

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

**NHS Highland**

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

**28<sup>th</sup> May 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 Final 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 NHS Highland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

### 4. Authority Background

The population of NHS Highland is 320,000 people and is spread over 32,500 square kilometres, making it one of the largest and most sparsely populated Health Boards in the UK. NHS Highland is managed by a Board of Executive and Non-Executive Directors and is accountable to the Scottish Government through the Cabinet Secretary for Health and Wellbeing. The Chair and each of the Non-Executive Directors are appointed by the Cabinet Secretary. Executive Directors are the Chief Executive, Medical Director, Director of Public Health, Chief Operating Officer, Director of Human Resources, Director of Nursing and Director of Finance. The Board governs accountability and performance. There are Highland-wide departments or functions and include Business Transformation; Clinical Governance and Risk Management; Dental Services; e-Health; Finance; Human Resources; Infections, Prevention and Control; Nursing and Midwifery; Pharmacy; Planning and Performance; Procurement; Public Health and Public Relations and Engagement.

### 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:**

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| 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) Template: NHS Highland**

| <b>Element</b>     | <b>Status of elements under agreed Plan, October 2017</b> | <b>Status of evidence under agreed Plan, October 2017</b> | <b>Progress assessment status, 2018</b> | <b>Keeper's Report Comments on Authority's Plan, October 2017</b>   | <b>Self-assessment Update as submitted by the Authority since October 2017</b>   | <b>Progress Review Comment, 2018</b>   |
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| 1. Senior Officer  | <b>G</b>  | <b>G</b>  | <b>G</b>                                | Update required on any change.  | Elaine Mead has now left NHS Highland. The Interim Chief Executive and Accountable Officer is Dr Gregor Smith until late January. From 1 <sup>st</sup> February, the substantive Chief Executive will be Iain Stewart. | The Keeper's Assessment Team thanks NHS Highland for this update and have amended their records accordingly. |
| 2. Records Manager | <b>G</b>  | <b>G</b>  | <b>G</b>                                | Update required on any change.  | No Update  | No immediate action required. Update required on any future change.  |
| 3. Policy          | <b>G</b>  | <b>A</b>  | <b>G</b>                                | The Policy has recently been reviewed and updated and is currently in draft format awaiting approval by the | The Information Governance Policy (evidence 3.8) is currently under review in light of the   | The Records Management Policy referenced in the original 2017 submission as draft is now operational.        |

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|  |  |  |  | <p>Information Assurance Group. The draft Policy has been supplied (evidence 3.8). The next meeting of the Group is in November 2017. <b>The Keeper requests that he is sent the updated Policy once it has been approved at this meeting.</b></p> <p>The Policy for the Management of Policies, Procedures, Guidelines and Protocols (evidence 3.16) has recently been reviewed and updated but is awaiting approval by the Risk Management Steering Group which is due to meet in November 2017. Once approved it will be communicated to staff and made available on the NHS Highland intranet. <b>The Keeper requests he is sent a copy of the updated Policy once approved.</b></p> <p><b>The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has</b></p> | <p>new GDPR legislation. Clinical Governance is leading a review of all relevant policies with a completion date of April 2019.</p> <p>The policy (evidence 3.16) was ratified in September 2017.</p> | <p>The Assessment Team note that this policy is under review in light of GDPR/DP2018. <b>The Keeper requests that he is sent the updated Policy at the next Progress Update Review.</b></p> |
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|                            |   |   |   | identified a gap in provision (lack of updated key policy documents) and has identified how it will close this gap. Once he receives the updated and approved Policies when they become available, the Keeper should be able to fully agree this Element.  |  |  |
| 4. Business Classification | A | G | A | <p>The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has identified a gap in provision (the lack of an operational organisation-wide BCS) and has identified how it intends to close this gap. This agreement is dependent upon the Keeper being kept informed as work to close the gap progresses.</p> | <p>A function based Business Classification Scheme has been drafted. (attached)</p> <p>It is a requirement of GDPR to create an Information Asset Register. This is being progressed as part the GDPR work, with a completion date of March 2019. The Information Asset Register will be a live document and constantly under review and appropriate updates.</p> <p>It is intended these two documents will be merged to provide a cohesive business classification scheme mapping all information assets</p> | <p>The Keeper's Assessment Team acknowledge they have received the NHS Highland Business Classification Scheme showing a functional system. This must remain a business decision for the authority but the Keeper has previously acknowledged that a Functional Schema is currently considered best practice.</p> <p>The Assessment Team note the intention to use this scheme to support an Information Asset Register and agrees this is appropriate. The Keeper has previously commended the principle of combining a business classification</p> |

