

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

**NHS Lanarkshire**

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

**15 August 2018**

## Contents

1. The Public Records (Scotland) Act 2011.....	3
2. Progress Update Review (PUR) Mechanism.....	4
3. Executive Summary.....	5
4. Authority Background.....	5
5. Assessment Process.....	5-6
6. Records Management Plan Elements Checklist and PUR Assessment.....	7-16
7. The Public Records (Scotland) Act Assessment Team's Summary.....	17
8. The Public Records (Scotland) Act Assessment Team's Evaluation.....	18

## 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 Final 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 **NHS Lanarkshire**. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

### 4. Authority Background

NHS Lanarkshire provides a wide range of healthcare services through numerous locations. There are three district general hospitals in the area - Hairmyres, Monklands and Wishaw General Hospital. Each of these hospitals has an accident and emergency (A&E) department and provides a range of specialist medical and surgical services. Maternity services are based at Wishaw General Hospital. Primary health care is provided in the community and includes general practitioners (GPs), dentists, pharmacists, health visitors and a wide range of health professionals. NHS Lanarkshire's primary care facilities include health centres and community and day hospitals.

NHS Lanarkshire employs approximately 12,000 staff.

<http://www.nhslanarkshire.org.uk/Pages/default.aspx>

### 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: NHS Lanarkshire**

Element	Status of elements under agreed Plan, May 2016	Status of evidence under agreed Plan, May 2016	Progress assessment status, 2018	Keeper's Report Comments on Authority's Plan, May 2016	Self-assessment Update as submitted by the Authority since May 2016	Progress Review Comment, 2018
1. Senior Officer	G	G	G	Update required on any change	<p>Update Chief Executive Mr Calum Campbell</p> <p>NHS Scotland Information Security review Policy Framework DL (2015)17 requires NHS Boards have a new role of Senior Information Risk Owner.</p> <p>Mr Donald Wilson Director of information and Digital Technology</p>	<p>This update is noted with thanks.</p> <p>Although designating a SIRO is not a requirement of the Public Records (Scotland) Act, notification of this role is very helpful and underlines the importance of managing information and records appropriately.</p>
2. Records Manager	G	G	G	Update required on any change	Update Administrative Records Manager Mr Paul Cannon	This update is noted with thanks.
3. Policy	G	G	G	The RMP states that as NHS Lanarkshire move towards greater reliance on electronic	The record management policies have now been amended to include reference	This update is noted with thanks. The review of policies is welcome

				<p>records they will ensure that arrangements are in place to permanently delete these records from systems. These will be embedded within the <i>Health and Administrative Records Policies</i>. As these policies will be reviewed in December 2015 the authority has committed to update the Keeper with any changes. The Keeper welcomes this and looks forward to being updated on the revised policies.</p>	<p>to both electronic and paper records. Further work will be undertaken as NHSL reviews continued compliance with data protection legislation.</p>	<p>and demonstrates that the authority is keeping practice and policy aligned.</p>
4. Business Classification	<b>A</b>	<b>G</b>	<b>A</b>	<p>There is an indication in NHS Lanarkshire's Plan that certain records held on the 'R' drives sit outwith the Business Classification Scheme. There is a commitment in the Action Plan section to develop the Business Classification Scheme and the Information Asset Register and to develop standard operating practices for the maintenance of the R drives. The Keeper requests updates as work in these areas progress.</p>	<p>NHSL is making progress with its Business Classification Scheme but as a result of the NHS Scotland Information Security review Policy Framework that was mandatory for Boards to undertake NHSL is now undertaking a phased implementation of a Records Information Classification Scheme (RICS). The latest draft of this is attached along with a report approved by the CMT on 16<sup>th</sup> April 2018 and a copy of slides that are used as</p>	<p>The draft of the RICS is clear, easily understood and shows compliance with a the range of information legislation and regulations that apply to NHS records. It has drawn on earlier work in other NHS bodies and the Assessment Team applaud such practical sectoral collaboration. This strategic and integrated approach is to be commended. The</p>



				<p>The Keeper agrees this element under 'improvement model' terms. This means that he is convinced that having identified a gap in provision NHS Lanarkshire has committed to a series of actions to close that gap. The Keeper agrees this element on condition that he is kept informed as these projects progress.</p>	<p>part of training.</p>	<p>RICS explains well why records management and related activities matter to the authority and how good practice will help staff to do their work more effectively and efficiently. The decision to pilot this work should identify any issues with the classification scheme as the staff use it. The pilot will also enable staff to raise concerns and gradually embed the practical implications in their daily work.</p> <p>The Assessment Team would be glad to see further evidence of this work as it progresses. This authority is clearly working hard to close the gap in provision and would expect the RAG status to move to Green once the RICS is completed and rolled out.</p>
	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any	We continue to follow the	This update is noted

