The Public Records (Scotland) Act 2011

Mental Welfare Commission for Scotland

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

05 December 2017

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 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 the **Mental Welfare Commission for Scotland**. The outcome of the assessment and relevant feedback can be found under sections 6 – 8.

4. Authority Background

The Commission's aim is to ensure that care, treatment and support are lawful and respect the rights and promote the welfare of individuals with mental illness, learning disability and related conditions. Their duties are set out in the Mental Health (Care and Treatment) (Scotland) Act 2003.

The Adults with Incapacity (Scotland) Act 2000 provides a framework for safeguarding the welfare and managing the finances of adults (people aged 16 or over) who lack capacity due to mental illness, learning disability and related conditions.

They have supervisory, investigative and advisory duties under this Act in relation to welfare guardianship and welfare powers of attorney.

The National Confidential Forum was set up as part of the Victims and Witnesses (Scotland) Act 2014. Its functions include the providing the means by which persons placed in institutional care as children can describe in confidence those experiences, to acknowledge and record those testimonies, and to make recommendations about policy and practice likely to improve institutional care.

The National Confidential Forum is not a scheduled public authority under the Public Records (Scotland) Act 2011. However, as the Forum was established as a Committee of the Commission, it was decided that the RMP of the Mental Welfare Commission be amended to encompass the management of records produced by the Forum.

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. Records Management Plan Elements Checklist and PUR Assessment

Mental Welfare Commission for Scotland
(Hereafter "the Commission")

Element	Status of elements under agreed Plan, August 2014	Status of evidence under agreed Plan, August 2014	Progress assessment status, 2017	Keeper's Report Comments on Authority's Plan, August 2014	Self-assessment Update as submitted by the Authority since August 2014	Progress Review Comment, 2017
1. Senior Officer	G	G	G	Update required on any change	The senior accountable officer at the Commission for RM activity is unchanged The Senior Officer at NCF is Rachel Happer, Head of the NCF.	No immediate action required. Update required on any future change. The Assessment Team thanks the Mental Welfare Commission (MWC) for notifying them of the name of the Senior Officer at the National Confidential Forum (NCF).
2. Records Manager	G	G	G	Update required on any change	The person responsible for the day to day operation of RM activity at MWC is unchanged.	No immediate action required. Update required on any future change.

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					Day to day responsibility at NCF for records management falls to Maureen Morrison, Development & Impact Manager (DIM)	The Assessment Team thanks the Commission for notifying them of the change in personnel responsible for records management at NCF. In the event of a change of personnel the Commission is committed to notifying the Team.
3. Policy	G	G	G	The Keeper would be interested to see examples of training provided to staff on information governance issues, including records management	The Records Management Policy is subject to annual review and approval. See Bundle 1 (Latest policy, cover note, and evidence of approval) The Records Management Policy is equally applicable to NCF and it is recorded in	The Assessment Team commends the annual review of the Policy as evidence that the Commission continues to take seriously the need to prioritise records management within their authority. The latest iteration of the Policy,

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					the policy that operational responsibility for RM at NCF rests with the DIM supported by MWC.

MWC has developed core competencies as part of their formal PDP process. (see Bundle 2) a copy of the competencies on records management and secure data handling.

Full implementation has been delayed as we have purchased the LearnPro learning management system and are currently looking at the catalogues to assess the courses that best match our needs. | approved by the Board in July 2017, identifies records as a vital asset, defines records management and its importance, and outlines the policies and procedures necessary to ensure the on-going creation and management of authentic, reliable, and usable records.

Crucially the Policy submitted clearly states that its statements concerning management of records applies equally to records created by the NCF. The Assessment Team welcome this update to the Policy. |

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						The Policy is to be reviewed in July 2018. Should significant changes occur the Team would be pleased to receive updates in future PUR submissions. The receipt of the records management core competencies is welcomed by the Assessment Team and are discussed in detail under Element 12 below. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.

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4. Business Classification	A	A	A	Although a comprehensive Business Classification Scheme (BCS) has been created it is not yet operational and is currently in draft form. MWC intend to roll out the BCS in 2014-15. The Keeper can agree this element on an 'improvement model' basis that MWC's proposals for implementing a BCS on its records seems robust, provided that he is kept informed of this work as it progresses.	The Commission has a Corporate BCS, which includes retention periods. Appointed Folder Owners are responsible for maintaining the structure in their areas and applying retention appropriately. The Commission have developed a separate BCS which deals specifically for records held within the Information Management Portal. See Bundle 3 - new BCS for SU records & the process for managing SU records. NCF has it's own BCS a copy of which is included in Bundle 4	The submission indicates that a Business Classification Scheme (BCS) covering all the functions and activities of the Commission is now operational and that there is localised responsibility amongst appointed Folder Owners to ensure that the structure remains accurate. The Assessment Team commend this development and believe the use of local area involvement will ensure the BCS remains relevant and useful for business purposes. The Team would be pleased to have sight of the Corporate BCS in future PUR submissions.