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|                       |   |   |   |                                | <p>according to function.</p> <p>There would be benefit in communicating this throughout the organisation once all of the work has been completed.</p> | <p>scheme and retention schedule as liable to create a strong business tool and the assessment team assume that the Information Asset Register will do this.</p> <p>Once the Information Asset Register is operational throughout NHS Highland it is liable that, if it were submitted as part of a formal re-submission, this element might be awarded a green RAG status.</p> <p>As the Information Asset Register is yet to be rolled out, this element remains Amber. However, the Assessment Team recognises that the work described in this PUR represents steps towards a significant improvement in records management provision in the authority.</p> |
| 5. Retention Schedule | G | G | G | Update required on any change. | No update  | No immediate action required. Update required on any future change.  |

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| 6. Destruction Arrangements | A | G | A | <p>Electronic – The RMP states that NHS Highland manages the destruction of electronic records from its shared drives but recognises that there is a need for improvement in this area. The RMP also states that NHS Highland is working to address the gap in the destruction of electronic records and plans to update protocols and procedures to ensure staff are aware of what they need to do. Some guidance exists in the Protocol for the Secure Archiving and Destruction of Records (evidence 6.10) for the destruction of electronic records. A Standard Operating Procedures document has also been produced for Tracking Culled Notes on the PMS system (evidence 6.7). <b>The Keeper requests that he is kept informed of progress in the development of this guidance.</b></p> <p><b>The Keeper can agree this</b></p> | <p>The new Scottish Government Code Of Practice for Records Management has been released in draft for comment and should provide more clarity on the management and destruction of electronic records (see attached). GDPR work will also address this further. Once we receive the Government's code of practice, we will build a comprehensive communication strategy with our Head of PR and Engagement to ensure all staff are aware of what they are required to do in terms of destruction of records.</p> | <p>The Assessment Team acknowledge that NHS Highland is waiting for the roll-out of the new NHS Scotland Records Management code of practice. The Keeper has representation on the group charged with the development of this document.</p> |

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|                           |   |   |   | Element on an 'Improvement Model' basis. This means that the authority has identified a gap in provision (the destruction of electronic records) and has identified how it intends to close this gap. As part of this agreement, the Keeper expects to be regularly updated on the progress of the work.   |  |  |
| 7. Archiving and Transfer | G | G | G | Update required on any change.   | No change.   | No immediate action required. Update required on any future change.  |
| 8. Information Security   | G | G | G | The Policy is supported by a suite of information governance policies, such as an Email Policy (evidence 8.3a), an Internet Policy (evidence 8.3b), a Password Change Policy (evidence 8.3c), Mobile Data and Devices Policy (evidence 8.3d) and a Social Media Protocol (evidence 8.3i). The RMP also states that these policies are available to staff on NHS Highland's intranet. A number of the abovementioned policies | The Information Governance Policy and all underpinning policies are currently under review in light of the new GDPR legislation. Our Clinical Governance department is leading a review of all relevant policies with a completion date of April 2019. | The Assessment Team acknowledge that NHS Highland is currently reviewing their information security policies and guidance.<br><br>They look forward to receiving an update on this review at the time of the next PUR submission.<br><br>As NHS Highland have currently operational policies (even though they will be |

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|                    |          |          |          | are currently under review and will be submitted to the Information Assurance Group for approval in November 2017. <b>The Keeper requests that he is sent these policies once they have been approved to keep the submission up-to-date.</b>   |   | replaced soon) this element remains green.  |
| 9. Data Protection | <b>G</b> | <b>G</b> | <b>G</b> | <p>NHS Highland has submitted its Information Governance Policy (evidence 9.2) which outlines its approach to information governance and assigns responsibilities for complying with it... The draft Policy has been supplied (evidence 3.8). The next meeting of the Group is in November 2017. <b>The Keeper requests that he is sent the updated Policy once it has been approved at this meeting.</b></p> <p>NHS Highland have also submitted their Handling Requests for Access to Personal Health Records Policy (evidence 9.9). NHS Highland has indicated that</p> | <p>NHS Highland has appointed a Data Protection Officer in fulfilment of the GDPR legislation. All subject access policies are being revised to fall in line with GDPR changes. This will be completed by March 2019 as part of the overarching GDPR project.</p> | <p>Along with all other Scottish public authorities NHS Highland are reviewing their data protection provision in line with the requirements of GDPR/DP2018.</p> <p>The Assessment Team look forward to receiving an update on this work at the time of the next PUR submission.</p> <p>As NHS Highland have currently operational policies (even though they will be replaced soon) this element remains green. However, it should be noted that if this were a formal re-submission the Keeper would expect the authority to be fully compliant</p> |

