

The Public Records (Scotland) Act 2011

Scottish Biometrics Commissioner

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

6th June 2025

Table of Contents

1. The Public Records (Scotland) Act 2011 3

2. Progress Update Review (PUR) Mechanism 4

3. Executive Summary 5

4. Authority Background 6

5. Assessment Process 7

7. The Public Records (Scotland) Act Assessment Team’s Summary 15

8. The Public Records (Scotland) Act Assessment Team’s Evaluation 16

1. The 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 Review template submitted for Scottish Biometrics Commissioner. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Scottish Biometrics Commissioner Act 2020 established the office of Scottish Biometrics Commissioner and provides for its functions. The Commissioner is independent of Scottish Government and is appointed by Her Majesty the Queen on the nomination of the Scottish Parliament.

The Commissioner's general function is to support and promote the adoption of lawful, effective, and ethical practices in relation to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes by Police Scotland, the Scottish Police Authority (SPA), and the Police Investigations and Review Commissioner (PIRC).

The Commissioner must lay an annual report on activities each year before the Scottish Parliament and may publish other reports and research, as necessary.

[Scottish Biometrics Commissioner | Responsibility for Biometric Data in the Criminal Justice and Policing Sector | Scottish Biometrics Commissioner](#)

The current Strategic Plan is published on the authority's website [Scottish Biometrics Commissioner 4-Year Strategic Plan 2021-2025 \(For period 01/12/2021-2025\)](#)

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)

Scottish Biometrics Commissioner

Element	Status of Elements under Agreed Plan 13OCT23	Status of Evidence under Agreed Plan 13OCT23	Progress Review Status 06JUN25	Keeper's Report Comments on Authority's Plan 13OCT23 Full Agreement Report at https://www.nrscotland.gov.uk/files//record-keeping/public-records-act/nrs-public-records-scotland-act-prsa-biometrics-commissioner-for-scotland-october-2023.pdf	Self-assessment Update as submitted by the Authority since 13OCT23	Progress Review Comment 06JUN25
1. Senior Officer	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.
2. Records Manager	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.
3. Policy	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.
4. Business Classification	G	G	G	Update required on any change.	Annually we assess our File Plan to ensure it remains fit for purpose from an operational perspective. When amended, the File Type Guidance (both are available on	Thank you for this update. In the Keeper's original agreement it was noted that the Scottish Biometrics Commissioner had indicated a process for ensuring

					our website) is also amended to reflect the File Plan	that relevant information governance policies, guidance and plans are kept under review. It is welcome to see confirmation that this is being appropriately pursued.
5. Retention Schedule	G	G	G	Update required on any change.	<p>We have developed a Manual Deletion Process for Complaints against the Code of Practice (CoP) which provides guidance as to the complaints process and the manual deletion and/or anonymisation within a 26-month period. At this moment, no complaints against the CoP have been received therefore the guidance process has not yet been used in practice</p> <p>Annually we assess our File Plan to ensure it remains fit for purpose from an operational perspective. When amended, the File Type Guidance (both are available on our website) is also amended to reflect the File Plan</p>	<p>Retention periods and deletion processes are liable to change to reflect business needs. Again it appears that the Commissioner understands this. The Assessment Team look forward to further updates in subsequent PURs if a practical 'test' of the manual deletion process is required.</p> <p>In the meantime, The Keeper's Assessment Team acknowledges receipt of the new Complaints Deletion Process Guidance pdf. This will be held on the relevant case file to allow the Keeper to keep the original submission up-to-date.</p>
6. Destruction Arrangements	A	G	G	<p>The Act requires that public records are destroyed in a timely, controlled and secure manner. [...]</p> <p>As noted at element 5, the SBC are developing a separate disposal policy for specific complaint records which will be manually</p>	<p>Recently the Scottish Government moved from using Enterprise Vault to Exchange Online Archive (EXO) for the archiving of emails – guidance was provided</p> <p>We have developed a Manual Deletion Process for Complaints</p>	As noted under element 5, the Keeper's Assessment Team acknowledge they have now received a copy of the Complaints Deletion Process Guidance document as requested.

