

The Public Records (Scotland) Act 2011

Office of the Scottish Charity Regulator

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

30 November 2017

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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 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 **Office of the Scottish Charity Regulator**. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Office of the Scottish Charity Regulator (OSCR) is the independent regulator and registrar for over 23,000 Scottish charities, including community groups, religious charities, schools, universities, grant-giving charities and major care providers.

It was set up to: Increase public confidence in charities through effective regulation; increase transparency and public accountability of charities; increase charity trustees' compliance with the 2005 Act; establish and maintain OSCR as a trusted, effective and innovative regulator; minimise the burden of regulation on charities wherever possible, with particular emphasis on reducing multiple reporting and to operate effectively and efficiently, demonstrating a commitment to the principles and practice of Best Value.

OSCR became a Non-Ministerial Department and part of the Scottish Administration following commencement of the Charities and Trustee Investment (Scotland) Act 2005.

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	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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				updated as work on this element progresses.			
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6. Records Management Plan Elements: Checklist

Office of the Scottish Charity Regulator (Hereafter “the Office”)

Element	Status of elements under agreed Plan, September 2013	Status of evidence under agreed Plan, September 2013	Progress assessment status, 2017	Keeper’s Report Comments on Authority’s Plan, September 2013	Self-assessment Update as submitted by the Authority since September 2013	Progress Review Comment, 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	David Adamson, Information Manager, email david.adamson@oscr.org.uk tel 01382 346896 from 24/02/2016	The Assessment Team thanks the authority for the update under this element. The Team considers the Information Manager a

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						<p>suitable, senior post-holder within the Office to have operational responsibility for implementing the provisions of the Records Management Plan.</p> <p>In the event of a future statutory assessment, the Keeper will request documentation such as a covering letter signed off by the senior officer confirming David Adamson in this role.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
3. Policy	G	G	G	Update required on any change	Reviewed and updated 09/09/2016	<p>The Keeper's Model Plan expects authorities to regularly review key documents and practices. The Office's compliance with this expectation is reflected by the recent updating of their Records Management Policy in</p>

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						<p>September 2016. The Team commend such reviews as a means of ensuring that the Policy remains relevant and fit-for-purpose.</p> <p>Should such reviews lead to significant changes in the Policy the Team would be happy to receive, and offer feedback, on any updated versions.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
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	Updated to reflect new categories.	This authority has adopted a proactive approach to reviewing and updating its key policies under this element. As a retention schedule must encompass

						<p>(and assign disposal dates/decisions) all record series being created by an authority, it is necessary to periodically update this document to reflect new categories of records being created. The Assessment Team therefore commend the Office's endeavours to ensure that its retention schedule remains accurate and up to date.</p> <p>The Team would be pleased to have sight of any updated retention schedules in future PUR assessments should significant changes take place following these reviews.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
6. Destruction	G	A	G	The Assessment Team would welcome	Confidential Waste Paper continues to be securely	The submission identifies Shredall as the vendor used

<p>Arrangements</p>				<p>documentation demonstrating how electronic file back-ups and other copies are destroyed</p>	<p>disposed of via a contract with Shredall, there is also a micro cut shredder compliant with DIN 66399, Security Level 5 available. Electronic files are disposed of on a monthly basis using the disposal function in the eRDM system Objective. PCs, laptops and servers are disposed of under a contract with Computer Recycling services who provide Certification of all destroyed equipment (copy attached). Back ups held by third parties are destroyed as they are overwritten as part of the on-going Disaster Recovery processes. The response from our supplier is <i>'There is no means/function within our backup offerings to provide a certificate of destruction however the vendor has clarified that the backup sets when deleted meets the standards for the US Department of Defence 5220.22-M specifications. The instances in which we can</i></p>	<p>by the Office for destruction of paper records. Whilst this must remain a business decision for the authority, the use of a commercial firm such as Shredall is recommended as their practices are regulated and audited. This is demonstrated by the submission of Shredall's Certificate of Registration with NQA (National Qualifications Authority).</p> <p>The Office have similarly outlined the destruction arrangements in place for electronic records (through Objective) and IT equipment (via Computer Recycling Services). The Team thank the authority for sight of the audit report and destruction certificate dated March 2016. This document shows that hard drives are destroyed in compliance with WEEE (Waste Electronic and Electrical</p>
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					<p><i>provide a certificate (this would need to be requested as part of the initial cancellation request) are for when an individual physical or virtual server are cancelled and we can run third-party software against the storage media (physical/virtual hard disk) to securely wipe the drive to the DoD 5520.22M standard.'</i></p>	<p>Equipment) legislation.</p> <p>The Team similarly welcome the outlining of the process in place for the irretrievable destruction of file back-ups. Although documentary evidence, such as a certificate of destruction, could not be supplied by the vendor, the Assessment Team considers that suitable arrangements are in operation. The use of a vendor which complies with standards such as DoD 5220.22-M is particularly commendable.</p> <p>The Assessment Team recognise the significant progress made in this area and the on-going initiative being undertaken by the authority under this element.</p>
7. Archiving and Transfer	G	G	G	Update required on any change. The Assessment Team would be interested to hear how the transfer of	No Change – thus far no documents have been transferred to NRS. We are in the process of identifying	The Assessment Team thanks the Office for the update concerning transfer of electronic records to the

