

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

## **Loch Lomond and the Trossachs National Park Authority**

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

**18<sup>th</sup> March 2020**

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## 1. Public Records (Scotland) Act 2011

The Public Records (Scotland) Act 2011 (the Act) received Royal Assent on 20 April 2011. It is the first new public records legislation in Scotland since 1937 and came into force on 1 January 2013. Its primary aim is to promote efficient and accountable record keeping by named Scottish public authorities.

The Act has its origins in *The Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950-1995* (The Shaw Report) published in 2007. The Shaw Report recorded how its investigations were hampered by poor recordkeeping and found that thousands of records had been created, but were then lost due to an inadequate legislative framework and poor records management. Crucially, it demonstrated how former residents of children's homes were denied access to information about their formative years. The Shaw Report demonstrated that management of records in all formats (paper and electronic) is not just a bureaucratic process, but central to good governance and should not be ignored. A follow-up review of public records legislation by the Keeper of the Records of Scotland (the Keeper) found further evidence of poor records management across the public sector. This resulted in the passage of the Act by the Scottish Parliament in March 2011.

The Act requires a named authority to prepare and implement a records management plan (RMP) which must set out proper arrangements for the management of its records. A plan must clearly describe the way the authority cares for the records that it creates, in any format, whilst carrying out its business activities. The RMP must be agreed with the Keeper and regularly reviewed.

## 2. Progress Update Review (PUR) Mechanism

Under section 5(1) & (2) of the Act the Keeper may only require a review of an authority's agreed RMP to be undertaken not earlier than five years after the date on which the authority's RMP was last agreed. Regardless of whether an authority has successfully achieved its goals identified in its RMP or continues to work towards them, the minimum period of five years before the Keeper can require a review of a RMP does not allow for continuous progress to be captured and recognised.

The success of the Act to date is attributable to a large degree to meaningful communication between the Keeper, the Assessment Team, and named public authorities. Consultation with Key Contacts has highlighted the desirability of a mechanism to facilitate regular, constructive dialogue between stakeholders and the Assessment Team. Many authorities have themselves recognised that such regular communication is necessary to keep their agreed plans up to date following inevitable organisational change. Following meetings between authorities and the Assessment Team, a reporting mechanism through which progress and local initiatives can be acknowledged and reviewed by the Assessment Team was proposed. Key Contacts have expressed the hope that through submission of regular updates, the momentum generated by the Act can continue to be sustained at all levels within authorities.

The PUR self-assessment review mechanism was developed in collaboration with stakeholders and was formally announced in the Keeper's Annual Report published on 12 August 2016. The completion of the PUR process enables authorities to be credited for the progress they are effecting and to receive constructive advice concerning on-going developments. Engaging with this mechanism will not only maintain the spirit of the Act by encouraging senior management to recognise the need for good records management practices, but will also help authorities comply with their statutory obligation under section 5(1)(a) of the Act to keep their RMP under review.

### 3. Executive Summary

This Report sets out the findings sections of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for Loch Lomond and the Trossachs National Park Authority. The outcome of the assessment and relevant feedback can be found under 6 – 8.

### 4. Authority Background

Loch Lomond & The Trossachs National Park was created in July 2002 under the National Parks (Scotland) Act 2000 to safeguard an area of outstanding and diverse landscapes, habitats and communities, parts of which were coming under severe visitor and recreational pressures. The 2000 Act set out four National Park aims, to: Conserve and enhance the natural and cultural heritage of the area; Promote sustainable use of the natural resources of the area; Promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public and Promote sustainable social and economic development of the area's communities.

The aims of the Authority are delivered through three distinct areas of activity: Conservation, Visitor Experience and Rural Development, all of which are supported by enabling service areas.

<http://www.lochlomond-trossachs.org/park-authority/>

### 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: Loch Lomond and the Trossachs National Park Authority**

<b>Element</b>	<b>Status of elements under agreed Plan 01SEP17</b>	<b>Status of evidence under agreed Plan 01SEP17</b>	<b>Progress assessment status 18MAR20</b>	<b>Keeper's Report Comments on Authority's Plan 01SEP17</b>	<b>Self-assessment Update as submitted by the Authority since 01SEP17</b>	<b>Progress Review Comment 18MAR20</b>
1. Senior Officer	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	The strategic responsibility for records management lies with Pete Wightman, Director of Corporate Services. The day to day work in managing processes, delivering training and updating policies associated with records management continues to be the responsibility of the Information Officer Laura Baird.	Thank you for this update which has been noted.
2. Records Manager	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change to the information for this element.	No immediate action required. Update required on any future change.
3. Policy	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change to the information for this element.	No immediate action required. Update required on any future change.

