

The Public Records (Scotland) Act 2011

Scottish Futures Trust

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

29 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 Interim 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 Scottish Futures Trust. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Scottish Futures Trust (SFT) was incorporated and launched in the Scottish Parliament by the Cabinet Secretary for Finance and Sustainable Growth on 10th September 2008. Scottish Futures Trust is a company limited by shares incorporated under the Companies Act 2006 and is wholly owned by the Scottish Ministers although operates independently of the Scottish Government (SG). The shareholder relationship is defined in a Management Statement & Financial Memorandum (MSFM) which is published on Scottish Futures Trust's website. Scottish Futures Trust works closely with the public sector to seek and deliver improved value for taxpayers and has responsibility for delivering value for money across public sector infrastructure investment.

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) Template: Scottish Futures Trust

Element	Status of elements under agreed Plan, February 2017	Status of evidence under agreed Plan, February 2017	Progress assessment status, November 2018	Keeper's Report Comments on Authority's Plan, February 2017	Self-assessment Update as submitted by the Authority since February 2017	Progress Review Comment, November 2018
1. Senior Officer	G	G	G	Update required on any change.	No Change	No immediate action required. Update required on any future change
2. Records Manager	G	G	G	Update required on any change.	No Change	No immediate action required. Update required on any future change
3. Policy	G	G	G	Update required on any change.	SFTs Records Management Policy has since been updated to reflect the version control information (see update at element 11) and references to The General Data Protection Regulation and the Data Protection Act 2018. EL3-Evidence: Records Management Policy v1.2	The updated Records Management Policy has been supplied and this evidences continuing review of the policy which is good practice.

4. Business Classification	A	G	A	<p>The RMP states that SharePoint has now been implemented across SFT and is being used as a document repository. The Records Management Centre has still to be implemented although SFT has contracted a third party, Brightwire Technology Services Ltd, to implement this solution on SharePoint. The estimated timetable for the completion of this work is given as April 2017. The transfer of records from the current document library will take place with the accompanying metadata and due to the number of records being transferred it is not feasible to add detailed information for these legacy records. Classification of records for addition to the Records Management Centre will take place once this system goes live.</p> <p>The Keeper would remind SFT that SharePoint is not in itself a records management system and for full</p>	<p>SFTs Business Classification Structure is still accurate and will be revisited as business dictates.</p> <p>A Leadership Team decision was taken not to implement the Records Management Centre while an external IT Strategy review was carried out as part of the overall ICT Strategy Review for 2017-20. Thus, ensuring that the Records Management solution on SharePoint was not approached in silo from other ICT projects. A concern of disproportionately negative impact on working practices across the business was also raised.</p> <p>EL4 – Evidence: Extract from ICT Strategy 2017-2000</p> <p>Following this review and ICT Strategy agreement, it was agreed that the mandatory records would be</p>	<p>SFTs plan to implement its BCS as originally set out in the RMP has changed due to changing business priorities. The Assessment Team recognise that priorities change over time but are encouraged by the continuing commitment to implement the BCS.</p> <p>A business decision was made by SFT to focus on those records which had retention periods defined by legislation first. The solution will be implemented on the remaining records when resources permit. The Assessment Team request that they are kept updated as this work progresses.</p> <p>It should be noted that extensive strategic changes in records management provision within SFT may require a formal re-submission of the RMP for the Keeper's agreement.</p>
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				<p>functionality, particularly relating to ensuring that metadata travels with the record when extracted from the system – for the purposes of archiving electronic records, for example – a records management bolt-on may be required.</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 electronic systems currently used to create and manage records need to be structured in line with the BCS). The solution and the timescales to close this gap have been identified. The Keeper requests that he is informed once the project has been completed.</p>	<p>prioritised and used as a pilot for wider implementation. These would not be managed by a Records Management Centre but by content types across certain areas to automate the destruction of records as required by statutes.</p> <p>EL4 – Evidence: Records Management Paper to Leadership Team</p> <p>SFT acknowledge that this is a divergence from the original Records Management Plan and commit to reviewing appropriateness of solutions for the remainder of our records following updates to processes and procedures to comply with GDPR and recommendations from the External ICT Strategy Review.</p> <p>In Place Records Management for mandatory records was implemented across all relevant records</p>	
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					<p>in June 2018 in line with the retention schedule.</p> <p>EL4 – Evidence: Brightwire Proposal – SharePoint Implementation Screen shots of In Place Records Management in use</p>	
5. Retention Schedule	A	A	G	<p>SFT has submitted its current Retention and Destruction Schedule. The schedule identifies the record types, the periods for which these should be retained, the reason for the retention period and any additional information such as the legislative requirements relating to the records. It is currently still 'Draft' as SFT is seeking legal advice on the retention periods for certain financial and company records. SFT have undertaken to send the Keeper the final agreed Schedule when it becomes available.</p> <p>The RMP states that staff awareness sessions will be developed around retention</p>	<p>SFT's Retention and Destruction Schedule reviewed by Burness Paul in March 2017 and confirmed as covering all mandatory requirements. The document was updated in line with GDPR compliance and finalised.</p> <p>EL5 – Evidence: Final Retention and Destruction Schedule Email correspondence with Burness Paul</p> <p>Awareness sessions have been rolled out to all staff with follow up communications to remind staff of where to access information.</p>	<p>The updated retention schedules have been submitted. Records which have enduring value, for example, the minutes of directors meetings are scheduled for transfer to NRS at the end of their retention periods.</p> <p>The new schedule includes a section on the retention of personal data. The Assessment Team commends this important consideration.</p> <p>Were this a formal resubmission of SFT's RMP this evidence would likely to be sufficient to move the</p>

