

Public Records (Scotland) Act 2011

Public Authority Assessment Report

The Keeper of the Records of Scotland

Date 4th July 2013

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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 fully into force on 1 January 2013. Its primary aim is to promote efficient and accountable record keeping by named Scottish public authorities.

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

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

2. Executive Summary

This report sets out the findings of the Keeper's assessment of the RMP of the Court of the Lord Lyon by the Public Records (Scotland) Act 2011 Assessment Team following its submission to the Keeper on 20th May 2013.

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

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

3. Authority Background

The office of Lyon King of Arms dates from the 14th century. The Court of the Lord Lyon is a standing court of law with jurisdiction over the granting and use of Armorial Bearings in Scotland. The Lord Lyon is the sole King of Arms in Scotland and is head of the Heraldic Executive and the Judge of the Court of the Lord Lyon. The court is fully integrated into the Scottish legal system. The officers of the Court are the Lord Lyon King of Arms and also the Lyon Clerk and Keeper of the Records, which are both appointed by the Crown. The Lord Lyon has responsibility for prosecuting as a criminal offence anyone who uses unauthorised Arms. The Court has its own procurator fiscal. The Lyon Clerk maintains the Public Register of all Arms and Bearings in Scotland which contains an official copy of every Coat of Arms granted in Scotland since 1672 in accordance with the Lyon King of Arms Act 1672, cap 47. The Court currently comprises 3 members of staff.

4. Keeper's Assessment Process

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

5. Model Plan Elements: Checklist

Element	Present	Evidence	Notes
1. Senior Officer <i>Compulsory element</i>	✓	Policy statement provided as evidence in element 3.	Senior management responsibility for the RMP has been allocated and evidenced.
2. Records Manager <i>Compulsory element</i>	✓	Policy statement provided as evidence in element 3.	Operational responsibility for the RMP has been allocated and evidenced.
3. Policy <i>Compulsory element</i>	✓	Policy statement provided within text of RMP.	The policy statement within element 3 of the plan clearly sets out the authority's commitment to creating and managing authentic, reliable and useable records, capable of supporting business functions and activities for as long as they are required. It defines the records management roles and responsibilities of staff in the authority and the importance of managing their own records.
4. Business Classification	✓	Document E01 provided as evidence for element 4.	The Business Classification Scheme sets out all the business functions and record classes of the court. The Scheme demonstrates all corporate records are stored and accounted for within the court. Staff are trained to recognise where the records they create fit into the Scheme. Human Resources functions are undertaken by the Scottish Court Service.
5. Retention schedule	✓	Document E02 provided as evidence for element 5.	A retention schedule for all the records created by the court has been supplied. Evidence includes procedural documentation that clearly demonstrates the retention mechanism is operational. This schedule also identifies vital records (see Element 10).
6. Destruction Arrangements <i>Compulsory element</i>	✓	Document E03 (The Records Disposal Policy of the NRS) is provided as	The court is a tenant within New Register House, Edinburgh, which is part of the estate of National Records of Scotland (NRS). As such, the court uses NRS' destruction arrangements

		evidence along with documents relating to the contracts with commercial disposal company Shred-It (documents E04-E10).	to dispose of its physical waste. Contracts and certificates of destruction show that the procedures in place are robust and operationally sound.
7. Archiving and Transfer <i>Compulsory element</i>	✓	Evidence provided within the text of the RMP.	The court maintains its own archive and corporate records identified for permanent preservation are kept onsite. The evidence shows that records of archival value are stored securely within a designated archival space and staff are trained in the recognition and management of archival records.
8. Information Security <i>Compulsory element</i>	✓	NRS' information policy documents are submitted as evidence (documents E11-14).	The court's IT system is maintained by NRS and is part of the Government Secure Internet (GSI).
9. Data Protection	✓	Evidence provided within the text of the RMP.	A comprehensive Data Protection Policy statement is provided within the text of the plan itself which shows a clear understanding of its responsibilities under the Data Protection Act. The court does not appear to be registered with the Information Commissioner's Office.
10. Business Continuity and Vital Records	✓	Documents E15-16) provided as evidence for element 10.	The court's procedures for disaster planning and vital records recovery are covered by NRS' arrangements. The court is currently developing a strategy for the evacuation of vital records which should be completed by end of 2013. Vital records are identified in the retention schedules (see Element 5).
11. Audit trail	✓	Evidence provided within the text of the RMP.	The court's records are, in the main, paper-based. There is a registry system that underpins the creation and movement of paper files around the authority. Staff are trained in this system, are aware of their responsibilities and are able to file,

			track and retrieve records when required. The assessment team is confident that staff are aware of the filing, tracking and retrieval procedures in place to ensure that records are complete, up-to-date and findable.
12. Competency Framework for records management staff	✓	Document E17 provided as evidence for element 12.	The court has a Records Management Competency Framework in place. The Senior Responsible Officer provides the secretarial staff with records management training and has built in competencies to the annual reporting procedures for these members of staff.
13. Assessment and Review	✓	Evidence provided within the text of the RMP.	The Senior Responsible Officer, along with the NRS Records Manager in regard to those elements sharing services with NRS, has committed to formally reviewing the plan in January 2014, and annually thereafter.
14. Shared Information	n/a		The court does not currently share information with other public bodies or create records in conjunction with other public bodies. The court has stated that if the situation changes it will follow the Information Commissioner's Data Sharing Code of Practice.

6. Keeper's Summary

Elements 1-14 that the Keeper considers should be in a public authority records management plan have been properly considered by the Court of the Lord Lyon. Policies and governance structures are in place to implement the actions required by the plan.

Elements that require development by the Court of the Lord Lyon are as follows:

Elements 1, 2 and 11 - The plan may need to be reviewed in the event of a change in staff, particularly the Senior Responsible Officer/Records Manager who would appear to have a wealth of knowledge about managing the authority's records. Procedures to ensure a smooth transition of responsibility regarding records management would be required.

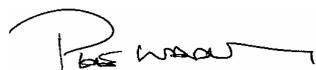
Element 10 - The lack of back-up copies of essential paper registers is grounds for some concern. The vulnerability of the entire authority's operation which is exposed by this lack should be recognised by senior management. It may be the case that this issue is being considered as part of the development of the vital records evacuation strategy which is due to be completed by the end of 2013 (see element 10 in Checklist above). The Keeper requests that the above issue is considered and when the aforementioned evacuation strategy is implemented a copy is sent to his Assessment Team to keep the RMP up to date.

7. Keeper's Determination

Based on the assessment process detailed above, the Keeper agrees the RMP of the Court of the Lord Lyon.

The Keeper recommends that the Court of the Lord Lyon should publish its agreed RMP as an example of good practice within the authority and the sector.

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



Pete Wadley
Public Records Officer



Robert Fotheringham
Public Records Officer

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

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



Deputy Keeper of the Records of Scotland, on behalf of:

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Tim Ellis
Keeper of the Records of Scotland