

The Public Records (Scotland) Act 2011

Mental Welfare Commission for Scotland

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

24th February 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 the Mental Welfare Commission for Scotland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Commission's aim is to ensure that care, treatment and support are lawful and respect the rights and promote the welfare of individuals with mental illness, learning disability and related conditions. Their duties are set out in the Mental Health (Care and Treatment) (Scotland) Act 2003.

The Adults with Incapacity (Scotland) Act 2000 provides a framework for safeguarding the welfare and managing the finances of adults (people aged 16 or over) who lack capacity due to mental illness, learning disability and related conditions.

They have supervisory, investigative and advisory duties under this Act in relation to welfare guardianship and welfare powers of attorney.

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	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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Progress Update Review (PUR) Template: Mental Welfare Commission for Scotland

(Including the National Confidential Forum (NCF) which is a distinct organisation covered by the MWC plan. The NCF is not separately scheduled under PRSA)

Element	Status of elements under agreed Plan 20AUG14	Status of evidence under agreed Plan 20AUG14	Progress assessment status 05DEC17	Progress assessment status 24FEB20	Keeper's Report Comments on Authority's Plan 20AUG14	Self-assessment Update 27SEP17	Progress Review Comment	Self-assessment Update as submitted by the Authority since 05DEC17	Progress Review Comment, 24FEB20
1. Senior Officer	G	G	G	G	Update required on any change	The senior accountable officer at the Commission for RM activity is unchanged The Senior Officer at NCF is Rachel Happer, Head of the NCF.	No immediate action required. Update required on any future change. The Assessment Team thanks the Mental Welfare Commission (MWC) for notifying them of the name of the Senior Officer at the National Confidential Forum (NCF).	The senior accountable officer at the Commission for RM activity is unchanged The Head of the National Confidential Forum is Jayne Laidlaw. Day to day management of records at the Forum is responsibility of Gillian Middleton, NCF Manager. We will notify the NRS of any updates.	No immediate action required. Update required on any future change. Thank you for the update relating to the role of Gillian Middleton in the NCF. This has been noted.
2. Records Manager	G	G	G	G	Update required on any change	The person responsible for the day to day operation of RM activity at MWC is unchanged. Day to day responsibility at NCF for records management falls to Maureen Morrison, Development & Impact Manager (DIM)	No immediate action required. Update required on any future change. The Assessment Team thanks the Commission for notifying them of the change in personnel responsible for records management at NCF. In the event of a change of personnel the Commission is committed to notifying the Team.	The person responsible for the day to day operation RM activity in the MWC is Paloma Alvarez, Information Governance Manager. The person responsible for the day to day operation RM activity in the NCF is Gillian Middleton (see above). Evidence: Annex 1. IGM Job description Annex 2. IGM Courses attended (Excellent at Public Records Management 6/12/2018 and Annex 3 Building PRSA success 31/05/2019.	Thank you for the update regarding the individual identified with day-to-day responsibility for implementing the Plan in MWC. This has been noted. Thank you for the update regarding the NCF (which is not a separately scheduled authority under the Act). The Assessment Team acknowledges the receipt of evidence of qualification, responsibility and access to training for the MWC Information Governance Manager. This is excellent evidence and would be required if this were a formal re-submission for the Keeper's consideration.
3. Policy	G	G	G	G	The Keeper would be interested to see examples of training provided to staff	The Records Management Policy is subject to annual review	The Assessment Team commends the annual review of the Policy as	The Records Management Policy has been reviewed annually. Last revision June	In their original submission, the Mental Welfare

