

The Public Records (Scotland) Act 2011

Scottish Public Services Ombudsman

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

5th September 2020

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

4. Authority Background

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 23FEB16	Status of evidence under agreed Plan 23FEB16	Progress assessment status 29AUG18	Progress assessment status 05SEP20	Keeper's Report Comments on Authority's Plan 23FEB16	Self-assessment Update 17JUL18	Progress Review Comment 29AUG18	Self-assessment Update as submitted by the Authority since 29AUG18	Progress Review Comment 05SEP20
1. Senior Officer	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change	No change.	No immediate action required. Update required on any future change.
2. Records Manager	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change	No change.	No immediate action required. Update required on any future change.
3. Policy	G	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.	No change to Records Management Policy Statement.	No immediate action required. Update required on any future change.
4. Business Classification	G	G	G	G	Update required on any change.	Feb 2018 last update: Regularly reviewed and updated when required	This update is noted with thanks.	Our Business Classification Scheme has undergone significant review as part of the move to a new eRDM platform (Objective). The updated policy and guidance is planned for finalisation by the end of July 2020.	<p>In their original submission SPSO explained that their corporate records were managed digitally on a SharePoint platform. Casework was managed on a line of business system (WorkPro) although were in hard-copy format.</p> <p>The Assessment Team understands that this situation is now changing with the authority's corporate records to be managed on the Scottish Government eDRM (Objective). The management of casework information remains the same as in 2016.</p> <p>SPSO have confirmed that their corporate records are managed on the Scottish Government eDRM (Objective) system, as a completely separate and restricted file plan. The migration from the SharePoint platform to Objective was completed in March.</p>

									<p>The public records of the NRS are also managed under the SG eDRM and it is therefore clearly endorsed by the Keeper as a suitable system for use by the public sector.</p> <p>For data cleansing see element 6 and for staff training see element 12.</p> <p>The Assessment Team looks forward to feedback on the effectiveness of the new system in subsequent PURs.</p>
5. Retention Schedule	G	G	G	G	Update required on any change.	Feb 2018: Reviewed and updated in line with GDPR requirements.	This update is noted with thanks.	<p>Our Retention and Disposal Policy has been reviewed with changes to the retention schedule for casework. The revised documents are with the Leadership Team for final approval prior to implementation.</p> <p>Non-casework retention and disposal has been reviewed as part of the move to the new eRDM platform (Objective) and is planned for finalisation by the end of July 2020.</p>	<p>In their original submission the Scottish Public Services Ombudsman committed to keeping their information governance policies and guidance documents under review and the Assessment Team acknowledges that this is being done.</p> <p>See under element 4 for the eDRM migration.</p>
6. Destruction Arrangements	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change	<p>No changes to arrangements. Note that limited casefile destruction undertaken as per our policy due to Infected Blood Inquiry request to retain any relevant records, and IT application failure. Due to resume in 2020.</p>	<p>The Assessment Team thanks SPSO for this casework update which has been noted.</p> <p>A full data cleansing exercise was undertaken when documents were matched to the new file plan, prior to migration (November 2019-February 2020).</p> <p>It is assumed that control of the routine destruction of corporate records will be enhanced by the migration to eDRM (See element 4 above).</p>
7. Archiving and Transfer	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change	No changes since MoU with NRS agreed.	No immediate action required. Update required on any future change.
8. Information Security	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future	Records Management and Security Guidance updated (May 2018).	In their original submission the Scottish Public Services Ombudsman committed to keeping their information governance

