

The Public Records (Scotland) Act 2011

State Hospitals Board for Scotland (Carstairs)

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

11th 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 of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for State Hospitals Board for Scotland (Carstairs). The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

In 1994 legislation went through Parliament to bring The State Hospital legally into the National Health Service in Scotland as a Special Health Board - The State Hospitals Board for Scotland - accountable to Scottish Ministers through the Scottish Government. The State Hospital is one of four high secure hospitals in the UK. Located in South Lanarkshire in central Scotland, it is a national service for Scotland and Northern Ireland. 75.5% of the patients are 'restricted' patients within the jurisdiction of Scottish Ministers. That is a patient who because of the nature of his offence and antecedents, and the risk that as a result of his mental disorder he would commit an offence if set at large, is made subject to special restrictions without limit of time in order to protect the public from serious harm.

<http://www.tsh.scot.nhs.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: State Hospitals Board for Scotland (Carstairs)

Element	Status of elements under agreed Plan 31JUL17	Status of evidence under agreed Plan 31JUL17	Progress assessment status 20JAN20	Keeper's Report Comments on Authority's Plan 31JUL17	Self-assessment Update as submitted by the Authority <u>since</u> 31JUL17	Progress Review Comment 20JAN20
1. Senior Officer	G	G	G	Update required on any change.	New Chief Executive in post – NRS notified 02/04/19. (<i>Email attached - 1</i>)	Thank you for this update. The change of identified individual has already been noted. The Assessment Team acknowledge the receipt of the <i>Change of lead for Records Management Plan (RMP)</i> e-mail.
2. Records Manager	G	G	G	Update required on any change.	No changes made.	No immediate action required. Update required on any future change.
3. Policy	A	G	G	The Board have a <i>Management, Retention & Disposal of Administrative Records Policy</i> which has been supplied to the Keeper. This is version 1.0. dated February 2007. However, the Board have stated "The current Administrative Records Policy is outdated and requires some work to	Administrative Records Policy was updated in April 2017 (<i>Copy attached - 2</i>). The update of the Clinical Records Policy was on hold awaiting the updated Records Management Code of Practice from Scottish Government.	In 2017 the Keeper agreed this element of the State Hospital's Records Management Plan under 'improvement model' terms awaiting the completion and implementation of an updated <i>Administrative Records Policy</i> . The Assessment Team is pleased to

				<p>bring it up to an acceptable standard. This work has begun and will be completed in 2017.” This work features in the Action Plan against this element (and against element 5). The Keeper agrees this action and requests that he is sent the updated Policy when it becomes available. The Board have committed to do this.</p> <p>The Keeper is able to agree this element of the Board’s <i>Plan</i> under improvement model terms. This means that the authority has identified a gap in their records management provision (the administrative records policy is out-of-date) and have put processes in place to close that gap. The Keeper’s agreement is conditional on his being updated as the new <i>Administrative Records Policy</i> becomes available.</p> <p>The <i>Health Records Policy and Procedures</i> was due for review by June 2017.</p>	<p>Work has begun on a Records Management Policy incorporating both clinical and administrative records. This will be forwarded to NRS on completion.</p>	<p>recognise that this has now been done.</p> <p>The Assessment Team acknowledge the receipt of <i>Management Retention Disposal of Administration Records</i> (issue 02).</p> <p>If this was a formal re-submission it is likely that this element of the Plan would turn from Amber to Green.</p> <p>The Keeper has been kept appraised of the development of an updated <i>Code of Practice</i> through the NHSS Forum and accepts that the State Hospital will adopt that Code when it is available.</p> <p>The Assessment Team notes that the authority is pursuing a <i>Records Management Policy</i> and looks forward to updates on this in subsequent PURs.</p>
4. Business Classification	A	G	A	<p>The Board states (<i>Plan</i> page 10): The intention is to create a hospital-wide system which will</p>	<p>A Records Survey is being carried out throughout the Hospital – this has taken longer</p>	<p>In the previous update the State Hospital indicated that they were pursuing an <i>Information Asset</i></p>