					<p>on information governance issues, including records management</p>	<p>and approval. See Bundle 1 (Latest policy, cover note, and evidence of approval)</p> <p>The Records Management Policy is equally applicable to NCF and it is recorded in the policy that operational responsibility for RM at NCF rests with the DIM supported by MWC.</p> <p>MWC has developed core competencies as part of their formal PDP process. (see Bundle 2) a copy of the competencies on records management and secure data handling.</p> <p>Full implementation has been delayed as we have purchased the LearnPro learning management system and are currently looking at the catalogues to assess the courses that best match our needs.</p>	<p>evidence that the Commission continues to take seriously the need to prioritise records management within their authority. The latest iteration of the Policy, approved by the Board in July 2017, identifies records as a vital asset, defines records management and its importance, and outlines the policies and procedures necessary to ensure the on-going creation and management of authentic, reliable, and usable records.</p> <p>Crucially the Policy submitted clearly states that its statements concerning management of records applies equally to records created by the NCF. The Assessment Team welcome this update to the Policy.</p> <p>The Policy is to be reviewed in July 2018. Should significant changes occur the Team would be pleased to receive updates in future PUR submissions.</p> <p>The receipt of the records management core competencies is welcomed by the Assessment Team and are discussed in detail under Element 12 below.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>	<p>2019. There has not been significant changes. Last changes added are:</p> <ol style="list-style-type: none"> 1. Introduce reference to GDPR. 2. Reference to the online training available on LearnPro. 	<p>Commission committed to keeping their information governance policies and guidance under review. The Assessment Team are pleased to acknowledge that this is being done.</p> <p>For GDPR see element 9.</p>
4. Business Classification	A	A	A	G	<p>Although a comprehensive Business Classification Scheme (BCS) has been created it is not yet operational and is currently in draft form. MWC intend to roll out the BCS in 2014-15.</p>	<p>The Commission has a Corporate BCS, which includes retention periods. Appointed Folder Owners are responsible for maintaining the structure in their areas and applying retention appropriately.</p>	<p>The submission indicates that a Business Classification Scheme (BCS) covering all the functions and activities of the Commission is now operational and that there is localised responsibility amongst appointed Folder Owners to ensure that the</p>	<p>The Commission has reviewed its draft business classification scheme (BCS) taking into consideration the NRS recommendation for the approval of the 2014 Record Management Plan and the recommendations to the Progress Update Review (PUR) submitted in 2017. The</p>	<p>In 2014 the Keeper agreed this element of the Mental Welfare Commission's Records Management Plan under Improvement Model terms. This was with regard to the development and roll-out of a business wide Business</p>

