

# **The Public Records (Scotland) Act 2011**

**Scottish Water**

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

**31<sup>st</sup> August 2020**

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## 1. Public Records (Scotland) Act 2011

The Public Records (Scotland) Act 2011 (the Act) received Royal Assent on 20 April 2011. It is the first new public records legislation in Scotland since 1937 and came into force on 1 January 2013. Its primary aim is to promote efficient and accountable record keeping by named Scottish public authorities.

The Act has its origins in *The Historical Abuse Systemic Review: Residential Schools and Children's Homes in Scotland 1950-1995* (The Shaw Report) published in 2007. The Shaw Report recorded how its investigations were hampered by poor recordkeeping and found that thousands of records had been created, but were then lost due to an inadequate legislative framework and poor records management. Crucially, it demonstrated how former residents of children's homes were denied access to information about their formative years. The Shaw Report demonstrated that management of records in all formats (paper and electronic) is not just a bureaucratic process, but central to good governance and should not be ignored. A follow-up review of public records legislation by the Keeper of the Records of Scotland (the Keeper) found further evidence of poor records management across the public sector. This resulted in the passage of the Act by the Scottish Parliament in March 2011.

The Act requires a named authority to prepare and implement a records management plan (RMP) which must set out proper arrangements for the management of its records. A plan must clearly describe the way the authority cares for the records that it creates, in any format, whilst carrying out its business activities. The RMP must be agreed with the Keeper and regularly reviewed.

## 2. Progress Update Review (PUR) Mechanism

Under section 5(1) & (2) of the Act the Keeper may only require a review of an authority's agreed RMP to be undertaken not earlier than five years after the date on which the authority's RMP was last agreed. Regardless of whether an authority has successfully achieved its goals identified in its RMP or continues to work towards them, the minimum period of five years before the Keeper can require a review of a RMP does not allow for continuous progress to be captured and recognised.

The success of the Act to date is attributable to a large degree to meaningful communication between the Keeper, the Assessment Team, and named public authorities. Consultation with Key Contacts has highlighted the desirability of a mechanism to facilitate regular, constructive dialogue between stakeholders and the Assessment Team. Many authorities have themselves recognised that such regular communication is necessary to keep their agreed plans up to date following inevitable organisational change. Following meetings between authorities and the Assessment Team, a reporting mechanism through which progress and local initiatives can be acknowledged and reviewed by the Assessment Team was proposed. Key Contacts have expressed the hope that through submission of regular updates, the momentum generated by the Act can continue to be sustained at all levels within authorities.

The PUR self-assessment review mechanism was developed in collaboration with stakeholders and was formally announced in the Keeper's Annual Report published on 12 August 2016. The completion of the PUR process enables authorities to be credited for the progress they are effecting and to receive constructive advice concerning on-going developments. Engaging with this mechanism will not only maintain the spirit of the Act by encouraging senior management to recognise the need for good records management practices, but will also help authorities comply with their statutory obligation under section 5(1)(a) of the Act to keep their RMP under review.

## 3. Executive Summary

This report sets out the findings of the Public Records (Scotland) Act 2011 (the Act) Assessment Team's consideration of the Progress Update template submitted for Scottish Water. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

#### 4. Authority Background

Scottish Water are a publicly owned company, answerable to the Scottish Parliament. They are responsible for providing water and waste water services to household customers and wholesale licensed providers. They provide 1.34 billion litres of drinking water every day and take away 847 million litres of waste water daily. Scottish Ministers set the objectives for Scottish Water and appoint the Chair and non-executive members. Scottish Water delivers the investment priorities of Ministers within the funding allowed by the Water Industry Commission for Scotland.

Scottish Water Solutions is an innovative partnership helping deliver Scottish Water's capital investment programme.

Scottish Water Business Stream was formed in 2006 to compete in the retail market for business consumers. Scottish Water acts as a wholesaler in the non-household market.

Scottish Water International uses skills and expertise from its Scottish business to offer services to utilities, governments and international clients seeking to harness their water resources efficiently and effectively by raising standards and reducing costs.

