



► “The powerful forces of personal identity, of understanding one’s personal journey from dependency as a child to independent living and adulthood, are at the heart of the legislation.”



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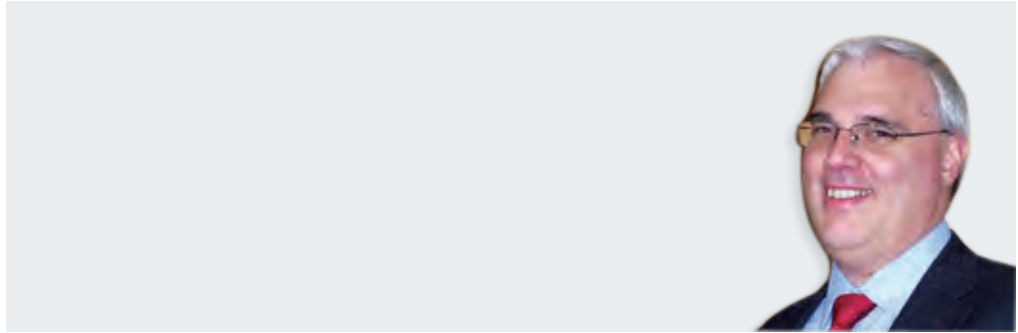
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Section 1

Foreword by the Keeper of the Records of Scotland



To the Cabinet Secretary for Culture and External Affairs

I am delighted to present this report, my first as Keeper of the Records of Scotland, under the Public Records (Scotland) Act 2011, the first new public records legislation in Scotland for over 70 years. The fact that Scotland now has a new public records act is a matter of considerable pride and encouragement to record practitioners in Scotland. It witnessed a coming together of certain influences and events, which included a longstanding recognition of a need to legislate, the publication of a crucial independent report and a willingness on the part of Scottish Ministers to take action. It is perhaps appropriate therefore that at the start of implementation of the new Act we reflect on those distinct elements and how they combined to bring a successful outcome.

“It is perhaps appropriate therefore that at the start of implementation of the new Act we reflect on those distinct elements and how they combined to bring a successful outcome.”

The Act has only been in operation since 1 January 2013. In presenting the work done since the Act came into force to the end of the financial year 2012-13, I will also report on events before then to provide wider context and a better perspective of the detailed work and achievements that took place prior to full implementation.

I assumed office on 4 February 2013. This report focuses mainly on the work and achievements that took place before my arrival, under the stewardship of the previous Keeper Mr George MacKenzie, who retired in September 2012, and his successor as Acting Keeper Ms Audrey Robertson. I owe them both a debt of gratitude for the important work undertaken during their respective time in office.

From an operational point of view the Act is still in its infancy. This inaugural report therefore does not focus exclusively on the assessment or regulatory aspects of my remit which have yet to be actioned in full. Instead it highlights the wider progress made to date and sets the Act in context by providing a comprehensive account of how we reached this position. The report shows why there was a need to develop new legislation to better care for our public records in Scotland and how we propose to progress matters in the future.

I will also report on important events that have occurred beyond the financial period that I consider merit inclusion.

“The report shows why there was a need to develop new legislation to better care for our public records in Scotland and how we propose to progress matters in the future.”

Records are crucial for a democracy. They inform us about ourselves, our past and our present and how it has been shaped. They act as the ultimate guarantee of our rights both as individuals and organisations, but we tend to take them for granted until some crisis shows us their vital importance. This Act developed from one such crisis when sadly many records, particularly those for vulnerable people, were lost forever. Its effective implementation and operation will not only help to safeguard public records in the future, but also provide greater efficiencies for Scottish public authorities, help improve governance and safeguard the rights of Scottish citizens, particularly the most vulnerable.

A handwritten signature in black ink, appearing to read 'Tim Ellis', written in a cursive style.

Tim Ellis
Keeper of the Records of Scotland
1 August 2013

Section 2

Chronology of the Public Records (Scotland) Act 2011

▶ November 2007

The Historical Abuse Systemic Review (Shaw Report) published. Shaw highlights destruction of thousands of children's records in the looked-after children sector and reports that own investigations were hampered by poor record keeping. Recommends that government reviews public records legislation, with view to renewal.

▶ February 2008

Adam Ingram, Minister for Children and Early Years, confirms to Parliament the government's intention to act. Keeper of the Records of Scotland (the Keeper), in consultation, is required to "review the legislation on public records in light of the shortcomings that were exposed by Shaw".

▶ April 2008

The Keeper begins review of the legislation and records management practice across the public sector in Scotland. In-depth review gathers evidence across a wide spectrum and takes 18 months.

▶ October 2009

Findings of the Keeper's review accepted by Scottish Ministers and published. Reports that existing public records legislation, dating from 1937, is unsuitable and change required. Identifies opportunity to build on lessons of the Shaw Report, improve record keeping across the public sector.

▶ January 2010-August 2010

Scottish Ministers propose 'light touch' legislative approach. Work begins on proposals for new public records legislation. Policy proposals prepared and submitted to formal public consultation.

▶ September 2010-October 2010

Consultation responses are processed and a draft Bill finalised.

