The Public Records (Scotland) Act 2011

Scottish Government (Part of 'Scottish Ministers')
Parole Board for Scotland
Scottish Agricultural Wages Board
Chief Dental Officer of the Scottish Administration
Chief Medical Officer of the Scottish Administration
Her Majesty's Inspector of Anatomy for Scotland
Her Majesty's Chief Inspector of Prisons for Scotland
Her Majesty's Inspectorate of Constabulary in Scotland
Her Majesty's Fire Service Inspectorate for Scotland
Safeguarders Panel

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

13 October 2017

Contents

1. Public Records (Scotland) Act 2011

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

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

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

2. Progress Update Review (PUR) Mechanism

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

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

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

3. Executive Summary

This Final Report sets out the findings of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for the scheduled authorities listed below. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

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4. Authority Background

Description of Authorities: The Scottish Government is the devolved government for Scotland which is responsible for most of the issues of day-to-day concern to the people of Scotland, including health, education, justice, rural affairs and transport.

The Parole Board for Scotland is a tribunal non-departmental public body. The Board is independent of Scottish Government and impartial in its duties. Its main aim is to ensure that those prisoners who are no longer regarded as presenting a risk to public safety may serve the remainder of their sentence in the community under the supervision of a social worker. It is not the responsibility of the Board to consider the questions of punishment and general deterrence. These issues are regarded as discharged, in the case of determinate sentence prisoners, when a case is referred to the Board by the Scottish Ministers and on which the judiciary has deliberated.

The Scottish Agricultural Wages Board (SAWB) is an executive non-departmental public body set up under the Agricultural Wages (Scotland) Act 1949. The SAWB exists to set minimum rates of pay and other conditions of service for agricultural workers in Scotland.

The Chief Dental Officer (CDO) is the Scottish Government's principal dental adviser, and as such has direct access to ministers. The post has direct involvement in the development of health policy in Scotland, including, health promotion and health protection. The CDO has lead responsibility for issues such as clinical effectiveness, quality assurance, accreditation and research.

The Chief Medical Officer (CMO) is the Scottish Government's principal medical adviser and is also Head of the Scottish Medical Civil Service. The post covers every aspect of health in Scotland.

Her Majesty's Inspector of Anatomy for Scotland inspects premises where bodies for anatomical examination and anatomical specimens are kept. He also inspects record keeping and disposal practices.

Her Majesty's Chief Inspector of Prisons for Scotland is required to inspect the 16 prison establishments throughout Scotland in order to examine the treatment of, and the conditions for, prisoners. The Chief Inspector also undertakes inspections of legalised police cells. These are cells in a number of police stations, usually distant from a prison, where prisoners may legally be held for short periods while awaiting trial or immediately after conviction. The Chief Inspector also has responsibility for the inspection of the treatment of and conditions for prisoners under escort.

Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) provides independent scrutiny of both Police Scotland and the Scottish Police Authority. Its role was reaffirmed by the Police and Fire Reform (Scotland) Act 2012, which gave HMICS wide ranging powers to look into the "state, effectiveness and efficiency" of both Police Scotland and the Scottish Police Authority, including forensic services.

Her Majesty's Fire Service Inspectorate for Scotland or HM Fire Service Inspectorate is an autonomous agency of the Scottish Government. Its function is to provide independent, risk based and proportionate professional inspection of the Scottish Fire and Rescue Service it is also known simply as HMFSI. It is not a fire fighting body. The HMFSI can however enquire into any matter concerning the operation of a fire and rescue service.

Safeguarders Panel is responsible for recruitment and selection, training, managing appointments, complaints and monitoring performance of safeguarders across Scotland. The statutory responsibility for these functions lies with the Safeguarders Panel which is administered by the Children and Families Directorate. However Scottish Government currently contracts management of the national Safeguarders Panel to Children 1st.

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.

6. Records Management Plan Elements: Checklist

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(For simplicity all these separately scheduled authorities will be described as 'The Scottish Government'
in the assessment below)

Element	Status of elements under agreed Plan, August 2015	Status of evidence under agreed Plan, August 2015	Progress assess-ment status, October 2017	Keeper's Report Comments on Authority's Plan, August 2015	Self-assessment Update as submitted by the Authority since August 2015	Progress Review Comment, October 2017
1. Senior Officer	G	G	G	Update required on any change	No change	No immediate action required. Update required on any future change.
2. Records Manager	G	G	G	Update required on any change	Craig Sclater who reports to Maxine Reid, Head of Knowledge and Information Management	Craig Sclater, Deputy Corporate Records Manager, has been identified as the individual with operational responsibility for

