

The Public Records (Scotland) Act 2011

**Keeper of the Records of Scotland,
and Registrar General of Births, Deaths and Marriages for Scotland**

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

13th October 2023

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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 Keeper of the Records of Scotland and Registrar General. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Keeper of the Records of Scotland and the Registrar General of Births Deaths and Marriages for Scotland are two separate non-ministerial offices currently held jointly by Janet Egdell, Chief Executive of the National Records of Scotland (NRS).

NRS is a Non-Ministerial Department of the Scottish Government. Their purpose is to collect, preserve and produce information about Scotland's people and history and make it available to inform current and future generations. NRS was established on 1 April 2011, following the merger of the General Register Office for Scotland (GROS) and the National Archives of Scotland (NAS). For administrative purposes they sit within the Scottish Government's Economy, Fair Work and Culture portfolio.

As the Keeper of the Records of Scotland, Ms Egdell is also responsible for implementing the Public Records (Scotland) Act 2011.

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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: Keeper of the Records of Scotland and Registrar General

Element	Status of elements under agreed Plan 13JAN21	Status of evidence under agreed Plan 13JAN21	Progress review status 13OCT23	Keeper's Report Comments on Authority's Plan 13JAN21	Self-assessment Update as submitted by the Authority since 13JAN21	Progress Review Comment 13OCT23
1. Senior Officer	G	G	G	Update required on any change.	<p>For administrative purposes, NRS now sits within the Scottish Government's Constitution, External Affairs and Culture (CEAC) portfolio.</p> <p>The NRS corporate governance structure was amended in September 2020 to incorporate an Information Security Committee (ISC). The ISC is managed by the Information and Records Services (IRS) directorate and chaired by its director, who is the senior staff member holding corporate responsibility for records management. The Director of IRS will raise risks as appropriate with Information Asset Owners for remedial action, escalating to the Executive Management Board through the NRS risk reporting framework and to the Accountable Officer through the annual governance statement.</p>	<p>Thank you for this update on change to NRS' governance structure which has been noted. The Assessment Team notes that Laura Mitchell, Director of Information and Records Services, continues to hold overall responsibility for records management in the organisation.</p> <p>Update required on any future change.</p>
2. Records Manager	G	G	G	Update required on any change.	No change.	Update required on any change.

3. Policy	G	G	G	Update required on any change.	<p>Records Management Policy has been updated, with review and approval by ISC.</p> <p>Work on a project to consolidate data previously maintained on legacy network domains, within a single common operating platform on the NRScotland network, has concluded.</p> <p>A new contract for off-site records storage services was agreed in March 2022, with provision to draw down additional storage for official records as required. The contract was procured through a public sector framework which provided assurance that the supplier is vetted and complies with ISO 9001 and ISO 27001.</p>	<p>The review and update of NRS' Records Management Policy, available on NRS' website, has been noted with thanks. Thank you also for the updates concerning the data consolidation project and off-site records storage procurement.</p> <p>Update required on any future change.</p>
4. Business Classification	G	G	G	Update required on any change.	No change.	Update required on any change.
5. Retention Schedule	G	G	G	Update required on any change.	<p>The Census Programme has an active Archiving and Decommissioning workstream focused on documenting and managing the retention and disposal of information assets generated by Scotland's Census 2022.</p> <p>NRS will be vacating one of its office buildings, Ladywell House, by July 2023. A clearing workstream is ensuring that we take a secure and controlled</p>	<p>The Assessment Team thanks you for this update on Census workstream retention and disposal arrangements. We also appreciate the update on vacating Ladywell House and the effects this has had on local information asset relocation or disposal.</p>

					approach to the retention, disposal and relocation of information assets currently stored in the building.	
6. Destruction Arrangements	G	G	G	Update required on any change.	No change.	Update required on any change.
7. Archiving and Transfer	G	G	G	Update required on any change.	NRS was re-awarded accredited archive status for a second time in July 2022. Change to co-responsible officer: Head of Depositor Liaison is Gillian Mapstone.	The Assessment Team thanks you for this update on Archive Accreditation status, and Head of Archive Depositor Liaison.
8. Information Security	G	G	G	Update required on any change.	The Information Security Committee was established in 2020 as a forum for the discussion of physical, cyber and information security risks and issues. An Information Security Management System (ISMS) was implemented in 2021 in order to support an application for the accreditation of the NRS Indexing function as a Digital Economy Act (DEA) Accredited Processor. The ISMS is intended to provide a framework to drive information security compliance across the organisation. Policy management is now also covered by this framework. NRS achieved Cyber Essentials Plus re-certification in November 2022. Change to co-responsible officer: Heather Lowrie is Head of Cyber Security, Risk and Resilience	Thank you for these updates on NRS' information security arrangements. It is good to hear that the Information Security Committee continues as a useful forum, and that a new Information Security Management System has been implemented. It is positive to hear that NRS' indexing function has been accredited as an Accredited Processor under the Digital Economy Act, and that this is also expected to drive improvements in information security compliance and policy management. Thank you also for confirming that NRS has maintained its

