

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

**David MacBrayne Ltd**

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

**29 August 2018**

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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 Final 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 **David MacBrayne Ltd**. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

#### 4. Authority Background

David MacBrayne Limited, which is wholly owned by Scottish Ministers, is the parent company of the David MacBrayne Group. The Group's principal subsidiary is CalMac Ferries Ltd, which operates the Clyde and Hebrides ferry services. In addition, the passenger-only Gourock/Dunoon ferry service is operated by another subsidiary, Argyll Ferries Limited. These services are provided under public service contracts with the Scottish Government, for which a grant is received.

N.B. The schedule to the Public Records (Scotland) Act 2011 lists the Scottish public authorities that are required to submit records management plans for the Keeper of the Records of Scotland's agreement. The Keeper's agreement is with David MacBrayne Ltd (registered number SC015304) as listed in the schedule and not with CalMac Ferries or Argyll Ferries or any part of the David MacBrayne Group that has a separate company registration.

#### 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.

**Progress Update Review (PUR) Template: David MacBrayne Ltd**

Element	Status of elements under agreed Plan, July 2015	Status of evidence under agreed Plan, July 2015	Progress assessment status, July 2018	Keeper's Report Comments on Authority's Plan, July 2015	Self-assessment Update as submitted by the Authority since July 2015	Progress Review Comment, July 2018
1. Senior Officer	G	G	G	Update required on any change	Senior Officer has changed from Robbie Drummond, Finance Director, to Janine Beckett, Interim Finance Director.	The Assessment Team thank the authority for this update.
2. Records Manager	G	G	G	The authority is currently unable to supply a job description or person specific objectives for the individual named in this element. The authority is taking steps to rectify this situation (see Element 12) and should notify the Keeper once these are in place.	Job description and person specification completed.	The job description and person specification for the Corporate Records Manager has been provided to the Keeper with this PUR. It is clear that the Corporate Records Manager has been allocated the appropriate responsibilities to enable compliance with the Public Records (Scotland) Act. The qualifications and experience required to fulfil this role are appropriate and indicate the commitment the authority has

						made to ensuring that its records are properly managed and that staff are given an effective lead in this core function. The Keeper is pleased to see this job description in place which demonstrates that the authority has formalised these responsibilities and recognises the importance of supporting a well-qualified and experienced practitioner.
3. Policy	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change	The policy will be reviewed in 2018.	No immediate action required. The Assessment Team would welcome sight of any new policy once reviewed and approved.
4. Business Classification	<b>A</b>	<b>G</b>	<b>A</b>	A full information audit is being conducted in order to develop a robust business classification by late 2015. The Keeper commends this decision and the inclusion of different service areas in the development of the business classification. The authority is committed to this action and will inform the Keeper of progress.  The Keeper agrees this	A business classification scheme has been drawn up.	The development of a business classification scheme is good practice. The Assessment Team would welcome evidence of the use of this scheme in future PURs.

				<p>element of David MacBrayne's RMP on 'improvement model' terms. This means that he acknowledges that an authority has recognised a gap in records management provision and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>		
5. Retention Schedule	<b>A</b>	<b>G</b>	<b>A</b>	<p>The Keeper has received a strong indication that progress is underway in identifying retention schedules and developing schedules through a full information audit. The Keeper welcomes the authority's commitment to developing a comprehensive retention schedule and submitting regular updates on the progress of this work.</p> <p>The Keeper agrees this element of David MacBrayne's RMP on 'improvement model' terms. This means that he acknowledges that an authority has recognised a gap in records management provision [lack of formal retention</p>	Retention schedules continue to be worked on.	The development of retention schedules is an on-going project and understandably it will take some time to ensure these are comprehensive and kept up to date and are applied and used across the authority. The methodology of an information audit is sound and the Assessment Team would encourage the authority to continue making progress in this area.

