

The Public Records (Scotland) Act 2011

Standards Commission for Scotland

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

7th January 2022

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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 Standards Commission for Scotland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Standards Commission for Scotland was established under the Ethical Standards in Public Life etc. (Scotland) Act 2000. The Standards Commission's functions as provided for by the 2000 Act are to:

- Issue guidance to councils and devolved public bodies to assist them in promoting high standards of conduct.
- Receive reports from the Ethical Standards Commissioner (ESC) on the outcome of her investigations and determine whether to direct the ESC to carry out further investigations, to hold a Hearing or to take no action.

Where the Standards Commission decides to hold a Hearing, its functions are to:

- Determine whether a councillor or member of a devolved public body has contravened the Councillors' or the Members' Code.
- Determine the sanction to be applied where, following a Hearing, the Panel find that a councillor or member has breached the relevant Code.

The Scottish Parliamentary Commission and Commissioners etc. Act 2010 provided that, with effect from 1 April 2011, the Standards Commission is supported by the Scottish Parliamentary Corporate Body.

The Standards Commission is independent of government when considering alleged contraventions of the codes and in its decisions.

<http://www.standardscommissionscotland.org.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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6. Progress Update Review (PUR) Template: Standards Commission for Scotland

Element	Status under agreed Plan 15SEP15	Progress status 15MAR21	Progress assessment status 07JAN22	Keeper's Report Comments on Authority's Plan 15SEP15	Self-assessment Update 26NOV20	Progress Review Comment 15MAR21	Self-assessment Update as submitted by the Authority since 15MAR21	Progress Review Comment 07JAN22
1. Senior Officer	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	No change.	Thank you for letting us know there have been no changes to this element. Update required on any change.
2. Records Manager	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	<p>The Records Manager is now the Office Manager Sarah Nicholson who replaced the Business Manager Elaine McLean in April 2021.</p> <p>The Office Manager role is slightly different to the previous Business Manager post so the job description which forms Annex 3A to the RMP has been updated.</p> <p>References to the Business Manager in the RMP have been updated.</p>	The Assessment Team thanks you for these updates which have been noted.
3. Policy	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	<p>References to the Business Manager in Annex 4A have been updated.</p> <p>The contents of the Member Induction pack have been revised in Annex 4A.</p>	Thank you for this update on how SCS continues to keep its Records Management Policy up to date.
4. Business Classification	G	G	G	Update required on any change.	Minor change, file structure diagram updated.	<p>The Assessment Team thanks the Standards Commission for Scotland (the Commission) for the notification of minor changes to the file structure diagram.</p> <p>No immediate action required. Update required on any future change.</p>	<p>Minor changes to reflect change of role title from Business Manager to Office Manager in RMP and annexes 5A and 5B.</p> <p>Annex 5B refers to sound recordings of hearings. These have subsequently been destroyed, so this entry on the retention schedule has been removed. Recordings of Hearings are no longer made.</p>	<p>The Team is grateful for this update on terminological and job title changes in the authority's RMP. It is positive to hear that even minor amendments to the Policy are made promptly.</p> <p>Thank you also for letting us know that SCS no longer makes audio recordings of Hearings,</p>

