The Public Records (Scotland) Act 2011

The Keeper of the Registers of Scotland (RoS)

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

24th October 2023

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 the Keeper of the Registers of Scotland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

Registers of Scotland (RoS), which carries out the functions of the Keeper of the Registers of Scotland, is the non-ministerial government department responsible for compiling and maintaining seventeen public registers. These relate to land, property, and other legal documents. The main registers are the Land Register of Scotland and General Register of Sasines.

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: Keeper of the Registers of Scotland (ROS)

Element	Status of elements under agreed Plan 17JAN17	Progress review status 15APR21	Progress review status 24OCT23	Keeper's Report Comments on Authority's Plan, 17JAN17	Self-assessment Update 14JAN21	Progress Review Comment 15APR21	Self-assessment Update as submitted by the Authority since 15APR21	Progress Review Comment 24OCT23
1. Senior Officer	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
2. Records Manager	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
3. Policy	G	G	G	Update required on any change.	Policy updated May 2019.	The Keeper's Assessment Team thanks you for this update on policy update.	Policy updated and approved 25 November 2021.	The Assessment Team thanks you for this update which has been noted. It is good to hear that the Records Management Policy continues to be reviewed and updated regularly.
4. Business Classification	A	A	A	The Records Management Improvement Plan 2016-2019 (Annex C) highlights the need to carry out remedial work on shared drive and Outlook areas of the network and for full roll-out and implementation of the BCS. The work to re-design and imposition of the corporate fileplan on areas of the shared drives will be used to also dispose of records and information that is no longer required. The Keeper requests that he is kept informed of the work to roll-out the BCS structure across the authority. The Keeper can agree this Element on an 'improvement model' basis. This means that the authority has identified a gap in provision (a fully operational BCS) and has identified how it intends to close this gap. This agreement is dependent upon the Keeper being kept informed of progress of work in this area.	RoS have purchased M365 and will look to review existing structures, including the BCS, to create practical and usable structures within the new tools. The work done to date reviewing folder structures will provide a good foundation for this. We recognise the development of the PRSA RMP to include an Information Asset Register (IAR) in place of a BCS. We have an IAR in place and use it as part of our assurance framework, reporting against it and using it to record attributes of information assets, including ownership and retention management.	The Assessment Team is grateful for this update on the future implementation of Microsoft Office 365. It appreciates this is a lengthy process, but commends the steps taken by ROS to provide a steady foundation for the change. It is reassuring to hear that an IAR is in place. This is evidence that the authority has given proper consideration to business classification mechanism. This element will remain in Amber while M365 is fully rolled out, but there is commendable progress towards Green.	The M365 project is now underway. The Information Governance team have been involved in the creation of an Information Management Strategy and appropriate risk assessment of the platform and its applications (e.g. Teams, SharePoint). This has ensured that information classification and organisation have been fully considered at the outset of M365 implementation. MS Teams is now fully implemented, and the next key stage is the roll out of SharePoint Document Libraries. Information Governance will play a key role working with each business area to ensure that information classification and organisation is fully considered as information is migrated to the new platform. A SharePoint migration project, including a proof of concept, is well underway. A refresh of the IAR is also underway to ensure it aligns with best practice and is fully embedded within our information risk management process. It will continue to include asset ownership and retention.	Thank you for this update on the M365 project implementation, alongside very appropriate Information Management Strategy and risk assessment framework. The migration of information onto the new platform is a lengthy endeavour. The Assessment Team is reassured to hear that RoS is taking steps to implement the migration to SharePoint Libraries in a responsible and risk-aware manner. It is also very good to hear that a refresh of the IAR is ongoing. This element will remain in Amber while M365 is fully rolled out – this will, in time, demonstrate that RoS' Business Classification arrangements will be fully operational under the new file plan. As indicated in the previous PUR, there is commendable progress towards Green. The Assessment Team

