National Records of Scotland

Public Records (Scotland) Act 2011

NHS Health Scotland
Assessment Report

The Keeper of the Records of Scotland

5ᵗʰ August 2015

Contents

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 fully 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 record keeping 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. Executive Summary

This report sets out the findings of the Keeper's assessment of the RMP of **NHS Health Scotland** by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on **27th February 2015.**

The assessment considered whether the RMP of NHS Health Scotland was developed with proper regard to the 14 elements of the Keeper's statutory Model Records Management Plan (the Model Plan) under section 8(3) of the Act, and whether in this respect it complies with it and the specific requirements of the Act.

The outcome of the assessment and the Keeper's decision on whether the RMP of NHS Health Scotland complies with the Act can be found under section 7 of this report with relevant recommendations.

3. Authority Background

NHS Health Scotland is a national Health Board working with public, private and third sectors to reduce health inequalities and improve health.

NHS Health Scotland employs around 280 staff. It is made up of the Chief Executive's Office and four Directorates.

The Chief Executive's Office provides strategic and corporate leadership for the organisation, ensuring high standards of governance and encouraging high-level coordination of organisational policy and related initiatives. This office also provides the core corporate functions of finance and procurement. It leads the development of the organisation's financial strategy, operating across all areas of the organisation's business to achieve best value.

Programme Design & Delivery has a national leadership role by working with others to improve practice. They work with other national NHS Boards, territorial boards, and increasingly with local government and other community planning partners (CPPs).

They're involved in many programmes of work to improve the health outcomes for vulnerable people, for example, looked after children and young people.

Public Health Science provides public health information, advice and expertise to NHS Health Scotland teams, the Scottish Government, NHS Boards and others to reduce inequalities and improve health through better policies and actions.

4. Keeper's Assessment Process

The RMP was assessed by the Public Records (Scotland) Act Assessment Team on behalf of the Keeper. Assessors used the checklist elements listed in section 5, to establish whether *[named public authority's*] RMP was developed with proper regard to the elements of the Model Plan and is compliant with the Act. The assessment also considered whether there was sufficient supporting evidence of such compliance.

Key:

G	The Keeper agrees this element of an authority's plan.		A	The Keeper agrees this element of an authority's plan as an 'improvement model'. This means that he is convinced of the authority's commitment to closing a gap in provision. He will request that he is 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 Keeper may choose to return the RMP on this basis.

NHS Health Scotland

5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer *Compulsory element*	**G**	**G**	NHS Health Scotland have identified Cath Denholm, Director of Strategy, as the senior manager with strategic responsibility for records management in the authority. This is supported by the *Records Management Policy* section 9 **(see element 3).** The Keeper agrees that NHS Health Scotland have identified an appropriate individual to the role as required by the Act.
2. Records Manager *Compulsory element*	**G**	**G**	NHS Health Scotland have identified Brian Orpin, Senior Policy and Risk Officer, as the individual with day-to-day responsibility for the implementation of the *Plan*. This is supported by the *Records Management Policy* section 11 **(see element 3).** Mr Orpin is the author/'owner' of the *Records Management Plan* and the *Records Management Policy* **(see element 3)**. The Job Description for this post (Evidence 02-01) highlights that one of the objectives is to set up and chair an Information Management Group. The Keeper commends this approach

			The Keeper agrees that NHS Health Scotland has identified an appropriate individual to this role as required by the Act.
3. Policy *Compulsory element*	**G**	**G**	NHS Health Scotland's has submitted its Records Management Policy (Evidence 01-01), approved at the Partnership Forum on 3 September 2014 (Evidence 01-02, item 16.2). The policy sets out NHS Health Scotland's corporate approach to records management, outlines the legislative framework under which it operates and outlines the responsibilities that staff have for the management of records. The policy also states that an annual report on records management will be sent to the Audit Committee. The Keeper commends the involvement of colleagues in audit as they can prove to be a useful tool in ensuring compliance and senior management buy-in. The policy also commits NHS Health Scotland to review it after a year and then biennially. The Keeper commends the commitment to ensure that the policy is kept up-to-date. Also submitted as evidence is the Process for Archiving Information with RSS document (Evidence 03-01) which appears to be a practical guidance document showing staff how to send records to long-term storage. Also submitted is a screenshot showing that the policy is available to all staff on the NHS Health Scotland's Intranet (Evidence 03-02). The Keeper welcomes this commitment to dissemination key records management documents to relevant staff. The Keeper agrees that NHS Health Scotland has an operational records management policy which shows the organisational commitment to ensuring best