						change	Cyber Essentials Accreditation (November 19). ICT Strategy and IT Security Policy in draft – planned for finalisation August 2020.	policies and guidance documents under review and the Assessment Team acknowledges that this is being done. The Assessment Team notes that new Records Management and Security guidance document is available The Assessment Team acknowledge that SPSO have achieved Cyber Essentials accreditation: Certificate Number: IASME-A-014166 and that a copy of their certificate has been provided.	
9. Data Protection	G	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.	Enhanced DPIA process and guidance (March 2019). Enhanced data breach procedures planned for finalisation by the end of June 2020. Project underway to prepare for introducing Connect, a secure file sharing platform within eRDM (Objective). Policy and guidance is planned for finalisation by the end of July 2020.	As with all other Scottish public authorities SPSO have been required to review and update their data protection procedures in light of the 2018 legislation. The Assessment Team acknowledges that the public facing Ombudsman website has been updated appropriately: https://www.spsso.org.uk/privacy-notice The Assessment Team note the planned use of Objective Connect for secure file sharing. This is the solution used by the Keeper of the Records of Scotland and thus would meet his agreement.
10. Business Continuity and Vital Records	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change	Business Continuity Policy reviewed, audited, and published on website (August 2019) Link to policy on website: https://www.spsso.org.uk/sites/spsso/files/communications_material/business_information/2019BusinessContinuityPlan.pdf	The Assessment Team thanks SPSO for this update which has been noted. The publication of key documents, in order that service users can be reassured that an authority engages with its information governance responsibilities, is commended. Again this provides the Assessment Team with evidence that SPSO is committed to keeping its information governance policies and guidance documents under review.
11. Audit Trail	G	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change	Change from SharePoint to new eRMP platform (Objective) for non-casework records.	The Objective eDRM has a powerful search facility (which the Keeper has endorsed by adopting it himself) that allows a user to track all records using a variety of search criteria. The efficiency of the search facility relies on consistent naming of documents as they are saved

									as records on the system and SPSO is encouraged to ensure their naming convention (which is explained to staff as part of their Business Classification document) is suitable. The eDRM will automatically apply version control. The Keeper has previously agreed that the tracking processes for SPSO casework records is appropriate.
12. Competency Framework	G	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	No change.	Mandatory training was undertaken by all staff before being granted access to the eRDM system (see element 4), and a follow-up training session was provided in July for the management team and heavy users.
13. Assessment and Review	G	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.	PUR submission (June 2020)	The Keeper has previously agreed that SPSO has appropriate arrangements in place to review the implementation of their records management plan and this PUR confirms that this has not changed. The authority's participation in the PUR process in 2020 demonstrates a commitment to reviewing its RMP.
14. Shared Information	n/a	n/a	n/a	A	Update required on any change.	No change	No immediate action required. Update required on any future change	Note the SPSO's information sharing powers have been extended. Link to legislation: http://www.legislation.gov.uk/asp/2002/11/section/20 http://www.legislation.gov.uk/asp/2002/11/schedule/5 SPSO are also part of the Sharing Intelligence for Health and Care group which has an emerging concerns	The Assessment Team thanks SPSO for this update which has been noted. Changes to the activities of the authority have now brought this element into scope and it is clear that SPSO are working towards putting appropriate controls in place to ensure that information governance is properly managed during information sharing programmes.

								<p>protocol, and a new information sharing policy is being drafted ensuring we are taking a structured approach. This work should be completed by Autumn 2020.</p>	<p>For example, they are creating an information sharing policy in relation to the extension of the legislation – that explicitly deals with the Sharing Intelligence for Health and Care group.</p> <p>The Keeper has addressed his expectations around this element in his Model Plan (2019 version): https://www.nrscotland.gov.uk/record-keeping/public-records-scotland-act-2011/resources/model-records-management-plan</p> <p>Which includes suggestions of ‘best practice’. SPSO may wish to consult this to ensure they are compliant in this new element.</p> <p>However, the Keeper would agree that developing an Information Sharing Protocol is a commendable start. This element remains at Amber while this work is ongoing.</p> <p>The Assessment Team looks forward to updates in subsequent PURs.</p>
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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 18th June 2020. The progress update was submitted by Helen Littlemore, Corporate Information Governance Officer.

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

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 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.

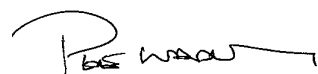
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that the Scottish Public Services Ombudsman 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,



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Pete Wadley
Public Records Officer