▶ October 2010-March 2011

The Public Records (Scotland) Bill introduced to Parliament by Fiona Hyslop MSP and undergoes parliamentary scrutiny. Several amendments accepted by government to the draft Bill.

▶ March 2011

The Bill is passed with the unanimous support of Parliament. It is the first public records legislation in Scotland for over 70 years.



▶ April 2011

The Public Records (Scotland) Act 2011 receives Royal Assent. The Act requires the Keeper to consult named public authorities and publish a model records management plan and guidance to the plan. Authorities are required to create, submit to the Keeper for agreement, and implement their own records management plan covering the corporate records of their organisation.

▶ February 2012-May 2012

The model plan and guidance document is submitted to formal public consultation.

▶ September 2012 onwards

The Keeper conducts a series of outreach events to publicise the objectives of the Act and explain obligations for public authorities. This engagement process remains ongoing.

▶ Late January 2013

The first invitation to submit a plan is sent to a Scottish public authority – jointly the Keeper of the Records of Scotland and the Registrar General of Births, Deaths and Marriages for Scotland.

▶ July 2013

The first plan is agreed by the Keeper.

▶ June 2011

The Keeper establishes a 'Stakeholder Forum' to help develop the statutory model plan and guidance. This body meets several times over the next year, setting up various sub-groups, to deal with specific issues of detail.

▶ August 2012

Consultation responses are processed and the model plan and guidance document revised, finalised and published.

▶ January 2013

The Act comes fully into force on 1 January enabling the Keeper to start inviting Scottish public authorities to submit their plans for agreement. This process is scheduled to take five years. An initial timetable of invitations covering the first six months is agreed and published.

▶ April 2013

The first records management plan is received by the Keeper for consideration and assessment.

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Section 3

Introduction and aims of the Act

The Public Records (Scotland) Act 2011 (the Act) was passed with the unanimous support of the Scottish Parliament on 16 March 2011. It received Royal Assent on 20 April 2011 and was fully implemented on 1 January 2013.¹

The primary aim of the Act is to improve the quality of record keeping by named Scottish public authorities. In this respect it marks a new beginning in the Keeper's relationship with public authorities and how they address the challenges posed by the public records that they generate. It also heralds a new relationship between authorities and the citizens they serve, giving citizens further reason to trust that the public records created about them, which document key aspects of all our lives, are authentic, accurate and secure.

“It will help to develop a relationship that views proper record keeping as critical to guaranteeing the rights and privileges of Scottish citizens.”

An assessment team, based in the National Records of Scotland (NRS), has the task of overseeing proper implementation of the Act on behalf of the Keeper. The team engages with named authorities to help them meet their obligations under the Act. During any given year, the team will contact and request the submission of separate records management plans from at least fifty named authorities. A list of the named authorities can be accessed on the NRS website www.nrscotland.gov.uk

Public authority records and information managers, and archivists, are aware of the real opportunity that the Act affords to develop a culture in Scotland that acknowledges the importance of records. They recognise that it can provide a mechanism through which we can develop a new and positive outlook towards record keeping. It will help to develop a relationship that views proper record keeping as critical to guaranteeing the rights and privileges of Scottish citizens, while encouraging the business efficiencies which can accrue from managing records and information properly.

Any measure of success depends on how well the case for administrative and business benefits is made over the coming years, but another powerful driver must be taken into account. The proposals for the new Act came from compelling human experiences, reflected by an investigation into the loss of records of vulnerable people. The resulting report showed how vulnerable people had been badly let down over many years by poor record keeping.

¹ <http://www.legislation.gov.uk/asp/2011/12/part/1/enacted>

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Section 4

The Historic Abuse Systemic Review (Shaw Report)

The moral imperative and impetus for the new Act can be traced to the findings of the Historic Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950-1995, the Shaw Report, published in November 2007.² The Review was commissioned by Scottish Ministers in direct response to a national institutional child abuse scandal and was chaired by Tom Shaw, the former Chief Inspector of Education and Training in Northern Ireland.³

Tom Shaw was invited by Scottish Ministers to review the systemic failings following allegations of abuse of children in residential care.⁴ His review investigated the regulatory framework for residential schools and children's homes in Scotland, set against the backdrop of those allegations. It found serious failings in a number of key areas. Crucially, it highlighted how the review's own investigations were hampered by poor record keeping across the sector. It identified thousands of child care records as having been created but then lost or destroyed due to inadequate records management, poor legislative direction and simple neglect.

Critically, Shaw highlighted how this situation left many former residents of care unable to access their own vital records, thus denying them knowledge of their formative years. Those of us who have been sheltered from the experience of being looked after by the state cannot begin to imagine what it is like not to have a clear understanding of your own past, a sense of family and your place within a wider family network and community. Records cannot replace the anecdotes and reminiscences that, in most cases, provide us with a sense of our family history. However they can often serve to close gaps and correct factual inaccuracies that inevitably exist in anecdotal accounts of past family events. Records, therefore, take on a whole new level of significance and become critically important to those for whom the anecdotal route to the past simply does not exist.

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² The Shaw Report can be consulted at: <http://www.scotland.gov.uk/Publications/2007/11/20104729/0>

³ Tom Shaw currently advises the Historical Institutional Abuse Inquiry established in Northern Ireland on 31 May 2012.