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|   |          |          |          | <p>this Policy is currently being updated due to organisational changes and planning for the EU GDPR coming into force. At present NHS Highland is currently using NHS Scotland's Subject Access Request Policy (evidence 9.18). <b>The Keeper agrees that this is appropriate and requests that he is provided with a copy of the updated local policy once it becomes available</b></p> |  | <p>with the new data protection legislation and the current (revision) position would likely be marked as Amber.</p>   |
| 10. Business Continuity and Vital Records | <b>A</b> | <b>G</b> | <b>A</b> | <p><b>The Keeper can agree this Element on an 'improvement model' basis. This means that the authority has identified a gap in provision (the lack of a fully rolled out BCP(s) and has evidenced a commitment to closing the gap. As part of this agreement the Keeper will expect to be kept informed as work progresses towards closing the gap.</b></p>                               | <p>Business Continuity Plans for Health Records are being reviewed to take account of the Electronic Patient Record project and technical contingencies.</p> | <p>The Assessment Team takes this submission to indicate that a fully approved and operational BCP is not yet fully rolled-out and therefore the element remains at Amber.</p> |
| 11. Audit Trail                           | <b>A</b> | <b>G</b> | <b>A</b> | <p>Also submitted as evidence is NHS Highland's Policy for the Management of Policies, Procedures, Guidelines and</p>   | <p>The policy (evidence 11.3) was ratified in September 2017.</p>  | <p><b>See element 4</b></p> <p>The Assessment Team acknowledge that they have</p>  |

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|  |  |  |  | <p>Protocols (evidence 11.3)...NHS Highland has stated that the Policy has now been reviewed and updated but is awaiting approval by the Risk Management Steering Group which is due to meet in November 2017. Once approved it will be communicated to staff and made available on the NHS Highland intranet. <b>The Keeper requests he is sent a copy of the updated Policy once it has been approved.</b></p> <p>The RMP states that NHS Highland is currently in the process of implementing new software, File 360, for managing some corporate records. Some of the documentation for the implementation of this software has been supplied (evidence 11.4-11.6). The RMP also states that NHS Highland is considering implementing a document management system. <b>The Keeper requests that he is kept informed in both these areas,</b></p> | <p>NHS Highland has decided not to implement File 360 throughout the organisation. However, users of a previously unsupported system which was Keyfile have now been upgraded to File 360.</p> | <p>received NHS Highland's approved <i>Management of Policies, Procedures and other Written Controlled Documents</i> document as requested in the Keeper's Agreement Report. Thank you.</p> <p>The development of the Information Asset Register will greatly assist in the tracking of the authority's public records.</p> <p>The information about the File 360 system is noted.</p> |
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|                          |   |   |   | <p>particularly because this work will presumably need to be aligned with the BCS (see Element 4).</p> <p>The Keeper can agree this Element on an 'improvement model' basis. This means that the authority has identified a gap in provision (the lack of a fully implemented and rolled out system for the management of corporate electronic records) and has evidenced a commitment to closing the gap. As part of this agreement the Keeper will expect to be kept informed as work progresses towards closing the gap.</p> |  |   |
| 12. Competency Framework | A | G | A | <p>NHS Highland has created an Education and Development Framework for Medical Records and Administration Staff (evidence 12.4). This is currently available for staff at Raigmore Hospital, Inverness, but NHS Highland intends to standardise the document and roll it out to all relevant staff by the end of 2018. <b>The Keeper</b></p>  | <p>This Med Recs framework requires revision to take account of the ISD recently developed CTC-CC (Certificate in Technical Competency in Clinical Coding) which also covers health records.</p> | <p>The Assessment Team acknowledge that NHS Highland are currently pursuing records management training and this is to be commended.</p> <p>They also note that the Education and Development Framework is not yet fully realised as recent</p> |