			practice in records management.
4. Business Classification	**A**	**G**	NHS Health Scotland have submitted their Business Classification and Retention Scheme (BCRS) (Evidence 04-01). This is based on the structure of the Local Government Classification Scheme and consist of 3 levels: Functions, Activities and Transactions. This is a document which incorporates the retention decisions taken against each category of record and as such is a valuable and easy-to-use tool for staff. Also submitted is an EDRMS High Level Plan (Evidence 04-02). This document states that over the course of 2015/2016 NHS Health Scotland intend to implement and roll out an EDRMS, with the project completed by March 2016. Key policies, standards, guidelines and reporting processes will be developed as part of the project. The system will be based on SharePoint with an Automated Intelligence 'bolt-on' which is a records management module with licenses and support already purchased. The RMP states that as part of the Action Plan, the BCRS will be imposed as a structure on the EDRMS, starting in November 2015. The BCRS also states that it will be applied to paper records retrospectively. The Keeper requests that he is kept informed as the EDRMS project progresses. The RMP also explicitly states that there is no third party management of records and that all data is returned to NHS Health Scotland for retention and disposal. A sample of a research contract has been supplied that shows this arrangement in operation. NHS Health Scotland have committed to update the Keeper on an annual basis on the progress of this project.

			The Keeper can agree this element on an 'improvement model' basis. This means that NHS Health Scotland have identified a gap in provision but has evidenced a clear commitment to closing the gap. The Keeper, as part of this agreement, requests that he is kept informed of progress towards the implementation of the EDRMS and the BCRS.
5. Retention schedule	**A**	**G**	NHS Health Scotland have submitted their Business Classification and Retention Scheme (BCRS) (Evidence 04-01). This is based on the structure of the Local Government Classification Scheme and consist of 3 levels: Functions, Activities and Transactions. This is a document which incorporates the retention decisions taken against each category of record and as such is a valuable and easy-to-use tool for staff. The retention elements of the BCRS are based on the NHS Scotland Records Management Code of Practice 2012 (Evidence 05-01 but not submitted in the evidence pack. The assessment team were able to access this document online). This includes the suggested retention periods for the commonly created categories of records in the NHS.
			As retention scheduling is incorporated into the BCRS the comments above (see Element 4) can equally be applied to this element.
			The Action Plan for this element commits NHS Health Scotland to continue to develop retention schedules and to ensure that these are incorporated into the EDRMS.
			NHS Health Scotland have committed to update the Keeper on an annual basis on the progress of this project.
			The Keeper can agree this element on an 'improvement model' basis. This means that NHS Health Scotland have identified a gap in provision but has evidenced a clear commitment to closing the gap. The Keeper, as part of this agreement,

	A	G	requests that he is kept informed of progress towards the implementation of the EDRMS and the BCRS.
6. Destruction Arrangements *Compulsory element*	**A**	**G**	NHS Health Scotland have outlined the procedures in place to ensure the secure destruction of records at the end of their lifecycle. Paper: The *Plan* explains that paper records scheduled for destruction are collected from offices and stored in a locked skip prior to being securely destroyed. A record is maintained of the bag numbers that have been destroyed. The contract for this service is monitored by NHS National Services Scotland. NHS Health Scotland have also set out the procedures in place for the destruction of paper records that are held in an off-site commercial storage facility. The *Process for Archiving Information with Removal Services Scotland* document (Evidence 03-01) informs staff of the procedures to be followed in documenting the boxes to be sent to the storage facility, including the retention decisions made against these records. This information is also sent to the storage facility. When records reach the end of their retention periods NHS Health Scotland staff are informed and asked to review whether these records can be destroyed or retained for longer. RSS Destruction Process (Evidence 06-01a) details the procedures followed by the storage firm to ensure the secure destruction of the appropriate records. One of these procedures is to provide the client (NHS Health Scotland) with a destruction certificate. The RMP also states that when offices are vacated, they are physically inspected to ensure that no records are left behind. The Keeper commends this approach to the protection of information that may contain personal and sensitive details. Hardware: NHS Health Scotland has a commercial contract in place for the destruction of hardware. A report detailing the actions taken against obsolete

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<td>hardware has been submitted (Evidence 06-02).

Electronic Records and Electronic Back-ups: The Plan (authorised by the Chief Executive) contains the following statement: "We currently do not have any formal managed electronic records. This risk is accepted by the organisation and a plan to address this is in place. There are therefore no processes for the managed destruction and deletion of electronic information. Implementation of an EDRMS will address both retention and destruction of electronic information."

NHS Health Scotland have committed to update the Keeper on an annual basis on the progress of this project.

