periods but as stated above these are not appropriate...and are being updated" (6.2(2)); "The information asset register</b></p>	<p>A retention schedule has been created by way of an Excel spreadsheet with separate tabs that divide the areas of the business. Any records that cross areas of the business have a Macro link that will take the user to the record retention information.</p> <p>The schedule describes the record series, a trigger event/date, retention period, disposal action (preserve or destroy), systems the record is stored in, nominated position in the business who will review before disposal.</p> <p>All areas of the business fed into the retention schedule and it is made available to all staff to use and refer to. The retention periods and trigger events will be built in and implemented during the ERDM system migration summer/autumn 2020.</p>	<p>In their original submission Crown Estate Scotland indicated that they were pursuing the development of a Retention Schedule that was appropriately detailed and updated to reflect the public records created as they go about the activities related to their functions. The Assessment Team is pleased to note that this objective has been achieved.</p> <p>The achievement of this objective marks a measurable improvement in the records management provision in the authority.</p> <p>RAG Status: The Keeper agreed the original Crown Estate Scotland Records Management Plan on an improvement model basis partly on the grounds that</p>

				<p>coupled with the records retention policy will allow Crown Estate Scotland to begin implementing specific retention dates to data held both on and off site” (6.2(3)); “The records retention policy will be completed and implemented. We are currently working on implementing the full functionality of our EDRMS system and will engage in formal training with our system provider to do this.” The Keeper accepts this as a formal commitment by Crown Estate Scotland to pursue this work and agrees these actions as a suitable response to the gap in provision.</p>		<p>the authority did not have suitable Retention Schedule rolled-out throughout the business. He was convinced that processes were in place to remedy this. The Assessment Team is pleased to acknowledge that the authority now appears to be compliant in this element.</p> <p>If this was a formal re-submission it is likely that this element of the Plan would turn from Amber to Green.</p>
6. Destruction Arrangements	A	G	A	<p>In common with many Scottish public authorities, Crown Estate Scotland is not satisfied that the controlled deletion of those records held electronically is being universally carried out efficiently. With this in mind, they state in the <i>Plan</i> (page 12) “Crown Estate Scotland is aware that the destruction of records is an area which requires attention. Retention schedules are still to be implemented and when this has been completed we will look at the destruction of records.” (see element 5 for the project). This is further emphasised in the</p>	<p>At the moment, the retention schedule has not been applied. The new system will have retention labels and policies applied to each Site, Library/folder before going live for all users.</p> <p>The new system will have Audit functions, and Disposal audits will be periodically saved in a Records Management site to evidence destruction.</p> <p>We have implemented an automatic destruction of employee’s Exchange Outlook</p>	<p>As noted above, Crown Estate Scotland now have a Retention Schedule that adequately reflects the public records they create.</p> <p>This now provides a suitable structure for a destruction programme.</p> <p>However, as the migration to the new system is not yet complete the destruction functionality of that system</p>

			<p><b>Plan (also page 12): “the implementation of a retention policy is a business priority, following this a destruction schedule will be created. Our EDRMS system allows us to set up retention periods to documents which will in turn allow us to create a destruction policy.” The Keeper agrees this is appropriate.</b></p> <p><b>Crown Estate Scotland have engaged with their EDRMS provider on this issue (evidence supplied).</b></p> <p><b>The Keeper agrees that the work described should greatly enhance the authority’s ability to control the systematic deletion of electronic records.</b></p>	<p>accounts 90 days after leaving the organisation.</p>	<p>cannot be applied. The Keeper has seen and agreed the destruction system in the new system and although this element remains Amber while the migration is ongoing, the Assessment Team would expect this element to achieve green status when the migration is complete.</p> <p>The Assessment Team looks forward to updates in subsequent PURs.</p> <p>The Assessment Team notes the deletion of unused e-mail accounts and therefore of any of the authority’s records ‘orphaned’ in these accounts. This is good practice. It is, of course, also good practice to avoid the use of Outlook as an e-mail <u>storage</u> system in the first place. Public records should be saved to the eDRM and deleted from Outlook. However, the Assessment Team</p>
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						appreciates that this can be difficult to police and very difficult indeed when an account is closed. The solution proposed by Crown Estate Scotland is an appropriate one.
7. Archiving and Transfer	G	A	G	The Keeper agrees this element of Crown Estate Scotland's <i>Records Management Plan</i> under 'improvement model' terms. This means that the authority has identified a gap in provision (in this case that there is no formal agreement with the archive) and is working to close that gap. The Keeper's agreement is conditional on an MoU being concluded and a copy being provided.	A Memo of Understanding for the transfer of records between Crown Estate Scotland and National Records of Scotland has been signed 22 August 2019	In their original submission Crown Estate Scotland indicated that they were pursuing a memorandum of understanding to ensure the transfer of records selected for permanent preservation to NRS.  The Assessment Team is pleased to acknowledge this objective has been achieved and if this were a formal resubmission under section 5 of the Act this element is liable to be regraded with a green RAG status.
8. Information Security	G	G	G	The <i>Information Security Policy</i> explains the process for reporting potential or actual security breaches in Crown Estate Scotland. The authority also has an <i>Information Security Incident</i>	We have implemented multi-factor authentication across the business; and we now have Cyber Essentials plus certification.	In their original submission Crown Estate Scotland committed to keep their policies and guidance documents under review.