				<p>incorporate all departments and systems. It is recognised that this is a huge undertaking and will take time and resources to put in place, however commitment is there to see this project through” - N.B. the Chief Executive has signed the <i>Plan</i> and therefore can be directly associated with this commitment. The Board have provided a small sample of how this system might look (from the finance department). The Keeper agrees that, with an organisation the size of the State Hospital, it is inevitable that progress will be made on an incremental basis. The Board have separately informed the Keeper that Work is underway although at a very early stage. The Keeper will expect to see continual progress over the next year or so.</p> <p>The Keeper is able to agree this element of the State Hospital Board for Scotland’s Records Management Plan under ‘improvement model’ terms. This means that the authority has identified a gap in their records management provision (No formal, hospital-wide, business classification scheme), but have put processes in place to close</p>	<p>than expected due to resourcing issues (small numbers of staff involved, and also workload of departments being surveyed). However, some headway has been made and the beginnings of an Information Asset Register are in place. This is being built upon, with Records Survey forms being completed throughout the site and collated by the Health Records Department.</p> <p>The survey is incorporating information on both electronic and physical records, and is also taking into account retention and destruction periods for future management.</p> <p>It is recognised that the process of identifying records held by the Hospital is essential for good records management and discussions are currently ongoing re resources in this area.</p>	<p><i>Register</i> structure around the management of their public records. This work is underway. Once complete the <i>Information Asset Register</i> will need to be populated at a local level (the involvement of local business areas in the work is vital). The Assessment Team looks forward to updates in subsequent PURs.</p> <p>This element remains at Amber while this work is ongoing.</p> <p>The Keeper is aware that NHS Boards are migrating their systems to a O365 solution. This is bound to be incremental and take several years to bed-in properly. The Assessment Team acknowledge that the State Hospital are likely to be part of major project.</p>
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				that gap. The Keeper's agreement is conditional on his being updated on the progress of the improvement plan explained above.		
5. Retention Schedule	G	G	G	Update required on any change.	Part of ongoing work as in Element 4 above.	<p>The <i>NHS Code of Practice</i> is the key source for retention decisions and, as noted above, this <i>Code</i> is being updated at the moment.</p> <p>It is suggested in the PUR that the State Hospital will include retention decisions in its <i>Information Asset Register</i>. This is to be commended as liable to create a stronger business tool.</p>
6. Destruction Arrangements	G	G	A	<p>Electronic Records: The <i>Plan</i> states "There are no formal arrangements in place currently for the destruction of electronic data..." but goes on to commit the Board to "Look at how electronic data should be destroyed in line with the <i>Business Classification Scheme</i>." This latter statement is lifted from the Action Plan against this element. The Keeper agrees this action. The development of a hospital-wide solution for</p>	<p>Twice yearly bulk shreds are taking place with paper records from around the Hospital being destroyed in line with guidance. (<i>Documentation attached - 3</i>)</p> <p>Appraisal of physical patient records is ongoing with some being agreed for destruction.</p> <p>Electronic records are being considered as part of the records survey (Element 4) and structures are being built into shared drive areas to better</p>	<p>The Keeper agreed the State Hospital Board's original Records Management Plan on an improvement model basis partly on the grounds that the authority could not be confident that staff were destroying digital records at the end of their retention periods. He was convinced that processes were in place to remedy this. The Assessment Team note that the authority does not yet appear to be compliant in this element.</p>

				<p>electronic records (see element 4) will greatly assist this aspect of destruction. Monitoring the imposition of retention decisions (see element 5) will be fundamental in mapping the success of this project.</p> <p>The Keeper is able to agree this element of the State Hospitals Board's Records Management Plan on improvement model terms. This means that an authority has identified a gap in their records management provision (in this case that electronic records are not universally destroyed at the end of their retention period), but have put processes in place to close that gap. The Keeper's agreement is conditional on his being updated as the project explained in element 4 is progressed.</p>	<p>organise data to allow organised destruction.</p> <p>Discussions are at an early stage re information for destruction which is also held on back up.</p>	<p>However, they acknowledge that steps are being taken to improve control of digital records held on shared drives.</p> <p>Clearly, if all the public records of the authority are managed on the O365 system (see element 4) the routine and controlled destruction of electronic records should be more robust. However, this functionality will probably not be universally operational for some time. In the meantime it will remain important that staff are correctly prompted to destroy records appropriately. The example of the paper record bi-annual shredding programme shows that the State Hospital are pursuing this.</p> <p>This element remains at Amber while this work is ongoing.</p> <p>The Assessment Team acknowledge the receipt of evidence of shredding.</p>
7. Archiving and Transfer	G	G	A	<p>The Keeper agrees this element of The State Hospitals Board for Scotland's <i>Records Management Plan</i> under 'improvement model' terms.</p>	<p>Appraisal of patient records is ongoing, with some being allocated for destruction and others for permanent preservation (this will go to NRS)</p>	<p>The Keeper agreed the original submission from the State Hospital under 'improvement model' terms for this element. This was because</p>