5. Retention Schedule				change	national retention guidance for NHS records. We have retained records that may be of interest to the National Inquiry into Child Abuse.	with thanks. The requirements of the Scottish Child Abuse Inquiry take precedence over other business and legislative retention periods. It is positive that this is recognised.
6. Destruction Arrangements	<b>A</b>	<b>G</b>	<b>A</b>	<p>NHS Lanarkshire recognise that some further work is required in order to formalise arrangements for the destruction of paper records held with the third-party storage company. Actions have been identified and been added to the RMP. The Keeper would like to receive updates on the work being done in this area.</p> <p>The RMP also states that with the move to a greater reliance on electronic records they will ensure that arrangements are in place to permanently delete records from the systems. The Keeper acknowledges this commitment and requests</p>	<p>NHSL are in the process of returning all records held by 3<sup>rd</sup> party storage companies for review and on ongoing management. This process will be completed by the end of 2019.</p> <p>The record management policies have now been amended to include reference to both electronic and paper records.</p>	<p>This update is noted with thanks. There is progress in ensuring that records are securely destroyed including paper records held with third party storage, policy changes and a secure destruction contract.</p> <p>Once these projects are completed, it is likely that the evidence associated with this would enable the RAG status to move to Green under a formal re-submission of the Records Management Plan.</p>

				<p>updates on this on-going work.</p> <p>Upon the renewal of contracts a Data Processing Agreement will be signed between NHS Lanarkshire and third party contractors to establish standards for certifying destruction while simultaneously creating metadata about documents destroyed. The Keeper commends this initiative and would welcome having sight of the Agreement once approved.</p> <p>At the moment, the Keeper can only agree this element under 'improvement model' terms: That NHS Lanarkshire has identified a gap in provision (electronic record destruction procedures and tightening up on written procedures with third party providers) and has committed to a series of actions to close that gap. The Keeper agrees this element on condition that he is kept informed as these</p>	<p>NHSL has a single contractor (provider) that provides safe and secure destruction, certificated confidential waste service in-line with the appropriate industry standards and legislation are covered.</p>	
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				projects progress.		
7. Archiving and Transfer	G	G	G	Update required on any change	NHSL are in process of agreeing Archiving Policies with NLC archive services. Significant progress has been made in transferring records to the Archive and this has allowed members of the public to undertake successful searches. Plan is place to complete the appraisal and transfer of remaining records.	Practical arrangements are in place to preserve the authority's records of enduring value in an established local archives service. It is always helpful to formalise these arrangements to ensure that both parties are clear about their roles and the Assessment Team would welcome a copy of the Archiving Policies once agreed.
8. Information Security	G	G	G	As the <i>Information Security Policy</i> is due for review in September 2017 the Keeper would be pleased to receive updates, particularly if this review leads to the creation of a revised policy document.	NHS Scotland Information Security review referred to above NHSL has developed and implemented an Information Security Management System (ISMS)	This update is noted with thanks. The integrated approach to information security and business classification is sensible.
9. Data Protection	G	G	G	NHS Lanarkshire has committed to establishing a Subject Access Request link on their website. The Keeper considers this an example of good practice and would like to be informed once this is available.	This is now available on <a href="http://www.nhslanarkshire.org.uk/FOI/Pages/accessing-health-records.aspx">http://www.nhslanarkshire.org.uk/FOI/Pages/accessing-health-records.aspx</a>  This will be further developed in our new website supported	This update is noted with thanks. Providing links to standard guidance is helpful for individuals and additional measures to make accessing records easier are good

				As the <i>Data Protection Policy</i> is due for review in September 2017 the Keeper would be pleased to receive updates, particularly if this review leads to the creation of a revised policy document.	by a generic email address for enquiries when the patient is not sure who to contact. NHS Scotland Information Security review referred to above NHSL has developed and implemented an Information Security Management System (ISMS) in which the Data Protection Policy is included. This policy has also been reviewed due to GDPR.	practice. As noted, the integrated approach to information security including data protection and business classification is sensible.
10. Business Continuity and Vital Records	<b>G</b>	<b>G</b>	<b>G</b>	Update required on any change	In response to the Scottish Governments Cyber Resilience Public Sector Action Plan, NHSL is part of a national programme to acquire Cyber Essential accreditation by 31 October 2018. Work is progressing in line with local action plan and it is anticipated that accreditation will be achieved in advance of this date.	Work towards Cyber Essentials accreditation builds on the existing robust business continuity systems in place. This update is noted with thanks.
11. Audit Trail	<b>A</b>	<b>G</b>	<b>A</b>	Tracking of administrative records is at an early stage and staff guidance on version control is currently in development. The Keeper asks that he is kept informed	Version control is a component part of the RICS (File naming convention). See footer as example of standard being adopted.	The version control system now in use is good practice and is integrated with the RICS which is still under development.

