

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

Scottish Government  
Accountant in Bankruptcy  
Chief Dental Officer of the Scottish Administration  
Chief Medical Officer of the Scottish Administration  
Disclosure Scotland  
Drinking Water Quality Regulator for Scotland  
HM Chief Inspector of Prisons for Scotland  
HM Fire Service Inspectorate for Scotland  
HM Inspector of Anatomy for Scotland  
Independent Prison Monitors  
Mobility and Access Committee for Scotland  
Prison Monitoring Co-ordinators  
Safeguarders' Panel  
Scottish Agricultural Wages Board  
Student Awards Agency for Scotland  
Transport Scotland

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

## Contents

1. The Public Records (Scotland) Act 2011 .....	3
2. Progress Update Review (PUR) Mechanism .....	4
3. Executive Summary.....	4
4. Authority Background.....	5-6
5. Assessment Process.....	7
6. Records Management Plan Elements Checklist and PUR Assessment.....	8-17
7. The Public Records (Scotland) Act Assessment Team's Summary .....	18
8. The Public Records (Scotland) Act Assessment Team's Evaluation.....	19

## **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 Government (SG). The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

## 4. Authority Background

The **Scottish Government** (Part of the scheduled public authority 'Scottish Ministers') is the devolved government for Scotland which is responsible for most of the issues of day-to-day concern to the people of Scotland, including health, education, justice, rural affairs and transport.

**Disclosure Scotland** (Part of 'Scottish Ministers') is an Executive Agency of the Scottish Government which provides criminal records checks under Part V of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007.

**Transport Scotland** (Part of 'Scottish Ministers') is an Executive Agency of the Scottish Government which is responsible for advising Scottish Government on strategy and policy options for transport in Scotland and for increasing sustainable economic growth through the development of national transport projects.

**Student Awards Agency for Scotland** (Part of 'Scottish Ministers') is an Executive Agency of the Scottish Government giving financial support to all eligible students doing a course of higher education in the UK.

**Accountant in Bankruptcy** (Part of 'Scottish Ministers') is an Executive Agency of the Scottish Government responsible for administering the process of personal bankruptcy and recording corporate insolvencies in Scotland.

The **Scottish Agricultural Wages Board** (SAWB) is an executive non-departmental public body set up under the Agricultural Wages (Scotland) Act 1949. The SAWB exists to set minimum rates of pay and other conditions of service for agricultural workers in Scotland.

The **Chief Dental Officer** (CDO) is the Scottish Government's principal dental adviser, and as such has direct access to ministers. The post has direct involvement in the development of health policy in Scotland, including, health promotion and health protection. The CDO has lead responsibility for issues such as clinical effectiveness, quality assurance, accreditation and research.

The **Chief Medical Officer** (CMO) is the Scottish Government's principal medical adviser and is also Head of the Scottish Medical Civil Service. The post covers every aspect of health in Scotland.

**Her Majesty's Inspector of Anatomy** for Scotland inspects premises where bodies for anatomical examination and anatomical specimens are kept. He also inspects record keeping and disposal practices.

**Her Majesty's Chief Inspector of Prisons for Scotland** is required to inspect the 15 prisons across Scotland in order to establish the treatment of, and the conditions for prisoners and to report publicly on the findings. The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 came into force on 31 August 2015 and from this date HM Chief Inspector of Prisons for Scotland assumed overall responsibility for the monitoring of prisons, which is carried out on a day to day basis by independent prison monitors.

**Independent Prison Monitors appointed under section 7B(2)(a) of the Prisons (Scotland) Act 1989** are volunteers who provide an independent viewpoint on the humane treatment and conditions for prisoners in all prisons across Scotland and conduct investigations either as a result of a prisoner raising an issue or from observations that are made during prison visits. Monitors report formally on their findings.

**Prison monitoring co-ordinators appointed under section 7A (2) of the Prisons (Scotland) Act 1989** co-ordinate the work of Independent Prison Monitors.

