

The Public Records (Scotland) Act 2011

Scottish Fiscal Commission

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

1st August 2023

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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 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 Fiscal Commission. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Scottish Fiscal Commission, which was established on 1 April 2017 under terms of the Scottish Fiscal Commission Act 2016, is the independent fiscal institution for Scotland. It is the only sub-national fiscal institution which produces its own fiscal and economic forecasts which are used as the official forecasts; in most countries equivalent organisations scrutinise or certify the Government's own forecasts. The Scottish Fiscal Commission is a Non-Ministerial Office: the Commission is part of the Scottish Administration but not part of the Scottish Government. This ensures the operational independence of the authority. The Commission is directly accountable to the Scottish Parliament for the delivery of its functions.

<https://www.fiscalcommission.scot/>

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.
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6. Progress Update Review (PUR) Template: Scottish Fiscal Commission

Element	Status of elements under agreed Plan 17NOV21	Status of evidence under agreed Plan 17NOV21	Progress review status 01AUG23	Keeper's Report Comments on Authority's Plan 17NOV21	Self-assessment Update as submitted by the Authority since 17NOV21	Progress Review Comment 01AUG23
1. Senior Officer	G	G	G	Update required on any change.	No change.	Thank you for letting the Assessment Team know that there have been no changes to this Element. Update required on any change.
2. Records Manager	G	G	G	Update required on any change.	No change.	Update required on any change.
3. Policy	G	G	G	Update required on any change.	No change.	Update required on any change.
4. Business Classification	G	G	G	Update required on any change.	No change.	Update required on any change.
5. Retention Schedule	G	G	G	Update required on any change.	No change.	Update required on any change.
6. Destruction Arrangements	G	G	G	Update required on any change.	No change.	Update required on any change.

7. Archiving and Transfer	A	G	A	<p>The Act requires that all Scottish public authorities identify a suitable repository for the permanent preservation of any records considered suitable for archiving. A formal arrangement for transfer to that repository must be in place.</p> <p>The Commission has identified National Records of Scotland (NRS) as the repository for their public records selected for permanent preservation. Discussions are ongoing to finalise a MoU/deposit agreement and emails pertaining to this have been provided separately.</p> <p>The Keeper agrees that the Commission has identified a suitable repository and that appropriate archiving arrangements will be in place once a formal agreement is secured. He can therefore agree this element on an 'Improvement Model' basis. The Commission is currently in discussions with the NRS Client Management Team to finalise arrangements. The Keeper's requests notification once this process is completed.</p>	SFC are awaiting NRS review on this.	<p>The Assessment Team thanks you for this update. It is encouraging that SFC has approached their Client Manager at National Records of Scotland in order to get the ball rolling on a formal archive agreement.</p> <p>This Element will remain at Amber while the work is ongoing. We look forward to hearing how this progresses in subsequent PURs.</p>
8. Information Security	G	G	G	Update required on any change.	No change.	Update required on any change.
9. Data Protection	G	G	G	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.	Update required on any change.

11. Audit Trail	G	G	G	Update required on any change.	No change.	Update required on any change.
12. Competency Framework	G	G	G	<p>The Keeper expects staff creating, or otherwise processing records, to be appropriately trained and supported.</p> <p>The <i>RMP</i> confirms the Governance Manager's (named at element 2) participation in the PRSA network and attendance at PRSA events. Evidence of attendance at these events has been submitted. The Chief Executive <i>Covering Letter</i> confirms the "the Governance Manager is able to access training required to ensure that the Commission's responsibilities and duties in relation to record keeping and archiving are met..." In addition, the Governance Manager is booked on the Practitioner Certificate in Scottish Public Sector Records Management. The <i>Booking Form</i> for this course has been submitted. The Keeper commends the authority for undertaking this training and would be pleased to be informed when this training has been completed.</p>	No change.	Thank you for letting the Assessment Team know that there have been no changes to this Element. Update required on any change.
13. Assessment and Review	G	G	G	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.	Update required on any change.
15. Records Created or Held by Third Parties	N/A	N/A	N/A	The Keeper agrees that this element does not apply to this authority. 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 27th February 2023. The progress update was submitted by Chris Montroy, Finance and business Manager.

The progress update submission makes it clear that it is a submission for **Scottish Fiscal Commission**.

The Assessment Team has reviewed Scottish Fiscal Commission'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 Fiscal Commission 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 Fiscal Commission 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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