

The Public Records (Scotland) Act 2011

Scottish Housing Regulator

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

20 September 2018

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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 the **Scottish Housing Regulator**. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Scottish Housing Regulator are an independent Non-Ministerial Department, directly accountable to the Scottish Parliament. Established on 1st April 2011 under the Housing (Scotland) Act 2010, they are the regulator of Registered Social Landlords (RSLs) and local authority housing services in Scotland. Their statutory objective is to "safeguard and promote the interests of current and future tenants of social landlords, people who are or may become homeless, and people who use housing services provided by RSLs and local authorities".

They regulate social landlords to protect the interests of people who receive services from them. They do this by assessing and reporting on:

- how social landlords are performing their housing services
- RSLs' financial well-being
- RSLs' standards of governance

They intervene to secure improvements where they need to.

The Scottish Housing Regulator also keep a register of all the RSLs in Scotland. The register holds information about each landlord and how they can be contacted.

The organisation is the successor to the previous Scottish Housing Regulator, an agency that exercised Scottish Ministers' powers under the Housing (Scotland) Act 2001.

<https://www.scottishhousingregulator.gov.uk/>

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 Housing Regulator

Element	Status of elements under agreed Plan, October 2015	Status of evidence under agreed Plan, October 2015	Progress assessment status, 2018	Keeper's Report Comments on Authority's Plan, October 2015	Self-assessment Update as submitted by the Authority since October 2015	Progress Review Comment, 2018
1. Senior Officer	G	G	G	Update required on any change	No change.	No immediate action required. Please advise on any future change.
2. Records Manager	G	G	G	Update required on any change	No change.	No immediate action required. Please advise on any future change.
3. Policy	G	G	G	Update required on any change	No change.	No immediate action required. Please advise on any future change.
4. Business Classification	G	G	G	The Scottish Housing Regulator is developing its own SharePoint system and once this is fully operational it is anticipated that records such as 'Case Files' and information on regulated bodies will be migrated from the eDRMS on which they are currently stored to this SharePoint system.	Share point is fully operational and we have updated our Business Classification Scheme accordingly. An updated copy is attached.	This update is noted with thanks. The Business Classification Scheme provides an overview of the range of files in use: the full details of subject folders are available to users of both SharePoint and the eDRMS. Changes to this Element are to be expected and the

				Once the new system is ready to go live the authority will update its Business Classification Scheme to explain where records are held. The Keeper commends this initiative and requests updates under this element as this work progresses.		authority is commended for maintaining a good standard.
5. Retention Schedule	G	G	G	Update required on any change	<p>We have applied our retention policy to the historic paper files that we held at the time of writing our Records Management Plan. We have also moved to holding 'electronic only' records, except where hard copies are required for legal purposes.</p> <p>We have also now disposed of the historic information held on our shared G:drive, and are in the final stages of migrating a small number of records that need to be kept from the G:drive to eRDM.</p>	This update is noted with thanks. The progress shown in dealing with the backlog of older paper files is good practice and the decision to move to a predominantly electronic record-keeping environment appears to have been managed sensibly.
6. Destruction Arrangements	G	G	G	Update required on any change	No change to destruction arrangements.	No immediate action required. Please advise on any future change.

7. Archiving and Transfer	G	G	G	Update required on any change	No change.	No immediate action required. Please advise on any future change.
8. Information Security	G	G	G	Update required on any change	No change. We continue to raise staff awareness of information security risks and require staff to undertake mandatory annual e-learning. We are enhancing our approach to cyber-security in line with the public sector action plan.	This continuing commitment to staff training and proactive approach to cyber-security is welcome.
9. Data Protection	G	G	G	Update required on any change	In preparation for GDPR, we have appointed a Data Protection Officer. She has worked through an action plan and we are confident we are compliant ahead of 25 May 2018. Our Information Management Group, made up of our SIRO and IAOs, is working with our DPO and monitoring progress.	GDPR compliance is a high priority and appointing a Data Protection Officer meets the requirement in s69 of the Data Protection Act 2018. It is good to see that this is being taken further than the basic requirement and that the DPO is working with the Information Management Group. The authority has clearly taken its obligations seriously and this augurs well for continued compliance in this Element.
	G	G	G	Update required on any change	No change.	No immediate action

