The Public Records (Scotland) Act 2011

Scottish Legal Aid Board

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

14th December 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 Scottish Legal Aid Board. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Scottish Legal Aid Board (SLAB) was set up in 1987 to manage the legal aid system in Scotland. They are a Non-Departmental Public Body responsible to the Scottish Government. SLAB also advises Scottish Ministers on the operation of the legal aid system and makes proposals for ways to develop it. The work of SLAB is overseen by a non-executive board. The executive management is headed by the Chief Executive, who is also the Accountable Officer, and is supported by three directors and a Principal Legal Adviser.
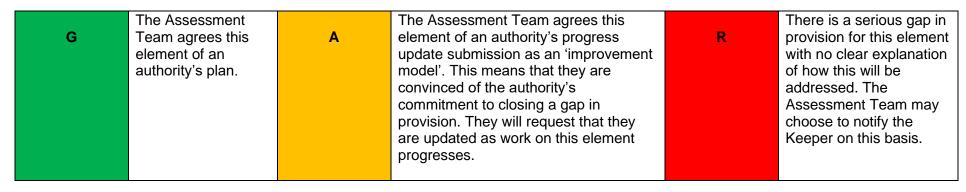
5. Assessment Process

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: Scottish Legal Aid Board

Element	Status of elements under agreed Plan 05FEB21	Status of evidence under agreed Plan 05FEB21	Progress review status 14DEC23	Keeper's Report Comments on Authority's Plan 05FEB21	Self-assessment Update as submitted by the Authority since 05FEB21	Progress Review Comment 14DEC23
1. Senior Officer	G	G	G	Update required on any change.	Graeme Hill Director of Corporate Services retired in April 2022. His replacement in this role is Linda Ross. Linda Ross is now Director of Corporate Services and Accounts and she is SIRO for the organisation. Linda has senior responsibility for all aspects of Records Management. Linda chairs the Records Management Project Board.	The Assessment Team thanks you for this update which has been noted in our systems. Update required on any future change.
2. Records Manager	G	G	G	Update required on any change.	No changes since 5/02/21.	Update required on any change.
3. Policy	G	G	G	Update required on any change.	We are looking to review this in light of our planned move to O365.	Thank you for this update on upcoming Records Management Policy review.
4. Business Classification	A	G	A	**The Keeper can agree this element of the *RMP* under improvement model terms while the authority pursues the movement away from the use of shared network drives going forward.**	The work we undertook prior to the O365 pilot has highlighted that we may need to have a flatter structure. We are now of the view that the structure we had planned to implement may need reviewed as a result of our increased	Element 4 stipulates that 'records are known and are identified within a structure, ideally founded on function'. The Assessment Team thanks

					awareness of O365's access rights and privacy settings We are currently piloting O365 and our findings and outcomes will influence the final structure.	you for this update regarding the review of the underlying business classification structure in light of move to O365. This Element will remain at Amber as the work continues. The Team look forward to further updates in subsequent PURs.
5. Retention Schedule	G	G	G	Update required on any change.	No changes to the actual retention schedule since 5/02/21 however we have introduced a Nil return form and an actioned form that IAO's have to return showing that they have reviewed their retention schedules and they have or/have not made any changes. We plan to revisit the retention schedules as we move to O365 to ensure that we have captured all records and assets on the schedules.	Thank you for this positive update on continuous retention schedule maintenance and management. The upcoming review in light of move to O365 is also very appropriate.
6. Destruction Arrangements	G	G	G	Update required on any change.	No changes since 5/02/21.	Update required on any change.
7. Archiving and Transfer	G	G	G	Update required on any change.	The Keeper had previously provided SLAB with a portable hard drive to transfer records. Records were downloaded onto the portable hard drive and this was delivered to NRS in April 2022. SLAB used DROID to complete the manifest. SLAB received confirmation from NRS on 27/04/22 that the records had been successfully	The Assessment Team appreciates this update on practical transfer arrangements between SLAB and NRS Archive Depositor Liaison. It is also reassuring to know that SLAB has initiated the process of reviewing and re-formalising an