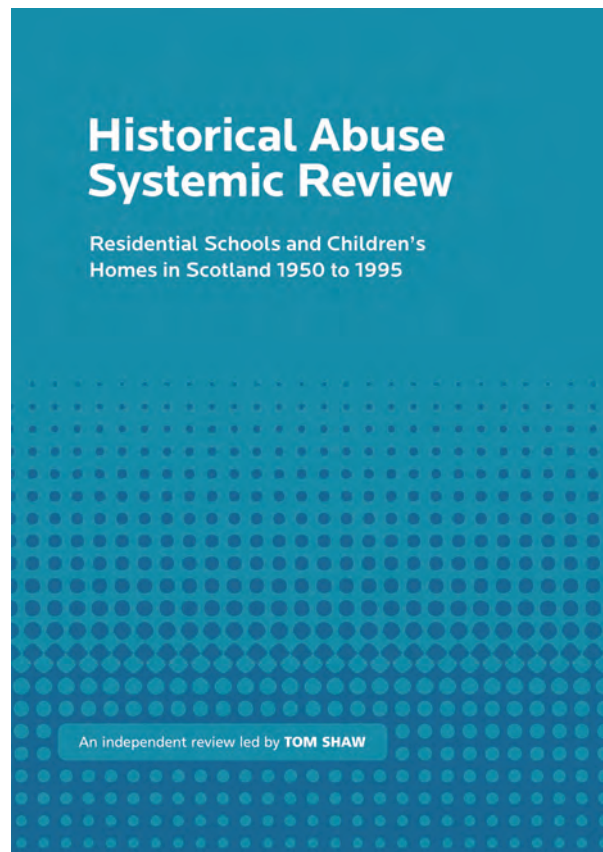
⁴ Chris Daly, a survivor of institutional abuse, submitted a petition to the Scottish Parliament in 2002 on behalf of survivors of in-care abuse. Petition PE535 led to an apology by the First Minister in the Scottish Parliament and the commissioning by Parliament of the Historic Abuse Systemic Review in 2004.

Shaw exposed a culture of poor record keeping that led to the erroneous destruction or loss of records relevant to looked after children. Former residents understandably take the view that as their records were regarded as unimportant, so the lives of the vulnerable children represented in them were regarded as equally unimportant by the state.

The review graphically demonstrated how important record keeping is, and how vital records are to former residents of care to help them rebuild a sense of identity and come to terms with what they experienced. The powerful forces of personal identity, of understanding one's personal journey from dependency as a child to independent living and adulthood, are at the heart of the legislation.

“The Shaw Report therefore graphically highlighted the shortcomings of poor record keeping and its human cost. But while the report’s focus was not aimed at records, record keeping was at its core.”

Shaw understood the difficulties he faced when advisors told him that, “tracing appropriate information that would help to describe and evaluate practice in monitoring and inspection in the past would be an extremely difficult, if not impossible task.”⁵



⁵ Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950-1995.

The Shaw Report therefore graphically highlighted the shortcomings of poor record keeping and its human cost. But while the report's focus was not aimed at records, record keeping was at its core. An entire chapter was dedicated to explaining why records are important and a key recommendation of the report was that government should review public records legislation with a view to renewal.

“a key recommendation of the report was that government should review public records legislation.”

Ministers demonstrated their eagerness to act when in February 2008 they publicly accepted the Shaw findings with a promise of action. They needed evidence however of wider failings across the public sector in Scotland if legislation was to be considered a serious option. The role played by the Keeper in this process was to prove pivotal.

▶ Tom Shaw, evidence to the Education, Life Long Learning and Culture Committee, January 2011

“The [Act] seems to have a real strength, in that it is truly enabling. It is written in such a way as to allow a developmental process, which involves the providers, the local authorities and anyone else who is in the business of making records to be part of the development.. Over time, that allows the prospect of continuing practice improvement.”

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“The Keeper sought to emphasise that improvements in record keeping for business efficiency reasons would bring wider benefits, such as direct cost savings and the benefits from safeguarding longer-term preservation of records of enduring value.”

Section 5

The Keeper's Review of Public Records Legislation

In a Ministerial statement to the Scottish Parliament, Adam Ingram, Minister for Children and Early Years, asked the Keeper of the Records of Scotland to conduct a review of public records legislation “in light of the shortcomings exposed by Shaw.”⁶

For many years a low priority was accorded to records in the public sector and supporting legislation was out of date. The previous Public Records (Scotland) Act dates from 1937 and was primarily concerned with court records. It was not able to properly support public records more widely. The Keeper's review, conducted over an 18 month period, concluded in October 2009. It found that the 1937 Act was seriously out of date, too narrow in scope, too little understood and in many cases not relevant. The review confirmed that there were clear records management problems beyond the child care sector. It provided evidence that there was an inadequate legislative basis from which to address the important issues raised by the Shaw Report.⁷

The Keeper's review emphasised the enormous importance placed on records by survivors and former residents of care in helping them come to terms with their experience. It emphasised the essential part records play in mapping personal histories and helping care leavers become comfortable with their identities.

