

The Public Records (Scotland) Act 2011

Scottish Commission for Human Rights

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

12 May 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 Scottish Commission for Human Rights. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The European Convention on Human Rights is brought into Scottish law by the Scotland Act 1998 and Human Rights Act 1998.

The Scottish Commission for Human Rights is an independent body established by the Scottish Parliament in 2008 to promote and protect the human rights of everyone in Scotland. The functions of the Commission are set out in the Scottish Commission for Human Rights Act 2006. Under that Act the Commission has a general duty to promote awareness, understanding and respect for all human rights to everyone, everywhere in Scotland, and to encourage best practice in relation to human rights. The Commission fulfils this duty through education, training, guidance, publications, awareness raising and research, as well as by recommending such changes to Scottish law, policy and practice when their work demonstrates a need.

The Commission has several powers:

- to conduct inquiries into the policies and practices of public authorities
- to provide education, training and awareness raising, including publishing research
- recommending changes to Scottish law, policy and practice
- intervening in some civil court cases, where there is relevance to human rights and where there is a public interest
- entering some places of detention, as part of an inquiry

<http://www.scottishhumanrights.com/>

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: Scottish Commission for Human Rights

Element	Status of elements under agreed Plan 22DEC15	Status of evidence under agreed Plan 22DEC15	Progress assessment status 12MAY22	Keeper's Report Comments on Authority's Plan 22DEC15	Self-assessment Update as submitted by the Authority since 22DEC15	Progress Review Comment 12MAY22
1. Senior Officer	G	G	G	Update required on any change.	The Chair of the Commission has overall responsibility for Records Management.	Noted with thanks. The Keeper's Assessment Team understand that the Commission is currently transitioning between Chairs (Statement: Transition between Chairs (scottishhumanrights.com)). Once the new Chair has taken up post, we would be grateful to be updated with the relevant contact details, as the Keeper requires to be informed on any change to the individual named at Element 1. The Team can be contacted at public_records@nrscotland.gov.uk .
2. Records Manager	G	G	G	Update required on any change.	The Scottish Commission for Human Rights has identified Andy Munro, Interim Chief Operating Officer,	Noted with thanks. Update required on any future change.

					<p>as the individual responsible for the day-to-day implementation of the <i>Plan</i>.</p> <p>The Interim Chief Operating Officer reports directly to the Commission and is supported by the Information Management Support Officer, who he line manages.</p>	
3. Policy	G	G	G	Update required on any change.	Records Management Policy is currently being reviewed.	The Assessment Team note this update with thanks.
4. Business Classification	A	G	A	<p>The Commission intends to develop a more detailed Business Classification Scheme in 2015-16 as part of the transition from a shared drive facility to an electronic records management system. The Keeper considers the steps being taken by the authority as reasonable and he would like to be kept updated as work progresses on this project.</p> <p>The Keeper agrees this element of the Scottish Commission for Human Rights' Records Management Plan on 'improvement model' terms. This means that he acknowledges that the authority has identified a gap in provision (current shared drive system needs replacing) and has put processes in place to close that gap. His</p>	<p>Progress has been made in developing a Classification Scheme to support the transition from shared drives to an electronic records management system. However, progress has been slower than initially planned due to a relocation of the Commission's office, changes of personnel in key roles, and significantly hampered by COVID-19.</p>	<p>Update noted with thanks. The Assessment Team understand that authorities sometimes face various pressures, including staff changes and office relocation as indicated here by the Commission. The Team also recognise the significant disruption to organisations over the past 2 years caused by the coronavirus pandemic.</p> <p>The Team are pleased to hear, despite these</p>

				agreement of this element is conditional on being kept apprised of developments.	<p>Progress includes</p> <ul style="list-style-type: none"> • A revised project plan for the transition to ERDM Autumn Winter 2022; • development of file types for the move to ERDM; • a revised and simplified records disposal process; • an updated Retention Schedule 	<p>challenges, that the Commission have continued to make progress in the development of their BSC to support the migration of their electronic records from shared drives to an EDRM solution.</p> <p>The Team thank the Commission for providing a round-up of their recent activities, including the revision and updating of the policies and processes that will be affected by the implementation of the EDRM. These changes are encouraging and display the authority's commitment to their RM responsibilities under Element 4.</p> <p>The Element remains Amber while work continues.</p>
5. Retention Schedule	G	G	G	Update required on any change.	The Commission has a revised <i>Retention Schedule</i> dated January 2022. A revised Records Disposal Procedure dated January 2022	The Assessment Team thank the authority for the update regarding the revised Retention Schedule and the corresponding revision of the supporting Records Disposal