				<p>This means that he acknowledges that the authority has identified a gap in provision [there is no formal transfer agreement with the archive] and have put processes in place to close that gap. The Keeper's agreement is conditional on his PRSA Assessment Team being provided with a copy of the signed MOU when available.</p>	<p>and Memorandum of Understanding will be signed when this is going to take place).</p> <p>Plans are underway for a mini-archive facility in the Health Records Department of The State Hospital for any records which are deemed to be for permanent preservation but which NRS cannot take.</p> <p>Web archiving is now being undertaken by NRS on a twice yearly basis.</p>	<p>although they had identified a suitable repository for public records selected for permanent retention (NRS), they had not yet secured a formal agreement for the transfer of records.</p> <p>The Assessment Team acknowledge that the authority has taken steps to pursue an MoU with NRS (including a site visit by NRS client managers) and look forward to an update in subsequent PURs.</p> <p>This element remains at Amber.</p>
8. Information Security	G	G	G	<p>Update required on any change.</p> <p>The <i>Hospital Access & Egress Procedure</i> was due for review by May 2017.</p> <p>The <i>Incident Reporting and Review Policy</i> was due for review before September 2018.</p> <p>The <i>Information & Network Security Policy Pack</i> was due for review by January 2019.</p> <p>The <i>Safe Use of Medicines Policy and Procedures</i> is due for review by November 2019.</p>	<p>Hospital Access and Egress Procedure was updated on 17/07/18 (review date 01/05/20). (Copy attached - 4)</p> <p>Incident Reporting and Review Policy was updated in November 2017 (review date November 2020). (Copy attached - 5)</p> <p>INSPP – awaiting update</p> <p>Safe Use of Medicines Policy is still current and in use.</p> <p>Technology and Electronic Devices within The State Hospital Policy – has been</p>	<p>In their original submission the State Hospital committed to keep its information governance policy documents under review and the Assessment Team acknowledge that this is being done.</p> <p>The Assessment Team acknowledge receipt of <i>The State Hospital Access and Egress Procedure</i> (issue 2 2018); <i>Incident Reporting and Review Policy</i> (issue 6 2017) and <i>Mobile Device Policy</i> (issue 1 2019). These documents will be retained in order that the State Hospital's</p>

				<p><i>The Technology and Electronic Devices Within The State Hospital</i> policy should have been reviewed by February 2016. The Board stated in 2017: "This is the most current, up to date policy. It has been noted that it requires updated and this will be taken forward by eHealth staff."</p>	<p>replaced by the Mobile Devices Policy dated 21/06/19 (review date 21/06/22) (Copy attached - 6)</p> <p>Named Data Protection Officer is now in place.</p> <p>DPIAs – awareness raising taking place and being completed where appropriate.</p>	<p>submission can be kept up-to-date.</p>
9. Data Protection	G	G	G	<p>The <i>Data Protection Policy and Procedures</i> was due for review by April 2017.</p> <p>The Assessment Team would expect to see a GDPR update here.</p>	<p>Data Protection Policy updated 01/10/18 (for review 01/10/21) (Copy attached - 7)</p> <p>Named DPO now in place.</p>	<p>As with all other Scottish public authorities the State Hospital Board have been required to review and update their data protection procedures in light of the 2018 legislation.</p> <p>The Assessment Team notes that the public-facing website references data protection/privacy: https://www.tsh.scot.nhs.uk/Contact_Us/index.htm#access</p> <p>The Assessment Team note that they have received the <i>Data Protection Policy</i> (issue 7 2018).</p> <p>The Assessment Team note the additional training opportunities relating to Impact Assessments available to key information</p>

						governance staff in the State Hospital.
10. Business Continuity and Vital Records	G	G	A	Update required on any change. A requirement to test the Business Continuity Arrangements is stated in the I.T. Policy section 1.8.	Existing BCP is out of date and is currently being updated. Will be forwarded to NRS on completion.	As the Business Continuity Plan has now lapsed this element becomes Amber while the update is being prepared. The Keeper agreed that the submitted <i>Business Continuity Plan</i> (version 3) adequately provided for the recovery of records and the Assessment Team is confident that the new version, when approved and operational will do the same. The element should therefore revert to Green at the next PUR update.
11. Audit Trail	A	G	A	The Keeper agrees this element of the Board's Plan under 'improvement model' terms. This means that the authority has identified a gap in provision (in this case that controlled record tracking is limited by the absence of a Business Classification/File Plan), but the Keeper is convinced that they have	Records Survey work is ongoing (Element 4) and audit trail forms part of this work.	The Keeper agreed the original submission on 'improvement model' grounds. That is to say the authority had recorded a gap in provision and was taking steps to close that gap. This was bound to be incremental and the Assessment Team is