					<p>The Keeper can agree this element on an 'improvement model' basis that MWC's proposals for implementing a BCS on its records seems robust, provided that he is kept informed of this work as it progresses.</p>	<p>The Commission have developed a separate BCS which deals specifically for records held within the Information Management Portal. See Bundle 3 - new BCS for SU records & the process for managing SU records.</p> <p>NCF has its own BCS a copy of which is included in Bundle 4</p> <p>There has been a change in the internal staff structure of teams within the Commission. We are about to move to a new file server and see this is an opportunity to revise the folder structure, delete obsolete files and start afresh with the updated, revised structure to reflect the team changes.</p> <p>As regards NCF, changes in the wider landscape and planned improvements to process have prompted several on-going legal discussions on the retention of testimonies gathered during the lifespan of NCF and where the anonymised data will rest when NCF is finally wound up</p>	<p>structure remains accurate. The Assessment Team commend this development and believe the use of local area involvement will ensure the BCS remains relevant and useful for business purposes. The Team would be pleased to have sight of the Corporate BCS in future PUR submissions.</p> <p>The Team agrees that the changes taking place in staff organisation and the upcoming move to a new file server will provide a useful opportunity to implement the updated, revised structure and delete obsolete files. As work in this area will take place over the course of 2018/19, the Team would be pleased to receive updates in future submissions concerning this project.</p> <p>The Team thanks the Commission for submission of the BCS covering records created by the NCF (Bundle 4). This document appears to comprehensively cover all functions and activities of the NCF and applies retention/disposal decisions to each record series. Particularly commendable is the consideration of online publication for purposes of FOISA. Although the NCF is not scheduled under PRSA, the Team would be happy to receive and comment on any changes should the legal discussions surrounding testimonies lead to revisions of the schedule.</p> <p>The Assessment Team consider that progress is being made and that this element should remain under improvement.</p>	<p>BCS includes all the functions and activities of the Commission, Appointed folders owners responsible for maintaining the structure in their areas and applying retention appropriately. The Commission approach has been to merge the Business Classification Scheme with the retention schedules. Each record series has its retention period indicated.</p> <p>The BCS has been developed through a process of business analysis which involved extensive research and consultation and meetings with each functional group within the Commission, the Information Asset Owners and the Head of Corporate services.</p> <p>The document has been divided in 3 titles Title 1. Introduction and Business support. (Corporate services, HR, Finance, Complaints, RM, IT etc.) Title 2. MWC statutory duties. Title 3. General guidelines, references and appendix (Mail process, email retention, documents for permanent preservation to be sent to NRS etc.)</p> <p>The Commission is planning to resubmit the reviewed plan with the final version of the Business Classification Scheme voluntarily during the first quarter of 2020.</p> <p>The Commission will add an addenda with the National Confidential forum business classification scheme to the 2020 plan.</p>	<p>Classification Scheme. The Assessment Team recognise that this target has now been met and it is likely that if this were a form resubmission (as suggested in the PUR text) this element may achieve a Green RAG status.</p> <p>The Assessment Team notes that the Business Classification Scheme is based around the functions of the authority. This must remain a business decision for MWC, but the Keeper has acknowledged that a functional arrangement, like this one, is currently considered best practice.</p> <p>The Assessment Team notes the involvement of local business areas in the development of the BCS. This is to be commended as liable to encourage accuracy and buy-in.</p> <p>The Assessment Team notes the intention to combine the business classification scheme and retention schedule. This is also to be commended as liable to create a stronger business tool.</p> <p>In short, the achievement of this objective marks a measurable improvement in the records management provision in the authority.</p>
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5. Retention Schedule	A	A	A	G	<p>The Retention Schedule is likewise being developed by MWC prior to implementation. In order to achieve this MWC have established a series of working groups and have identified Records Management Champions for each functional area within the organisation. The Keeper commends this approach and would welcome updates on progress.</p> <p>The Keeper can agree on an improvement model basis that MWC's proposals for implementing retention schedules on its records seem robust, provided that he is kept informed of this work as it progresses.</p>	<p>The Commission's retention schedules are included in the BCS documents provided. The new BCS for service user identifies individuals responsible for carrying out routine destruction of SU records, marking when destruction has been done and reviewing records for future review. This is carried out quarterly. (Bundle 3 includes a copy of the BCS & the process for managing SU records).</p> <p>We are currently examine how we manage records gathered during our low level and top level investigations including how we manage records requested and received from medical records departments, social work departments etc. as part of these investigations and tightening up how these records are managed.</p> <p>Work on the MWCs investigation process is ongoing and hence there has been a delay in finalising the associated guidance on managing investigation data.</p> <p>The NCF has its own BCS which is enclosed with this document (Bundle 4)</p> <p>NCF plan changes to current processes to enhance data capture following hearings. A privacy impact assessment was conducted and adjustments to the processing were approved at the June 2017 board meeting.</p>	<p>As with Element 4 the submission notes that retention schedules have been combined within the Business Classification Scheme. Whilst this must be a business decision for the authority, the Assessment Team believe this is an advantageous approach as it provides staff with a single, all-encompassing document to refer to when making decisions as to the records created by the Commission.</p> <p>The <i>Service Users</i> document submitted in Bundle 3 for example details the Service User record series types and applies consistent retention/disposal decisions. It also identifies who has responsibility for managing these decisions and when. This is commended by the Team.</p> <p>However, as with Element 4, the Team would like sight of the approved, organisation-wide BCS if available as this will show the full retention schedule for all records created by the Commission.</p> <p>The Team recognise that the Commission are currently reviewing how certain types of investigation records are managed and made available and that guidance may change following these reviews. The Team would therefore be pleased to receive updates following the conclusion of this project.</p> <p>Similarly in respect to the NCF the BCS submitted in Bundle 4 shows that retention decisions are included within this</p>	<p>As above</p> <p>The Commission approach has been to merge the Business Classification Scheme with the retention schedules. The new BCS will show the retention period for all records created by the Commission.</p> <p>As the new BCS-retention schedule is more detailed than the previous versions, during its elaboration we have identified some areas that require further assessment by the OMG (operational management group) and the operational groups, this is a work in progress that we are planning to conclude during the first quarter of 2020.</p> <p>We will submit an updated document regarding the NCF retention schedule.</p>	<p>See element 4 above.</p> <p>The text of the PUR refers to tweaks to the retention schedule and to the inclusion of NCF records. This is a recognition that a retention schedule is a living document and will be subject to continual minor change year on year.</p>
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						<p>The changes are yet to be implemented pending external consultation: the retention schedule will be amended to reflect any changes made in due course.</p>	<p>document and apply to all record series created by the Forum. As the retention schedule may be amended following expected changes to current data capturing processes, the Team would be happy to receive updated documents in future PUR submissions.</p> <p>The Assessment Team consider that progress is being made and that this element should remain under improvement.</p>		
6. Destruction Arrangements	G	G	G	G	Update required on any change	<p>Unchanged for MWC as far as paper records are concerned. Have recently used Shred-it for destruction of hardware too which is a change from previous practice, cost considerations and ease of use being the main drivers for implementing this change</p> <p>NCF use shred-it for local uplift and destruction of confidential waste. Hardware purchasing, deployment and destruction at NCF is managed by MWC using the same route.</p>	<p>MWC continue to recognise the need to irrevocably destroy both the records themselves and the hardware on which they sit. Whilst the Assessment Team cannot endorse any particular vendor, the use of Shred-it, a reputable commercial firm, for destruction of hardware is considered an appropriate solution.</p> <p>As this represents a significant change in destruction provisions the Keeper will request sight of relevant evidence, such as a certificate of hardware destruction with Shred-It, demonstrating this new arrangement in any future statutory assessment.</p> <p>The Assessment Team are satisfied that the agreed destruction arrangements in place for records created by the Commission are similarly followed and adhered to by the NCF. Should this change the Team would welcome updates.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>	<p>Unchanged for MWC regarding hard copies.</p> <p>For hardware destruction the Commission has been using Computer Recycling Services Ltd.</p>	Thank you for the update regarding your hardware destruction service provider.