						records management within the authority. In reporting to Maxine Reid, Head of Knowledge and Information Management, it is clear that Craig Sclater is answerable to senior management. The Assessment Team consider this a suitable arrangement. The Assessment Team were notified of this change of personnel through an email received from Maxine Reid in May which confirmed Craig Slater's position and responsibilities. The Assessment Team thanks the authority for this update and recognises the on-going initiative being undertaken by the authority under this element.
3. Policy	G	G	G	Update required on any change. The Keeper would like sight of any revisions of the authority's *Records Management Policy* following the regular reviews	Change in responsible team name from Knowledge, Information and Records Management (KIRM) Unit to Knowledge and Information Management (KIM) Branch.	The Assessment Team commends the regular updating of the authority's Records Management Policy to reflect current arrangements and considers such reviews as an

				outlined in the RMP.	Government security classifications have changed to Official, Official Sensitive, Secret and Top Secret.	example of good practice. Should further reviews generate significant changes, the Assessment Team would welcome having sight of the latest version of the Policy. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
4. Business Classification	**G**	**G**	**G**	Update required on any change.	No change	No immediate action required. Update required on any future change.
5. Retention Schedule	**G**	**G**	**G**	Update required on any change.	There have been 3 new file types created as follows: • Draft research – close after 1 year, destroy 3 years after closure; • Archives casework – close after 5 years, archive 10 years after closure; • Statistics – close after 5 years, archive 10 years after closure	Retention Schedules should be periodically amended to reflect and capture all record and file types being created and managed by an authority. The Assessment Team therefore commends the introduction of retention rules governing the three new file types identified in this submission. The retention decisions

						assigned for these new file types indicates that retention rules are being applied consistently and appropriately to all records contained within these series. The Assessment Team would welcome updates in future PUR submissions should further changes take place within the Retention Schedule. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
6. Destruction Arrangements	G	G	G	Update required on any change. The authority is aware of legacy corporate records held electronically which do not form part of the ERDM and has therefore established a project to manage and dispose of these records. The Keeper must be kept up-to-date with the progress of this project.	No change. Legacy paper files which NRS have selected for permanent preservation continue to be transferred to NRS once our review team have assessed whether any exemption should be applied to their release to the public. We have been under a moratorium in regards to the destruction of information as a result of the Scottish Child	The situation concerning legacy records sitting outwith the EDRM Objective system was identified in the Keeper's assessment report as an area requiring work by the authority. It is clear from the submission that Scottish Government continue to be engaged in a process of identifying and reviewing legacy paper files and

				Abuse Inquiry so have not been able to destroy any files for a period of time. However, we have since had confirmation from the Permanent Secretary that she is content to agree a partial lift of the moratorium in accordance to what has been agreed with the Scottish Government Scottish Child Abuse Inquiry Response Unit.	either transferring these to National Records of Scotland (NRS) or destroying them in accordance with the arrangements agreed in their Plan. The Assessment Team commend this on-going endeavour. The Assessment Team also recognise that the Scottish Child Abuse Inquiry is affecting adherence to destruction schedules in this, and a number of other, authorities. The Team are therefore pleased to hear that there has been a partial lifting of the Moratorium which will allow this authority to resume destruction practices in line with their schedules. Scottish Government recognised in their Plan that electronic legacy records held outwith the Objective system, for example on Shared Drives and Personal Storage Table files, were not subject to retention and disposal schedules. An

						Archive Project was initiated to identify these records and assign them retention or destruction decisions. The Keeper commended this project and asked that he be kept informed of progress. The Assessment Team would therefore welcome updates in future PUR submissions on the status of this Project. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
7. Archiving and Transfer	**G**	**G**	**G**	Update required on any change	No change. We need to agree (with NRS) an electronic archiving process for the transfer of Scottish Government records to NRS. We have made mention of this to Bruno Longmore at a recent meeting and agreed that we will revisit this topic shortly.	As traditional paper-based office working practices are increasingly replaced by digital technologies, the Scottish Government are taking a proactive approach under this element by seeking to implement an electronic archiving process with NRS. The Assessment Team consider this a positive development and advises the authority to contact

					both the Client Management Team and the Digital Records Unit at NRS as work on this scheme continues.
					Under current transfer arrangements the NRS Client Management Team are informed of the record series scheduled for destruction so that they can make decisions concerning which records should be archived for permanent preservation. The Keeper's Assessment Report noted that such arrangements should be similarly applied to the legacy records identified as part of the Archive Project.
					The Assessment Team therefore welcome the submission under Element 6 stating that legacy paper files are handled in accordance with these agreed arrangements. The Team would be pleased to receive updates concerning the transfer of legacy electronic records in future PUR

						submissions once the electronic archiving process has been established. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
8. Information Security	**G**	**G**	**G**	Update required on any change	No change	No immediate action required. Update required on any future change.
9. Data Protection	**G**	**G**	**G**	Update required on any change	No change	No immediate action required. Update required on any future change.
10. Business Continuity and Vital Records	**G**	**G**	**G**	Update required on any change. The Keeper would be pleased to hear updates concerning the planned annual review of the *Business Continuity Plan*.	No change. The Scottish Government Business Continuity Plan continues to be reviewed regularly.	Due to the nature of the activities and records of this authority it is vital that appropriate provisions for business continuity continue to be in place. The on-going commitment to conduct regular reviews of the Business Continuity Plan is therefore welcomed as good practice. It also satisfies the expectation in the Keeper's Model Guidance