				schedules] and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.		
6. Destruction Arrangements	<b>A</b>	<b>G</b>	<b>G</b>	<p>David MacBrayne is in the process of creating a <i>Records Disposal Policy</i> which will cover the irretrievable destruction of electronic records. This policy will be made available to all staff on the 'Gangway' intranet. It is important that this policy is forwarded to the Keeper at the first available opportunity.</p> <p>The Keeper can agree this element under 'improvement model' terms on the condition that David MacBrayne supplies him with the <i>Records Disposal Policy</i> as soon as it is operational.</p>	A Records Retention and Disposal Policy has been drawn up.	<p>The Keeper thanks the authority for providing the Records Retention and Disposal Policy. The arrangements for secure destruction of both paper and electronic records is made clear in this policy, including the physical destruction and the senior management authorisation requirements. The authority is to be commended for producing a straightforward policy which is readily understandable.</p> <p>If this were a statutory assessment, this would most likely be sufficient to move the RAG status for Element 6 from Amber to Green.</p>
7. Archiving and Transfer	<b>A</b>	<b>A</b>	<b>G</b>	David MacBrayne has identified the National Records of Scotland as the repository for records of permanent value. A Memorandum of	A memorandum of Understanding has been signed with the National Records of Scotland. Arrangements will be made	The Memorandum of Understanding has been provided to the Assessment Team. If this were a statutory assessment, this would most

				<p>Understanding (MoU) is currently being negotiated at the time of assessment. The Keeper welcomes this approach and requests a copy of the MoU once signed.</p> <p>The Keeper agrees that David MacBrayne have identified a suitable repository for the permanent preservation of selected records. He can agree this element under 'improvement model' terms. This means that he accepts that the authority has identified a gap in provision (no formal agreement with the archive) and have put processes in place to close that gap. His agreement is dependent on the approved MoU being provided when available.</p>	<p>to transfer the relevant records to the archive. Arrangements are currently being made to transfer records to NRS.</p>	<p>likely be sufficient to move the RAG status and evidence for Element 7 from Amber to Green.</p>
8. Information Security	<b>G</b>	<b>G</b>	<b>G</b>	<p>Update required on any change</p>	<p>An Information Security team has been created which is reviewing all aspects of the issue within the Company. The Information Security Policy has been revamped, and procedures and guidance</p>	<p>The updated Information Security Policy has been provided to the Keeper. It takes account of relevant legislation and standards including Cyber Essentials Plus and GDPR.</p>

					has been produced and made available to all staff via Gangway.  The Information Security Policy has been updated and is awaiting approval	
9. Data Protection	<b>G</b>	<b>G</b>	<b>G</b>	David MacBrayne have committed to publish subject access information on their website and to inform the Keeper when this has been done. The Keeper thanks the authority for this consideration.  The Keeper welcomes the commitment to provide training to staff to make them aware of their responsibilities in dealing with personal data. The Keeper would be interested in hearing news of this training.	A GDPR Project team has been put in place to ensure that we are as compliant as possible with the new legislation when it is introduced.  The GDPR project team are currently reviewing the Company's data protection requirements. They are also facilitating a training regime to ensure that all staff get at least an awareness of data protection. Relevant staff are also receiving more in depth training. The DP Policy has been updated to take into account GDPR and awaits approval.	The new Data Protection Policy has been supplied to the Keeper. This policy states the obligations and responsibilities of the authority under GDPR and Data Protection legislation. It is a comprehensive policy and the steps the authority are taking to ensure that all staff develop an awareness of their responsibilities is good practice.
10. Business	<b>A</b>	<b>G</b>	<b>A</b>	A <i>Corporate Business Continuity Plan</i> and a <i>Vital</i>	A Vital Records Policy is being prepared. It will be	The identified gap in provision remains but the authority is

Continuity and Vital Records				<p><i>Records Policy</i> are currently being developed and are expected to be in place in 2015. The Keeper commends this effort to close a gap in provision and requests that he is provided with a copy of these policies, once available.</p> <p>The Keeper agrees this element of David MacBrayne's RMP on 'improvement model' terms. This means that he acknowledges that an authority has recognised a gap in records management provision [vital records not included in recovery plans] and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>	completed by Spring 2018.	clearly on track to close the gap and the Assessment Team looks forward to seeing the new policy in due course.
11. Audit Trail	<b>A</b>	<b>G</b>	<b>A</b>	David MacBrayne recognise that it does not have a corporate system in place which allows the tracking of records. However the authority hopes to implement audit trail facilities by late 2015 as part of the roll-out of the Business Classification Scheme and	A project is underway to identify how the Company structures its files to provide better tracking of files.	Identifying filing structures is a necessary prerequisite for ensuring that records can be tracked and retrieved when required. The creation of the business classification scheme (see Element 4) is also a positive step towards reliable tracking of records