**Her Majesty's Fire Service Inspectorate for Scotland**, or HM Fire Service Inspectorate, is an autonomous agency of the Scottish Government. Its function is to provide independent, risk based and proportionate professional inspection of the Scottish Fire and Rescue Service. The Inspectorate can enquire into any matter concerning the operation of a fire and rescue service.

The **Safeguarders Panel** is responsible for recruitment and selection, training, managing appointments, complaints and monitoring performance of safeguarders across Scotland. The statutory responsibility for these functions lies with the Safeguarders Panel which is administered by the Children and Families Directorate.

The **Drinking Water Quality Regulator for Scotland** is responsible for monitoring water quality and enforcing the regulations on behalf of Scottish Ministers. Technical and logistical support is provided by the Drinking Water Quality Division of the Scottish Government.

The **Mobility and Access Committee for Scotland (MACS)** is an advisory non departmental public body. The Convener and Members are appointed by the Minister for Transport. The role of MACS is to consider matters about the needs of disabled persons in connection with transport that the committee think are appropriate and to advise the Scottish Ministers about those matters that the committee think are appropriate.

## 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:

<b>Green</b>	The Assessment Team agrees this element of an authority's plan.	<b>Amber</b>	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.	<b>Red</b>	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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## **6. Progress Update Review (PUR) Template: Scottish Government (SG)**

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Drinking Water Quality Regulator for Scotland  
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*(For simplicity, the authorities listed above will be referred to as the Scottish Government or 'the SG' throughout this assessment)*



Element	Status of elements under agreed Plan 25JUL22	Status of evidence under agreed Plan 25JUL22	Progress review status 18JAN24	Keeper's Report Comments on Authority's Plan 25JUL22	Self-assessment Update as submitted by the Authority since 25JUL22	Progress Review Comment 18JAN24
1. Senior Officer	Green	Green	Green	Update required on any change.	No change.	Update required on any change.
2. Records Manager	Green	Green	Green	Update required on any change.	No change though as a point of interest the Knowledge and Information Management Branch is now part of Digital Citizen Unit having moved out of iTECS Division.	The Assessment Team thanks you for this update on internal restructuring.
3. Policy	Green	Green	Green	Update required on any change.	No change.	Update required on any change.
4. Business Classification	Green	Green	Green	Update required on any change.	No change.	Update required on any change.

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5. Retention Schedule	Amber	Green	Amber	<p>The SG have provided the Keeper with the following update regarding the gap in retention noted above: "In terms of our legacy paper records these will all continue to be managed in line with the arrangements stated in the document titled 'Scottish Government Paper Records Retention schedule pre-eRDM'. We continue to progress the project to digitise our paper records in line with the document titled 'Digitisation of Legacy Paper Files'.</p> <p>We have this year (2022) commenced a Shared Drive Programme which will firstly see content held in 'H Drives' be reviewed by each individual member of staff and either added to the appropriate eRDM file where it is part of the corporate record (this exercise is to be completed by the end of July 2022) or deleted where it has no/no longer has any business value (note: any deletion of corporate information will be</p>	<p>The following new eRDM file types have been created at the request of SG business areas:</p> <ul style="list-style-type: none"> <li>• Audit and Assurance Management – close after 3 years, destroy 3 years after closure;</li> <li>• European Maritime and Fisheries Fund Casework - close after 5 years, destroy 2028 as required by EC audit;</li> <li>• Fisheries and Aquaculture Casework – close after 5 years, review 25 years after closure;</li> <li>• Marine Environment Consenting Casework – close after 5 years, review 75 years after closure;</li> <li>• Marine Environment General Licensing Casework – close after 5 years, destroy 25 years after closure;</li> <li>• Ministerial Decisions Backup – close after 5 years, destroy 5 years after closure.</li> </ul>	<p>Thank you for this update which has been noted. It is great to hear that retention schedules have been updated according to changes in business requirements.</p> <p>The update regarding continuing digitisation of legacy paper records is welcome. It is good to hear that the retirement of H drives has now largely been completed, aside from a few exceptions. Further updates on the progress of the Shared Drive Programme would be welcome in future PUR submissions as the Keeper has</p>