7. Archiving and Transfer	G	A	G	G	<p>MWC has been in touch with the Client Managers at National Records of Scotland (NRS) to establish a Memorandum of Understanding (MoU) for the transfer of records selected for permanent preservation. A draft MoU has been submitted in evidence.</p> <p>The Keeper requests that once the finalised MoU is signed off by MWC's Board it is then submitted to the assessment team for inclusion in MWC's evidence package.</p>	<p>Unchanged. The MOU is still current and the Keeper has the latest version.</p> <p>There will need to be some careful consideration of material stored in the NCF database when the Forum is disbanded. Early discussions would suggest that, when the final reports/findings etc have been published then the contents of the database will be irrevocably destroyed and the database (CRM) will be fully decommissioned or destroyed. This subject is currently being revisited.</p> <p>Retention/archiving of records/data following closure of NCF is subject to ongoing discussion between MWC/NCF as of July 2017.</p>	<p>A formal Memorandum of Understanding (MoU) was signed off between the Commission and National Records of Scotland (NRS) in September 2014. This MoU was signed by the individual named at Element 1 and by the Deputy Keeper of the Records of Scotland. This has been confirmed by the NRS Client Managers.</p> <p>It is encouraging to learn that early discussions are already taking between the Commission and the NCF to establish the archiving or destruction arrangements for records created by the Forum. The Assessment Team commend this proactive approach and would welcome updates in future PUR submissions should any conclusions have been reached.</p> <p>The Client Management Team at NRS may also be able to advise on the archiving/disposal of the Forum's records and they would likely welcome being kept informed of any decisions taken.</p> <p>The Assessment Team recognises the significant progress made in this area and the on-going initiative being undertaken by the authority under this element.</p>	<p>Unchanged</p> <p>The current MoU is still valid and into force. The NRS inspected the Commission reports in 2018 and the records listed in the attached document (annex 4 and 5) were transferred to the NRS.</p> <p>Evidences</p> <p>Annex 4. 2018/1/210 NRS records receipt.</p> <p>Annex 5. 2018/1/268 NRS records receipt Acc.</p> <p>The MOU will need to be reviewed and updated. The Commission would appreciate if this job could be done before the resubmission of the new Record Management plan in 2020.</p>	<p>The Assessment Team acknowledge the receipt of evidence that the transfer arrangements between the authority and its archive repository are operational.</p> <p>As suggested in the PUR, the National Records of Scotland have recently rolled-out a GDPR compliant MoU. Organisations depositing their records with NRS for permanent preservation are encouraged to upgrade their agreement to the new version.</p> <p>In order to expedite this, with a resubmission in mind, the Assessment Team suggests that MWC e-mail the lead officer in the NRS client management unit: neil.miller@nrscotland.gov.uk asking to be sent the new MoU for consideration and sign-off. Neil will let you know who your client manager is and has indicated that he is happy to prioritise MoU's for authorities looking to submit the new version as evidence in element 7 of their Records Management Plan submission.</p>
8. Information Security	G	G	G	G	Update required on any change	Following a cyber audit by our internal auditors, a penetration test of our IT systems and the recent, high profile cyber security incidents, recommendations for improvements and changes to our IT security have been approved and are in the process of being	It is clear from the submission that the Commission continues to take its information security obligations seriously and that policies are reviewed and updated to ensure their on-going relevance. The Team considers such regular internal reviews as an example of good records management practice.	<p>The Commission has reviewed the following policies in 2019.</p> <ul style="list-style-type: none"> - IT Security Policy 2019 - IT Code of Conduct 2019 - Data Protection Policy 2019 - Information Risk Management Policy 2019 <p>The Commission has recently renewed the cyber essential certificate (26/06/2019) and is</p>	<p>In their original submission MWC committed to keeping its information governance policies and guidance under review. The Assessment Team acknowledge that this is being done.</p> <p>The Assessment Team acknowledges receipt of the authority's Cyber Essentials</p>