Scottish Water Horizons is a wholly owned subsidiary of Scottish Water responsible for driving forward Scottish Water's green agenda, developing renewables and leveraging commercial value from assets.

<http://www.scottishwater.co.uk/>

#### 5. Assessment Process

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

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

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

**Key:**

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

<b>Element</b>	<b>Status of elements under agreed Plan 14FEB17</b>	<b>Status of evidence under agreed Plan 14FEB17</b>	<b>Progress assessment status 31AUG20</b>	<b>Keeper's Report Comments on Authority's Plan 14FEB17</b>	<b>Self-assessment Update as submitted by the Authority since 14FEB17</b>	<b>Progress Review Comment 31AUG20</b>
1. Senior Officer	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Job Title of Rob Mustard is now Digital and Transformation Director	The Keeper's Assessment Team thanks Scottish Water for this update which has been noted.
2. Records Manager	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change	No immediate action required. Update required on any future change.
3. Policy	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	<p>Policies have been reviewed and consolidated to make it easier for our people.</p> <p>Training on these policies are included in our Information Security, Data Protection and Information Management training.</p>	<p>In their original submission Scottish Water committed to keeping their information governance policies and guidance documents under review and the Assessment Team acknowledges that this is being done.</p> <p>The Keeper has previously commended the principle of combining policies and guidance as</p>

						<p>liable to create stronger business tools.</p> <p>For training see element 12</p>
4. Business Classification	A	G	A	<p>On page 8 of the <i>Plan</i> Scottish Water commits that: “Guidance on the Scheme for managing paper and electronic records will be produced and circulated prior to the Scheme being implemented corporately.” <b>The Keeper requires that this guidance be provided to him when it becomes available.</b></p> <p><b>The Keeper acknowledges that the development of a corporate business classification scheme (or information asset register) will be incremental and, although he will require routine updates, he notes that it may not be fully operational in the authority for some time. This implementation project affects several other elements – such as 5 and 11).</b></p>	<p>High level business classification has been created and awaiting implementation within our online information management toolkit, which was due to deliver in early 2020, however been delayed due to Covid-19 business incident response. This will be initially done at a functional level along with Email revised retention periods.</p> <p>The next phase will be to establish relevant business labels to support information organisation and further retention capabilities. This will be implemented through a risk-based approach.</p> <p>Our physical records retention schedule still stands as its own schedule and is fully implemented.</p> <p>It is our ambition to merge these 2 classification schemes into one eventually.</p>	<p>The Assessment Team notes that a high level classification scheme has been created and that this is based on a functional structure. This must remain a business decision for the authority, but the Keeper has previously noted that a functional arrangement, such as this, is currently considered best practice.</p> <p>The Assessment Team would suggest that the creation of the overall structure marks a measurable improvement in the records management provision in the authority.</p> <p>The business classification must now be populated at a lower level and implemented across the authority. This roll-out is likely to be incremental and may take several years to bed-in properly. The Assessment Team remind Scottish Water of the importance of appropriate policies, governance</p>

				<p>The Keeper agrees this element of Scottish Water's records management plan on 'improvement model' terms. This means that he acknowledges that an authority has identified a gap in provision (in this case that there is no centralised business classification scheme). He also acknowledges that the authority has instigated procedures to close that gap. His agreement is conditional on his being updated as the <i>Business Classification Scheme</i> project progresses. Scottish Water have committed to do this.</p>		<p>and staff training in making this major project a success.</p> <p>The Assessment Team looks forward to updates in subsequent PURs.</p> <p>This element will remain at Amber while this work is ongoing.</p> <p>The Assessment Team acknowledge that hard-copy records are covered under a separate structure which is fully rolled-out (see also element 5 below).</p>
5. Retention Schedule	A	G	A	<p>As stated above, the Retention Schedule is not yet complete and operationally in use in Scottish Water. They commit in the <i>Action Plan</i>: "Scottish Water will develop and implement a corporate Records Retention Schedule...Training material and guidance notes on information will</p>	<p>Functional retention schedules have been developed and awaiting implementation in our online information management tool – again this has been delayed by the business response to the Covid-19 incident. This will initially be done at a functional level along with Email revised retention periods.</p> <p>The next phase will be to establish relevant business labels to support information organisation and further</p>	<p>As with element 4 above, the imposition of retention decisions on public records held digitally is a work in progress. The Assessment Team notes that Scottish Water has a clear programme in mind to achieve their goal of a fully integrated business classification scheme/retention schedule. This was explained in the authority's original submission (2017) and the</p>