“Good records management could no longer be seen as a bureaucratic luxury which public authorities could afford to ignore.”

While best practice guidance on managing records exists, the Keeper's review reported on a lack of consistency on how it is applied across Scotland's public authorities and pointed out the inefficiencies that exist as a consequence. It identified the obvious need for more and improved training for those charged with looking after Scotland's public records and to help them understand the issues involved and realise the benefits to be derived by authorities. The Keeper sought to emphasise that improvements in record keeping for business efficiency reasons would bring wider benefits, such as direct cost savings and the benefits from safeguarding longer-term preservation of records of enduring value.

The Shaw Report provided the moral argument. The Keeper's review strengthened the case for change and identified a wider public and governance need. Good records management could no longer be seen as a bureaucratic luxury which public authorities could afford to ignore.

⁶ Adam Ingram MSP, Minister for Children and Early Years, stated the following in the Scottish Parliament on 7 February 2008: “The Shaw report rightly makes important recommendations about records and record keeping. The first is the need for a review of public records legislation. There are clear advantages in such a review, as the existing law is more than 60 years old. We have therefore asked the Keeper of the Records of Scotland, in consultation, to review the legislation on public records in the light of the shortcomings that were exposed by Shaw.”

⁷ <http://www.nrscotland.gov.uk/>

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Section 6

Towards the Public Records (Scotland) Act 2011

Scottish Ministers accepted the recommendations of the Keeper's review and were keen to legislate but they were acutely aware of the straitened fiscal situation being faced by Scotland's public sector. Any legislative response therefore had to be 'light touch'. Ministers called for a public consultation to gauge the public mood for a legislative solution while making known their determination that better use of existing guidance and best practice procedures would be fundamental to the success of any legislative route. The public consultation was carried out in the spring of 2010 and showed clear support for the Government's proposals. Most stakeholders agreed that the proposals would be a positive step towards achieving lasting improvements in the management of records by public authorities. Importantly, more than half of respondents considered that lasting improvements could not be made without legislating.

"While the situation required swift action the reality was that lasting improvement was not to be found in a quick fix solution."

The aim was to improve record keeping across Scotland not simply by updating the legislation on public records but by framing new legislation which would support public authorities and address weaknesses in their current record keeping provision over time. It had to be a framework that supported rather than burdened public services and avoided excessive scrutiny. While the situation required swift action the reality was that lasting improvement was not to be found in a quick-fix solution.

Ultimately, the challenge was to develop a culture that acknowledged the importance of records, recognise how they underpinned corporate rights and responsibilities, and guaranteed the rights of citizens. Changing a culture of practice is not easy and is rarely achieved quickly. Ministers accepted that legislation would be needed to underpin this move towards change and introduced a Public Records Bill to Parliament in October 2010.

The new Act was passed with the unanimous support of Parliament on 16 March 2011.

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Section 7

What obligations do we have under the Act?

i) The Keeper

The Act requires the Keeper to prepare and publish a model records management plan, issue guidance on the form and content of that plan and consult authorities about them. A Stakeholder Forum, made up of representatives drawn from the 270 named public authorities affected by the Act, was set up specifically to assist in this purpose. The Forum was a vital partner that helped to deliver cross-sector agreement on the issues and concerns raised and helped to bring voluntary sector bodies on board. It discussed what elements the model plan should contain and the supporting guidance.

The model plan is not a template but an annotated list of fourteen elements representing the necessary components of a robust records management plan. These include obvious best practice elements such as:

- a records management policy statement;
- retention schedules and destruction arrangements;
- business classification and business continuity provisions.

The model plan lists other elements which are mandatory including the requirement to appoint a senior officer (Chief Executive or senior accountable officer) with overall responsibility for the plan. The Keeper must also be provided with contact details of the person responsible for day to day implementation of the plan throughout an authority.

While it is not compulsory for an authority to follow the Keeper's Model Plan, mandatory elements must be met in full. Where an authority chooses not to include any of the non-compulsory elements in its own plan, some explanation and evidence for its decision will be required.

► Fiona Hyslop, Cabinet Secretary for Culture and External Affairs. January 2013

"Records are our collective memory and the basis for individual rights and obligations. We can't do our jobs without them but often they tend to be ignored or get low priority ... This should not be the case, but it is."

A separate Guidance Document was developed to support the Model Plan. This is crucial to interpret the plan correctly and help authorities with compliance. The Guidance Document explains each of the elements in detail and provides sample documents. Many were submitted by Forum members or are currently in use by authorities. Throughout the process, we followed the principle of not 're-inventing the wheel', recognised as important for minimising costs and achieving overall success for the Act. This chimed neatly with Ministers' desire for public authorities to work collaboratively when developing solutions. I maintain my commitment to keep the Guidance constantly under review and ensure that it continues to reflect current best practice and remains fit for purpose.

The Keeper's final draft of the Model Plan and Guidance were scrutinised by the wider community through a formal consultation. The consultation attracted a total of fifty one responses. Of those, two were submitted on behalf of individuals while the majority were institutional responses.