				<p>instigated processes to close that gap (see element 4). The Keeper's agreement is conditional on his being updated as the project explained in element 4 is progressed.</p>		<p>pleased to acknowledge that steps have been taken as agreed.</p> <p>However, it is vitally important that staff correctly name records at time of creation for any system that does not impose this. Similarly, version control instructions are key.</p> <p>It is important that any organisation can be confident that they can find a record when required and identify the correct version of that record. The Assessment Team acknowledge that the State Hospital are pursuing this objective. The creation of a clear structure (see element 4) will be a significant step forward.</p> <p>The O365 migration should greatly increase the control over document tracking although it will take some time for this to be universally applied in the authority. However, in the short term the Assessment Team would expect the populated <i>Information Asset Register</i> to strengthen this element. (For comments</p>
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						<p>regarding the O365 migration and the Information Asset Register see element 4 above).</p> <p>Once the <i>Information Asset Register</i> is rolled out, the creation and roll-out of staff guidance would seem to be the next vital step and the Assessment Team looks forward to updates on progress in subsequent PURs.</p> <p>This element remains at Amber.</p>
12. Competency Framework	G	G	G	Update required on any change.	<p>Staff have undertaken further training – Health Records Manager has obtained IHRIM Diploma, Health Records Assistant has obtained IHRIM Certificate. Some hospital staff have gained the CTC, and a further CTC course is planned for December 2019.</p> <p>Online training is being updated and refresher training is mandatory every year.</p>	<p>The Assessment Team thanks the State Hospital for this update which we have noted.</p> <p>Congratulations on your new qualifications.</p> <p>The Keeper expects to see evidence that Staff creating, or otherwise processing records, are appropriately trained and supported.</p> <p>There is clear evidence that the State Hospital take this aspect of their records management provision seriously.</p>

13. Assessment and Review	G	G	G	<p>The Board intend to involve their Clinical Effectiveness (internal audit) team in reviewing particular elements of the <i>Plan</i> and this team's worksheet has been provided showing that retention and destruction will be reviewed in the winter of 2017. The Keeper notes that this proposal is 'draft' at the moment. However, he accepts that this probably relates to timing rather than intention. That said, he requires the Board to inform him if this self-assessment mechanism does <u>not</u> proceed.</p>	<p>Clinical Effectiveness have not been formally involved yet – this will follow the records survey work as in Element 4.</p> <p>Records Management is a standing agenda item for the Information Governance Group, and is discussed at the Freedom of Information Committee on a regular basis. Records Management information is included in annual reports from these groups which is taken to the Senior Management Team/Board Meetings. The PUR will be discussed at the SMT meeting prior to submission.</p>	<p>The Assessment Team note that, due to the State Hospital's records management systems still being something of a work in progress (see element 4), internal audit (Clinical Effectiveness) have not yet carried out their survey of the provision. This is understandable and the Assessment Team looks forward to updates in subsequent PURs.</p> <p>In the meantime the review reporting structure continues as agreed by the Keeper in 2017.</p>
14. Shared Information	G	G	G	<p>Update required on any change.</p> <p>The <i>Information sharing between The State Hospital & the Police</i> document was due for review by June. The Board stated in 2017: "This is the most current, up to date policy. It has been noted that it requires updated and this will be taken forward by eHealth staff."</p>	<p>The Information Sharing with the Police Policy is out of date – discussions have been held and this policy was felt to be unsuitable and should be split into two new policies. This work is currently being carried out by the Caldicott Guardian and Director of Security. These will be forwarded to NRS on completion.</p> <p>Further Information Sharing Agreements have been signed.</p> <p>Staff from The State Hospital are involved in national groups working on data sharing</p>	<p>Thanks you for the update regarding the data sharing agreement with the Police. It is understandable that, at any given time, individual agreements may be up for review. The Keeper will, of course, be interested in receiving a copy of the new updated agreement when appropriate but, for the moment, this element remains at Green.</p> <p>The Assessment Team is satisfied that there remains a clear understanding of information</p>

					agreements and these will be implemented as appropriate.	governance issues when the State Hospital enters into information sharing projects with external parties.
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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 7th October 2019. The progress update was submitted by Karen Mowbray, Health Records Manager.

The progress update submission makes it clear that it is a submission for **State Hospitals Board for Scotland (Carstairs)**.

PRSA Assessment Team's Summary

The Assessment Team has reviewed State Hospitals Board for Scotland (Carstairs)'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

State Hospitals Board for Scotland (Carstairs) 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.

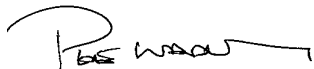
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that **State Hospitals Board for Scotland (Carstairs)** 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