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|  |  |  |  | <p><b>commends this commitment to training and requests that he is kept informed of the progress in rolling this out.</b></p> <p>The RMP also contains an action to create a similar tool for staff working with corporate records. This will be based on the NHS Scotland Information Governance Competency Framework (evidence 12.1) and will be rolled out by December 2017. <b>Again the Keeper commends this commitment to providing staff with the necessary skills and requests that he is kept up-to-date with the progress of this work.</b></p> <p><b>The Keeper can agree this Element on an ‘improvement model’ basis. This means that the authority has identified a gap in provision (the lack of an organisation-wide competency framework) and has identified how it intends to close this gap. As part of this agreement the Keeper</b></p> | <p>NHS Highland is currently finalising a training facility through Learn Pro specifically designed for staff working with corporate records. This will be based on a similar NHS Scotland Learn Pro module and will be updated to reflect the revised retention schedules which will aligned to the Scottish Government Code of Practice when available. The completion date is difficult to estimate given the variable and the various completion dates of the policies which will underpin the Learn Pro. Work will progress will progress in anticipation of the completion and module by the end of 2019.</p> | <p>developments must be included. Again there is a recognition that the authority is actively pursuing their commitment to ensure that appropriate training is made available.</p> |
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|                              |   |   |   | requests that he is kept informed of progress in this area.   |  |   |
| 13.<br>Assessment and Review | G | G | A | NHS Highland has stated that discussions are currently underway with its internal auditors to determine whether there is capacity to add the RMP into the internal audit programme. Email correspondence with Internal Audit has been supplied (evidence 13.6) showing that discussions are on-going and that they have previously audited aspects of information governance, information and records management. <b>The Keeper requests that he is informed of the results of these discussions.</b> | Due to capacity and competing priorities, our internal auditors were unable to include the RMP on their work plan for year 2018/2019, however, discussions are ongoing to get the RMP on work plan for the year 2019/2020. Internal Audit and the Audit Committee have been regularly appraised of information governance and GDPR compliance through the recent work around GDPR. | It is unfortunate, but understandable, that an internal audit review of the implementation of the Records Management Plan has not yet been possible.<br><br>The Assessment Team acknowledge that the requirements of GDPR/DP2018 have required regular reviews of certain aspects of information governance in the authority. However, element 13 is specifically about an authority scrutinising the implementation of its agreed plan.<br><br>If this were a formal re-submission it is likely that this element would be graded 'amber' (at best) until:<br><br>a) Evidence could be provided that Internal Audit will include the <i>Plan</i> . |

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|                        |          |          |          |  |   | b) Another review methodology could be confirmed to the Keeper (that specifically focuses on the implementation of the Plan)  |
| 14. Shared Information | <b>G</b> | <b>A</b> | <b>A</b> | <p><b>NHS Highland has stated that the Information Sharing Policy has been updated but is still in draft form as it remains to be ratified by one of the partners in the Data Sharing Partnership. The Keeper requests that this is forwarded to him once it has been approved by all parties.</b></p> <p><b>A set of Information Sharing Procedures (evidence 14.2) has been created to practically administer the sharing of information. This covers the types of information to be shared, who it is to be shared with and how that sharing takes place. NHS Highland has stated that these have also been updated but are still in draft form until ratified by</b></p> | <p>With regards to the information sharing policy that will replace the Highland Data Sharing Partnership policy. This has been re drafted and is in the process of being circulated for comment and hopefully final sign off. Underpinning the policy work has started on an Information Sharing Agreement between NHS Highland and The Highland Council with a target date of end February for completion.</p> <p>We have attached a very early draft which is likely to be subject to a number of changes and updates before ratification. Once the agreement has been ratified by all relevant partners, we</p> | <p>The Assessment Team acknowledge that they have received NHS Highland/Highland Council Draft Information Sharing Agreement.</p> <p>This shows that the authority is pursuing their commitment to formalise data sharing with third parties.</p> <p>Once the Highland Data Sharing Partnership Policy is operational throughout NHS Highland it is liable that, if it were submitted as part of a formal re-submission, this element might be awarded a green RAG status.</p> <p>As the Data Sharing Policy is yet to be rolled out, this element remains Amber.</p> |

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|  |  |  |  | <p><b>one of the partners in the Data Sharing Partnership. The Keeper requests that this is forwarded to him once it has been approved by all parties.</b></p> <p><b>The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has identified a gap in provision (lack of updated key policy documents) and has identified how this gap will be closed. Once he receives the updated and approved documents when they become available, the Keeper should be able to fully agree this Element.</b></p> | <p>will forward a copy to you.</p> | <p>However, the Assessment Team recognises that the work described in this PUR represents steps towards a significant improvement in records management provision in the authority.</p> |
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Version

The progress update submission which has been assessed is the one received by the Assessment Team on 10 January 2019. The progress update was submitted by Ruth Daly, Board Secretary NHS Highland.

The progress update submission makes it clear that it is a submission for **NHS Highland**.

## 7. PRSA Assessment Team's Summary

The Assessment Team has reviewed NHS Highland'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

NHS Highland 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 resubmitted it plan under section (5)(6) of the Act.

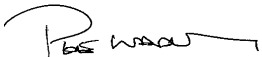
Where 'no change' has been recorded under the update on provision by the authority, the Assessment Team is happy to agree that these elements require no further action for the time being.

## 8. PRSA Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that **NHS Highland** 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