					ingested into the digital repository. We have recently contacted Jean Crawford from NRS about our MOU now known as an Agreement to check if it would be in force for full 5 Years. Jean advised that although they usually last for 5 years, SLAB's was signed just before some major changes were made to the Agreement and she would like us to complete a new one to bring it up to date. We are just starting this process.	updated Transfer Agreement to replace the existing Memorandum of Understanding with NRS.
8. Information Security	G	G	G	Update required on any change.	All slab staff undertook mandatory Cyber Security Top tips' training during the month of January 2022. SLAB were awarded the Cyber Essentials Plus accreditation for a second year on 10/05/2023.	The Assessment Team thanks you for this update on new mandatory Cyber Security training. It would also like to congratulate SLAB on obtaining a Cyber Essentials Plus accreditation. While not a requirement, this is a clear indication of continuing adherence to best practice in information security.
9. Data Protection	G	G	G	Update required on any change.	No changes since 5/02/21.	Update required on any change.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	The IS Infrastructure team carried out a disaster recovery test which ran from Friday 20 to Monday 23 January 2023. The test scenario was that all SLAB's systems had been lost due to a hardware failure of the power supply units that power all the servers. The test	Thank you for confirming that SLAB's disaster recovery plan was updated in 2022. While the regular review and update of organisational disaster recovery documentation is key in maintaining these fit for purpose, the carrying out of tests to assess

					was to prove that SLAB priority systems could be restored to the disaster recovery site using the recovery documentation. In 2022, we reviewed and updated the disaster recovery documentation for the first time since 2019 but it required to be tested. The test was successful and priority systems FAMS, LAOL and Citrix were recovered onto the disaster recovery site.	the organisation's disaster-preparedness is good practice. The Team notes that a disaster recovery test, assessing the scenario where server power supply unit hardware failure might result in catastrophic loss of all systems, was run in January 2023. We note that this test successfully showed that priority systems could be restored through recovery procedure.
11. Audit Trail	G	G	G	Update required on any change.	No changes since 5/02/21.	Update required on any change.
12. Competency Framework	G	G	G	The Keeper notes that SLAB have a 'future development' noted in the RMP (page 12) to update and revise training, and information governance documents where required by legislative changes caused by the departure of the UK from the European Union. **The Keeper request that he is provided with any updated information governance training material that results from this action.**	Following the UK's departure from the EU we revised our data protection training. The updated training was released in July 2021 and all staff were asked to complete the training by 29 October 2021. The training covered • our legal duties under the data protection legislation • how to keep information safe and secure • appropriate use of our computer facilities to achieve this. SLAB commissioned Frank Rankin from For Your Information to provide training for IAO's. The training consisted of a half day training via teams. Frank ran 2 sessions which were delivered in August and September 2021. Frank also provided us with a narrated video.	The updated training provision for staff with regard to compulsory Data Protection training in 2021 is noted with thanks. It is positive to hear that focused bespoke training aimed at Information Asset Owners has been delivered. The Records Manager's relevant Continuing Professional Development is also noted with many thanks. Based on this update, i is clear that SLAB continues to support its staff in the current fast-paced information management landscape. The Assessment Team has no particular concerns

					The narrated video is currently available on our training platform and is used to help with the training of new IAO's. The training covered
					• The roles of SIRO, IAO and IAOA in context
					• The regulatory framework: FOISA, UKGDPR, PRSA
					• Information assets and the IAR
					• Record naming conventions and metadata in O365
					• Practical retention and disposal – Shared drives and O365
					• Personal data: data protection by design and DPIAs
					• Data breaches and incidents
					• A personal IAO action plan
					
					The records Management Specialist Christine Connerton has undertaken the following training
					• June 2021 Practitioner certificate in Scottish Public Sector Records Management
					• Leadership through data:
					  - M365 Teams Information Security – April 2021
					  - M365 Sharepoint super user training – April 2021
					  - M365 Sharepoint records management – May 2021
						regarding this Element.

13. Assessment and Review	**G**	**G**	**G**	The Keeper has been provided with the job description for the Records Management Specialist (see	No changes since 5/02/21.	Update required on any change.

	 	 	 	element 2) which includes responsibility to "Prepare the Records Management Plan and provide annual updates to the Keeper of Records" and "Regularly review SLAB's Records Management policies and guidance". The RMP and all related policies and procedures are subject to an annual review by the Records Management Specialist The review will be carried out using the JISC infonet self-assessment Records Management Maturity Model. This has yet to be instigated and SLAB may choose to use an alternative maturity model. **The Keeper would be interested in an update on this matter in subsequent communication (such as a PUR).**		
14. Shared Information	**G**	**G**	**G**	Update required on any change.	No changes since 5/02/21.	Update required on any change.
15. Public Records Created or Held by Third Parties	**N/A**	**N/A**	**N/A**	The Keeper expects a public authority to ensure that adequate arrangements are in place for the management of records created and held by third parties who carry out any functions of the authority.	No changes since 5/02/21.	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 31st May 2023. The progress update was submitted by Christine Connerton, Records Management Specialist.

The progress update submission makes it clear that it is a submission for **Scottish Legal Aid Board**.

The Assessment Team has reviewed Scottish Legal Aid Board'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 Legal Aid Board 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 Legal Aid Board 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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