The Keeper agrees this element of NHS Heath Scotland's Plan under improvement model terms. This means that he acknowledges that NHS Health Scotland have identified a gap in their records management provision (the management of electronic records), but have instigated programmes to close that gap (see element 4). This agreement is conditional on the Keeper receiving updates as the project progresses.</td>
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<td>7. Archiving and Transfer Compulsory element</td>
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<td>NHS Health Scotland have submitted a copy of the MoU that has been agreed with the Keeper (Evidence 07-01). This sets out the high level arrangements for the transfer of records selected for permanent preservation from NHS Health Scotland to the National Records of Scotland (NRS).

Part of the Action Plan included in the RMP is to develop instructions for the transfer of records selected for permanent preservation from NHS Health Scotland's off-site storage facility to NRS. The timescale for completion of the development of these is August 2015. The authority has committed to forwarding this document to the Keeper when appropriate.</td>
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			Also included as part of the Action Plan is a commitment to develop a transfer plan with NRS to set out the practical arrangements for the transfer of records. This should be completed by November 2015. Again there is a commitment in the Plan, to supply the Keeper with a copy of this document when available. The Keeper agrees that suitable arrangements are in place to transfer records selected for permanent preservation to an appropriate archive.
8. Information Security *Compulsory element*	**G**	**G**	NHS Health Scotland have submitted their IT Security Policy (Evidence 08-01). All staff are required to agree to the policy and to sign it otherwise they will not be permitted access to any of NHS Health Scotlands systems. The policy sets out the scope, staff responsibilities and practical measures to be taken to prevent breaches of information security, such as password protection, remote working and email procedures. Also submitted is a screenshot of NHS Health Scotland'ss intranet site (Evidence 08-02) showing that the policy has been published there and is therefore accessible to staff. The Keeper commends this approach. Also included in the evidence package is an IG Incident and Loss Report for the Audit Committee meeting in April 2014 (Evidence 08-03). This shows that there is a reporting procedure in place for information incidents and that actions are taken to prevent them happening again. This document, under section 11, also refers to a 'Safe Information Handling – Foundation' eLearning course. Screen shots have been provided showing this course is available on the intranet. One of the action plans incorporated into this element of the RMP state that NHS Health Scotland will carry out penetration testing on their network and websites on a regular basis and also monitor non-compliant mobile devices and software. The other action plan shows a commitment to developing staff awareness in this area.

			The Keeper commends this commitment to ensuring that procedures are operational and for ensuring staff are provided with the practical tools to follow the policies and procedures in place. The Keeper agrees that NHS Health Scotland have an approved and operational information security policy that is available to appropriate staff as required by the Act. Furthermore, he acknowledges that this policy is supported by a suite of other policies and guidance.
9. Data Protection	**G**	**G**	NHSHS has provided its details of registration as a Data Controller with the Information Commissioner's Office, Z4745544. Also submitted is the Data Protection Policy (Evidence 09-01). This details NHSHS's corporate approach to Data Protection and sets out roles and responsibilities for complying with the Data Protection Act. The policy is due for review in October 2015. NHSHS collects data from individuals in order to carry out its functions. The document entitled Process for the Collection and Management of Personal Data (Evidence 09-02) explains how this should be done lawfully by staff and also by third party contractors. The collection of data for research purposes has also covered in Research Services Retention and Destruction of Research Data document (Evidence 06-03). A screenshot of the Metacompliance training software (evidence 09-03) has been provided to show that staff have been made aware of their responsibilities under NHSHS's Data Protection Policy. The action plan of the RMP commits NHSHS to a review of all Data Protection

			documents in November 2015. The authority offers to update the Keeper of any changes to the documents that have been provided as evidence as part of the review. The Keeper agrees that robust measures are in place to protect personal information and that NHS Health Scotland understand their responsibilities under the Data protection Act 1998.
10. Business Continuity and Vital Records	**G**	**G**	NHS Health Scotland has submitted their Business Continuity Management Policy (evidence 10-01) which provides a framework to allow NHS Health Scotland to resume its functions in the event of an interruption to normal service. It states that each Director has to ensure that a Business Continuity Plan is in place for each service area. It sets out roles and responsibilities. The policy is owned by the Corporate Management Team. NHS Health Scotland have submitted a sample *Business Continuity Plan* as evidence that the policy is in effect. The *Policy* referred to above is supported by a series of documents such as the *Business Continuity Fixed Site Incident Plan* (Evidence 10-03). This sets out the actions to be taken in the event that a loss of use of one of NHS Health Scotland's sites takes place and defines staff's roles and responsibilities. Section 29 of this document states that a separate document, the *IT Disaster Recovery Plan* (which is due to be completed in April 2015 according to the action plan in the RMP), will ensure that vital electronic information will be available. The action plan associated with this element of the RMP states that the Web DR Plan is due for completion in September 2015 and that all disaster recovery plans are to be tested in March 2016.

