

The Public Records (Scotland) Act 2011

Midlothian Council and Midlothian Licensing Board

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

4 December 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 Midlothian Council and Midlothian Licensing Board. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Local government in Scotland comprises 32 unitary local authorities, responsible for the provision of a range of public services. Midlothian Council is one of these authorities <http://www.midlothian.gov.uk/>. It provides services to the people of Midlothian, such as education, social care, waste management, cultural services and planning.

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

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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Progress Update Review (PUR) : Midlothian Council and Midlothian Licensing Board

Element	Status of elements under agreed Plan, 19 Jun 2014	Status of evidence under agreed Plan, 19 Jun 2014	Progress assessment status, 2019	Keeper's Report Comments on Authority's Plan, 19 Jun 2014	Self-assessment Update as submitted by the Authority since 19 Jun 2014	Progress Review Comment, <date>
1. Senior Officer	G	G	G	Update required on any change	No change. Gary Fairley remains the senior responsible officer.	Noted with thanks. Update required on any future change
2. Records Manager	G	G	G	Update required on any change	Since 18/06/2018 Dina Strati has operational responsibility for records management within Midlothian Council. NRS has already been informed of that change.	This change is noted with thanks. If this were a statutory submission, the authority would need to provide evidence that the post and the post holder continue to comply with the Keeper's requirements.
3. Policy	G	G	G	Update required on any change	No significant change.	Noted with thanks. Update required on any future change
4. Business Classification	G	G	G	Midlothian Council has supplied a very thorough combined Business Classification Scheme and Retention Schedule. The Keeper commends this work. This authority is currently implementing an EDRMS upon	No significant change.	Noted with thanks. Update required on any future change

				which it intends to impose the BCS. This process will be reviewed with the intention of adding a detailed file plan to the BCS structure. The Keeper welcomes this approach and would be interested in hearing how this work is progressing.		
5. Retention Schedule	G	G	G	Update required on any change	No significant change.	Noted with thanks. Update required on any future change
6. Destruction Arrangements	G	G	G	The Keeper would be interested to receive updates on how the move to an EDRMS system is changing the ways electronic records are being tracked during their destruction.	No significant change.	Noted with thanks. Update required on any future change
7. Archiving and Transfer	G	G	G	Update required on any change	No significant change.	Noted with thanks. Update required on any future change
8. Information Security	G	G	G	Update required on any change	No significant change.	Noted with thanks. Update required on any future change
9. Data Protection	G	G	G	Update required on any change	No significant change.	Noted with thanks. Update required on any future change
10. Business Continuity and Vital Records	G	A	G	The Keeper would welcome updates following the review of the Business Continuity Plan (BCP) and other such policies. He would	Since the RMP was agreed Midlothian Council got a new Business Continuity Policy that was approved by the	A copy of the Business Continuity Plan dated May 2017 (and approved Nov 2017) has been provided along

	G	A	G	<p>also be keen to learn about the authority's intention to create a comprehensive means of identifying vital records across the Council. The RMP commits the authority to do this as part of the exercise of implementing an EDRMS. They intend to incorporate records and information into business continuity and emergency planning procedures. They also intend to review the Disaster Plan for the Records Centre, Archive, and other paper stores as part of the BCP review.</p> <p>The Keeper can agree that there are robust BCP procedures in place to ensure that the Council's key functions can resume quickly in the event of a disaster on an 'improvement model' basis, provided that he is updated as work towards identifying vital records progresses across the council.</p>	<p>Corporate Management Team on November 2017.</p> <p>All digital repositories the Council uses have a backup function. Midlothian Council does not operate any system that cannot recover information. Technical details can be found in the "Backup System - Overview" document.</p> <p>The Council's physical records are stored in Iron Mountain. Our account manager confirmed that BCP Exercises run on an annual basis in their warehouse in Livingston, where our records are stored.</p> <p>Finally as part of completing their IARs, each Directorate identifies its Vital Records.</p> <p>Midlothian Council is confident that in an event of disruption or disaster it will not suffer any major records or access loss.</p>	<p>with a summary overview of IT backups and the template for compiling an Information Asset Register. These show that Midlothian Council continue to maintain appropriate Business Continuity arrangements.</p> <p>The template provided demonstrates that each Service area has a good tool for identifying and recording Vital Records and that responsibility for this lies with relevant Services. If this were a statutory submission, it would be helpful to provide examples of the completed templates for some sample Services, along with evidence of the support and advice given to Services to help them identify what constitutes a Vital Record.</p>
11. Audit Trail	G	A	G	<p>The Keeper can agree that there are procedures in place for tracking the movement and changes to paper and electronic records on an 'improvement model' basis, provided he is kept informed as</p>	<p>Paper records are now tracked via Iron Mountain Connect, as the majority of the Council's physical records are stored in Iron Mountain. Authorised users have Iron Mountain</p>	<p>The use of a commercial records storage provider is a business decision. It is clear that this arrangement has taken full advantage of the tracking system that can be</p>

				<p>work on the project of implementation of an EDRMS progresses, which will help to standardise practice across the Council.</p>	<p>accounts and the Iron Mountain Connect system keeps a record of who ordered which file and when. Individuals get trained in using IM Connect by a member of the Records team before they are given access to the system.</p> <p>For the training to be arranged the Line Manager of the prospective authorised user has to fill in and submit a form to the Records team.</p> <p>At the end of every month IM sends to the Records team a list of overdue files, so we have the opportunity to chase up users if necessary.</p> <p>Progress is still being made with our EDRMS. It's partially implemented to some teams, but not to the entire Council yet, therefore practice has not been standardised across the Council.</p>	<p>provided for paper files and ensures that only authorised staff have access to the records. As described, this system has clear benefits for the authority.</p> <p>It is to be expected that the implementation of the EDRMS across the Council will take some time. It is important that staff have time to get used to the system and to overcome any barriers involved in changing practice. A steady approach is more likely to enable staff to realise the benefits of a more structured system. The Assessment Team look forward to hearing more updates about this in future PURs.</p>
12. Competency Framework	G	G	G	Update required on any change	No significant change.	Noted with thanks. Update required on any future change
	G	G	G	The Keeper commends the	No significant change.	Noted with thanks. Update

13. Assessment and Review				authority's commitment to annually assess and review compliance with their RMP and would be interested to hear about the findings of these reviews and whether any changes have subsequently taken place.		required on any future change
14. Shared Information	G	G	G	The Information Management Group recommended in 2014 that the Council adopts the Scottish Accord for the Sharing of Personal Information (SASPI). The Keeper would be interested to learn the outcome of this proposal.	No significant change.	Noted with thanks. Update required on any future change

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 20 August 2019. The progress update was submitted by Dina Strati, Records, Archives, and Document Management Team Lead.

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

PRSA Assessment Team's Summary

The Assessment Team has reviewed **Midlothian Council and Midlothian Licensing Board'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

Midlothian Council and Midlothian Licensing Board continues to take its records management obligations seriously and is working to bring all elements into full compliance. While in most elements there is no significant progress to report, the authority has reported some progress in their work towards implementation of an EDRMS and some changes to their Business Continuity arrangements. This indicates that the Records Management Plan remains part of the normal business planning of the authority and that there is continued attention to the importance of these developments. The Assessment Team welcome the information provided here and would be interested in hearing about further developments in due course.

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. ON the basis of this PUR it is likely that there would be no change to the status of each element.

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

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

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

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



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