

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

## **Community Justice Scotland**

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

**30<sup>th</sup> September 2020**

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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 Community Justice Scotland. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

### 4. Authority Background

Community Justice Scotland is the national body for community justice in Scotland. Launched on 1 April 2017 by the Community Justice (Scotland) Act 2016, their aim is to create a more robust and effective community justice system based on local planning and delivery by a range of statutory and other partners, supported and guided by national leadership and oversight. Community Justice Scotland is a non-departmental public body (NDPB) based in Edinburgh. However, it is a national body with responsibilities across the whole of Scotland.

Community Justice Scotland have an independent Board which provides governance and oversight of their activities and also provides arrangements to support and oversee planning, delivery and reporting.

Operationally Community Justice Scotland is led by a Chief Executive supported by an expert, professional and experienced team. As an executive NDPB, Scottish Government sets the strategic framework but Community Justice Scotland retains independence and carries out its duties without political interference.

### 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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**Progress Update Review (PUR) Template: Community Justice Scotland**

Element	Status of elements under agreed Plan 27MAR19	Status of evidence under agreed Plan 27MAR19	Progress assessment status 30SEP20	Keeper's Report Comments on Authority's Plan 27MAR19	Self-assessment Update as submitted by the Authority since 27MAR19	Progress Review Comment 30SEP20
1. Senior Officer	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change.
2. Records Manager	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change.
3. Policy	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change.
4. Business Classification	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change.

5. Retention Schedule	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change.
6. Destruction Arrangements	G	G	G	Update required on any change.	No change	No immediate action required. Update required on any future change.
7. Archiving and Transfer	A	G	A	<p><b>The Keeper agrees this element of Community Justice Scotland's <i>Records Management Plan</i> under 'improvement model' terms. This means that he acknowledges that the authority has identified a gap in provision (there is no formal transfer agreement with the archive) and have put processes in place to close that gap. The Keeper's agreement is conditional on his PRSA Assessment Team being provided with a copy of the signed MOU when available. Community Justice Scotland have acknowledged this and will pursue.</b></p>	<p>This has not been progressed – but I have an action to make contact with <a href="mailto:Neil.Miller@nrscotland.gov.uk">Neil.Miller@nrscotland.gov.uk</a> this week and will report back on progress.</p>	<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 Keeper has already agreed the identification of NRS as a suitable repository for the preservation of Community Justice Scotland's public records selected for permanent retention.</p> <p>Community Justice Scotland will enter into negotiations with NRS to develop a memorandum of understanding to formally agree the obligations on both the</p>

						<p>authority and the repository with regard to the transfer of records selected for permanent preservation.</p> <p>However, these negotiations have not been finalised.</p> <p>This element will remain at Amber while this work is ongoing.</p>
8. Information Security	G	G	G	Update required on any change.	See updated doc attached	In their original submission they committed to keeping their information governance policies and guidance documents under review and the Assessment Team acknowledges that this is being done.
9. Data Protection	G	A	G	<b>The Keeper agrees this element of Community Justice Scotland's records management plan under 'improvement model' terms. This means that the authority has identified a gap in provision (the <i>Data Protection Policy</i> is not authorised), but the Keeper acknowledges that processes are in place to close that gap. The Keeper's agreement is conditional on his being updated when appropriate.</b>	See updated doc attached	<p>As with all other Scottish public authorities Community Justice Scotland have been required to review and update their data protection procedures in light of the 2018 legislation.</p> <p>The Assessment Team acknowledges that the public facing Community Justice website has been updated appropriately: <a href="https://communityjustice.scot/privacy-policy-content-disclaimer/">https://communityjustice.scot/privacy-policy-content-disclaimer/</a></p>

						<p>The Keeper agreed the original Community Justice Scotland Records Management Plan on an improvement model basis partly on the grounds that the authority did not have operational Data Protection Policy rolled-out throughout the business. He was convinced that processes were in place to remedy this. The Assessment Team is pleased to acknowledge that the authority now appears to be compliant in this element.</p> <p>The Assessment Team notes that new Approved Data protection Policy is available and acknowledges that a copy has been supplied. They will store this in order that they may keep the Community Justice Scotland submission up-to-date.</p>
10. Business Continuity and Vital Records	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	<ul style="list-style-type: none"> <li>• updated BCP attached March 2020.</li> <li>• BCP test planned for March 2020 which became</li> </ul>	The Keeper's Assessment Team thanks Community Justice Scotland for this update which has been noted.

					<p>reality with COVID (see test scenario attached)</p> <ul style="list-style-type: none"> <li>As a result of COVID an Incident Management Team (IMT) was established and meets every day, reporting to the CJS Board and SG, see attached screenshot of file on ERDM</li> </ul>	<p>In their original submission they committed to keeping their information governance policies and guidance documents under review and the Assessment Team acknowledges that this is being done.</p> <p>The importance of keeping continuity plans under review and regularly tested is emphasised by the authority and, of course, in Spring 2020, has now been implemented in response to the Covid19 lockdown. It will be very interesting to review the success of Community Justice's business continuity arrangements around access to record once the current emergency is passed (perhaps a fuller statement in next year's PUR?).</p> <p>The Assessment Team acknowledge that they have received a copy of the new version of the <i>Business Continuity Plan</i> (v March 2020). They will store this in order that they may keep the Community Justice Scotland submission up-to-date.</p>
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						Community Justice Scotland have also shared their plans for a business continuity test that was arranged for March 2020 and a screen-shot showing Covid19 incident management documents on their eDRM.
11. Audit Trail	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change	No immediate action required. Update required on any future change.
12. Competency Framework	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change	No immediate action required. Update required on any future change.
13. Assessment and Review	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change.	No change	No immediate action required. Update required on any future change.
14. Shared Information	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	Update required on any change.	No change	No immediate action required. Update required on any future 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 13<sup>th</sup> July 2020. The progress update was submitted by Dorothy Smith, Business Manager.

The progress update submission makes it clear that it is a submission for **Community Justice Scotland**.

### PRSA Assessment Team's Summary

The Assessment Team has reviewed Community Justice Scotland's 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.

### General Comments

Community Justice Scotland 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.

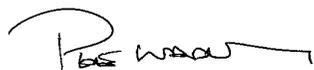
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

## 8. The Public Records (Scotland) Act Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that Community Justice Scotland 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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Pete Wadley  
Public Records Officer