						<p>implemented. July/August 2017.</p>	<p>For example the new <i>IT Security Policy</i> (Bundle 1), which was approved by the Operational Management Group in September 2017, details the provisions that apply to records created by both the Commission and the NCF. It identifies the importance of information security and recognises the regulatory and legislative environment in which the authority operates. Crucially it not only offers staff guidance but outlines their responsibilities for complying with the <i>IT Code of Conduct</i>. The Assessment Team thanks the Commission for the submission of this updated document.</p> <p>The Team also thank the Commission for sight of the revised <i>IT Code of Conduct</i> dated September 2017 and <i>Mobile Device Policy</i> dated July 2017. These policies, which apply to all staff including NCF personnel, provide guidance and outline staff responsibilities for using email, the Internet, and mobile devices. The security risks posed by use of these platforms is reduced by explaining allowable use and providing examples of misuse and inappropriate behaviour. As it is mandatory for staff to read and abide by these policies, and compliance is monitored, the Team consider the development of these documents as likely to further enhance information security provision. This is particularly commendable considering the high-profile ransomware attacks earlier this year.</p> <p>Likewise, the implementation of new IT</p>	<p>working towards obtaining the cyber essential plus certificate.</p> <p>Mobile device policy is currently under revision.</p> <p>Annex 6. Cyber essentials certificate.</p>	<p>certificate and looks forward to recognising the 'plus' award in subsequent PURs.</p>
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						<p>security procedures following internal audits and penetration tests reflects the Commission's efforts to ensure their policies and guidance remain fit for purpose. The Team commends this approach and would welcome sight of any new or revised documentation produced as a result of such reviews in future PUR submissions.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>			
9. Data Protection	G	G	G	G	Update required on any change	<p>The data protection policy is routinely reviewed and updated (Bundle 5 - latest policy document with associated approval and covering note)</p> <p>The Data Protection policy is equally applicable to NCF staff and members.</p> <p>MWC & NCF have started to review internal processes and procedures, looking ahead to changes to data protection under GDPR. This activity includes; reviewing fair processing notices; imbedding PIA (DPIAs) as part of our internal project management process and our tendering/procurement processes (to promote the "privacy by design" agenda); testing staff understanding of DPA and cyber security principles.</p>	<p>As with Element 8, the Commission demonstrates a high level of compliance under this element by regularly reviewing its key policies and guidance. The Data Protection Policy (Bundle 5) was last reviewed and approved by the Commission's Board in July 2016 and applies to records created by both the Commission and the NCF. This policy is a robust document which details the Data Protection principles and outlines how the authority will comply with its data protection obligations. It also provides guidance to staff on handling of personal data and Subject Access Requests.</p> <p>The Assessment Team similarly commend the Commission's endeavours to ensure they remain compliant in the light of new legislation, specifically the General Data Protection Regulation (GDPR). The <i>Data Protection Policy Cover Note</i> makes clear that the authority is aware of its obligations under this new legislation and recognises the key aspects</p>	<p>The Commission's Data Protection Policy was reviewed in 2019. It sets out the approach taken to data protection legislation. The Data Protection policy is equally applicable to NCF staff and members. Both organisations are committed to comply with the data protection legislation and follow organisation wide policies and procedures to guarantee compliance with the data protection principles and data subject rights.</p> <p>There is a compulsory induction in data protection and information security, and periodic training sessions are delivered to reinforce those areas in which the Commission could be vulnerable. During the last 12 month this training has been focussed on: Working from home risks, Data Protection Impact assessment, and how to recognise and handle a Data subject access request.</p> <p>The organisation has embedded PIA (DPIAs) as part of its internal project management process and our tendering/procurement processes to promote the "privacy by design" agenda.</p>	<p>As with all other Scottish public authorities the Mental Welfare Commission for 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 MWC website has been updated appropriately for example the link mentioned in the PUR and via: https://www.mwscot.org.uk/publications?type=98</p>

						<p>of GDPR that may affect the Commission's operations. This document identifies the steps that need to be taken to ensure compliance with GDPR, including the carrying out of Privacy Impact Assessments (PIAs).</p> <p>Other documents submitted from Bundle 1 also make reference to the need to comply with GDPR; an <i>Operational Management Group Cover Note</i> states that an internal audit testing GDPR readiness will be completed in January 2018, whilst the <i>Board Cover</i> declares the need for commitment from all levels of the organisation in the lead-up to the introduction of GDPR.</p> <p>The Commission's proactive approach to GDPR and corresponding updating of policies is commended as good practice by the Assessment Team. Should significant changes in data protection arrangements take place following the introduction of GDPR the Team would welcome updates in future submissions.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>	<p>The Commission and the NCF privacy notices were reviewed before the introduction of the GDPR and published on their websites to ensure that this information is accessible to individuals; including a short film accessible from the Commission's website. See link below.</p> <p>https://www.mwscot.org.uk/about-us/about-your-personal-information</p>		
10. Business Continuity and Vital Records	G	G	G	G	<p>MWC has set out its current arrangements for the protection of its Vital Records. There is, however, no indication as to what steps they would take to recover these Records or what would happen in the event of a disaster. It may be the case that this is set out in the BCM Strategy, which is mentioned in the policy. If so, the Keeper would like</p>	<p>The Commission runs an annual disaster recovery test for its main servers (this includes testing back ups for NCF servers). This test includes checking that it is possible to rebuild the Information Management Portal (IMP) from back up should systems fail, become unavailable or irrevocably damaged.</p>	<p>The Keeper's Model Plan recommends that recovery systems are not only designed to be robust but that they are regularly tested and reviewed. The Assessment Team therefore consider the annual disaster recovery tests conducted by the Commission as evidence of good practice. Should such tests lead to significant changes in recovery</p>	<p>There has not been significant changes</p> <p>We are in the process of updating our disaster recovery procedures following the upgrade of our servers. We will inform the keeper with the re-submission of the plan.</p>	<p>Thank you for this update. The Assessment Team notes that a new record recovery system may be developed due to an IT upgrade.</p> <p>We look forward to an update on this in subsequent PURs.</p>