			<p><b>also be published". The Keeper agrees these actions.</b></p> <p><b>The Keeper agrees this element of Scottish Water's Records Management Plan on 'improvement model' terms. This means that Scottish water have correctly identified a gap in their records management provision and the Keeper acknowledges that they have put processes in place designed to close that gap. The Keeper's agreement is conditional on him being updated as the Retention Schedule is rolled out. Scottish Water have committed to do this.</b></p>	<p>retention capabilities. This will be implemented through a risk-based approach.</p> <p>Our physical records retention scheme still stands as its own schedule and is fully implemented.</p> <p>It is our ambition to merge these 2 retention schemes into one eventually.</p> <p>In system retention design is also now a core requirement for our data within our digital systems e.g. Finance, HR – purge cycles are agreed and recorded. Training on retention is included as part of our Information Management training.</p>	<p>Assessment Team is happy to acknowledge that the 'improvement model' agreement on this element of the RMP stands.</p> <p>The Assessment Team looks forward to updates in subsequent PURs.</p> <p>This element will remain at Amber while this work is ongoing.</p> <p>The Assessment Team acknowledge that hard-copy records are covered under a separate schedule which is fully rolled-out (see also element 4 above).</p> <p>For training see element 12</p>
6. Destruction Arrangements	<b>A</b>	<b>G</b>	<p><b>The Keeper is able to agree this element of Scottish Water's records management plan on improvement model terms. This means that the authority has identified a gap in their records management provision (centralised control of the destruction of electronic records is</b></p>	<p>Progress towards automatic destruction had a focus on email content primarily with the introduction of new retention and the automatic destruction of historic information beyond these timeframes.</p> <p>Focus is now on progressing the new retention schedules which will bring in automatic destruction as relevant.</p>	<p>Work around the controlled, secure and irretrievable destruction of digital records is part of the transformation described in elements 4 and 5 above and as such is also a work in progress.</p> <p>The Assessment Team notes the intention to introduce <u>automatic</u> deletion of digital records and e-</p>

				<p>lacking), but have put processes in place to close that gap (the electronic records management system being rolled-out will automate the process). The Keeper's agreement is conditional on him being kept up-to-date with progress in the business classification/retention schedule implementation programme. Scottish Water have committed to do this.</p>	<p>This will be further rolled out as part of the business labelling initiative starting later in 2020.</p> <p>Controlled destruction of our physical records is implemented.</p>	<p>mails. This is generally considered good practice and avoids the risks inherent in allowing staff the opportunity to 'keep it just in case..'</p> <p>As with elements 4 and 5 the Assessment Team notes that hard-copy records are managed under different systems and this is already fully compliant.</p>
7. Archiving and Transfer	A	G	A	<p>The Keeper notes that Scottish Water are in the process of finalising a memorandum of understanding with the National Records of Scotland's Client Management Team.</p> <p>The Keeper agrees this element of Scottish Water's records management plan under 'improvement model' terms. When the memorandum of understanding is agreed by both parties, a copy should be sent to the Public Records Act assessment team.</p>	<p>MOU is currently on hold until low level business classification scheme is fully drafted and formal agreement on which records of SW will be of interest to NRS.</p> <p>Our Corporate website is part of the NRS website archiving programme.</p>	<p>The Act requires that all Scottish public authorities identify a suitable repository for the permanent preservation of any records considered suitable for archiving. A formal arrangement for transfer to that repository must be in place.</p> <p>The Keeper has already agreed the identification of NRS as a suitable repository for the preservation of Scottish Water's public records selected for permanent retention.</p> <p>Scottish Water has entered into negotiations with NRS to develop a memorandum of understanding to formally agree the obligations on</p>