				<p>Retention Policy. There is a commitment to keep the Keeper up-to-date on the progress of this project, which is welcomed.</p> <p>The Keeper agrees this element of David MacBrayne's RMP on 'improvement model' terms. This means that he acknowledges that an authority has recognised a gap in records management provision [difficulty tracking records] and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.</p>		<p>and the Assessment Team would encourage the authority to continue developing this provision.</p>
12. Competency Framework	<b>A</b>	<b>G</b>	<b>G</b>	<p>David MacBrayne is committed to creating a <i>Competency Framework, Job Description or Person Specification</i> for their Records Manager. The Keeper commends this initiative and requests sight of these documents once they have been approved.</p> <p>The Keeper agrees this element of David MacBrayne's</p>	A Job description and person specification completed	The job description and person specification of the Corporate Records Manager has been provided to the Keeper. As noted under Element 2, this demonstrates that the qualifications and responsibilities required for the post of Corporate Records Manager are appropriate to their role and ensure compliance in this

				RMP on 'improvement model' terms. This means that he acknowledges that an authority has recognised a gap in records management provision [there is no formal job description or person specification for their Records Manager] but have committed to close that gap. The Keeper agrees this element on the understanding that he will be informed when the relevant documents have been approved.		area with the Public Records (Scotland) Act. If this were a statutory assessment it is likely that this would move the RAG status from Amber to Green.
13. Assessment and Review	<b>A</b>	<b>G</b>	<b>A</b>	David MacBrayne is developing a strategy which will ensure the annual review of the Plan and its policies and for the continuity of policy review in the future. The Keeper commends this work and requests that he is informed if this policy review results in any changes and be provided with a new version. This must be done in order that the Keeper may keep David MacBrayne's submission up-to-date.	A plan for the assessment and review of the RMP is being developed. It is expected to be completed by autumn 2018.	The authority's participation in this PUR process demonstrates a commitment to reviewing the RMP, even although the authority has not yet developed a plan for regular assessment and review. The PUR mechanism is intended to help authorities demonstrate their continuing compliance with s.5(1)(a) of the Public Records (Scotland) Act 2011 to keep their RMPs under review. The Assessment Team would encourage the authority to

				The Keeper agrees this element of David MacBrayne's RMP on 'improvement model' terms. This means that he acknowledges that the authority has recognised a gap in records management provision (they need to create a formal review strategy and procedures) and has set in motion projects designed to close that gap. The Keeper will expect to be updated on the progress of these projects.		continue to develop their plan for the assessment and review of the RMP to ensure compliance with this section of the Act.
14. Shared Information	G	G	G	Update required on any change	No change	No immediate action required.

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 9 May 2018. The author of the progress update submission is Alan Redhead, Corporate Records Manager.

The progress update submission makes it clear that it is a submission for **David MacBrayne Ltd.**

## 7. PRSA Assessment Team's Summary

The Assessment Team has reviewed **David MacBrayne Ltd** 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.

The Keeper cannot change the status of elements formally agreed under the statutory assessment process as a consequence of a voluntary submission. He can, however, use such submissions to indicate how he might now regard the status of elements should the authority choose to resubmit its plan under section (5)(6) of the Act. The procedure therefore allows authorities to assess when and whether they might wish to invoke their rights under the legislation and request a statutory review and assessment.

### General Comments

**David MacBrayne Ltd** has made significant progress in a number of areas over the three years since the Records Management Plan was agreed. Three of the eight elements which were formally agreed by the Keeper under an improvement model and given a RAG status of Amber have now reached the point where, if this were a statutory assessment, they would be likely to be assessed as Green. The Assessment Team has seen evidence of this progress for Elements 6, 7 and 12.

The Assessment Team have noted the progress made in Elements 4, 5 and 11 and that work is ongoing in Elements 10 and 13, and would be glad to see further development in due course. There is evidence that the elements which were already rated as Green have continued to be kept under review and up to date and the vigilance of the authority in ensuring that good practice in these areas continues is to be commended.

The Team commends the progress evident in this work and would welcome updates on these projects in future PUR submissions.

Where 'no change' has been recorded under the update on provision by the authority, the Assessment Team is happy to agree that these elements require no further action for the time being.

## 8. PRSA Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that **David MacBrayne Ltd** 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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**Elsbeth Reid**  
Public Records Officer