4. Business Classification	G	G	G	Update required on any change.	Minor revisions have been made to the folder structure of the shared drive which the business classification is based on.	No immediate action required. Update required on any future change.
5. Retention Schedule	G	G	G	Update required on any change.	An update to the retention schedule was undertaken in 2018, specifically checking the retention timescales for personal data in advance of the implementation of new Data Protection legislation.	In their original submission LLTNPA committed to keep its information governance policy documents under review and the Assessment Team acknowledge that this is being done.  There is a recognition that a retention schedule is a 'living document' and will be subject to continual minor change year on year.
6. Destruction Arrangements	G	G	G	<u>Electronic:</u> The Information Officer ( <b>see element 2</b> ) works with local business areas to ensure the regular destruction of electronic records according to the <i>Retention Schedule</i> . The routine destruction of electronic records held on shared drives (and therefore not automatically deleted) is a problem for many Scottish public authorities. It appears	Discussion ongoing with ICT manager for potential changes to the time period for server back-up tapes to be retained. Changes will be presented to the senior management team for approval prior to implementation. The Information Officer continues to advise teams on probative weeding of records, and on the implementation of retention periods at the time information is	Thank you for this update.  New data protection legislation has indeed raised awareness of records management in the public sector and it is interesting that LLTNPA have also used this development to strengthen what was already a robust element in their plan.



				that Loch Lomond and the Trossachs National Park Authority is satisfied that the personal involvement of the Information Officer in this process will suffice (at least in the short-term). With a single shared drive covering the entire organisation this may prove adequate. <b>However, the Keeper will be interested in updates regarding this procedure going forward.</b>	being gathered or created. The requirements of the GDPRs have proved useful in raising staff awareness of this.	There is no right answer as to how long back-up copies should be kept for business continuity purposes (although there must be a limit as regards usefulness – and if it's no longer useful DP 5 <sup>th</sup> principle kicks in).  In order that he can agree this element the Keeper must be confident that an authority has clear understanding of the back-up process, and therefore the availability of a public record beyond its retention period.
7. Archiving and Transfer	A	G	A	<b>The Keeper agrees this element of Loch Lomond and the Trossachs National Park Authority's <i>Records Management Plan</i> on 'improvement model' terms. This means that he acknowledges that the authority, having identified a gap in provision, have put processes in place to close that gap, in this case by formalising an MOU to secure archiving arrangements. The Keeper's agreement is conditional on his receiving a copy of the</b>	Work undertaken on formalising a Memorandum Of Understanding (MOU) delayed by revision to the NRS template MOU to ensure compliance with changes to data protection legislation. Most recent contact with team at NRS in November 2019 to progress this work.	The Assessment Team acknowledge that there has been a delay at NRS regarding getting MoUs signed off.  As suggested in the PUR, the National Records of Scotland have recently rolled-out a new, GDPR compliant, MoU. Organisations depositing their records with NRS for permanent preservation are encouraged to engage with the new version.

				signed MOU when it becomes available.		In order to expedite this for your authority, the Assessment Team suggests that you e-mail the lead officer in the NRS client management unit: <a href="mailto:neil.miller@nrscotland.gov.uk">neil.miller@nrscotland.gov.uk</a> asking to be sent the new MoU for consideration and sign-off. Neil will let you know who your client manager is and has indicated to the Assessment Team that he is happy to prioritise MoU's for authorities looking to submit the new version as evidence in element 7 of their Records Management Plan. This is particularly relevant in your case where, unusually, element 7 remains the only 'amber' element of the plan.
8. Information Security	G	G	G	Update required on change.	ICT Policy revised and updated in 2018.	In their original submission the Park Authority committed to keeping its information governance policies and guidance under review. The Assessment Team acknowledge that this is being done.
	G	G	G	Update required on any change.	Data Protection Policy revised and updated to comply with	As with all other Scottish public authorities Loch Lomond and the