					to see this document (redacted if necessary).	<p>IMP houses service user records as well as final versions of corporate, high level records.</p> <p>Details of this process and how other backups are tested were supplied to the Keeper in the first evidence portfolio.</p> <p>The Commission also uploads key documents (including contact details) on 2 encrypted memory sticks which are kept by 2 members of staff off-site.</p> <p>NCF server is backed up and subject to disaster recovery testing once a year.</p> <p>Key documents and contact details are also kept on the same MWC encrypted memory sticks and stored offsite.</p>	<p>procedures the Team would welcome updates in the future.</p> <p>The submission also outlines how such tests ensure that the Information Management Portal, which contains much of the authority's records, can be rebuilt from back-ups in the case of a disaster. The Assessment Team thanks the authority for this update.</p> <p>The storing of encrypted memory sticks containing key documents and contact details off-site is recognised as an appropriate strategy.</p> <p>Crucially, it is clear from the submission that such procedures also encompass the records created by the NCF. The NCF servers are backed-up and undergo similar annual disaster recovery testing and their key records are stored off-site on the same encrypted memory sticks. The Team thanks the Commission for this update.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>		
11. Audit Trail	A	A	A	A	<p>For records sitting outside the IMP system, MWC intends to impose its BCS on to electronic records once it has migrated to a new server in 2014-15.</p> <p>The Keeper agrees that MWC has recognised a need for improvement in this area and he is assured that MWC has shown a commitment to closing the gap in provision in this area. The Keeper requests</p>	<p>The Commission migrated files and folders across to a new structure in early 2015. The BCS structure was created on the new server and staff were given guidance and instructions about how to move required files into the new structure so that they were starting with a clean slate. The Commission is in the process of deploying</p>	<p>The Commission clearly recognises the importance of audit trail functionality for their electronic records and is taking steps to close gaps in provision under this element.</p> <p>Establishing the new folder structure in 2015 upon the BCS is considered good practice by the Assessment Team. The Team are similarly pleased to hear that staff were issued</p>	<p>We are working towards achieving a greater visibility in tracking records.</p> <p>The Commission has migrated the files to the new structure in the new server and staff received training on naming convention and control versions. This is done through our online training</p> <p>In addition, the Commission has an intranet section called "manage records" where good</p>	<p>The Assessment Team agrees that the adoption of a robust structure (see element 4) should provide greater control over document tracking. However, there is still a need for staff to name records correctly (and for appropriate training) to ensure all records can be traced and properly identified in the file structure.</p>

					<p>that he is kept informed of progress in implementing the BCS on MWC's new server.</p>	<p>another new server and this process with be repeated. All MWC/NCF staff have been reminded of their responsibility for maintaining the BCS structure and implementing the retention specified in their area.</p> <p>New and updated guidance has been added to the commission's intranet about managing records at the Commission. Staff are required to; make changes to the BCS and communicate this to IT staff who will build the top levels structures on the new server. Staff will then migrate files across from the old to the new server mimicking the agreed BCS structure.</p> <p>NCF staff are involved in the same process as MWC staff and they will be expected to carry out the same process with regards to migrating their BCS structure and then populating it with relevant files. NCF staff have access to the guidance and the intranet and will be supported by MWC staff to effect the migration.</p> <p>The timescale for build and transferring files to the new server was scheduled for June 2017. Owing to resourcing issues, this implementation schedule is being reviewed.</p>	<p>guidance on populating and maintaining this new structure and that such guidance has been made available to staff on the Commission's intranet. This will likely ensure that there is greater staff awareness and buy-in concerning maintenance of the file structure and revising it where appropriate to ensure it remains accurate and fit for purpose.</p> <p>As the Commission is in the process of migrating the file structure to a new server the Team would welcome updates on this work as this project progresses.</p> <p>The submission makes clear that similar endeavours are taking place at the NCF and that staff are expected to comply with the processes developed by the Commission. The Team considers this good practice and commends the support of Commission staff being offered to the NCF to assist in this migration.</p> <p>If available, the Assessment Team would welcome sight of documentation highlighting where progress has been achieved in this area, such as any signed, operational naming convention and version control policies, and where work is continuing to bring this element into full compliance.</p> <p>The Assessment Team consider that progress is being made and that this element should remain under improvement.</p>	<p>record management guidelines are updated periodically.</p> <p>Commission's file naming protocol is already available on the intranet accessible for staff.</p> <p>HR department will start using a new HR software platform "YouManage" during 2020. This system will improve the company performance and will allow a better record of Commission's employee's personal files.</p> <p>We recognise that there is space for improvement regarding this element.</p>	<p>There seems to be strong evidence that this is being done with training, evidence and naming convention guidance all being present in the authority.</p> <p>The Assessment Team notes the comments about 'You Manage'. The Keeper has previously indicated that he accepts that line-of-business systems have their own record tracking (audit trail) functionality. The Assessment Team expect that the relevant staff will be properly trained in record tracking within this system.</p> <p>The Assessment Team note the MWC's comment that "We recognise that there is space for improvement regarding this element". Although they have, quite correctly, issued staff with version control/naming convention instructions, the authority has not yet reviewed how those instructions are being implemented in practice throughout the organisation.</p> <p>Until MWC can be confident that staff are universally applying instructions that will allow records to be efficiently tracked, this element remains at Amber.</p> <p>The Assessment Team looks forward to an update on this work in subsequent PURs.</p>
	G	G	G	G	A draft Information and Records Management Competencies document	The Commission has now added two core competencies as part of	The evidence submitted within Bundle 2 indicates that the records manager at	The Commission has fully implemented its plan.	The Keeper expects to see evidence that Staff creating, or