							<p>RMP amended to reflect the fact that the vast majority of records created and received by SCS are in an electronic, rather than a paper, format.</p> <p>All references to CESPLS changed to ESC (change in terminology).</p>	<p>and that policies have been altered to that effect.</p> <p>Many public authorities are moving towards a largely digital recordkeeping landscape. It is good to hear that SCS have reflected these changes in their RMP and their Business Classification framework.</p>
5. Retention Schedule	G	G	G	Update required on any change.	<p>This document continues to be updated as changes are made to the file retention period or a requirement for new folders or documents to be added, for example the requirement for and retention of Covid records This ensures that operational or statutory retention periods align with the Standards Commission's current operational / business requirements .</p>	<p>The Assessment Team thanks the Commission for this update. Amendments and additions to the retention schedule will be ongoing as business and operational requirements change and develop.</p> <p>The impact of the Covid-19 pandemic on the types of records created by public authorities and how these are captured and incorporated into existing record keeping practices is a significant issue for authorities to address and manage. The Assessment Team commend the Commission for the early identification and inclusion of such records in their retention schedule.</p>	<p>As before, this document continues to be updated as changes are made to the file retention period or a requirement for new folders or documents to be added.</p> <p>Prior year PUR comment refers to retention of Covid records. No additional records have been created or stored by SCS as a result of the pandemic.</p>	<p>Thank you for these updates on how retention schedules and accompanying procedures are being kept up to date, and that SCS has not had to create or store additional 'Covid' records due to the pandemic.</p> <p>Update required on any change.</p>
6. Destruction Arrangements	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	<p>Minor change to reflect change of role title from Business Manager to Office Manager in RMP and annex 7A.</p> <p>Addition to para 7.3 that we have a procedure in place to ensure that Members destroy electronic records shared with them.</p> <p>Annex 7B is an extract from the SPCB's RMP and dated 2014. SPCB have agreed to supply new version once their recently submitted revised RMP has been approved.</p> <p>Annex 7C updated with latest business continuity plan (revised in 2021).</p>	<p>The Assessment Team thanks you for this update on records destruction arrangements. It also sounds like SCS is being proactive in approaching Scottish Parliament Corporate Body when it comes to appended sections of the RMP that may no longer be up to date.</p> <p>Business Continuity arrangements are addressed under Element 10.</p> <p>The MoU is addressed under Element 7.</p>

							Annex 7D MOU between SCS and Keeper is from March 2015 – review to be carried out in 2021 (new GDPR compliant version of MOU to be used).	
7. Archiving and Transfer	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	No change.	As detailed under Element 6, SCS is currently seeking to review the existing Memorandum of Understanding with the Keeper of the Records of Scotland. This shows proactive continuing commitment to keeping archiving and transfer arrangements, including records destruction procedures and policies, up to date.
8. Information Security	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	Para 9.2 updated to reflect the fact that the vast majority of records are now in an electronic format rather than paper records.	Thank you for this update. It is good to hear that SCS has considered the implications of electronic recordkeeping landscape on information security. Update required on any change.
9. Data Protection	G	G	G	Update required on any change.	No change The arrangements around the Data Protection Officer service continues to be met through the Service Level Agreement. In addition to the bi-monthly meetings with staff of the Parliamentary Ombudsmen and Commissioners group the DPO also meets with the Executive Director and Members of the Standards Commission on an annually basis.	Notification of annual meetings between the Data Protection Officer, the Executive Director and the Members of the Standards Commission is acknowledged by the Assessment Team. No immediate action required. Update required on any future change.	The arrangements around the Data Protection Officer service continues to be met through the Service Level Agreement. The latest version of this agreement was signed on 30 September 2021. In addition to the bi-monthly meetings with staff of the Parliamentary Ombudsmen and Commissioners group the DPO also meets with the Executive Director and Members of the Standards Commission on an annual basis.	Thank you for confirming that Data Protection considerations are continuing to be addressed through a Data Protection Officer Service Level Agreement. It is also good to know that the DPO keeps up with staff regularly through scheduled meetings. Update required on any change.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	The Business Continuity plan was reviewed by the Standards Commission on 30 June 2020, minor typographical changes were made to the document.	Regular reviews of the Business Continuity plan demonstrate continued commitment to keeping information governance policies and guidance up to date and relevant.	The Business Continuity Plan was reviewed by the Standards Commission on 24 May 2021. Updates were made to the plan to reflect working from home	Thank you for letting us know that SCS' Business Continuity Plan has been updated, and is annexed to the updated RMP (as indicated under Element