								looks forward to further updates in subsequent PURs.
5. Retention Schedule	G	G	G	Update required on any change.	The RoS retention schedule is updated with new records series at three monthly intervals in line with our quarterly assurance process. RoS is developing a new retention framework that will be used for all new systems and applications, such as M365, ensuring that retention management is simplified and comprehensive going forward.	This update has been noted with thanks. The RoS appears to have the review and update of retention schedule well under control. The rolling out of M365 is taken into account as expected. The Assessment Team welcomes updates on this matter in consecutive PURs.	The RoS retention framework is now used for all new systems and applications. For example, it was used in relation to MS Teams which now has automated retention management in place. It will be used to ensure that all information migrated to SharePoint has suitable retention periods applied. The RoS retention schedule remains up-to-date and in use for any records which fall outside the new framework.	The Assessment Team thanks you for this reassuring update. It is great to hear that RoS maintains its retention schedules during the SharePoint migration and adoption of other M365 functionality.
6. Destruction Arrangements	A	A	A	**The RMP contains a description of the procedures for ensuring records managed on shared drives are routinely disposed of when required. Awareness of the Retention and Disposal Schedules has been raised across the organisation. Notification of destruction is identified on a quarterly basis by Area Information Managers and destruction of these takes place locally with the assistance of the Records Manager. The recording of the disposal of records forms part of the RM Improvement Plan 2016-2019 (Annex C). A sample destruction form has been submitted as evidence (Annex AN).** **The Keeper can agree this Element on an 'Improvement Model' basis. This means that the authority has identified a gap in provision (the recording of the destruction of electronic records managed on shared drives) and has evidenced a commitment to closing this gap. As part of this agreement the Keeper requests that he is kept informed of the progress of the work to close this gap.**	Retention calendars are now in place for all teams, detailing retention periods against information assets and intervals for actioning retention. These are reported on to our Information Assurance Group (governance group) as part of quarterly reporting against our information asset register. Work with Area Information Managers (AIMs), noted in the previous update, is also continuing. This work will be built on further, ensuring that retention management is included as M365 applications are configured and introduced across the organisation.	The Assessment Team is grateful for this update which has been noted. Retention calendars are a welcome tool for the management of destruction arrangements. It is expected that M365 will require a significant amount of work and time to be fully embedded into organisational practices, policies and procedures. This element remains at Amber for the moment as the work progresses, but the progress made so far is positive. The Assessment Team look forward to updates on this work in subsequent PURs.	Work with AIMs, noted in the previous update, continues and approved destruction is reported quarterly. As outlined above, retention management is a core consideration of M365 implementation. Destruction arrangements will be managed increasingly through M365, with automated retention and deletion rules, as the migration to SharePoint Document Libraries progresses.	Thank you for confirming that work with Area Improvement Managers continues. As the accountable destruction of records held on share drives constituted the primary gap in provision under the Keeper's Agreement in 2017, the records migration will have implications on this Element. It is clear from this update, and updates given under Elements 4, 5, and 11, that RoS continues to consider retention and destruction management in the course of its implementation of SharePoint Libraries and other M365 functionality. This Element will remain at Amber while RoS continues to implement SharePoint. As with Element 4, it is evident that good progress continues to be made.
7. Archiving and Transfer	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
8. Information Security	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	RoS has recently invested in the improvement of its Information Security Management System (ISMS) and has made strong progress during 21-22 so far. The bulk of progress has	This is a positive update on RoS' information security and risk management arrangements, and the Assessment Team notes these encouraging

	G	G	G			been in designing and operating revised information security governance and risk management arrangements - regular progress monitoring and onward reporting is now possible.		developments with thanks. It is good to hear that regular progress monitoring and onward reporting can now be taken advantage of.
9. Data Protection	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
11. Audit Trail	A	A	A	**Many electronic corporate records are managed on a shared drive structure which lacks the functionality to be able to track changes made to and movements of records. The RMP states that there are areas of good practice, for example, Legal Services which operates a document naming convention (Annex AH). The RMP recognises the need to extend provision to all areas and this is built into the Records Management Improvement Plan 2016-2019 (Annex C). The Keeper requests that he is kept informed of work in this area.** **The Keeper can agree this Element on an 'improvement model' basis. This means that the authority has identified a gap in provision (the lack of an organisation-wide ability to track changes to and movement of records) and has evidenced a commitment to closing this gap. As part of this agreement the Keeper will expect to be kept informed as work in this area progresses.**	This work is continuing and the approach will be reviewed as we work towards rollout of M365 tools. M365 will enable improved audit tracking for all information stored within its applications.	Thank you for this update. The Assessment Team acknowledges the rolling out of Microsoft Office 365 is a time-consuming endeavour. It is reassured that ROS is taking appropriate steps to implement change.	As the implementation of M365 tools progresses further, RoS will increasingly benefit from the improved audit tracking for all information stored within its applications.	Thank you for this update on M365 implementation which will have significant implications on automatic audit trail capabilities. Based on the updates given under Elements 4, 5 and 6, the Assessment Team is also reassured that the records migration takes audit trails and records authenticity into account. This Element will remain at Amber while RoS continues to implement SharePoint. It is evident, however, that good progress continues to be made. The Assessment Team look forward to further progress updates in subsequent PURs.
12. Competency Framework	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
13. Assessment and Review	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.
14. Shared Information	G	G	G	Update required on any change.	No change.	No immediate action required. Update required on any change.	No change.	Update required on any change.

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 27th April 2023. The progress update was submitted by Andrew Smith, Information Governance Manager.

The progress update submission makes it clear that it is a submission for the **Keeper of the Registers of Scotland**.

The Assessment Team has reviewed the Keeper of the Registers of 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.

<u>General Comments</u>

The Keeper of the Registers of Scotland 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 the Keeper of the Registers of Scotland 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

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