

The Public Records (Scotland) Act 2011

Standards Commission for Scotland

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

21st April 2023

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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 Standards Commission for Scotland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Standards Commission for Scotland was established under the Ethical Standards in Public Life etc. (Scotland) Act 2000. The Standards Commission's functions as provided for by the 2000 Act are to:

- Issue guidance to councils and devolved public bodies to assist them in promoting high standards of conduct.
- Receive reports from the Ethical Standards Commissioner (ESC) on the outcome of her investigations and determine whether to direct the ESC to carry out further investigations, to hold a Hearing or to take no action.

Where the Standards Commission decides to hold a Hearing, its functions are to:

- Determine whether a councillor or member of a devolved public body has contravened the Councillors' or the Members' Code.
- Determine the sanction to be applied where, following a Hearing, the Panel find that a councillor or member has breached the relevant Code.

The Scottish Parliamentary Commission and Commissioners etc. Act 2010 provided that, with effect from 1 April 2011, the Standards Commission is supported by the Scottish Parliamentary Corporate Body.

The Standards Commission is independent of government when considering alleged contraventions of the codes and in its decisions.

<http://www.standardscommissionscotland.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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6. Progress Update Review (PUR) Template: Standards Commission for Scotland

Element	Status under agreed Plan 15SEP15	Progress status 07JAN22	Progress status 21APR23	Keeper's Report Comments on Authority's Plan 15SEP15	Self-assessment Update 10NOV21	Progress Review Comment 07JAN22	Self-assessment Update as submitted by the Authority since 07JAN22	Progress Review Comment 21APR23
1. Senior Officer	G	G	G	Update required on any change.	No change.	Thank you for letting us know there have been no changes to this element. Update required on any change.	No change.	Update required on any future change.
2. Records Manager	G	G	G	Update required on any change.	<p>The Records Manager is now the Office Manager Sarah Nicholson who replaced the Business Manager Elaine McLean in April 2021.</p> <p>The Office Manager role is slightly different to the previous Business Manager post so the job description which forms Annex 3A to the RMP has been updated.</p> <p>References to the Business Manager in the RMP have been updated.</p>	The Assessment Team thanks you for these updates which have been noted.	Minor changes made in year to Office manager job description – reflected in Annex 3A. Changes approved by the HR committee in November 2022.	The Assessment Team thanks you for this update. Update required on any future change to the named records manager.
3. Policy	G	G	G	Update required on any change.	<p>References to the Business Manager in Annex 4A have been updated.</p> <p>The contents of the Member Induction pack have been revised in Annex 4A.</p>	Thank you for this update on how SCS continues to keep its Records Management Policy up to date.	<p>Para 4.6 updated to include GDPR in list of relevant legislation.</p> <p>Para 4.12 updated to reflect current practice on informing staff and Members on changes to the RMP.</p>	Thank you for notifying us of these minor changes. The Assessment Team is content that SCS's Records Management Policy is still operational.
4. Business Classification	G	G	G	Update required on any change.	<p>Minor changes to reflect change of role title from Business Manager to Office Manager in RMP and annexes 5A and 5B.</p> <p>Annex 5B refers to sound recordings of hearings. These have subsequently been destroyed, so this entry on the retention schedule has been removed. Recordings of Hearings are no longer made.</p> <p>RMP amended to reflect the fact that the vast majority of records created and received by SCS are in an electronic, rather than a paper, format.</p> <p>All references to CESPLS changed to ESC (change in terminology).</p>	<p>The Team is grateful for this update on terminological and job title changes in the authority's RMP. It is positive to hear that even minor amendments to the Policy are made promptly.</p> <p>Thank you also for letting us know that SCS no longer makes audio recordings of Hearings, and that policies have been altered to that effect.</p> <p>Many public authorities are moving towards a largely digital recordkeeping landscape. It is good to hear that SCS have reflected these changes in their RMP and their Business Classification framework.</p>	<p>Para 2.5 of Annex 5A amended to state that Administrative Assistant has access to the Personnel, Payroll and Pension folder (to provide cover for Office Manager).</p> <p>Para 3.1 of Annex 5A amended to reflect actual number of levels within filing structure.</p>	Thank you for letting the Assessment Team know that minor changes have been made to the sections relating to business classification.
5. Retention Schedule	G	G	G	Update required on any change.	As before, this document continues to be updated as changes are made to the file retention period or a requirement for new folders or documents to be added.	Thank you for these updates on how retention schedules and accompanying procedures are being kept up to date, and that SCS has not had to create or store additional 'Covid' records due to the pandemic.	A detailed review of Annex 5B (Document Retention Schedule) was carried out earlier this year and a small number of changes	It is positive to hear that a review of Document Retention Schedule has recently taken place. It is clear that SCS continues to