				<p>and disposal and that training in the use of retention schedules will be included in future SharePoint training for new staff. The Keeper requests that he is kept informed of the progress in developing this training.</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 an operational retention schedule and the application of this to records managed using SharePoint) and has described how it intends to close this gap. As part of this agreement, the Keeper requests he is sent the finalised Schedule when it becomes operational and is kept informed of the project to apply the retention schedule to SharePoint in the longer term.</p>	<p>EL5 – Evidence: Copy presentation slides from awareness sessions (See Element 12) All staff communication following Records Management Training</p>	<p>RAG rating from Amber to Green.</p>
6. Destruction Arrangements	G	G	G	<p>Update required on any change.</p>	<p>SFT continue to work with their IT Managed Service Provider *Indigo (Previously named Exsel Group) to ensure up to date procedures are reflected in</p>	<p>The change in legal entity of the provider is noted with thanks.</p> <p>The Mobile Device Management project</p>

					<p>the ICT Policy for data deletion and back up / overwriting regime.</p> <p>SFT have opted to invest in the Blannco 6 Disk Eraser product, which includes SSD capabilities.</p> <p>Blannco is the leading data erasure product on the market with a wide range of global accreditations. A list of accreditations and certifications for this product is available at https://www.blannco.com/about-us/our-certifications/</p> <p>The Mobile Device Management (MDM) implementation, Microsoft Intune, provides centralised control of all devices that access the SFT data environment.</p> <p>EL6 – Evidence: MDM Implementation</p>	<p>provides acceptable assurance that any records held on mobile devices can be remotely deleted, thus reducing the risk of information security breaches and enabling remote compliance with the retention schedules.</p>
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					<p>*Since the last update, SFT's corporate IT provider, Exsel was acquired by a private equity provider. The new owner undertook a corporate restructure, which resulted in the contract with Exsel being transferred to Indigo IT and Communications. Whilst this resulted in a change of legal entity, service provision has remained uninterrupted and in accordance with the contractual requirements.</p>	
7. Archiving and Transfer	G	G	A	Update required on any change.	<p>No Change</p> <p>NRS have archived SFTs website – June 2017 and August 2018</p> <p>https://webarchive.nrsotland.gov.uk/20180606010657/ https://scottishfuturetrust.org.uk/</p> <p>EL7: Evidence:</p>	<p>The archiving of the website which contains the publicly available minutes (some of which are redacted) achieves a measure of compliance but is not a complete record. NRS Client Management Team have notified the Assessment Team that they are in discussion with SFT in connection with this.</p>