			The Keeper wishes to be kept informed as these projects develop. The Keeper can agree that robust procedures are in place to restore business activities in the event of a disaster and that appropriate consideration has been given to the protection of Vital Records.
11. Audit trail	**A**	**G**	The *Plan* states (page 14): "The instruction on managing records at RSS provides for high level audit trail for paper records (destruction certificates). NHS Health Scotland does not currently have formal record audit trails for its unstructured information. Our migration to electronic document management will provide adequate audit trail for corporate records held within that. In addition, it will be possible to create stubs that will record movement of paper based records where appropriate **(see element 4)**. NHS Health Scotland have committed to update the Keeper on an annual basis on the progress of this project. The project to implement an EDRMS (by March 2016, according to the action plan in RMP) is intended to improve the audit trail provision and will be accompanied by consistent version control and file naming convention procedures (by June 2015 as stated in action plan of RMP). The EDRMS will also be used to track the movement of paper records where required. The Keeper can agree this element on an 'improvement model' basis. This means that NHSHS has identified a gap in provision and has shown a commitment to closing it. The Keeper, however, requests that he is kept informed of progress in closing the identified gap.

12. Competency Framework for records management staff	**G**	**G**	NHS Health Scotland has submitted the job description of the Senior Policy and Risk Manager (Evidence 02-01) who has been nominated as the records manager **(see Element 2)**. The job description shows a commitment to improving information management and governance in NHS Health Scotland. The NHSScotland Information Governance Competency Framework (Evidence 12-01, not submitted as evidence but is available online) is used as a guide for staff with records management and information governance responsibilities. The RMP states that records management training will be developed alongside the deployment of the EDRMS. A template Staff Essentials Checklist (Evidence 12-02) has been submitted. This looks like a useful tool for measuring the CPD of NHS Health Scotland staff. The Keeper notes the inclusion of IT Security, Data Protection and Freedom of Information topics on the list and assumes that a topic on records management will be included as the EDRMS is rolled out. Also submitted as evidence are the job description and Personal Development Plan (Evidence 12-03) of the ex-IGRM. The Keeper agrees that the individual identified in Element 2 possesses the necessary skills for that role. The Keeper commends the commitment to training of all staff in information management and governance issues.
13. Assessment and Review	**G**	**G**	An Information Governance Group will be created in April 2015 as part of the action plan for this element. This group will review and assess the state of records management and the RMP on an annual basis. The Group will report to the Audit Committee and records management forms part of the audit programme. A sample Audit Report (Evidence 13-02) has been submitted as evidence.

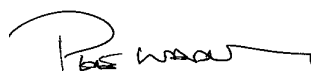|			
			NHS Health Scotland routinely incorporates review dates into policies and procedures, including those which support records management and the *Plan*. The *Plan* itself is due for review in February 2016. The Keeper requests that he is informed of any changes to the RMP or supporting evidence as a result of the review. The Keeper agrees that there are mechanisms in place to assess and review the RMP and supporting documents to ensure that they are fit for purpose.
14. Shared Information	**G**	**G**	NHS Health Scotland has provided a Standard Contract Template (Evidence 14-01) which includes provisions for maintaining confidentiality of any information used by the contractor and also a requirement to comply with the Data Protection Act 1998. Also submitted is a Template Research Contract (Evidence 14-02) which sets out the arrangements for research projects using personal data. Again, it includes provisions for maintaining confidentiality of any information used by the contractor and also a requirement to comply with the Data Protection Act 1998. The above contracts are based on a Scottish Government Circular CEL25/2011(Evidence 14-03, not submitted but available online) which provides guidance for safeguarding personal data which may be used by third-party contractors. The Keeper agrees that there are suitable safeguards in place to ensure the security of information shared with third-parties.

6. Keeper's Summary

Elements *1 – 14* that the Keeper considers should be in a public authority records management plan have been properly considered by NHS Health Scotland . Policies and governance structures are in place to implement the actions required by the plan.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper **agrees** the RMP of **NHS Health Scotland**.

- The Keeper recommends that NHS Health Scotland should publish its agreed RMP as an example of good practice within the authority and the sector.

This report follows the Keeper's assessment carried out by,

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Robert Fotheringham   **Pete Wadley**
Public Records Officer   Public Records Officer

8. Endorsement of Report by the Keeper of the Records of Scotland

The report has been examined and is endorsed under the signature of the Keeper of the Records of Scotland as proof of compliance under section 1 of the Public Records (Scotland) Act 2011, and confirms formal agreement by the Keeper of the RMP as submitted by NHS Health Scotland In agreeing this RMP, the Keeper expects NHS Health Scotland to fully implement the agreed RMP and meet its obligations under the Act.

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Tim Ellis
Keeper of the Records of Scotland