9. Data Protection					changes to legislation in 2018. New Data Protection Procedure created to include all new processes required to comply with changes to legislation. External auditors completed a data protection audit and made no recommendations.	Trossachs National Park Authority have been required to review and update their data protection procedures in light of the 2018 legislation.  The Assessment Team acknowledges that the public facing Park Authority's website has been updated appropriately <a href="https://www.lochlomond-trossachs.org/privacy-cookie-policy/">https://www.lochlomond-trossachs.org/privacy-cookie-policy/</a>
10. Business Continuity and Vital Records	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change to this element.	No immediate action required. Update required on any future change.
11. Audit Trail	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Work scheduled for completion of an update to Naming Conventions and Version Control guidance, currently in draft.	Again this shows anecdotal evidence that information governance policies and staff guidance are routinely reviewed and, where necessary, upgraded.  The Assessment Team is confident that, while waiting for the new version to be rolled out, staff in the authority are operating the

						old version which was agreed as suitable by the Keeper in 2017.
12. Competency Framework	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	The Information Officer achieved accreditation status with the Information and Records Management Society in April 2019.	<p>The Keeper expects to see evidence that staff creating, or otherwise processing records, are appropriately trained and supported.</p> <p>In 2017 the Keeper agreed that the staff of the authority were appropriately trained and there is no indication that this has changed.</p> <p>The Assessment Team note the recent professional qualification gained by the Information Officer. Congratulations Laura!</p>
13. Assessment and Review	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Updates on the RMP and associated policies continue to be submitted to the Park Authority's Audit Committee. External auditors reviewed the new processes implemented to comply with changes to data protection legislation and made no recommendations.	<p>It is a requirement of the Public Records (Scotland) Act 2011 that "An authority must— (a) keep its records management plan under review" (PRSA Part 1 5.1.a.)</p> <p>It is clear that this authority is pursuing this aspect of the plan appropriately.</p>

						<p>The authority's participation in the PUR process demonstrates a commitment to reviewing its RMP.</p> <p>The Assessment Team notes the use of auditors, independent of the IG Team (and in this case external to the authority), in reviewing information governance provision in a public authority. This is highly commended.</p> <p>As with other elements in the plan it is clear that the procedures and policies are routinely reviewed and, where necessary, upgraded. This maintenance is vital to the continuing success of a records management programme and it seems clear that the resources are made available in LLTNPA to pursue this.</p>
14. Shared Information	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Data sharing agreements with external parties have been reviewed to make any changes required to comply with changes to data protection legislation. This work is ongoing.	<p>Thank you for this update.</p> <p>As with other elements in the plan it is clear that the procedures and policies are routinely reviewed and, where necessary, upgraded.</p>
15. Public records				New element	The Information Officer participated in the working group	Thank you for engaging with this new 15 <sup>th</sup> element. This is not

<p>created or held by third parties</p>					<p>which completed a review of all elements of the RMP in 2018. Work is ongoing to identify any records which would fall within the scope of this element.</p>	<p>necessary for a PUR, as it did not form part of the structure of the original plan. However, as the authority has correctly identified, it will be an official part of the Model Plan framework going forward and will need to be addressed in any resubmission.</p> <p>The Assessment Team are also working on element 15 at time of PUR and will produce guidance shortly.</p> <p>The Assessment Team acknowledge that the Park Authority Information Officer was part of the Stakeholder Forum that worked on the development of the element. We are grateful for your assistance.</p>
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## 7. The Public Records (Scotland) Act Assessment Team's Summary

### Version

The progress update submission which has been assessed is the one received by the Assessment Team on 10<sup>th</sup> December 2019. The progress update was submitted by Laura Baird, Information Officer.

The progress update submission makes it clear that it is a submission for **Loch Lomond and the Trossachs National Park Authority**.

### PRSA Assessment Team's Summary

The Assessment Team has reviewed Loch Lomond and the Trossachs National Park Authority'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

Loch Lomond and the Trossachs National Park Authority continues to take its records management obligations seriously and is working to bring all elements into full compliance.

Section 5(2) of the Public Records (Scotland) Act 2011 provides the Keeper of the Records of Scotland (the Keeper) with authority to revisit an agreed plan only after five years has elapsed since the date of agreement. Section 5(6) allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates.

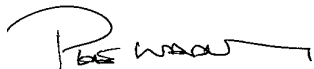
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that **Loch Lomond and the Trossachs National Park Authority** 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