10. Business Continuity and Vital Records				change		required. Please advise on any future change.
11. Audit Trail	A	G	G	<p>The paper records catalogue does not allow detailed analysis of record movement. The authority is therefore committed to developing a paper filing system which allows the tracking of records and identifies whether files have been destroyed or transferred to the National Records of Scotland (NRS). The Keeper welcomes this initiative and requests that he is kept updated as progress on this project continues.</p> <p>The Keeper agrees this element of the Scottish Housing Regulator's plan on 'Improvement Model' terms. This means that he acknowledges that the Regulator have identified a gap in their records management provision (paper records catalogue does not track</p>	<p>As explained above, we have applied our retention policy to our historic paper files and moved to electronic files only (except where hard copies are required for legal reasons).</p> <p>We only have a small quantity of remaining paper files. We maintain a list of these files, and have established a system for staff to log them in and out, to track movement.</p>	<p>The authority has made good progress in this element by establishing a system of tracking the movement of paper records and by applying retention schedules to the paper files. As noted above, the decision to move to a predominantly electronic record-keeping environment appears to have been managed sensibly. Evidence of the tracking system for paper files has been provided along with a sample of the register of paper records, closing the gap identified at the time of the Keeper's agreement of the Records Management Plan.</p> <p>If this were a statutory review it is likely that the RAG rating of this Element would now move to Green.</p>

				movement, destruction etc.). The Keeper agrees that the Regulator have committed to projects that seem likely to close that gap. The Keeper agrees this element on condition that he is kept updated as the project continues.		
12. Competency Framework	G	G	G	The Scottish Housing Regulator shows a strong commitment under this element to staff training and development. The Keeper would be happy to receive updates on any new training programmes introduced by the authority.	We carried out staff training in relation to GDPR in April 2018.	This update is noted with thanks.
13. Assessment and Review	G	G	G	The authority has indicated that it intends to review a number of key policies and documents in 2017 as well as conduct bi-annual reviews of the RMP. The latter review will be carried out by the SIRO and the findings reported back to the Executive Team. A programme of internal audit, which covers information	We have adjusted the emphasis of our records management activity in the period since submitting our plan in 2015 – from policy review to making practical improvements, Our successive office moves became the prime driver of our records management work.	This update is noted with thanks. The use of Internal Audit as a method of reviewing record-keeping arrangements is good practice. It is very positive to see that the practical benefits of good record-keeping are being realised and that this is encouraging the authority to continue to make progress. The authority is to be

				<p>management, will include an 'information assurance review' in 2016/17.</p> <p>The Keeper welcomes these planned reviews and requests that he is provided with updates on the findings of such internal assessments, especially where they result in changes to record management arrangements.</p>	<p>We have made significant strides destroying historic hard copy and legacy electronic records. We have also carried out significant preparation work for GDPR, and are currently considering cyber-resilience initiatives. These have been resource-intensive processes with positive practical benefits for our records management approach.</p> <p>During that period we did make adjustments in records management policies (such as our retention schedules and incident response plans). But as a result of this high level of practical improvement activity, we rescheduled the review of the RMP and will now undertake it in 19/20</p> <p>Internal Audit reviewed our approach to information assurance in 2016/17 and gave substantial assurance.</p>	<p>commended on its initiative in keeping its record-keeping practices under review.</p>
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					A few minor recommendations were made, which we implemented in 2017/18.	
14. Shared Information	G	G	G	Update required on any change	No change.	No immediate action required. Please advise on any future change.

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 4 June 2018 and updated with additional evidence on 5 September 2018. The author of the progress update submission is Susan Campbell, Head of Planning and Performance.

The progress update submission makes it clear that it is a submission for the **Scottish Housing Regulator**.

7. PRSA Assessment Team's Summary

The Assessment Team has reviewed the Scottish Housing Regulator 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 Scottish Housing Regulator has made good progress in developing practical record-keeping improvements since the Records Management Plan was agreed by the Keeper in 2015. There is continuing improvement of the Elements which were already in full compliance in 2015 and the authority clearly recognises that good record-keeping practices are not static and require regular updating.

There has been good progress in addressing the gap in provision for Element 11 identified in 2015 with the development of a tracking system for the movement of paper files. Consolidating information held into electronic records is a business decision for the authority: in this case it clearly has assisted with streamlining the record-keeping practices, has enabled a focus on reducing the quantity of legacy paper records and has made it easier to develop a tracking system for those paper records the authority requires to retain.

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 RAG status for Element 11 would move to Green if this were a statutory review.

The Team commends the progress evident in this work and would welcome updates on these projects in future PUR submissions.

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 the **Scottish Housing Regulator** 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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