						<p>both the authority and the repository with regard to the transfer of records selected for permanent preservation.</p> <p>However, these negotiations have not been finalised. Partly this is due to the lack of a fully rolled-out Retention Schedule in Scottish Water (see element 5).</p> <p>This element will remain at Amber while this work is ongoing.</p> <p>The Keeper also notes that Scottish Water has been engaging with the NRS Web Harvesting Programme over the last two years with the intention that their corporate website is captured for permanent preservation.</p>
8. Information Security	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	Digital sensitivity labelling policy has been agreed and communicated, and has been applied to all existing compatible documents online (SharePoint) and on premise (Fileshares). The policy is mandatory for all to digitally label new compatible documents and emails. This is the addition of a sensitivity label marked on the document (online and in print) that	<p>In 2017 the Keeper agreed that the information security provision at Scottish Water was appropriate.</p> <p>However, it is essential that security specifications are continually reviewed and, where necessary, extended.</p>

					<p>provides important guidance on how to handle the information.</p> <p>Our highest risk systems are also allocated a lowest level sensitivity label so all users and support staff are aware of the sensitivity of the records held.</p>	<p>It is clear that Scottish Water understand this and have further developed their security processes since the original agreement.</p> <p>The Keeper's Assessment Team thanks Scottish Water for this update which has been noted.</p>
9. Data Protection	G	G	G	Update required on any change.	<p>Digital sensitivity labelling policy has been agreed and communicated, and has been applied to all existing compatible documents online (SharePoint) and on premise (Fileshares). The policy is mandatory for all to digitally label new compatible documents and emails. This is the addition of a sensitivity label marked on the document (online and in print) that provides important guidance on how to handle the information.</p> <p>Our highest risk systems are also allocated a lowest level sensitivity label so all users and support staff are aware of the sensitivity of the records held.</p> <p>Privacy impact assessments and access control standards are managed as standard.</p> <p>We have implemented mandatory training on Data Privacy for all employees.</p>	<p>As with all other Scottish public authorities Scottish Water have been required to review and update their data protection procedures in light of the 2018 legislation.</p> <p>The Assessment Team acknowledges that the public facing Scottish Water website has been updated appropriately:  <a href="https://www.scottishwater.co.uk/en/help%20and%20resources/document%20hub/key%20publications/data%20privacy">https://www.scottishwater.co.uk/en/help%20and%20resources/document%20hub/key%20publications/data%20privacy</a></p> <p>The Assessment Team is pleased to note that all public records are allocated a sensitivity rating partly with protection of personal information in mind.</p> <p>For training see element 12</p>

					<p>We provide a centre of excellence for our business in relation to all things Data Privacy.</p> <p>We are training Data Protectors in key parts of our organisation where the risk is higher to enable local level expertise.</p>	
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	Vital records have been identified as part of a business continuity exercise and a critical file register is held.	<p>In the Keeper's original agreement 2017 he acknowledged that Scottish Water had clear procedures for recovery of all records in the case of disaster. Furthermore, he acknowledged the consideration of 'vital' records as part of the Business Classification project (see element 4).</p> <p>The Assessment Team thanks Scottish Water for confirming that the project to include vital records in the business classification/retention schedule (see elements 4 and 5 above) is being pursued.</p>
11. Audit Trail	A	G	A	<b>Keeper can agree this element of Scottish Water's Records Management Plan under 'improvement model' terms. This means that he acknowledges that an authority has identified a</b>	Over 50% of our documents are now in SharePoint, with 70% of our people utilising OneDrive, and 100% of our Email is now online within the O365 suite - which has strong audit trail capabilities – further migration activity is ongoing to shift the balance of our business	The Keeper agrees that public records held in SharePoint automatically follow an audit trail and should have robust version control automatically applied.