Responses to the consultation showed broad support for the Keeper's Model Plan and Guidance and comments about content were taken on board and used to address minor weaknesses in the text. The consultation was a positive experience that improved and strengthened both products. This was a truly collaborative process that involved not just immediate colleagues in the archive and records management professions, but also record creators, policy advisors, information architects and senior managers of services across the wider Scottish public sector. The Keeper's Model Plan and Guidance were finalised and published in August 2012.⁸

I would reiterate my thanks to stakeholders for their participation in the consultation process. The consultation report can be seen on the NRS website:
www.nrscotland.gov.uk

"I maintain my commitment to keep the Guidance constantly under review and ensure that it continues to reflect current best practice and remains fit for purpose."

⁸ Both these documents can be accessed on the NRS website: <http://www.nrscotland.gov.uk/>

“If we are seeking lasting change then we need to plan for long-term continuous improvement under agreed records management plans.”

The Act requires the Keeper to provide an annual report to Scottish Ministers and Parliament. This report forms a crucial part of one of the key elements built into the system to ensure compliance. The challenge we face is to ensure that this process does not become just another box ticking exercise, delegated far down the organisation and with little real impact. I remain hopeful, that with these key elements in place and the advance measures already being taken by authorities, future Keeper’s reports will focus on positive outcomes and not need to highlight poor practice, non-compliance and the ‘naming and shaming’ of public authorities.

ii) Public authorities

Named public authorities, listed under the schedule to the Act,⁹ must:

- prepare, implement and keep under review a records management plan;
- set out under the plan the arrangements for the management of their records either created or held by the authority;
- include under the plan the name of the individual responsible for managing the authorities records, or if different, the individual responsible for compliance with the plan;
- submit their plan for the agreement of the Keeper.

There can be different plans for different sectors. Plans need to be proportionate to the interests and needs of different areas and there can be common plans for use within sectors. Once agreed an authority must manage its records in accordance with the plan and keep it under review.

I recognise that there is no one-size-fits-all solution and I will not be encouraging the pursuit of quick-fix solutions. If we are seeking lasting change then we need to plan for long-term continuous improvement under agreed records management plans.

⁹ <http://www.legislation.gov.uk/asp/2011/12/part/1/enacted>

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▼ The NRS Assessment Team: (L to R)
Bruno Longmore, Andrea Wells, Hugh
Hagan, Robert Fotheringham. (In
absentia) Pete Wadley



Section 8

Who will assess Records Management Plans?

I intend to operate a rolling programme of invitations to named public authorities inviting them to submit their records management plans with a view to assessing and agreeing them.¹⁰ Once a plan has been submitted to the Keeper it will be reviewed by the assessment team.

The team is made of up of four officers – three assessment officers and an administration support officer. It is under the direction of Bruno Longmore – Head of Government Records. The team is responsible for all issues around the assessment procedure and can be contacted at: publicrecords@nas.gov.uk or 0131 535 1430.

▶ Care leaver statement, supplied by In Care Survivors Service Scotland, July 2013

“Getting my records has filled in blanks as I had lived a life of non existence. I had nothing of my past, nothing was there, it was empty ... It was my right to know about myself from my records because I couldn't ask family to tell me stories of my childhood.”

¹⁰ The six-month rolling programme of invitations is well established and is available to view on the NRS website: <http://www.nrscotland.gov.uk>

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Section 9

How the assessment process will work

A reasonable period of time between the formal invitation to submit a records management plan and its final submission has been built into the process. In most cases this period will be four months, but I wish this to remain flexible to accommodate the particular requirements of complex authorities, or to accept an authority's plan more quickly when that situation arises. The assessment team will contact authorities well in advance of my formal letter of invitation being despatched to gauge states of readiness. The lead-in period allows the team to engage with authorities over particular aspects of their plans. The team will seek to provide assistance as required and thereby facilitate more robust submissions.

Each named authority has been asked to identify a member of staff responsible for overseeing the implementation of their plan (the 'Key Contact'). The assessment team will liaise with Key Contacts over all plans to be submitted and discuss any issues surrounding evidence or other supporting information.

On completion of the process, a draft of the formal assessment report will be sent to the Key Contact for comment and to help identify any factual inaccuracies. The final report carrying my decision about an authority's plan will be forwarded to the Chief Executive Officer of the public authority and will be published on the NRS website.