					Prior year PUR comment refers to retention of Covid records. No additional records have been created or stored by SCS as a result of the pandemic.	Update required on any change.	made to ensure consistency and reflect current practice. Annex 5B has been updated accordingly.	keep this fit for purpose through regular review.
6. Destruction Arrangements	G	G	G	Update required on any change.	<p>Minor change to reflect change of role title from Business Manager to Office Manager in RMP and annex 7A.</p> <p>Addition to para 7.3 that we have a procedure in place to ensure that Members destroy electronic records shared with them.</p> <p>Annex 7B is an extract from the SPCB's RMP and dated 2014. SPCB have agreed to supply new version once their recently submitted revised RMP has been approved.</p> <p>Annex 7C updated with latest business continuity plan (revised in 2021).</p> <p>Annex 7D MOU between SCS and Keeper is from March 2015 – review to be carried out in 2021 (new GDPR compliant version of MOU to be used).</p>	<p>The Assessment Team thanks you for this update on records destruction arrangements. It also sounds like SCS is being proactive in approaching Scottish Parliament Corporate Body when it comes to appended sections of the RMP that may no longer be up to date.</p> <p>Business Continuity arrangements are addressed under Element 10.</p> <p>The MoU is addressed under Element 7.</p>	<p>Annex 7B is an extract from the SPCB's RMP and dated 2014. We have asked the SPCB to supply an updated extract which they have agreed to send once their revised RMP has been agreed.</p> <p>Annex 7C updated with latest business continuity plan (reviewed in 2022).</p> <p>Annex 7D MOU between SCS and Keeper is from March 2015 – new template has been supplied by NRS and completed by SCS and returned. Awaiting comments from NRS.</p>	<p>The Assessment Team thanks you for this update on records destruction arrangements. It is good to hear that SCS continues to be proactive in approaching Scottish Parliament Corporate Body when it comes to appended sections of the RMP that may no longer be up to date.</p> <p>For comments on archiving arrangements, see Element 7.</p>
7. Archiving and Transfer	G	G	G	Update required on any change.	No change.	As detailed under Element 6, SCS is currently seeking to review the existing Memorandum of Understanding with the Keeper of the Records of Scotland. This shows proactive continuing commitment to keeping archiving and transfer arrangements, including records destruction procedures and policies, up to date.	Annex 7D MOU between SCS and Keeper is from March 2015 – new template has been supplied by NRS and completed by SCS and returned. Awaiting comments from NRS.	Thank you for this update. It is positive to hear that SCS continues to pursue an up-to-date Transfer Agreement of MoU with NRS. The Assessment Team commends SCS for being proactive, and encourages SCS to keep the momentum going on this.
8. Information Security	G	G	G	Update required on any change.	Para 9.2 updated to reflect the fact that the vast majority of records are now in an electronic format rather than paper records.	<p>Thank you for this update. It is good to hear that SCS has considered the implications of electronic recordkeeping landscape on information security.</p> <p>Update required on any change.</p>	The SLA with the SPCB business & information technology team is dated June 2015. We have contacted BIT with a view to reviewing and issuing a new SLA and are awaiting their response. Note that this is not an urgent piece of work – we do not anticipate many changes to the SLA.	Thank you for this update. It is reassuring to hear that SCS is taking active steps to ensure that the Service Level Agreement with the Scottish Government Corporate Body Business and IT Team is reviewed, even if minimal revisions are expected.
9. Data Protection	G	G	G	Update required on any change.	<p>The arrangements around the Data Protection Officer service continues to be met through the Service Level Agreement. The latest version of this agreement was signed on 30 September 2021.</p> <p>In addition to the bi-monthly meetings with staff of the Parliamentary Ombudsmen and Commissioners group the DPO also meets with the Executive</p>	<p>Thank you for confirming that Data Protection considerations are continuing to be addressed through a Data Protection Officer Service Level Agreement. It is also good to know that the DPO keeps up with staff regularly through scheduled meetings.</p> <p>Update required on any change.</p>	The arrangements around the Data Protection Officer service continues to be met through the Service Level Agreement. The latest version of this agreement was signed on 30 September 2021.	Thank you for confirming that Data Protection arrangements continue to be active, and that the Service Level Agreement has been reviewed in 2021.