	G	G	G			for such Plans to be regularly reviewed and updated. Should these reviews lead to significant changes in arrangements the Assessment Team would like to receive updates or have sight of any new Plan. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
11. Audit Trail	G	G	G	Update required on any change	No change	No immediate action required. Update required on any future change.
12. Competency Framework	G	G	G	The Keeper commends efforts to identify relevant training for the officer identified in Element 2 so that they can work towards attaining a professional qualification. The Keeper would welcome updates on this.	The Head of Knowledge and Information Management is intending on creating Skills Framework for the Information Age (SFIA) style job descriptions as part of the 2017/18 objectives for each individual in the Branch. This is in view to aligning these roles to a more formal professional	The development of a Skills Framework for the Information Age (SFIA) job description for records management staff is commended by the Assessment Team. This is evidence of a commitment by Scottish Government to ensure that staff have the requisite skills and knowledge for undertaking their

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				The Keeper would like to be informed if a records management module is developed for staff across the authority.	development framework. Although we are not looking at rolling out a records management module to all staff at the current time we are looking at what suitable training opportunities are available for records management staff and will be encouraging all members of the team to participate in these.	roles. As this Framework is being created by the Head of Knowledge and Information Management there is a clear recognition of the importance of developing such staff competencies at a senior level. The Team applaud this approach and would be pleased to have sight of this new Framework once it becomes available. Although an organisation-wide records management training module has not yet been implemented, Scottish Government has adopted a more targeted approach of identifying suitable training opportunities for their records management staff. The Assessment Team commend this initiative and would welcome updates in future PUR submissions concerning this training. The Assessment Team recognises the on-going

						initiative being undertaken by the authority under this element.
13. Assessment and Review	G	G	G	The Keeper commends plans to review annually or on an even more regular basis the RMP and the policies that support it. Updates on these reviews would be welcomed by the Keeper.	Our Records Management Plan has not been fully reviewed since it was agreed. We will be reviewing it in full imminently and are aware that certain minor revisions need to be made to it (such as Records Manager contact, the change in our Branch name and "new" organisations that are now covered by our Records Management Plan – NRS are already aware of who these are) though these will not affect the context of the document.	Although a full internal review of the Records Management Plan has not yet occurred, there is a definite commitment by the authority to do so imminently. This review is likely to result in minor changes and should not significantly affect the agreed records management arrangements. The Team would like to thank the authority for already communicating some of these changes to the NRS and would welcome updates in future PUR submissions should further amendments take place.

The Assessment Team recognises the on-going initiative being undertaken by the authority under this element. |
| 14. Shared Information | G | G | G | Update required on any change | No change | No immediate action required. Update required on any future change. |

<u>Version</u>

The progress update submission which has been assessed is the one received by the Assessment Team on 20 September 2017. The author of the progress update submission is Craig Sclater, Deputy Corporate Records Manager.

The progress update submission makes it clear that it is a submission for **Scottish Government (Part of 'Scottish Ministers')**.

7. PRSA Assessment Team's Summary

The Assessment Team has reviewed **Scottish Government (Part of 'Scottish Ministers')** 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.

<u>General Comments</u>

This authority continues to take seriously its commitment to the records management arrangements agreed by the Keeper in 2015. There is also evidence of new initiatives in development, including the Skills Framework for the Information Age (SFIA) job descriptions and a new archiving process for electronic records.

The Assessment Team would welcome further updates in future PUR submissions on the work being undertaken as part of the 'Archive Project'. This project was established to help the authority identify and manage legacy records in paper and electronic formats which sit outwith the EDRM Objective system. However the Team recognise that this is an on-going process and that issues may not be fully addressed until provisions such as the archiving of electronic records have been agreed and made operational.

Where 'no change' has been recorded under the update on provision by the authority, the Assessment Team is happy to agree that these elements require no further action for the time being.

8. PRSA Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that **Scottish Government (Part of 'Scottish Ministers')** continue to take their statutory obligations seriously and are working hard to maintain all 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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Neil Adams
Public Records Officer