<p>12. Competency Framework</p>					<p>(Appendix 21), drawn up by an external consultant, has been submitted. The Keeper would like to know whether this document forms the basis of further work in incorporating these competencies into all staff job descriptions, and if so, how this will be done and the timescale involved.</p>	<p>a new PDP process. These competencies cover; data handling and records management. Staff of NCF and MWC will be expected to demonstrate an adequate level of competency in these areas. The Commission has very recently signed a contract to deploy a Learning Management System and appropriate courses will be identified, made mandatory, test results recorded and retained and intervals for refresher training established.</p> <p>LearnPro has been purchased and appropriate modules are being developed.</p> <p>These will cover records management, secure data handling and the basics of cyber security.</p> <p>These core competencies will be applicable to NCF staff (who are also MWC employees) and will form part of their PDP process.</p>	<p>the Commission will be professionally qualified or working towards a qualification. Although this is not a requirement the Assessment Team commends this commitment. The Team also applaud the statement that the records manager will be sufficiently senior within the organisation to have the authority to act effectively and influence the development and implementation of records management policies.</p> <p>The Team similarly applaud the assigning of core records management competencies to staff throughout the authority; the involvement of localised areas in delivering records management will improve the likelihood of successful implementation and continued compliance with policies. The training provided to staff and the adding of new core competencies as part of the PDP process are also commended. It is clear from the submission that such provisions apply to both the Commission and the NCF staff.</p> <p>The Commission has indicated that it has purchased LearnPro as a Learning Management System and that training modules in areas such as data handling and cyber security are being identified and purchased. These will form the basis of a suite of mandatory records management training modules to ensure that all staff are aware of the records management principles and their need to comply with the relevant policies. The Team commend this initiative and would be pleased to hear</p>	<p>The Information Governance Manager receives adequate training (see evidence attached in for element 2.)</p> <p>All new staff need to complete an online learning course (LearnPro) in Records Management, Data Protection and Information Security, and Cyber security. The training needs to be passed every two years but the training material is always available for further consultation. Test results are recorded and retained and interval for refresher training established.</p> <p>The Commission added two core competencies as part of the new PDP process. These competencies cover. Data handling and records management. Staff are expected to demonstrate competency in this areas.</p> <p>Annex 7- PDP form. Annex 8- E-learning training examples.</p>	<p>otherwise processing records, are appropriately trained and supported.</p> <p>There seems to be ample evidence that MWC takes this aspect of their plan seriously with mandatory training in Records Management, Data Protection and Information Security.</p> <p>The Assessment Team notes the information governance training detailed under element 9 above.</p> <p>Also, the authority seems to provide training of the management of records. For example naming conventions etc.in element 11 and data sharing in element 14.</p> <p>The Assessment Team acknowledge receipt of evidence of staff training and development including the new PDP framework that includes records management. This latter is particularly commendable.</p>
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							progress of this project as it becomes embedded within the authority.		
13. Assessment and Review	G	G	G	G	<p>MWC have established a Records Management Review Group (RMRG) to implement the RMP and monitor its effectiveness. The Keeper commends this commitment to internal review of records management arrangements and would welcome updates on the work being achieved by RMRG.</p>	<p>The Commission did have regular Records Management Review Group meetings, the group consisting of the senior executive team and managed and minuted by the Information Governance and IT Manager. These meetings are no longer held owing to time constraints and logistics of arranging these meetings with senior executives. Time is set aside to discuss progress and agree action plans as part of OMG (Operational Management Group) every six months.</p> <p>The monthly Ordinary Management Group (OMG) holds a session dedicated to Projects and Management updates every 3rd month in the meeting cycle.</p> <p>Reports regarding records management are submitted to this group every 6 months and action progress is reported and action points are agreed by the Executive Team who attend these meetings</p>	<p>The Keeper's Model Plan outlines the importance of authorities conducting regular internal reviews on their records management arrangements to ensure they remain relevant and to help them gauge staff compliance.</p> <p>The Assessment Team therefore applaud the Commission's regular reviews, initially through their Records Management Review Group and now through the Operational Management Group. The setting aside of time to discuss and agree action plans is commendable, as is the submission of records management reports to the Group every 6 months. It is particularly important that senior management, in the form of the Executive Team, are present at such meetings.</p> <p>Should significant changes in arrangements take place as a result of these reviews and discussions the Assessment Team would welcome updates through the PUR process.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>	<p>There are not major changes regarding this element. The Commission is currently working on the improvement of the BCS and retention schedules.</p> <p>The executive team discusses record management issues during the Operational Management Groups quarterly. The information governance manager will bring matters to their attention.</p> <p>Annex 9. OMG minutes extract September 2019</p> <p>Annex 10. OMG extract minutes November 2019 (draft, pending of approval)</p>	<p>It is a requirement of the Public Records (Scotland) Act 2011 that "An authority must— (a) keep its records management plan under review" (PRSA Part 1 5.1.a.)</p> <p>The authority's participation in the PUR process in 2017 and 2019 demonstrates a commitment to reviewing its RMP.</p> <p>In 2014 the Keeper agreed that the review process in MWC was suitable for compliance with the Act and there is nothing to suggest this has changed.</p> <p>It is noted that information governance policies supporting the Records Management Plan are routinely reviewed and updated (for example see element 8).</p> <p>The Assessment Team acknowledge receipt of evidence of records management being reported to senior management (as explained in the 2017 PUR).</p>
14. Shared Information	G	G	G	G	Update required on any change	MWC is registered as a Data Controller with the Information Commissioner's Office. MWC will abide by the requirements of the Data Protection Act when sharing information and will also conduct a risk assessment before doing so. MWC has	The submission makes clear that both the Commission and the NCF have appropriate protocols in place surrounding the sharing of information with other authorities. Such protocols are necessary to ensure that data is shared lawfully and securely. The conducting of risk assessments prior to	The Commission and the NCF have appropriate protocols in place to securely assess when information can be shared lawfully and securely.	<p>Thank you for this update.</p> <p>As with other elements in the plan it is clear that the procedures and policies are routinely reviewed and, where necessary, upgraded. This maintenance is vital to the continuing success of a records management</p>