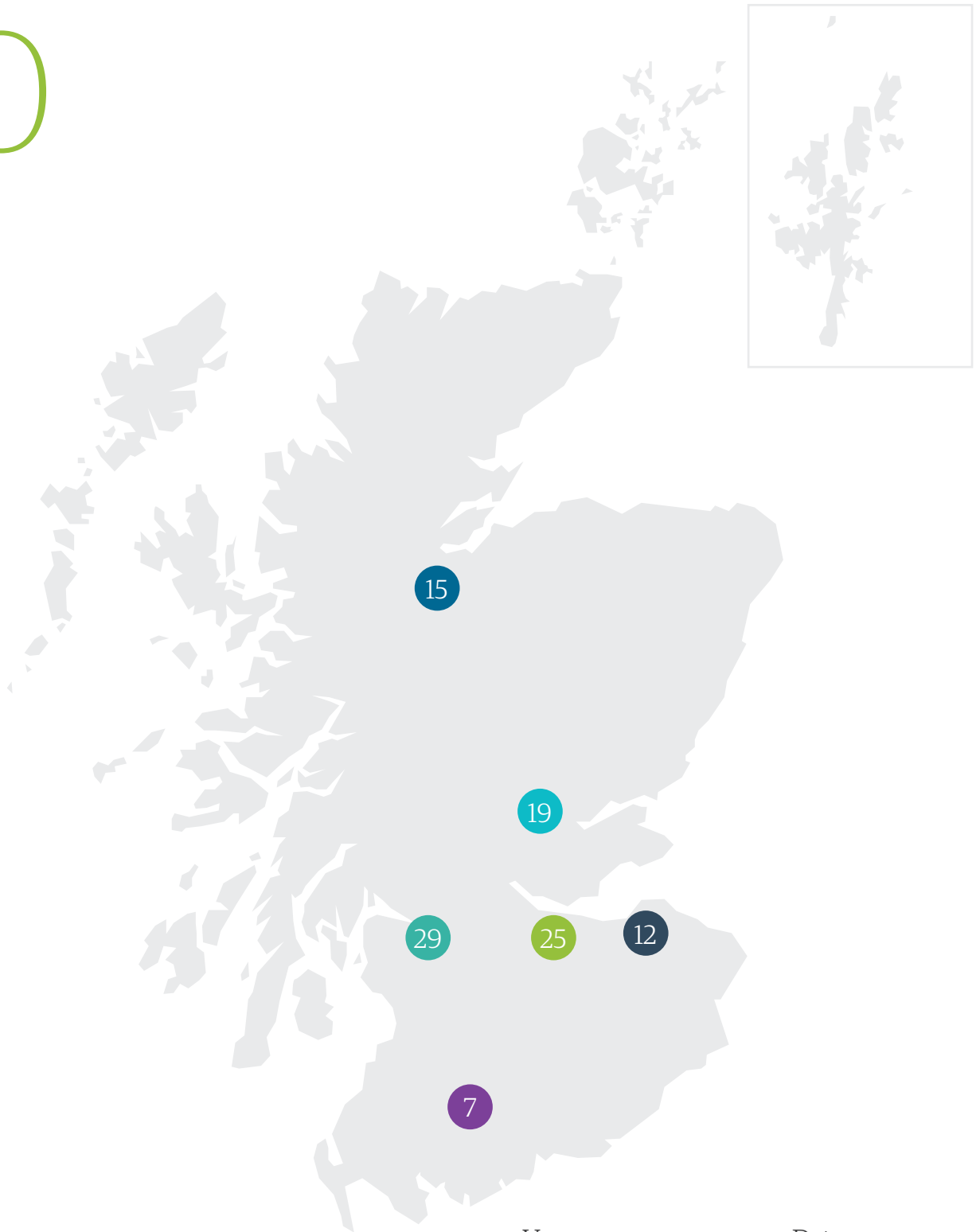
Under Section 4.3(b) of the Act the Keeper may return a plan without agreement if he considers that it does not set out proper arrangements for the management of the authority's public records. If I choose to do this I must consult with the authority, explain my reasons and suggest what modifications would permit agreement. I must have regard to any representations made in response.

Should suggested modifications not be implemented, or a revised plan is not submitted, only then would I seek to invoke the action notice powers provided under Section 7 of the Act. If the authority fails to comply with any of the requirements of the action notice, I can under Section 7(5) of the Act "take such steps as the Keeper considers appropriate to publicise the failure".

Authorities who fail to submit a records management plan when requested, or who fail to modify their plan for resubmission when it has been returned, may be deemed to have failed in their obligations under the Act. The Keeper is then obliged to report any such failure to Scottish Ministers. As indicated, early feedback is very encouraging and I believe that I will not, at least initially, find it necessary to invoke this provision.

Once a plan is agreed, I will encourage an authority to publish it (or a redacted version) on their website. If this is not appropriate, I may request that the authority consider publishing their plan on the NRS website.

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▲ Map showing surgery venues and number of named authorities in attendance at the Surgeries 2012

Venue	Date
Edinburgh	11 September
Dumfries & Galloway	14 September
Perth	20 September
Inverness	24 September
Glasgow	27 September
Haddington	28 September

Section 10

Implementation, promotion and statistical information

i) Public Records (Scotland) Act Surgeries

Key to the future success of the Act is maintaining a process of continuous engagement. Prior to implementation, we ran a series of 'surgeries' in September 2012 through which we learnt a lot about the state of readiness of many Scottish public authorities. The surgeries helped identify those authorities who were in a position to consider becoming early adopters. They were among the first authorities to populate the six-month rolling timetable for submission of plans. This direct engagement also allowed the Keeper to publish further guidance to answer many frequently asked questions (FAQs). www.nrscotland.gov.uk

Further surgeries are planned for 2013. I will encourage my assessment team to continue to meet with individual authorities, or groups of authorities, to discuss their proposals and engage with them over any particular concerns. Exploring issues either face to face or in small groups has proved extremely beneficial and I will continue to support my staff in facilitating this type of engagement.