						<p>Cyber Essentials Plus certification status. While this is not a requirement under PRSA, it shows continuing commitment to good practice.</p> <p>The change in co-responsible officer is also noted with thanks.</p>
9. Data Protection	G	G	G	Update required on any change.	Data Protection Policy has been updated, with review and approval by ISC.	The Assessment Team thanks you for providing a copy of the recently reviewed and updated Data Protection Policy.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	<p>NRS completed the move to external, specialist Tier 3 data centres in 2021, with enhanced disaster recovery capabilities.</p> <p>To mitigate the risk of indiscriminate and targeted ransomware and malware attacks, NRS has implemented a strategic, sustainable, air gapped, tertiary backup capability.</p> <p>During the COVID-19 pandemic, after an initial period of closure, NRS began the re-start of key critical services from July 2020. Access to records has now been fully restored.</p>	<p>Thank you for this update on business continuity, including the move to external data centres that provide enhanced disaster recovery capabilities. It is also good to hear NRS has prepared for ransomware and malware attacks through the use of backups.</p> <p>The disruption caused by COVID-19 pandemic has provided a test to many public authorities' business continuity arrangements. It is reassuring to hear that access to records has now been fully restored.</p>

11. Audit Trail	G	G	G	Update required on any change.	No change.	Update required on any change.
12. Competency Framework	G	G	G	Update required on any change.	No change.	Update required on any change.
13. Assessment and Review	G	G	G	Update required on any change.	<p>The Information Security Committee now provides the forum for review of information governance and security policies and procedures.</p> <p>A planned self-assessment of our records management services using ARMS framework was paused as result of the COVID-19 pandemic. We will re-evaluate whether this is best mechanism for assessing the maturity of services.</p> <p>The RMP continues to be reviewed annually as scheduled.</p>	<p>Section 1(5)(i)(a) of the Act says that an authority must keep its Records Management Plan (RMP) under review.</p> <p>Participation in the PUR process is a positive step in keeping the submission up to date; the updates given on self-assessment and policy and procedure review are noted with thanks. It is also great to hear that RMP continues to be reviewed annually as scheduled.</p>
14. Shared Information	G	G	G	Update required on any change. The Keeper notes that NRS is “exploring how we can improve research access to our data through Research Data Scotland, which is developing a new model for how de-identified data can be brought together for public good research”. (RMP page 31). The Keeper requests he is updated as this project	<p>The NRS Indexing Team has been accredited as a DEA Accredited Processor. It provides the trusted third party indexing service to the electronic Data Research and Innovation Service (eDRIS), enabling data to be de-identified for data linkage.</p> <p>NRS is working with ADR Scotland, a partnership between Scottish Government and the Scottish Centre for Administrative Data Research, to</p>	<p>Thank you for this update. The DEA Accreditation, also explored under Element 8 update, is noted with thanks. It is understood this has implications on responsible information-sharing for research purposes. The collaborative projects with ADR Scotland, SG, and SCADR, as well as others, are also noted, alongside the</p>

				<p>progresses.</p>	<p>enhance administrative data access, linkage and innovation in Scotland and enable policy-relevant research for the public good. We are also continuing to work in partnership with the Scottish Government, PHS (eDRIS), EPCC and Scottish Universities in the development of Research Data Scotland.</p> <p>NRS has implemented a new File Transfer Service which enables secure ad-hoc peer to peer file transfers and automated system-to-system data transfers.</p>	<p>new File Transfer Service.</p> <p>The Assessment Team expects all information-sharing to remain necessary, lawful and controlled, whether this takes place internally or externally.</p> <p>Update required on any future change.</p>
<p>15. Records Created or Held by Third Parties</p>	N/A	N/A	N/A		<p>NRS has not tasked any third parties to carry out its functions. Where NRS makes use of contractors and suppliers to help deliver services, the public records created as part of this service delivery have been transferred to NRS. The Census archiving and decommissioning workstream is ensuring that records created by suppliers during the Census are transferred to NRS.</p>	<p>The Assessment Team thanks you for confirming that NRS has not tasked any third parties to carry out its functions, and that therefore Element 15 does not apply, and that new internal workstreams such as Census continue to be covered by BAU arrangements.</p> <p>Should there be any change to this position, please let us know.</p>

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 5th April 2023. The progress update was submitted by John Simmons, Head of Information Governance.

The progress update submission makes it clear that it is a submission for **Keeper of the Records of Scotland and Registrar General**.

The Assessment Team has reviewed Keeper of the Records of Scotland and Registrar General'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

Keeper of the Records of Scotland and Registrar General 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 Keeper of the Records of Scotland and Registrar General 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

A handwritten signature in blue ink that reads "Iida Saarinen". The signature is written in a cursive, flowing style.

Iida Saarinen
Public Records Officer