						<p>entered into a number of MoUs with other bodies with whom they share records.</p> <p>The NCF has a Protocol with Police Scotland around the sharing of information which describes the circumstances where data can be disclosed legitimately within the boundaries of data protection legislation.</p> <p>The need for registration will disappear under GDPR. The Commission has started to look at more accurately recording and describing the data it holds and clarifying the role of information asset owners in knowing the “who, why and how” of any information assets that fall within their remit. This needs to include a clear understanding of the legal basis for sharing as well a clear protocol of how data is disclosed/shared securely and that staff who have access to it are adequately trained in safe data handling.</p> <p>The outcome of this work will be shared with the Keeper in due course.</p>	<p>sharing information further reflects the Commission’s commitments under this element.</p> <p>The Commission is taking proactive steps in the light of upcoming GDPR legislation to ensure that there is an understanding of the legal basis for sharing and that staff are trained in, and have access to, formal data sharing protocols. The Assessment Team commends such initiatives and welcomes updates once work in this area is concluded.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>	<p>Regarding the methods used for transferring data, this is covered in the Information Risk Management policy. The Commission has detailed guides for sending personal information out of the organisation. All staff receive information security training on induction and periodic refresher training.</p> <p>Data Sharing agreements and MOUs are used to record specific requirements for and the circumstances for information sharing, ensuring that data is shared fairly and lawfully.</p> <p>The data sharing protocol form was reviewed in 2019.</p> <p>There is a diagram available on the intranet explaining the differences between FOI access, data subject access request and data sharing agreement as it was noticed that staff did not fully understand the differences between them and the terms were incorrectly used.</p> <p>Annex 11- Diagram and intranet explanation for sharing information.</p>	<p>programme and it seems clear that the resources are made available in MWC to pursue this.</p> <p>The Assessment Team acknowledges receipt of the MWC Data Sharing Diagram. This is a clear guide for staff that must be beneficial. It is strong evidence again that this authority properly considers a culture of good records management.</p>
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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 10th December 2019. The progress update was submitted by Paloma Alvarez, Information Governance Manager.

The progress update submission makes it clear that it is a submission for the **Mental Welfare Commission for Scotland**.

PRSA Assessment Team's Summary

The Assessment Team has reviewed the Mental Welfare Commission for 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

The Mental Welfare Commission for 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.

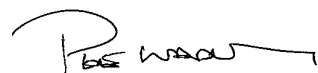
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that the Mental Welfare Commission for 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