"I will encourage my assessment team to continue to meet with individual authorities, or groups of authorities, to discuss their proposals and engage with them over any particular concerns. Exploring issues either face to face or in small groups has proved extremely beneficial and I will continue to support my staff in facilitating this type of engagement."

▶ Tim Ellis, Keeper of the Records of Scotland, July 2013

"There is no one-size-fits-all solution and I will not be encouraging the pursuit of quick-fix solutions."

“Over this period we have engaged directly with one hundred and fifty three bodies and met with over two hundred public servants.”

ii) Engagement with authorities

From 30 June 2011–31 March 2013 the head of NRS Government Records and the assessment team undertook seventy-four separate Public Record (Scotland) Act engagements, including surgeries. Those who attended included representatives from Scottish public authorities, professional associations and voluntary and private bodies. Over this period we have engaged directly with one hundred and fifty three bodies and met with over two hundred public servants. In addition, assessment team members contributed to twenty separate conferences, seminars and workshop events organised by others, allowing our message to be heard more widely across the public and non-public sectors.

“Assessment team members contributed to twenty separate conferences, seminars and workshop events organised by others, allowing our message to be heard more widely across the public and non-public sectors.”

iii) Online articles and other publicity

From May 2011 until March 2013 my assessment team has promoted the Act by publishing articles online and in hard copy. We have used various journals and websites of professional colleagues in the archive and information sector, and those across the wider Scottish public sector. We have also actively engaged with stakeholders in the private and voluntary sectors. We have communicated not only the most recent significant developments about implementation, but our hopes and aspirations for the new legislation.

A total of thirty five separate articles were published in journals, newsletters and websites, or as FAQs, meeting reports, newspaper articles and on occasion by letter to the CEOs of named Scottish public authorities.

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iv) Invitations to submit in 2013

At present there are fifty eight invitations arranged for 2013. Thirteen invitations (22%) to submit have already been sent to the Chief Executives of scheduled authorities.

v) NRS website statistics

▶ Visits and downloads from the NRS website				
	Nos of RTF Downloads	Nos of PDF Downloads	Visits	Views
Keeper’s Model Plan	436	575	2782	4056
Keeper’s Model Plan Guidance Document	1122	n/a	1909	2463
Surgery FAQs	318	251	n/a	n/a
Executive Summary	392	356	n/a	n/a

▶ 58 Invitations arranged for 2013

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Section 11

Current position

The first public authorities have been invited to submit their records management plans.

In January 2013 I submitted a formal invitation for a joint plan to The Keeper of the Records of Scotland and the Registrar General for Scotland. Those two authorities cover the records created under the umbrella organisation of the National Records of Scotland. The plan was submitted on 20 April and following favourable review by the NRS assessment team it was approved on 4 July 2013.

I therefore had the rather curious pleasure of agreeing my own plan!

The agreed plan was published on the NRS website www.nrscotland.gov.uk. I seek to encourage other authorities to publish their own agreed plans and benefit from sharing experience and extending best practice. I hope to achieve a balanced approach across sectors, identifying early leaders in the field and inviting them to submit their plans first. This will provide a baseline with a number of published plans across several sectors that others can then use as examples.

50 authorities to submit each year

Invitations to the remaining 270 named authorities will follow over the next five years. The five-year programme requires the assessment team to contact at least fifty authorities a year. Some authorities have asked that they be considered later in the timetabling process to give themselves more time to develop and adopt new policies and procedures. Some are working together to develop joint solutions which they may incorporate into their own individual plans, or submit as part of joint plans. This is permitted under the legislation and I am encouraging authorities to consider this option where practicable.

▶ Rosemary Agnew,
Scottish Information
Commissioner.
June 2013

“Effective FOI procedures rely on effective records management. The requirements in the new Act can but support this.”

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Section 12

Communication, collaboration, co-operation

Throughout the pre-implementation period there was a clear message that records management practitioners needed a way of keeping in touch. The Records and Information Management Scotland on-line forum, created under the auspices of the Knowledge Hub,¹¹ was therefore launched in January 2013. It has provided an ideal mechanism for maintaining continuous dialogue between colleagues. Although not facilitated by NRS, I supported the setting up of the on-line forum and my assessment team has participated in its debates and discussions. We watch with interest as themes develop. Such a forum affords authorities an opportunity to be open and honest about their shared experiences.

“I remain free under the Act to agree a reasonable improvement programme if it is submitted as part of a plan. I will therefore encourage authorities to consider this when developing their plans.”

My view is that the honest acknowledgement of gaps in provision and a determination to close them will not only assist good governance and improve efficiency, but also be recognised as good records management practice. I remain free under the Act to agree a reasonable improvement programme if it is submitted as part of a plan. I will therefore encourage authorities to consider this when developing their plans.

The aim is not to highlight failure but to raise standards. It is my strong desire to emphasise the positives and persuade others to adopt them, reflecting an approach of cultural change by discussion, collaborative working, co-operation and use of best practice. Change and solutions that last cannot be imposed, they can only come from authorities buying into change.

“Change and solutions that last cannot be imposed, they can only come from authorities buying into change.”