					Copy correspondence between SFT and NRS Web Continuity Service	Following discussions with SFT, it has been agreed that the transfer of some of SFT's earlier records to NRS will commence early in 2019. The Assessment Team accepts this development as appropriate and recommends that SFT maintains contact with the NRS Client Management Team to work towards developing a Memorandum of Understanding (MoU) to govern the future systematic transfer of records selected for permanent preservation. The template MoU used by NRS is currently being revised and amended, which may result in a delay in finalising an agreement, but SFT should in the meantime continue to liaise with the NRS Client Management Team to finalise a MoU.
8. Information Security	G	A	G	SFT has stated that as part of the move to a new IT Managed Service Provider early in 2017	SFT was recently awarded Cyber Essentials Plus certification. It is our policy,	The Assessment Team commends SFT for the achievement of the Cyber

				<p>the ICT Policy will be reviewed and updated. SFT has committed to providing the Keeper with an updated version of the Policy as soon as practicably possible, which the Keeper can accept.</p> <p>The Keeper can agree that there are appropriate mechanisms in place to ensure the security of the information created and managed by SFT. As part of this agreement, the Keeper requests that he is sent a copy of the updated ICT Policy when it becomes available.</p>	<p>following an ICT security review, to fully review the ICT policy. Therefore, we expect to be able to share a copy of the new version of SFTs ICT Policy with the keeper by end of 2018.</p> <p>EL8 – Evidence: Cyber Security Certificate</p>	<p>Essentials Plus certification.</p> <p>The Assessment Team also thanks SFT for providing them with the new version of the ICT Policy (version 2.3). If this were a formal resubmission of the RMP it is likely that this Element would now be green.</p>
9. Data Protection	G	A	G	<p>...Also submitted as evidence is SFT's draft Data Protection Policy. The Policy is currently going through SFT's internal governance process and is waiting to be signed off by the Leadership Team. SFT has stated that the final agreed version will be sent to the Keeper when it becomes available.</p> <p>The Keeper can agree that SFT is aware of its</p>	<p>SFT review the Data Protection Policy regularly to ensure accuracy and has updated its Data Protection policy to comply with the GDPR and the Data Protection Act 2018.</p> <p>All staff have received refresher training on: Data Protection – November 2017 FOI – January 2018</p>	<p>The Data Protection Policy, 2018 has been supplied and the Assessment Team thanks SFT for this.</p> <p>The Assessment Team has reviewed the Data Protection Policy 2018 and considers that, if this were a statutory review, this evidence would be likely to be sufficient to move the RAG rating of evidence from Amber to Green</p>

				responsibilities under the Data Protection Act 1998 and has procedures in place to comply with it. As part of this agreement, the Keeper requests that he is sent a copy of the updated Data Protection Policy when it becomes available.	eLearning module for GDPR compliance – May 2018 eLearning was delivered by IT Governance (Link to further detail) This eLearning required a 75% pass mark to achieve completion and was mandatory for all active staff. EL9 – Evidence: Data Protection Policy 2018 Link to detail on eLearning for GDPR (above) Copy Training slides for Data Protection & FOI refresher training sessions (see Element 12) All Staff Communications	
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	No Change SFT review the Business Continuity Policy in accordance with control periods and/or where any significant external occurrence requires review.	No immediate action required. Update required on any future change.
11. Audit Trail	G	G	G	The RMP states that guidance on version control will be	SFT has recognised the value of version control for	The Guidance Note for staff on version control has been

