

The Public Records (Scotland) Act 2011

Scottish Public Services Ombudsman

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

29 August 2018

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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 Scottish Public Services Ombudsman. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Description of Authority: The SPSO was set up by the Scottish Public Services Ombudsman Act 2002. They handle complaints about public services in Scotland including councils, the National Health Service, housing associations and cooperatives, universities and colleges, most water and sewage providers, prisons, the Scottish Government and its agencies and departments, and most other Scottish authorities.

<http://www.spsso.org.uk/>

5. Assessment Process

A PUR submission is evaluated by the Act's Assessment Team. The self-assessment process invites authorities to complete a template and send it to the Assessment Team one year after the date of agreement of its RMP and every year thereafter. The self-assessment template highlights where an authority's plan achieved agreement on an improvement basis and invites updates under those 'Amber' elements. However, it also provides an opportunity for authorities not simply to report on progress against improvements, but to comment on any new initiatives, highlight innovations, or record changes to existing arrangements under those elements that had attracted an initial 'Green' score in their original RMP submission.

The assessment report considers statements made by an authority under the elements of its agreed Plan that included improvement models. It reflects any changes and/or progress made towards achieving full compliance in those areas where agreement under improvement was made in the Keeper's Assessment Report of their RMP. The PUR assessment report also considers statements of further progress made in elements already compliant under the Act.

Engagement with the PUR mechanism for assessment cannot alter the Keeper's Assessment Report of an authority's agreed RMP or any RAG assessment within it. Instead the PUR Final Report records the Assessment Team's evaluation of the submission and its opinion on the progress being made by the authority since agreeing its RMP. The team's assessment provides an informal indication of what marking an authority could expect should it submit a revised RMP to the Keeper under the Act, although such assessment is made without prejudice to the Keeper's right to adopt a different marking at that stage.

Key:

G	The Assessment Team agrees this element of an authority's plan.	A	The Assessment Team agrees this element of an authority's progress update submission as an 'improvement model'. This means that they are convinced of the authority's commitment to closing a gap in provision. They will request that they are updated as work on this element progresses.	R	There is a serious gap in provision for this element with no clear explanation of how this will be addressed. The Assessment Team may choose to notify the Keeper on this basis.
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Progress Update Review (PUR) Template: Scottish Public Services Ombudsman

Element	Status of elements under agreed Plan, February 2016	Status of evidence under agreed Plan, February 2016	Progress assessment status, 2018	Keeper's Report Comments on Authority's Plan, February 2016	Self-assessment Update as submitted by the Authority since February 2016	Progress Review Comment, 2018
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.	No change	No immediate action required. Update required on any future change
3. Policy	G	G	G	Update required on any change.	Jun 2018: Minor update to incorporate GDPR.	This update is noted with thanks. The Assessment Team would welcome a copy of this policy when available in order to keep the submission up to date.
4. Business Classification	G	G	G	Update required on any change.	Feb 2018 last update: Regularly reviewed and updated when required	This update is noted with thanks.
5. Retention Schedule	G	G	G	Update required on any change.	Feb 2018: Reviewed and updated in line with GDPR requirements.	This update is noted with thanks.

6. Destruction Arrangements	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change
7. Archiving and Transfer	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change
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.	New SPSO Data Protection Policy Secure and bulk sharing of information: Implemented Egress Solution for more users in 2018. Planned move to Objective/Connect in 2019 for all users. Protocols exist for secure sharing of information through these systems.	This update is noted with thanks. The Assessment Team would welcome a copy of the Data Protection policy when available in order to keep the submission up to date. The use of systems for sharing information is protected by protocols and this is appropriate for this authority.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change
	G	G	G	Update required on any change.	No change	No immediate action

11. Audit Trail				change.		required. Update required on any future change
12. Competency Framework	G	G	G	There is a commitment in the <i>Records Management Policy</i> (page 4) (see element 3) that states “The identification of records management as a distinct stream within the organisation’s training portfolio, with dedicated training provided to all staff”. The Keeper commends this commitment and request that any training material relevant to this RMP should be sent to him when available.	No change	No immediate action required. Update required on any future change
13. Assessment and Review	G	G	G	Update required on any change.	Reporting July 2018	The use of the PUR process to review the current state of records management in the authority is good practice and the Assessment Team thank the authority for participating in this process.
14. Shared Information	n/a	n/a	n/a	Update required on any change.	No change	No immediate action required. Update required on any future change

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 17 July 2018. The author of the progress update submission is Elena Carrara, Team Assistant.

The progress update submission makes it clear that it is a submission for the **Scottish Public Services Ombudsman**.

7. PRSA Assessment Team's Summary

The Assessment Team has reviewed the **Scottish Public Services Ombudsman's** 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

The **Scottish Public Services Ombudsman** continues to take its records management obligations seriously and is working to maintain all elements in full compliance. The authority has responded to changes in legislation and has updated its policies and practices accordingly. The participation in the Progress Update Review self-assessment mechanism maintains awareness of the importance of managing records appropriately and the Assessment Team welcomes this evidence of continuing development.

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 **Scottish Public Services Ombudsman** continue to take their statutory obligations seriously and are working to maintain all the elements of their records management arrangements in compliance with the Act and to 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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Elspeth Reid
Public Records Officer