				<p>done in consultation with our branch).</p> <p>Following this we will begin the task of tackling content held on the G drive, pst files and public folders whereby business areas will be asked to review material and add any content which is for the corporate record to eRDM unless there is a valid business reason why it cannot be stored there (e.g. databases) or alternatively delete information which has no/no longer has any business value (as above any deletion of corporate information will be done in consultation with our branch). On completion of this exercise (which will inevitably take a reasonable period of time to complete) the vast majority of information for the corporate record will be stored in eRDM (where it will be managed appropriately in line with our RMP arrangements) and those objects not stored in eRDM (e.g. databases) will be recorded as Information Assets by local Information Asset Owners which will ensure they can be appropriately managed (note: we continue to advise business areas to ensure that regular 'snapshots' or reporting outputs of</p>	<p>We have also revised the retention schedules of the following eRDM file types as follows at the request of SG business areas in line with their business requirements:</p> <ul style="list-style-type: none"> <li>• Legal Advice Working Papers – close after 5 years, archive 15 years after closure (was previously destroy 11 years after closure);</li> <li>• Rural Payments Customer Casework – close after 20 years (was 5 years), destroy 10 years after closure;</li> <li>• Rural Payments Agent Casework – close after 20 years (was 5 years), destroy 5 years after closure;</li> <li>• Scotland Rural Development Programme RDC RP – close after 30 years (was 5 years), destroy 7 years after closure.</li> </ul> <p>The project to digitise our paper records continues and work has largely been completed on closing down H drives (aside from those belonging to colleagues who are not at work as a result of long term absences) with any</p>	<p>agreed this Element on an improvement model basis.</p> <p>This Element will remain at Amber as the work continues.</p>
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				<p>their databases are stored in eRDM to maintain the corporate record).”</p> <p>Considering this statement, the Keeper accepts that the SG recognise that retention is not yet satisfactorily applied to all public records, but he is satisfied that there is a clear methodology in action to resolve the issue while sensibly weeding-out records that are of no ongoing business value. The Keeper also notes that the project to digitise paper records is in line with the SG’s Digital First agenda.</p> <p>The Keeper can agree this element of the Scottish Government’s RMP on improvement model terms. This means that the authority has identified a gap in their records management provision (there is a backlog of legacy records that do not have retention/destruction processes applied) and have put processes in place to close that gap.</p> <p>The Keeper’s agreement will be conditional on his being kept up-to-date with progress.</p>	<p>information which is part of the corporate record transferred into the appropriate eRDM file. A pilot exercise to test the end to end process of reviewing and managing/moving content held in public folders is about to begin following on from which we’ll begin reaching out to other business areas to continue to progress this task.</p>	
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6. Destruction Arrangements	Green	Green	Green	Update required on any change.	No change.	Update required on any change.
7. Archiving and Transfer	Green	Amber	Green	<p>The Keeper acknowledges that this arrangement is operational and public records of the SG are routinely transferred into NRS.</p> <p>However, the Service Level Agreement under which these arrangements operate is out-of-date. The NRS Client Management Team and the Corporate Records Manager (see element 2) have both acknowledged this discrepancy and have set up a meeting to begin taking forward the updating of these documents. The SG have also committed to provide the Keeper with a copy of the updated agreement as soon as it becomes available.</p> <p>The Keeper can agree this element of the SG RMP under 'improvement</p>	<p>We are currently working with NRS colleagues in relation to the arrangements for the transfer of eRDM files to NRS this year in line with agreed file retention arrangements. We would expect to complete the transfer of these records by no later than 1 September.</p> <p>As mentioned at element 5 work continues on the project to digitise our paper records and to take forward the review and management/movement of information held in non-eRDM repositories such as public folders.</p> <p>Unfortunately due to other work pressures on both sides it has not been possible to link in</p>	<p>The Assessment team thanks you for this update on digital archiving arrangements with NRS. The legacy paper record digitisation and Shared Drive projects, also mentioned under Element 5, are also noted with thanks.</p> <p>The Team notes that pursuing an up-to- date Service-Level Agreement and selection policy with NRS has not progressed, but</p>