				<p>Process guidance document specifically aimed at the reporting of personal data breaches – with handy flowchart. This document is currently draft (version 0.1). <b>The Keeper requests that he is provided with an authorised and operational version when appropriate.</b></p>	<p>Our IT Account Policy – which covers: all differing IT accounts and how these accounts will be managed, and how to request access to accounts. This policy has been approved and made available to all staff members on 6 May 2020.</p> <p>Information Security Policy has been reviewed and approved June 2020</p> <p>Information Security Process – published and made available to all staff through our intranet. The policy was reviewed June 2020.</p>	<p>The Assessment Team is pleased to acknowledge that this is being done.</p> <p>We also recognise that the authority has Cyber Essentials+ status: Sector: Professional, scientific and technical Certificate number: QGCE3768 Certificate level: Cyber Essentials Plus Date issued: 26/05/20</p> <p>The Assessment Team notes that Crown Estate Scotland have a new information security policy: <i>IT Account Policy</i>.</p>
9. Data Protection	G	G	G	Update required on any change.	No Change.	No immediate action required. Update required on any future change.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.

11. Audit Trail	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No Change.	No immediate action required. Update required on any future change.
12. Competency Framework	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Renee completed a course to gain the knowledge and skills to use SharePoint as a records management tool.	<p>The Assessment Team notes that the Information Co-ordinator has undertaken a SharePoint course.</p> <p>SharePoint as a records management tool (particularly combined with M365) is an information governance issue which is becoming more prevalent in the public sector and Crown Estate Scotland is to be commended for pursuing training in this matter.</p> <p>The PRSA Team facilitate a discussion on all things SharePoint on our Knowledge Hub. For example see:  <a href="https://khub.net/group/public-records-scotland-act-discussion-group/forum/-/message_boards/message/329013279">https://khub.net/group/public-records-scotland-act-discussion-group/forum/-/message_boards/message/329013279</a></p>

						<p>The Information and Records Management Society (IRMS) have recently hosted a round table discussion on the benefits and risks of adopting M365. We understand that this may be available to re-watch. If you are interested you should contact <a href="mailto:scotland@irms.org.uk">scotland@irms.org.uk</a></p>
13. Assessment and Review	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Crown Estate Scotland has now joined the PUR programme to ensure consistent reviewing of the Records Management Plan.	<p>The Act requires all public authorities to keep their plan under review. There is strong evidence that Crown Estate Scotland properly does this.</p> <p>The authority's participation in the PUR process in 2020 demonstrates a commitment to reviewing its RMP.</p>



14. Shared Information	A	G	G	Crown Estate Scotland is developing an <i>Information Sharing Policy</i> . <b>The Keeper requests that this is provided when available.</b>	No change.	No immediate action required. Update required on any future change.
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## 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<sup>th</sup> June 2020. The progress update was submitted by Renée Lefrançois, Information Co-ordinator.

The progress update submission makes it clear that it is a submission for **Crown Estate Scotland**.

### PRSA Assessment Team's Summary

The Assessment Team has reviewed Crown Estate 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

Crown Estate Scotland 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.

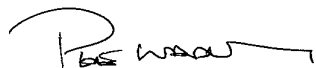
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that Crown Estate Scotland 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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Pete Wadley  
Public Records Officer