			<p>deleted. The Keeper wishes to be updated on this work and provided with sight of the policy, or evidence of its development and commitment to implementation. The SBC have confirmed separately that they will update the Keeper on this work. Updates can be provided through the annual Progress Update Review (PUR) process, Progress Update Reviews National Records of Scotland (nrscotland.gov.uk). [...]</p> <p>Since submission, the SBC have noted they will update the Keeper with arrangements for hardware destruction. The Keeper welcomes this commitment and can be updated and provided with evidence to show this is operational through future PUR submissions. [...]</p> <p>The Keeper can agree this element on an 'improvement model' basis as the Scottish Biometrics Commissioner have identified a gap in provision (updated operational procedures are not yet in place for the secure destruction of hardware) and have provided an outline of how this is to be addressed using contracts with suppliers. In addition, a separate disposal policy for specific records which will involve the manual deletion of records is being developed. The Keeper can be updated on both these areas of work and provided</p>	<p>against the Code of Practice (CoP) which provides guidance as to the complaints process and the manual deletion and/or anonymisation within a 26-month period. At this moment, no complaints against the CoP have been received therefore the guidance process has not yet been used in practice</p> <p>In January 2024 one of our laptops was disposed for us by the SPSO (through our Shared Services Agreement). We received a Certificate of Destruction and a spreadsheet highlighting that our laptop was included as part of the disposal</p>	<p>Furthermore they have also received evidence of the arrangements in place for the secure destruction of hardware.</p> <p>As the requirements of the original improvement model agreement have now been met, and if this were a formal re-submission, it is likely that this element of the Plan would turn from Amber to Green.</p>
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				with evidence, for example sample contracts and destruction certificates, through the PUR process.		
7. Archiving and Transfer	G	G	G	Update required on any change.	Annually we assess our File Plan to ensure it remains fit for purpose from an operational perspective. When amended, the File Type Guidance (both are available on our website) is also amended to reflect the File Plan	See element 4 above.
8. Information Security	G	G	G	Update required on any change.	Internal Audit of Records Management (including Data Protection) provided a Substantial Assurance Achieved Cyber Essentials accreditation	As noted above, it is important that an authority keeps its processes under review and it is welcome that the Scottish Biometrics Commissioner clearly does this. This is particularly important around the area of information security. It is vital that an authority guarantees that it can react to changes in information security threat and that it has policies in place that ensure all the public records it manages are retained within appropriate security controls (for example by pursuing Cyber Essentials accreditation). It is clear from this PUR that the commissioner understands this.

						<p>Many of the recent information security breaches stem from human error. It is therefore important that staff are trained on the authority's information security requirements and that this training is routinely repeated. It was clear in the original RMP that the Commissioner is actively pursuing this principle.</p>
9. Data Protection	G	G	G	Update required on any change.	Internal Audit of Records Management (including Data Protection) provided a Substantial Assurance	<p>Thank you for this update. The comments have been noted.</p> <p>Furthermore the Assessment Team note that the Scottish Biometrics Commissioner is registered with the Information Commissioner as a data controller: Information Commissioner's Office - Register of data protection fee payers - Entry details</p> <p>They publish a Privacy policy online: Scottish Biometrics Commissioner Privacy Notice Scottish Biometrics Commissioner. This includes details of service user's rights as a data subject.</p>

						This element retains its Green RAG status.
10. Business Continuity and Vital Records	G	G	G	Update required on any change.	<p>Business Continuity (BC) Plan has been updated to better reflect operational work and we have developed a Business Continuity Policy. Annual testing of Business Continuity takes place</p> <p>Internal Audit of Business Continuity Management provided a Reasonable Assurance</p>	<p>Thank you for this update.</p> <p>The Business Continuity Plan test cycle has been noted.</p> <p>The recovery of records made temporarily unavailable by an unexpected event is an integral part of the authority's business continuity planning.</p> <p>Staff training is fundamental to the smooth recovery in an emergency (including record recovery). It is expected that the Commissioner pursues this training regularly.</p>
11. Audit Trail	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.
12. Competency Framework	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.
13. Assessment and Review	G	G	G	Update required on any change.	RMP checklist completed and shared with the SBC Team at December's Monthly Management Team Meeting. The	Section 1(5)(i)(a) of the Act says that an authority must keep its RMP under review. The Keeper's Assessment Team acknowledge that this

					checklist will be added to the next Advisory Audit Board agenda	<p>requirement is being appropriately pursued by the Scottish Biometrics Commissioner.</p> <p>They welcome the authority's continued engagement with the Keeper's Progress Update Review (PUR) process.</p> <p>At the time of the original agreement (2023) The Keeper agreed that the Scottish Biometrics Commissioner had made a firm commitment to review their <i>RMP</i> as required by the Act and have explained who will carry out this review and by what methodology.</p>
14. Shared Information	G	G	G	Update required on any change.		No immediate action required. Update required on any future change.
15. Records Created or Held by Third Parties	N/A	N/A	N/A	The Keeper accepts that this element is not applicable to the Scottish Biometrics Commissioner, however, should this situation change the Keeper expects to be notified.		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 23 December 2024. The progress update was submitted by Cheryl Glen, Corporate Services Manager.

The progress update submission makes it clear that it is a submission for the Scottish Biometrics Commissioner.

The Assessment Team has reviewed the Scottish Biometrics Commissioner'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

The Scottish Biometrics Commissioner continues to take its records management obligations seriously and is working to maintain all elements in 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.

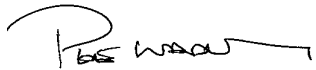
The Keeper cannot change the status of elements formally agreed under a voluntary submission, but he can use such submissions to indicate how he might now regard this status should the authority choose to resubmit its plan under section (5)(6) of the Act.

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

Based on the progress update assessment the Assessment Team considers that the Scottish Biometrics Commissioner continue to take their statutory obligations seriously and are working hard to maintain all the elements of their records management arrangements in 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 black ink, appearing to read 'Pete Wadley', with a stylized flourish at the end.

Pete Wadley
Public Records Officer