							and hybrid working arrangements.	6). Regular reviews, especially during the pandemic, demonstrate continued commitment to disaster preparedness and continued access to vital records made temporarily unavailable due to an unexpected event.
11. Audit Trail	G	G	G	Update required on any change.	No change .	No immediate action required. Update required on any future change.	Minor change to reflect change of role title from Business Manager to Office Manager in RMP Change in RMP to reflect that productions for Hearings are now maintained electronically rather than on paper.	Thank you for indicating that the RMP is being kept up to date with regard to audit trail arrangements. Tracking and version control are essential factors when considering the authenticity of the record. In consecutive PURs, it would be good to hear what practical challenges have arisen from this change, and how SCS has addressed these.
12. Competency Framework	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	Minor change to reflect change of role title from Business Manager to Office Manager in RMP Annex 13A Office Manager's objectives updated.	Thank you for letting us know that there have been no major changes to staff records management training arrangements.
13. Assessment and Review	G	G	G	The Standards Commission have committed to reviewing their RMP, and supporting documents and policies, on an annual basis through the Executive Director. The Keeper would be pleased to receive updates concerning these reviews, particularly if they have brought about significant changes in the authority's records management arrangements.	No change. The Standards Commission continues to receive an annual update from the Executive Team to provide assurance about the effectiveness of the Records Management Plan. The requirement for this review is shown in the annual workplan developed to inform Members of the Standards Commission about matters which are due to be considered at the meetings of the Standards Commission.	It remains clear that the Commission has systems in place to ensure the Records Management Plan (RMP) is reviewed and reported on annually. This practice, along with review of the retention schedule (element 5), Business Continuity plan (element 10) and, participation in the PUR process in 2018, 2019 and 2020, all demonstrate sustained commitment to assessment and review of information governance policies and guidance.	No change. The Standards Commission continues to receive an annual update from the Executive Team to provide assurance about the effectiveness of the Records Management Plan. The requirement for this review is shown in the annual workplan developed to inform Members of the Standards Commission about matters which are due to be considered at each meeting of the Standards Commission.	It is clear that the SCS has systems in place to ensure the Records Management Plan (RMP) is reviewed and reported on annually. This practice, along with continuing participation in the PUR process, all demonstrate sustained commitment to assessment and review of information governance policies and guidance.
14. Shared Information	N/A	G	G	Update required on any change.	Update: The Standards Commission and the Ethical Standards Commissioner share information in the performance of their statutory duties. The formal agreement with the	The Assessment Team thanks the Commission for this update on practices and procedures concerning shared information.	New information sharing agreement with the Ethical Standards Commissioner signed in May 2021.	Thank you for updating the Team on the new approved Information Sharing arrangements

					<p>Standards Commission and the new Commissioner about data sharing was introduced in May 2020 to ensure we identify the principles and general procedures for the requirement to share information and to address the issues around storage and management of this information. The Standards Commission has subsequently directed the Commissioner about the submission of case reports with effect from 12 November 2020. This action could potentially impact on the information sharing agreement and the Standards Commission will review the existing agreement to ensure it continues to meet the revised practices and procedures. Link to Agreement provided on the Standards Commission's website https://www.standardscommissionscotland.org.uk/uploads/tinymce/200505%20Information%20sharing%20agreement%20SCS%20&%20ESC.pdf.</p>	<p>It welcomes the introduction of a formal Information Sharing agreement, in place as of May 2020, between the Standards Commission for Scotland and the Commissioner for Ethical Standards in Public Life in Scotland. The inclusion of this document on the Commission's website under its Data Protection Privacy Statement (clause 2.2) is noted.</p> <p>It is understood that further reviews will be carried out in response to recent actions to ensure the agreement remains fit for purpose. Any future changes can be reported in subsequent PURs.</p> <p>It would appear that this element now applies to the RMP of the Commission. It is likely that if this were a formal re-submission of the authority's RMP under section 5 of the PRSA this element would be agreed using the published document as evidence.</p>	<p>The revised policy is displayed on the SCS website at Information sharing agreement SCS ESC.</p> <p>Payroll provider to SCS has now changed to CGI. The contract signed with CGI includes sections on data sharing (specifically sections 2.2, 12, 13, 16, 19, 21 and 22).</p> <p>All references to CESPLS changed to ESC (change in terminology).</p>	<p>with the Ethical Standards Commissioner. The link to the revised policy is also noted with thanks.</p> <p>The change to payroll provider is also noted with thanks.</p> <p>It appears that SCS has appropriately considered information sharing when setting up a new contract. We would expect an update on any change.</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 November 2021. The progress update was submitted by Sarah Nicholson, Office Manager.

The progress update submission makes it clear that it is a submission for **Standards Commission for Scotland**.

The Assessment Team has reviewed Standards Commission for Scotland's Progress Update submission and agrees that the proper record management arrangements outlined by the various 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

Standards Commission for Scotland continues to take its records management obligations seriously and is working to maintain all elements in 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 Standards Commission for Scotland continue to take their statutory obligations seriously and are working hard to maintain all the elements of their records management arrangements in 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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