				<p>provided to staff in the second half of 2016. The Keeper would welcome sight of this guidance once it has been developed.</p>	<p>SFT Policies and has implemented a standard template that will be adopted on all new and updated policies going forward. In addition to this SFT have issued staff with a Guidance Note on file naming to assist with the search capabilities within SharePoint.</p> <p>EL11 – Evidence: Document Version Control - Guidance Note Staff communications</p>	<p>provided. It is clear and succinct and it should be possible for staff to follow this guidance in the course of normal business.</p>
12. Competency Framework	G	A	G	<p>Section 7 of the Policy refers to the training of staff in records management issues at induction and on an on-going basis. This training will supplement that given in regard to Data Protection and Freedom of Information. The practical staff training in records management has not yet been finalised and that SFT is waiting for the implementation of the SharePoint Records Management Centre to take place so that the procedures</p>	<p>1:1 Training provided to staff responsible for the areas where In Place Records Management has been implemented across SharePoint.</p> <p>Further awareness sessions were run for all staff in June and July 2018 following live implementation of the In-Place Records Management process.</p> <p>EL12 – Evidence: Training Presentation Slides for:</p>	<p>Samples of training have been provided and the Assessment Team thanks SFT for this update. The Assessment Team has reviewed the training samples provided and considers that, if this were a statutory review, this evidence would be likely to be sufficient to move the RAG rating of evidence from Amber to Green.</p> <p>All SFT staff completed the eLearning module on</p>

				<p>for using this can be incorporated into any training. Discussions are underway with its corporate training provider with a view to developing records management training at induction and as part of a refresher programme. The Keeper requests that he is sent a sample of the training once it has been developed and rolled out.</p> <p>The Keeper can agree that SFT recognises the importance of records management and endeavours to ensure that staff have access to appropriate training. As part of this agreement, the Keeper requests that he is sent a sample of the training when it becomes available.</p>	<ul style="list-style-type: none"> • Data Protection (May 18) • FOI Refresher (Jan 18) • Records Management Awareness (Jun/Jul 18) <p>All staff communications</p>	<p>GDPR in May 2018. The updated Data Protection Policy, amended to take account of new data protection legislation, was also communicated to all staff in June 2018. The Assessment Team recognises the commitment to ensuring that relevant policies and training are updated when necessary, in this case as a result of changes to legislation.</p>
13. Assessment and Review	G	G	G	Update required on any change.	No Change	No immediate action required. Update required on any future change.
14. Shared Information	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 27 September 2018. The author of the progress update submission is Wendy Cliffe, Office Manager.

The progress update submission makes it clear that it is a submission for **Scottish Futures Trust**.

7. PRSA Assessment Team's Summary

The Assessment Team has reviewed **Scottish Futures Trust's** Progress Update submission and acknowledges the work undertaken to amend the retention schedule in relation to identifying records to be retained for permanent preservation. Further work will be required to ensure that the retention schedules are consistent in their approach. The Assessment Team would expect to see progress on these issues in future Progress Update submissions. The Assessment Team commends this authority's efforts to keep its Records Management Plan under review.

General Comments

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. Sufficient evidence has been provided to make it likely that the evidence status for elements 8, 9 and 12 would be moved to Green.

Scottish Futures Trust have encountered delays in the full implementation of the Business Classification Scheme due to operational priorities changing. The authority has stated its commitment to continue the implementation of the Business Classification Scheme and the Assessment Team looks forward to being updated on the progress of this work in future Progress Update submissions.

The separation of records which are specified in statute from related records which are not specified has produced practical anomalies in the retention schedules. It is logically inconsistent to destroy statutory VAT records after 10 years and yet retain related VAT correspondence indefinitely. It is also an inefficient use of storage and of staff time to retain any category of records "indefinitely". It presents the risk that information will be retained for longer than required including the risk that personal information is retained in contravention of the Data Protection Act 2018. There is a further risk that staff will make individual decisions deleting records held

“indefinitely”: individual decisions will result in inconsistency and a risk of non-compliance with the Freedom of Information (Scotland) Act 2002.

Scottish Futures Trust are taking seriously the requirements of the Data Protection Act 2018. They have understood that compliance with the Data Protection Act 2018 will contribute towards the statutory compliance with the Public Records (Scotland) Act 2011.

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.

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 **Scottish Futures Trust** are taking their responsibilities under the Public Records (Scotland) Act 2011 seriously.

- 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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Public Records Officer