The Public Records (Scotland) Act 2011

NHS Greater Glasgow and Clyde

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

12 May 2022

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 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 NHS Greater Glasgow and Clyde. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

NHS Greater Glasgow and Clyde (NHSGGC) is one of 14 regional NHS Boards in Scotland. The Board provides strategic leadership and performance management for the entire local NHS system in the Greater Glasgow and Clyde area and ensures that services are delivered effectively and efficiently. Responsible for the provision and management of the whole range of health services in this area including hospitals and general practice, NHSGGC works alongside partnership organisations including local authorities and the voluntary sector. NHSGGC serves a population of 1.1 million and employs around 38,000 staff. It is the largest NHS organisation in Scotland and one of the largest in the UK. The overall purpose of the unified NHS Board is to ensure the efficient, effective and accountable governance of the local NHS system and to provide strategic leadership and direction for the system as a whole, focusing on agreed outcomes.

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.

6. Progress Update Review (PUR) Template: NHS Greater Glasgow and Clyde

Element	Status of elements under agreed Plan 10OCT16	Progress status 07JUN19	Progress status, 12MAY22	Keeper's Report Comments on Authority's Plan 10OCT16	Self-assessment Update 06FEB19	Progress Review Comment, 07JUN19	Self-assessment Update as submitted by the Authority since 07JUN19	Progress Review Comment 12MAY22
1. Senior Officer	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any future change.	The senior manager responsible for records and information management has changed to Denise Brown Interim Director of EHealth, the previous senior officer has changed role and the RMP will be updated to reflect this.	The Keeper's Assessment Team note this update with thanks.
2. Records Manager	G	G	G	Update required on any change.	Records Manager Responsible changes – RMP is being updated to reflect changes.	The changes in responsibilities are noted and the authority has advised that details will be forwarded in due course. As this is a statutory role, the Keeper will require evidence of any changes to the role responsibilities but understands that these changes are likely to reflect legislative changes compatible with the Element 2 role.	No change.	Noted with thanks. Update required on any change.
3. Policy	G	G	G	Update required on any change.	All references to DPA 1998 to be replaced with DPA 2018 and GDPR details to be inserted.	These changes are noted with thanks. The review and updating of policies in line with changes in legislation and practice is appropriate and welcome.	No change.	Noted with thanks. Update required on any change.
4. Business Classification	A	A	A	…The introduction to the draft scheme states "The BCS enables the effective management of records and information throughout NHSGGC. It is essential that NHSGGC properly manages its records and information in order for the organisation to comply with legislation such as the Data Protection Act 1998, Freedom of Information (Scotland) Act 2000 and Public Records (Scotland) Act 2011." The *Plan* states (page 9) "With an organisation the size of NHSGGC it is inevitable that progress will be made on an incremental basis."	Title changed to "Information Asset Register" This element will be updated completely as the board have moved from using the BCS to using the IAR as a tool for managing records. All evidence re IAR will be submitted with new version of RMP on completion.	This update is noted. If there are substantial changes to the RMP, as this implies, then the authority may wish to submit a new RMP under Section 5(6) of the Public Records (Scotland) Act for the Keeper's Agreement. Until a new RMP is formally submitted, the existing Agreed RMP remains in force, along with the Keeper's conditions for his original Agreement. It would therefore be helpful to hear formally from the authority what their timescale is for either submitting a new RMP or providing more information	We have fully incorporated two electronic Information Assess Registers covering Personal Assets and Business Assets. The Board has designated Tracy Ward, Information Governance Officer with the day to day responsibility of managing the Information Asset Register. The management of the IAR is now a standing item on the Information Governance Steering Group Agenda.	This update is noted with thanks. It is positive to hear that the authority's IAR solution has been successfully implemented, that responsibility has been assigned to the Information Governance Officer, and that the Register is regularly discussed as a standing item on the Information Governance Steering Agenda. Further detail about the use of the IAR in place of the BCS as a tool to manage NHSGGC's records would be welcome in future PURs, or upon submission of a revised RMP.

				The Keeper agrees both these statement and accepts that it is too early in the project for the authority to commit to a completion date. **However, the Keeper will expect to see continual progress over the next year or so.** Kerry Lochrie **(see element 2)** has been named as the Deputy Health Records Manager for GGC with responsibility for rolling out the improvements detailed in the *Plan* once it is agreed by the Keeper. **The Keeper agrees this element of NHS Greater Glasgow and Clyde's records management plan under 'improvement model' terms. This means that the authority has identified a gap in provision (a full business classification scheme has not yet been rolled-out in the organisation) and have put measures in place to close that gap. The Keeper's agreement is conditional on him receiving updates as the BCS project progresses.**		about the use of the IAR as a BCS.		The Keeper is aware, as indicated by the authority at various Elements below, that all NHS Boards are migrating to Microsoft 365. During this transition, where the authority's information is stored across the suite of M365 applications and how it is structured will be affected. This is, therefore, likely to have a significant impact on RM practices at various Elements, including at Element 4. The Assessment Team would be interested in hearing how the migration to M365 progresses in future PURs. The Element remains Amber while work progresses.
5. Retention Schedule	G	G	G	Update required on any change.	No change. to Board Statement. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	The Board has revised and implemented a new Corporate Records Retention & Disposal Policy which compliments existing records management policies. A copy of the new policy will be included with the next RMP submission. The Board is currently working with NSS national service on the implementation of additional retention/disposal policies for M365 including Teams and Sharepoint.	The Assessment Team are pleased to hear that the authority have implemented a new Corporate Records Retention and Disposal Policy, and look forward to receiving sight of this upon submission of NHSGGC's revised RMP. Migration to M365 will affect the authority's procedures surrounding retention and disposal, and it is positive to hear that NHSGGC are navigating these changes in collaboration with NSS national service by the implementation of additional policies surrounding M365 applications. New policies and procedures for retention and disposal arrangements over the suite of applications of M365 are likely to take some time to "bed-in," and the Team look forward to updates in the future.