				<p>of progress in these areas.</p> <p>The Keeper can agree this element under 'improvement model' terms. This means that he is convinced that, having identified gaps in provision (including mental health records in the clinical system and version control guidance), NHS Lanarkshire has committed to a series of actions to close that gap. The Keeper agrees this element on condition that he is kept informed as this project progresses.</p>	<p>Mental Health services have now migrated to NHSL patient Management System and utilise the record tracking module.</p> <p>We have not commenced work on tracking of administrative records. These records do not move across the organisation and therefore do not require to be tracked. Implementation of RICS will further enhance the management of administrative records.</p>	<p>The migration of Mental Health services records into the main electronic records management system ensures that these records can be tracked and audited in the same way as the rest of the patient records.</p> <p>Tracking the movement of records is less crucial if records always remain in the same location but a simple paper tracking system would provide reassurance in the event that any files are misplaced while in regular use. In the longer term these records will be held as digital records exclusively and the tracking and audit trail mechanisms in the software will deal with this issue. However, while paper records exist, the Assessment</p>
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						Team would expect to see at least a simple method of keeping track of the names of files, their usage and retrieval and their eventual disposition (either destruction or transfer to North Lanarkshire Archives).
12. Competency Framework	G	G	G	NHS Lanarkshire have committed to extending their staff training provisions, for example by creating a records management module in LearnPro. The Keeper commends this commitment and looks forward to receiving updates concerning this work.	The NHSL Records Management Training Module has been implemented in September 2017 as a mandatory to job role module. To date 444 staff have completed the training.	This update is noted with thanks. It is good to see staff training being rolled out to additional staff so that they learn how to use the records management systems appropriately and understand why this is valuable for their work.
13.   Assessment and Review	G	G	G	The Plan will be reviewed every three years by the named records managers supported by the Information Assurance Committee and by the NHS Lanarkshire Internal Audit. Individual key policies accompanying the Plan have also been assigned review dates. The Keeper	Internal Audit completed their audit in August 2015 and made 2 recommendations which have been fully implemented.  RMP was due for review in December 2017, this was postponed subject to the PUR process commencing.	The use of Internal Audit processes is a sensible method of reviewing the Records Management Plan. The authority is also to be commended for making full use of the PUR process at the first opportunity.

				commends this approach and asks that he receive updates following any such reviews, especially if they lead to the revision or creation of new policies and procedures.		
14. Shared Information	<b>G</b>	<b>G</b>	<b>G</b>	NHS Lanarkshire have committed upon renewal of contracts with third party contractors to include references to the requirements of PRSA and their obligations to ensure compliance with the RMP. The Keeper welcomes this initiative and requests that he be kept informed of developments in this area.	Included in T&Cs of contracts. NHSL eHealth have also recruited to a new post of Contract and Vendor Manager.	This approach to third party contracts is very welcome. The creation of a new post to deal with this area of work is a business decision for the authority but is welcome as it should be of assistance to the authority in ensuring compliance by third party contractors.

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 27 June 2018. The author of the progress update submission is John Duncan, Head of Health Records.

The progress update submission makes it clear that it is a submission for **NHS Lanarkshire**.



## 7. PRSA Assessment Team's Summary

The Assessment Team has reviewed **NHS Lanarkshire** 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

**NHS Lanarkshire** continues to take its records management obligations seriously and is working to bring all elements into full compliance. There have been a number of recent developments in information legislation and information security regulations affecting NHS bodies. This has directed progress on Elements 4, 8, 9, 10 and 11 of the Records Management Plan and the authority has integrated this work effectively. The resulting RICS, while still in draft form, shows a strategic approach to records and information management and an good understanding of the need to ensure that all staff understand and apply the relevant processes to their work. There is a small concern that the tracking of paper files is not going forward but on the whole the authority is making progress and tackling these issues in a coherent and sensible manner.

The Keeper cannot change the formally agreed RAG status of elements under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmitted it plan under section (5)(6) of the Act. Evidence is required to support any indication of change in RAG status. The Team would encourage the authority to provide evidence of the work undertaken in Element 6 in future PUR submissions.

The Team commends the progress evident in this work and would welcome updates on these projects in future PUR submissions.

Where 'no change' has been recorded under the update on provision by the authority, the Assessment Team is happy to agree that these elements require no further action for the time being.

## 8. PRSA Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that the **NHS Lanarkshire** 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,



**Elspeth Reid**

**Public Records Officer**