					supports the Retention Schedule.	Procedure. Update required on any future change.
6. Destruction Arrangements	G	G	G	Update required on any change.	<p><u>Electronic Records</u> held on the shared drives are destroyed according to the revised Retention Schedule using the procedure in the revised <i>Records Disposal Procedure</i>.</p> <p>No further change.</p>	<p>Noted with thanks. The Team are pleased to hear that the authority are providing for the appropriate destruction of electronic records currently held on shared drives.</p> <p>Update required on any future change.</p>
7. Archiving and Transfer	A	A	A	<p>The Commission has identified the National Records of Scotland (NRS) as a suitable repository for records of permanent value and are currently negotiating a Memorandum of Understanding (MoU) at the time of assessment. The Keeper considers this entirely appropriate and requests that he has sight of the MoU once formally agreed.</p> <p>The Keeper agrees that the Scottish Commission for Human Rights have identified a suitable repository for the permanent preservation of selected records. He can agree this element under 'improvement model' terms. This means that he accepts that the authority has identified a gap in provision (no formal agreement with the archive) and have put processes in place to close that gap. His agreement is conditional on the approved MoU being provided when available.</p>	<p>An MoU with NRS has been prepared and is awaiting input/comments from NRS.</p> <p>It is anticipated that approval will be sought in summer 2022.</p>	<p>The Assessment Team thank the Commission for this update regarding an MoU with the NRS.</p> <p>This is a welcome step towards ensuring that appropriate arrangements for the permanent preservation of the authority's records of enduring value are facilitated. The Element remains Amber while progress continues, and the Team look forward to future updates.</p>

8. Information Security	G	G	G	Update required on any change.	No change.	Noted with thanks. Update required on any future change.
9. Data Protection	G	G	G	The Commission demonstrates strong compliance under this element as evidenced by the ready access for staff to the Policy and the running of staff training in this area. There is also an awareness raising session scheduled for January 2016. The Keeper commends this initiative and would welcome updates on how these sessions have been received.	The Commission has revised its Data Protection Policy and guidance for staff. The revised policy is dated Jan 2022. A staff refresher/training session is planned for Autumn /Winter 2022.	The Assessment Team thank the Commission for informing us of the revision of their Data Protection Policy and staff guidance. The Team welcome news that the authority plan to run refresher Data Protection training sessions to support its staff. This will help promote and reinforce good practice relating to Data Protection across the organisation.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	Business Continuity Plan updated in October 2020, no significant changes.	Noted with thanks. Update required on any future change.
11. Audit Trail	A	G	A	The Commission recognises that there is a need for better audit trail and management of electronic records. It is anticipated that the plan to implement an ERM solution will greatly improve provisions in this area. The Keeper commends the work being done to close the gap in provision and requests updates as the work to implement the ERM system continues.	The Commission is planning to move to an ERM solution in late <u>Autumn/Winter</u> 2022. This will significantly improve the audit trail and management of electronic records.	This update is noted with thanks. The Assessment Team agree that that the implementation of an EDRM solution will streamline audit trail of the Commission's electronic records, and support greater version control.

				The Keeper agrees this element of the Scottish Human Rights Commission on 'improvement model' terms. This means that he acknowledges that the authority has identified a gap in provision and has put processes in place to close that gap. His agreement is conditional on being kept up to date as the ERM solution is developed.		While this work continues, the Element remains at Amber. The Team look forward to updates in subsequent PURs.
12. Competency Framework	G	G	G	The Commission have committed to ensure that staff maintain and develop their competence in information and records management, and they have scheduled a targeted training programme to achieve this. The Keeper commends this commitment to staff training and would be interested to hear what impact this training is having.	Staff undertook DPA refresher training in 2018. Further training and updates and will be provided to support the transition to an ERM solution.	The Team welcome news that training will be provided for staff in light of the transition to the EDRM. Update required on any further change.
13. Assessment and Review	G	G	G	The Commission demonstrate their compliance under this element through their commitment to regularly review and develop as necessary their policies, procedures, and practices. A review of many of the key aspects of the Plan are scheduled for July 2017. The Keeper commends this work and would welcome any updates concerning the reviews and whether changes in policies and practice have subsequently taken place.	This self-assessment provides a range of updates on reviews to policies and practices.	Noted with thanks. Throughout the authority's self-assessment update, they have indicated regular review and update of their RM policies and practices. Engagement with the PUR process also demonstrates the authority's commitment to their RM responsibilities under Element 13.
14. Shared Information	N/A	N/A	N/A	n/a	n/a	n/a

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 1st February 2022. The progress update was submitted by Mandy Gallacher, Information Management Support.

The progress update submission makes it clear that it is a submission for the **Scottish Commission for Human Rights**.

The Assessment Team has reviewed the Scottish Commission for Human Rights' 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

The Scottish Commission for Human Rights continues to take its records management obligations seriously and is working to bring all elements into full compliance.

Section 5(2) of the Public Records (Scotland) Act 2011 provides the Keeper of the Records of Scotland (the Keeper) with authority to revisit an agreed plan only after five years has elapsed since the date of agreement. Section 5(6) allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates.

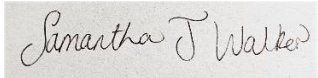
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that the Scottish Commission for Human Rights continue to take their statutory obligations seriously and are working hard to bring all the elements of their records management arrangements into full compliance with the Act and fulfil the Keeper's expectations.

The Assessment Team recommends authorities consider publishing PUR assessment reports on their websites as an example of continued good practice both within individual authorities and across the sector.

This report follows the Public Records (Scotland) Act Assessment Team's review carried out by

A handwritten signature in cursive script that reads "Samantha J Walker". The signature is written in black ink on a light-colored, slightly textured background.

Samantha Walker
Public Records Support Officer