				model' terms. He can do this when he is convinced that, having identified a gap in records management provision, an authority has put appropriate process in place to close that gap.	with NRS colleagues as yet on updating the Service Level Agreement and NRS selection policy. We have not lost sight of the requirement to undertake this work and will update the Keeper in due course.	that this remains on the authority's radar. It is hoped that this process will have been started at the time of the next PUR submission.
8. Information Security	Green	Green	Green	Update required on any change.	No change.	Update required on any change.
9. Data Protection	Green	Green	Green	Update required on any change.	No change.	Update required on any change.
10. Business Continuity and Vital Records	Green	Green	Green	Update required on any change.	As mentioned at elements 5 and 7 work continues in our project to digitise our paper records.  No changes to report at this time.	Thank you for this update which has been noted. Update required on any future change.
11. Audit Trail	Green	Green	Green	Update required on any change.	No change.	Update required on any change.

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12. Competency Framework	Green	Green	Green	Update required on any change.	<p>Members of the Branch are currently completing a Glasgow University course on Records Management. This will complete by the end of August 2023.</p> <p>We continue to look for other relevant training opportunities and will encourage colleagues within the branch to attend where it is possible to do so in line with budgetary restraints.</p>	Thank you for this positive update. It is very exciting to hear that opportunities have arisen for upskilling training in records management, and that this is being pursued across the branch.
13. Assessment and Review	Green	Green	Green	<p>The Keeper would like to note that several evidence documents provided to him have no control sheet attached. Therefore, he is not able to judge who authorised them, their approval date or when they are due to be reviewed.</p> <p>Update required on any change.</p>	<p>We will endeavour to add control sheets to evidence documents which we have responsibility for and will pass this feedback to colleagues whose areas are responsible for the other documents.</p> <p>It should also be noted that some of our documents are static (e.g. E48: Extract of a Chief Dental Officer file in eRDM) and others are copied and pasted from content held on Saltire hence the reason no control sheet is</p>	<p>Section 1(5)(i)(a) of the Act says that an authority must keep its Records Management Plan (RMP) under review. An authority's RMP must describe the procedures in place to regularly review it in the future.</p> <p>Document control sheets are good</p>

					<p>provided on them.</p> <p>I can confirm that the following evidence documents have been updated since we submitted our Records Management Plan. I have provided copies of the latest versions of these documents:</p> <ul style="list-style-type: none"><li>• E38;</li><li>• E57;</li><li>• E65</li></ul>	<p>practice as they allow for management and monitoring of regular review of all RMP- adjacent plans and policies. Any other style of indication of authorising person, issue date and review schedule would also be acceptable.</p> <p>It is positive to hear that there has been a drive to add these to relevant documentation.</p> <p>The Assessment Team thanks you for providing the evidence documents listed; these have been received with thanks.</p> <p>Update required on any future change.</p>
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14. Shared Information	Green	Green	Green	Update required on any change.	As the Keeper may have noted the UK Government has launched a <a href="#">revised security classification policy</a> that applies to all civil servants. SG Colleagues are currently working on revising the internal guidance which we provide to colleagues on this and we can share this when it becomes available.	The Team thanks SG for providing this update on the launch of a revised security classification policy. We look forward to further updates on the internal guidance in future PURs.
15. Records Created or Held by Third Parties	Green	Green	Green	Update required on any change.	No change.	Update required on any 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 25th August 2023. The progress update was submitted by Craig Sclater, Corporate Records Manager.

The progress update submission makes it clear that it is a submission for Scottish Government (SG).

The Assessment Team has reviewed Scottish Government'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.

### General Comments

Scottish Government(SG) 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 Government (SG) 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

A handwritten signature in blue ink that reads "Iida Saarinen". The signature is written in a cursive style with a light blue circular highlight behind it.

Iida Saarinen  
Public Records Officer



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