¹¹ The Knowledge Hub is run through the Improvement Service. It is an online platform for building professional networks in the local government sector. It uses the latest technology and social networking models to enable individuals to create connections to peers and experts in their fields of interest, helping them to share learning, experiences and ideas, and driving sector self-regulation and improvement. <http://www.improvementservice.org.uk/communities/>

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“I will expect to see a senior responsible owner signing off the plan and will require evidence that authorities have assigned responsibility for records management at a senior level.”

Section 13

A new culture?

Will this legislation achieve the aim of creating a culture that values public records? Time will tell, but the early signs are very positive. Public authorities across Scotland are expressing a desire to make this work and we are already seeing more collaboration within and between sectors, sharing experience and bringing forward real change. I am therefore optimistic that we are on the right path.

That optimism is supported by key elements built into the system. Certain key provisions of the Act and the Keeper's Model Plan were designed to ensure that this does not become just a box-ticking exercise, delegated far down the organisation and with little real impact.

“we are already seeing more collaboration within and between sectors, sharing experience and bringing forward real change.”

First is the requirement for senior management buy-in. Senior managers must ensure that their authority develops and adopts a records management plan. I will expect to see a senior responsible owner signing off the plan and will require evidence that authorities have assigned responsibility for records management at a senior level. I will also look for evidence of the appointment of a records manager or someone responsible for that function, and expect to see regular reporting on record issues to the main governance bodies of that authority.

Under the Act the Keeper must submit an annual report to Scottish Ministers and to Parliament, to highlight examples of good practice. If necessary, I will draw attention to poor practice, effectively to 'name and shame' scheduled authorities that fail to comply with their obligations. However, I regard this annual report to Ministers as a positive obligation that allows me to showcase the good work being undertaken by authorities. I anticipate therefore that any 'name and shame' option will be used sparingly at first.

▶ Gerry Slater, Scottish Council on Archives, May 2011

“It [is] all about partnership working, and not about directing or overruling.”

“Several scheduled authorities have welcomed the co-operative approach taken by the assessment team, to the extent that it has been described by stakeholders as ‘refreshing’ and ‘collaborative’ rather than being seen as a top-down process.”

I am also encouraged by anecdotal evidence to suggest that the work of the assessment team is influencing records management practice by bodies not scheduled under the Act and also those outwith Scotland. This is promising and indicates that the team is pursuing the right approach. Further evidence confirming this is the feedback received at surgery events. Several scheduled authorities have welcomed the co-operative approach taken by the assessment team, to the extent that it has been described by stakeholders as ‘refreshing’ and ‘collaborative’ rather than being seen as a top-down process.

I take particular pleasure in the fact that our efforts in relation to addressing the issue of records are attracting overseas interest. Canada’s Truth and Reconciliation Commission is currently investigating the experience of looked after children in Canadian residential schools. The Commission is required to document the truth of what happened by relying on records, and it is currently receiving reports from the Canadian Independent Representatives for Children and Youth.

The Representative for British Columbia, submitted a report to the Commission in 2012 which draws considerably on Shaw and the Scottish experience, highlighting the importance placed on records by those who have experienced institutional care in this country.

The report’s introduction states that as a consequence of Shaw the Scottish Government “amended its public records legislation” to address failings across the public sector. The report emphasises the importance of records and good records management procedures in relation to looked after children. The Representative says,

“[We] ... have identified the key role that records play in access to justice ... and how access to records contributes to fostering quality public services, protection, transparency and accountability in decision-making.”¹²

We can be rightly proud that our excellent work around records management here in Scotland is having an impact overseas and is informing developments in other countries.

“We can be rightly proud that our excellent work around records management here in Scotland is having an impact overseas and is informing developments in other countries.”

¹² Mary Ellen Turpel Lafond, *Aboriginal Children: Human Rights as a Lens to Break the Intergenerational Legacy of Residential Schools* (July 2012), p 53

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Section 14

What's next?

During 2013-14, I will continue to invite scheduled authorities to submit their plans for agreement. My assessment team will scrutinise at least fifty plans each year in order to complete the process of inspecting plans for all scheduled authorities in the five-year cycle of assessments.

At the same time the assessment team will continue with its outreach work. Started in 2011, when we sought to publicise the objectives of the Act and explain the obligations placed on public authorities through the surgery events, this pattern of engagement has proved very popular with attendees.

"I wish to achieve an outcome of continuing practice improvement within named authorities."

The assessment team continues to monitor the changing public sector landscape in Scotland. As the structure of the public sector transforms to meet the demands of service users, so the schedule to the Act must be updated to reflect those changes and include any new authorities who come under its provisions. Authorities that amalgamate or those that disappear altogether will be removed from the schedule.

It is also planned to host an annual conference about the Act. Scottish public authorities and other interested parties will be invited to attend and share their experience of implementation. Investigations are under way with other umbrella organisations, including the Scottish Council on Archives and the Information and Records Management Society (Scotland), to co-host such an event and keep costs down.

I wish to achieve an outcome of continuing practice improvement within named authorities. Through a process of consultation and engagement with stakeholders and continuous joint review of the guidance, I hope to achieve a truly developmental process. Over time, I believe, this will help bring about significant and lasting improvements in public record keeping, improvements that will establish a truly changed culture that respects and acknowledges the importance of public records for all the citizens of Scotland.

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