					Director and Members of the Standards Commission on an annual basis.		Office Manager continues to attend quarterly meetings with the DPO and representatives from the Parliamentary Ombudsmen and Commissioners group The Data Protection policies were reviewed by the SCS in November 2022. Annex 9B has been updated accordingly. Mandatory DP training has been completed by all staff.	Thank you also for letting the Assessment Team know that the Office Manager attends quarterly meetings with the DPO and representatives of the Parliamentary Ombudsmen and Commissioners group, and that Data Protection Policies have been recently updated. This has been noted with thanks. For comments on training, see Element 12.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	The Business Continuity Plan was reviewed by the Standards Commission on 24 May 2021. Updates were made to the plan to reflect working from home and hybrid working arrangements.	Thank you for letting us know that SCS' Business Continuity Plan has been updated, and is annexed to the updated RMP (as indicated under Element 6). Regular reviews, especially during the pandemic, demonstrate continued commitment to disaster preparedness and continued access to vital records made temporarily unavailable due to an unexpected event.	The Business Continuity Plan was reviewed by the Standards Commission on 30 May 2022. Update made to reflect change in alternative location for DMT meetings.	Thank you for this positive update on the recent review of SCS Business Continuity Plan. Update required on any future change.
11. Audit Trail	G	G	G	Update required on any change.	Minor change to reflect change of role title from Business Manager to Office Manager in RMP Change in RMP to reflect that productions for Hearings are now maintained electronically rather than on paper.	Thank you for indicating that the RMP is being kept up to date with regard to audit trail arrangements. Tracking and version control are essential factors when considering the authenticity of the record. In consecutive PURs, it would be good to hear what practical challenges have arisen from this change, and how SCS has addressed these.	No change. No practical challenges have arisen from the use of electronic productions for Hearings.	It is positive to hear that no practical challenges have arisen from the use of electronic productions for Hearings. Update require on any future change.
12. Competency Framework	G	G	G	Update required on any change.	Minor change to reflect change of role title from Business Manager to Office Manager in RMP Annex 13A Office Manager's objectives updated.	Thank you for letting us know that there have been no major changes to staff records management training arrangements.	No change. Office Manager has attended several events run by the National Records of Scotland team.	Thank you for letting us know that there have been no major changes to this Element. It is also good to hear that SCS Office Manager is taking advantage of events run by NRS's PRSA team. Thank you also for confirming under Element 9 that mandatory data protection training has been completed by all staff. Update required on any future change.

13. Assessment and Review	G	G	G	<p>The Standards Commission have committed to reviewing their RMP, and supporting documents and policies, on an annual basis through the Executive Director. The Keeper would be pleased to receive updates concerning these reviews, particularly if they have brought about significant changes in the authority's records management arrangements.</p>	<p>No change.</p> <p>The Standards Commission continues to receive an annual update from the Executive Team to provide assurance about the effectiveness of the Records Management Plan.</p> <p>The requirement for this review is shown in the annual workplan developed to inform Members of the Standards Commission about matters which are due to be considered at each meeting of the Standards Commission.</p>	<p>It is clear that the SCS has systems in place to ensure the Records Management Plan (RMP) is reviewed and reported on annually.</p> <p>This practice, along with continuing participation in the PUR process, all demonstrate sustained commitment to assessment and review of information governance policies and guidance.</p>	<p>No change.</p> <p>The Standards Commission continues to receive an annual update from the Executive Team to provide assurance about the effectiveness of the Records Management Plan.</p> <p>The requirement for this review is shown in the annual workplan developed to inform Members of the Standards Commission about matters which are due to be considered at each meeting of the Standards Commission.</p> <p>A copy of the latest workplan has been saved as Annex 14.</p>	<p>SCS is commended for continuing to review their Records Management plan on an annual basis, and the effectiveness of the plan continues to be assessed regularly.</p> <p>It is also great to see SCS taking advantage of the voluntary PUR process to report on the results of the review, and therefore show commitment to continue keeping their RMP up to date.</p> <p>Update required on any future change.</p>
14. Shared Information	N/A	G	G	<p>Update required on any change.</p>	<p>New information sharing agreement with the Ethical Standards Commissioner signed in May 2021.</p> <p>The revised policy is displayed on the SCS website at Information sharing agreement SCS ESC.</p> <p>Payroll provider to SCS has now changed to CGI. The contract signed with CGI includes sections on data sharing (specifically sections 2.2, 12, 13, 16, 19, 21 and 22).</p> <p>All references to CESPLS changed to ESC (change in terminology).</p>	<p>Thank you for updating the Team on the new approved Information Sharing arrangements with the Ethical Standards Commissioner. The link to the revised policy is also noted with thanks.</p> <p>The change to payroll provider is also noted with thanks.</p> <p>It appears that SCS has appropriately considered information sharing when setting up a new contract. We would expect an update on any change.</p>	<p>No change.</p> <p>Existing information sharing agreements with the ESC and CGI are still in place.</p>	<p>Thank you for letting us know that there have been no changes to this Element, and that information sharing agreements remain in place.</p> <p>Update required on any future change.</p>

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 13 December 2022. The progress update was submitted by Sarah Nicholson, Office Manager.

The progress update submission makes it clear that it is a submission for **Standards Commission for Scotland**.

The Assessment Team has reviewed Standards Commission for Scotland's 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

Standards Commission for Scotland continues to take its records management obligations seriously and is working to maintain all elements in 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 Standards Commission for Scotland continue to take their statutory obligations seriously and are working hard to maintain all the elements of their records management arrangements in full compliance with the Act and fulfil the Keeper's expectations.

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

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



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