				<p><b>gap in provision (in this case that records tacking is inhibited by the lack of a centralised business classification scheme). However, the Keeper acknowledges that the authority has instigated procedures to close that gap. His agreement is conditional on his being updated as the <i>Business Classification Scheme</i> project progresses. Scottish Water have committed to do this.</b></p>	<p>online into the O365 suite, where relevant.</p> <p>The implementation of specific record labelling in line with our business classification scheme will ensure that audit trails of our key records are maintained. This will be a longer term exercise and we will take a risk based approach.</p>	<p>The tracking of records still relies on staff naming records correctly and the Keeper would be expecting to see the roll-out of training and guidance to ensure this is done.</p> <p>At the moment 50% of the authority's public records are held on the SharePoint system and this is evidence of progress under this element.</p> <p>As with elements 4 – 6 above the Assessment Team is happy to acknowledge that the major piece of work explained in the original Scottish Water Plan is progressing as expected.</p> <p>The Assessment Team looks forward to updates in subsequent PURs.</p> <p>This element will remain at Amber while this work is ongoing.</p> <p>At the time of their original submission the Keeper agreed the use of a file registry system to track Scottish Water's paper records. There is nothing here to suggest this has changed. Therefore, as with</p>
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						elements 4, 5 and 6, the Keeper would be able to agree that hard-copy records are managed appropriately.
12. Competency Framework	G	G	G	Update required on any change.	<p><b>Records team</b> Practitioner in Public Records course attended by members of the team with 2 more booked on future courses. Attendance at NRS ran events.</p> <p><b>High risk areas</b> Data Protectors training Essential GDPR training for all line leaders GDPR Fundamentals for all governance board members and DPO</p> <p><b>All employees</b> General Data protection for all employees Information Security</p>	<p>The Keeper expects to see evidence that Staff creating, or otherwise processing records, are appropriately trained and supported.</p> <p>There is abundant evidence that Scottish Water take this aspect of their records management provision seriously.</p> <p>The Assessment Team notes the engagement of Scottish Water with the 'Public Records' course. If this is the course organised by inforgov.scot you may wish to know that the PRSA lead officer has reviewed this course in detail and considers it entirely suitable for PRSA training.</p> <p>Scottish Water provide their staff with training on Information Security, Data Protection (mandatory) and Information Management. Training on retention is included as part of the Information Management training.</p>

						They are also providing specific Data Protection training in key parts of the organisation where the risk is higher to enable local level expertise.
13. Assessment and Review	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change	No immediate action required. Update required on any future change.
14. Shared Information	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	Update required on any change.	No change	No immediate action required. Update required on any future change.

## 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 2<sup>nd</sup> July 2020. The progress update was submitted by Laura Allan, Corporate Information Lead.

The progress update submission makes it clear that it is a submission for **Scottish Water**.

### PRSA Assessment Team's Summary

The Assessment Team has reviewed Scottish Water's Progress Update submission and agrees that the proper record management arrangements outlined by the fourteen elements in the authority's plan continue to be properly considered. The Assessment Team commends this authority's efforts to keep its Records Management Plan under review.

### General Comments

Scottish Water continues to take its records management obligations seriously and is working to bring all elements into full compliance.

Section 5(2) of the Public Records (Scotland) Act 2011 provides the Keeper of the Records of Scotland (the Keeper) with authority to revisit an agreed plan only after five years has elapsed since the date of agreement. Section 5(6) allows authorities to revise their agreed plan at any time and resubmit this for the Keeper's agreement. The Act does not require authorities to provide regular updates against progress. The Keeper, however, encourages such updates.

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

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

Based on the progress update assessment the Assessment Team considers that Scottish Water continue to take their statutory obligations seriously and are working hard to bring all the elements of their records management arrangements into full compliance with the Act and fulfil the Keeper's expectations.

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

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



Pete Wadley  
Public Records Officer