				<p>archives to the NRS Digital Archive is progressing</p>	<p>what meets the criteria now that OSCR has reached the 10 year point.</p>	<p>NRS Digital Repository. The Team recognise that this is an on-going development and that it may be some time before regular transfers of born-digital material takes place.</p> <p>It is commendable that the Office is engaged in the process of identifying records of enduring value which would be suitable for transfer. The Client Management Team at NRS would be happy to offer advice in this area should it be required.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
<p>8. Information Security</p>	<p>G</p>	<p>G</p>	<p>G</p>	<p>Update required on any change</p>	<p>No change, continuous reviews carried out and annual training for all staff as per SG requirements. A document summarising and</p>	<p>The Office continues to demonstrate a high level of compliance under this element through the regular review of their information</p>

					<p>drawing together all relevant documents has been prepared and shared with staff. All staff must complete online training entitled 'Responsible for Information' on the Civil Service Learning website on an annual basis.</p>	<p>security arrangements. This will help limit the possibility of unauthorised access, alteration, or destruction of records.</p> <p>Particularly laudable is the emphasis on mandatory, annual staff training and the creation of a single resource bringing together all relevant documentation. Having a single resource for staff to consult should provide a valuable tool. The Team would be pleased to receive a copy of this document for their evidence package.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
9. Data Protection	G	G	G	Update required on any change. The Assessment Team would be grateful to receive the OSCR's registration number with the	No change, OSCR's registration number with the ICO is; Z9409201 The Data Protection Policy has been updated and	The Assessment Team thanks the Office for submission of their registration number with the Information Commissioner's

				<p>Information Commissioner although this is not essential</p>	<p>aligned with the SG model, currently awaiting SMT approval.</p>	<p>Office. Although a business decision for the authority, the Scottish Government model is considered an appropriate template to use to inform the updated Data Protection Policy. The Team would welcome having sight of the new Policy once available following senior management approval. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
<p>10. Business Continuity and Vital Records</p>	<p>G</p>	<p>G</p>	<p>G</p>	<p>Update required on any change</p>	<p>Following a move to fully hosted solution (May/June 2017) a new plan is being prepared in conjunction with all parties concerned. This will supersede the current plan when completed.</p>	<p>As the primary resource for the preparation for, and the response to, a disaster it is vital that the Business Continuity Plan is regularly reviewed, tested, and updated to remain relevant and suitable. The Assessment Team therefore applaud the Office's plan to</p>

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						<p>prepare a new plan to accommodate changes following adoption of a new hosting solution in May/June 2017. The Team would be pleased to be informed of the progress of work in this area and to receive a copy of the new plan (redacted if necessary) once available.</p> <p>The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.</p>
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	A	G	The Assessment Team would like to see more detailed documentation relating to staff training	All staff annually complete the mandatory training available on the Civil Service learning website – Course description as follows Responsible for information: General user;- Description Designed for	The submission makes clear that the Office complies with the Keeper’s expectation that staff training in records management be made available. The provision of mandatory training in areas such as data protection and