6. Destruction Arrangements	G	G	G	Update required on any change.	No change. to Board Statement. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	No change.	The Assessment Team note with thanks that there is no current change to the authority's destruction arrangements at Element 6.
7. Archiving and Transfer	G	G	G	Update required on any change.	No change. to Board Statement. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	The Archive Policy is due for review in June 2022. The Board has committed additional funding to support the archive service in conjunction with Glasgow University with a view to developing closer links between the Board and the archivist and the implementation of a digital archive.	The Team thank NHSGGC for the update regarding Element 7. It is encouraging to hear that the authority's Archive Policy continues to be kept under review. The Team commends the Board's work to support the archive service in collaboration with the University of Glasgow, and are pleased to hear that particular attention is focussed on provision for the preservation of the authority's digital records of enduring value.
8. Information Security	G	G	G	Update required on any change.	Details will be added re how Fairwarning supports information security. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks. The Assessment Team look forward to hearing more information about Fairwarning.	The Board is currently piloting M365 functionality to improve information security including data loss prevention and sensitivity classification. The Board has recently completed a NIS audit and the Information Security and Compliance Team are working to address any actions from the audit.	The Assessment Team note the update on piloting M365 functionality to improve information security with thanks. The Team look forward to hearing how this progresses in future PURs as the implementation of M365 continues. The Team also welcome news that the Board have carried out a NIS audit, and are applying any appropriate actions as a results.
9. Data Protection	G	G	G	Update required on any change.	Changes made to incorporate DPA & GDPR changes. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks. It is appropriate to incorporate DPA and GDPR changes into practice and policies.	The Board have implemented a new Corporate Records Management Policy in May 2021. The full suite of Data Protection policies were reviewed and updated in April 2021, including IG framework, Data breach and SAR policies.	The Assessment Team commend the Board for continuing to review and update their Data Protection policies. The Team are also pleased to hear that NHSGGC's implementation of the Fair Warning System, which will strengthen protections

						The Board is currently working with NSS to implement the new national Fair Warning system.	surrounding personal data of NHS patients, is moving ahead in collaboration with NSS.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	Details re the board's IAR have been added to this element. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks. It is to be expected that the IAR would be a vital record and protection/recovery of this would be included in the business continuity plans.	No change.	Noted with thanks. Update required on any future change.
11. Audit Trail	G	G	G	Update required on any change.	No change. to Board Statement. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	The new Fair Warning policy as above.	Update noted with thanks. Once implemented, the Fair Warning System will help support detailed audit trails in relation to appropriate accessing of NHS patient data.

As the authority progress with the transition to M365 - which will support audit trail through greater version control functionality - the Team look forward to future updates on how the migration impacts their RM processes at Element 11. |
12. Competency Framework	G	G	G	Update required on any change.	No change. to Board Statement. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	The Board is reviewing the position to extend the RM training management module to mandatory for all staff.	NHSGGC's update at Element 12 is noted with thanks. The Assessment Team would commend the introduction of mandatory records management training for all staff which would increase information handling awareness across the organisation.
13. Assessment and Review	G	G	G	Update required on any change.	Changes made re responsibilities. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	No change.	Noted with thanks. Update required on any future change.
14. Shared Information	G	G	G	Update required on any change.	Changes made to incorporate DPA & GDPR changes. Policies submitted as evidence are being reviewed and updated.	This update is noted with thanks.	The Information Governance team continue to support services within the Board with Information Sharing to ensure the appropriate governance documentation and controls are in place.	The Assessment Team notes this update with thanks.

15. Public Records created or held by Third Parties	N/A	N/A	G				The Board continues to liaise with procurement to ensure appropriate 3rd party contract include the records management clauses. The scope of the Corporate Records Management policy has been extended to incorporate all 3rd party organisations who create records on behalf of NHS GGC.	The Assessment Team thank NHSGGC for engaging with Element 15. The update is noted with thanks. The Team are pleased to hear that the authority communicates the importance of records management clauses in 3rd party contracts with procurement, and we welcome news that the Corporate Records Management policy now covers the creation of records on behalf of NHSGGC by 3rd party organisations. If this were a formal resubmission of NHSGGC's RMP, it is likely that with appropriate evidence provided to the Keeper, this Element would turn Green.

7. The Public Records (Scotland) Act Assessment Team's Summary

<u>Version</u>

The progress update submission which has been assessed is the one received by the Assessment Team on 21st January 2022. The progress update was submitted by Stewart Whyte, Information Governance Manager and Acting Data Protection Officer.

The progress update submission makes it clear that it is a submission for **NHS Greater Glasgow and Clyde**.

The Assessment Team has reviewed NHS Greater Glasgow and Clyde'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.

<u>General Comments</u>

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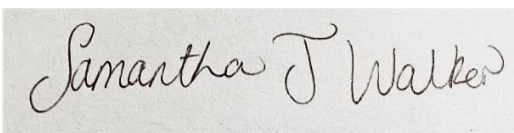
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that NHS Greater Glasgow and Clyde 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

Samantha Walker
Public Records Support Officer