					<p>anyone who handles information and needs to share and protect it, this e-learning covers the government security classifications and introduces you to aspects of fraud and bribery.</p> <p>The course is divided into 6 topics and ends with an assessment.</p> <p>You will need to pass this course with a score of 80% or more to be able to add it to your learning record.</p> <p>Learning outcomes On completing this e-learning, you'll understand:</p> <ul style="list-style-type: none"> • how to protect information in the workplace, on the move and online • the impact of fraud and how to spot it and report it • how bribery can occur and its consequences <p>Staff with managerial responsibility need to complete a course suitable to their level of responsibility the above being the base level as described below;-</p>	<p>information security, and the requirement to pass these online courses, is commended by the Assessment Team. Such training, together with regular reminders of staff responsibilities and links to current policies, will help embed a culture of good records management throughout the organisation.</p> <p>The Team are similarly pleased to see that staff with managerial responsibility, such as Information Asset Owners or the Senior Information Risk Owner, are required to complete further levels of training in information management.</p> <p>Based on this submission the Team are happy to award a Green RAG status to this element. However, in the event of a formal, statutory assessment the Keeper will require sight of</p>
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					<p>Information management Responsible for information: information asset owner (IAO) Responsible for information: senior information risk owner (SIRO) Responsible for information: non-executive and board-level directors (NEDs)</p> <p>As part of the annual learning plan all staff are required to complete online Data Protection training and are regularly given reminders of their responsibilities and links to the relevant documentation such as the DPP. We also have an Information Security Summary to which all policies and documents are linked for ease of access for staff.</p>	<p>evidence such as a screenshot or link to the Civil Service e-learning website.</p> <p>The Assessment Team recognise the significant progress made in this area and the on-going initiative being undertaken by the authority under this element.</p>
<p>13. Assessment and Review</p>	<p>G</p>	<p>G</p>	<p>G</p>	<p>Update required on any change</p>	<p>The Plan was fully reviewed in September 2016 and appropriate amendments made to include new file parts, retention schedules and staff changes.</p>	<p>The Keeper's Model Plan highlights the importance of authorities conducting regular internal reviews of their agreed Plan and their records management policies and practices. This helps authorities to identify levels of organisational compliance with the agreed arrangements and ensures</p>

						<p>that their Plans remain accurate and fit for purpose.</p> <p>The Office demonstrates a high level of compliance under this element by undertaking full reviews of their RMP. The Assessment Team are particularly pleased to see that such reviews have prompted actions to be taken, such as amendments to the retention schedule. This highlights the Office's commitment to ensure that their provisions remain appropriate and that policies continue to reflect the reality of records management practice within the authority.</p> <p>Should such reviews lead to significant changes in records management approaches, the Team would welcome updates in future PUR submissions.</p> <p>The Assessment Team</p>
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						recognises the on-going initiative being undertaken by the authority under this element.
14. Shared Information	A	A	G	The Keeper has been advised that the OSCR Engagement Team is reviewing MOU's with partner organisations and have been advised that records governance should be considered. The Keeper asks that he be kept up to date in this respect and be given sight of any new MOU (redacted if necessary) to keep OSCR's PRSA record updated.	The Engagement Team has been continuously reviewing all MOUs as required. Records Governance is considered as part of the review process. Where document security is higher than OSCRs normal status additional measures have been taken to restrict access, use of closed groups or even secure non electronic storage if appropriate. There have been 7 new or updated MOUs agreed since the first plan was submitted (attached). All current MOUs are published at the following webpage:- https://www.oscr.org.uk/about/our-work/memoranda-of-understanding	The Office recognises the need to consider Records Governance when creating and reviewing their Memorandum of Understandings with other bodies. This is reflected in the published MoUs which identify the regulatory framework in which the authorities operate, their areas of responsibility, and their designated points of contact. Reference is made to the need to comply with relevant legislation when sharing or disclosing information and the Assessment Team are pleased to hear that additional security measures are taken when handling sensitive information. The Team particularly wish

						<p>to commend the publishing of these MoUs on the Office’s website as a demonstration of this authority’s commitment to openness and transparency. The intention to review agreed MoUs to ensure they remain fit for purpose is similarly applauded as an example of good practice.</p> <p>Should the Office have any supporting documentation used to guide their staff in ensuring that information is shared securely, such as a Code of Practice or Information Sharing Protocol, the Team would be pleased to receive copies (redacted if necessary).</p> <p>The Assessment Team recognise the significant progress made in this area and the on-going initiative being undertaken by the authority under this element.</p>
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Version

The progress update submission which has been assessed is the one received by the Assessment Team on 09 October 2017. The author of the progress update submission is David Adamson, Information Manager.

The progress update submission makes it clear that it is a submission for the **Office of the Scottish Charity Regulator**.

7. PRSA Assessment Team's Summary

The Assessment Team has reviewed the **Office of the Scottish Charity Regulator** 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

This authority not only continues to comply with the arrangements agreed by the Keeper in September 2013 but has also committed to reviewing and updating its key policies and practices. This is reflected in the amendments made to the retention schedule to take account of new record types being created and in the extension of mandatory staff training. Such actions, together with the annual reviews of the RMP, demonstrate that this authority abides by the spirit of continuous improvement expected by the Keeper.

Although not obligatory for the PUR process, in the event of a future statutory assessment the Keeper will ask for sight of the updated, current policies or documents referred to in the template.

Sufficient progress has been made under Elements 6, 12, and 14 for the Assessment Team to award these Green RAG statuses. Although this is an informal marking which does not alter the statutory marking awarded by the Keeper in September 2013, it provides an indication of the Team's opinion as to the current state of archival provision within the authority.

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 the **Office of the Scottish Charity Regulator** 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