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					There has been a change in the internal staff structure of teams within the Commission. We are about to move to a new file server and see this is an opportunity to revise the folder structure, delete obsolete files and start afresh with the updated, revised structure to reflect the team changes. As regards NCF, changes in the wider landscape and planned improvements to process have prompted several on-going legal discussions on the retention of testimonies gathered during the lifespan of NCF and where the anonymised	The Team agrees that the changes taking place in staff organisation and the upcoming move to a new file server will provide a useful opportunity to implement the updated, revised structure and delete obsolete files. As work in this area will take place over the course of 2018/19, the Team would be pleased to receive updates in future submissions concerning this project. The Team thanks the Commission for submission of the BCS covering records created by the NCF (Bundle 4).

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					data will rest when NCF is finally wound up	This document appears to comprehensively cover all functions and activities of the NCF and applies retention/disposal decisions to each record series. Particularly commendable is the consideration of online publication for purposes of FOISA. Although the NCF is not scheduled under PRSA, the Team would be happy to receive and comment on any changes should the legal discussions surrounding testimonies lead to revisions of the schedule. The Assessment Team consider that progress is

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						being made and that this element should remain under improvement.
5. Retention Schedule	A	A	A	The Retention Schedule is likewise being developed by MWC prior to implementation. In order to achieve this MWC have established a series of working groups and have identified Records Management Champions for each functional area within the organisation. The Keeper commends this approach and would welcome updates on progress.

The Keeper can agree on an improvement model basis that MWC's proposals for | The Commission's retention schedules are included in the BCS documents provided. The new BCS for service user identifies individuals responsible for carrying out routine destruction of SU records, marking when destruction has been done and reviewing records for future review. This is carried out quarterly. (Bundle 3 includes a copy of the BCS & the process for managing SU records). | As with Element 4 the submission notes that retention schedules have been combined within the Business Classification Scheme. Whilst this must be a business decision for the authority, the Assessment Team believe this is an advantageous approach as it provides staff with a single, all-encompassing document to refer to when making decisions as to the records created by the Commission. |

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				implementing retention schedules on its records seem robust, provided that he is kept informed of this work as it progresses.	We are currently examine how we manage records gathered during our low level and top level investigations including how we manage records requested and received from medical records departments, social work departments etc. as part of these investigations and tightening up how these records are managed. Work on the MWCs investigation process is ongoing and hence there has been a delay in finalising the associated guidance on managing investigation data.	The *Service Users* document submitted in Bundle 3 for example details the Service User record series types and applies consistent retention/disposal decisions. It also identifies who has responsibility for managing these decisions and when. This is commended by the Team. However, as with Element 4, the Team would like sight of the approved, organisation-wide BCS if available as this will show the full retention schedule for all records created by the Commission.

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					The NCF has its own BCS which is enclosed with this document (Bundle 4) NCF plan changes to current processes to enhance data capture following hearings. A privacy impact assessment was conducted and adjustments to the processing were approved at the June 2017 board meeting. The changes are yet to be implemented pending external consultation: the retention schedule will be amended to reflect any changes made in due course.	The Team recognise that the Commission are currently reviewing how certain types of investigation records are managed and made available and that guidance may change following these reviews. The Team would therefore be pleased to receive updates following the conclusion of this project. Similarly in respect to the NCF the BCS submitted in Bundle 4 shows that retention decisions are included within this document and apply to all record series created by the Forum. As the

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						retention schedule may be amended following expected changes to current data capturing processes, the Team would be happy to receive updated documents in future PUR submissions. The Assessment Team consider that progress is being made and that this element should remain under improvement.
6. Destruction Arrangements	G	G	G	Update required on any change	Unchanged for MWC as far as paper records are concerned. Have recently used Shred-it for destruction of hardware too which is a change from previous	MWC continue to recognise the need to irrevocably destroy both the records themselves and the hardware on which they sit. Whilst the

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					practice, cost considerations and ease of use being the main drivers for implementing this change NCF use shred-it for local uplift and destruction of confidential waste. Hardware purchasing, deployment and destruction at NCF is managed by MWC using the same route.	Assessment Team cannot endorse any particular vendor, the use of Shred-it, a reputable commercial firm, for destruction of hardware is considered an appropriate solution. As this represents a significant change in destruction provisions the Keeper will request sight of relevant evidence, such as a certificate of hardware destruction with Shred-It, demonstrating this new arrangement in any future statutory assessment. The Assessment Team are satisfied that the agreed destruction arrangements

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						in place for records created by the Commission are similarly followed and adhered to by the NCF. Should this change the Team would welcome updates. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
7. Archiving and Transfer	G	A	G	MWC has been in touch with the Client Managers at National Records of Scotland (NRS) to establish a Memorandum of Understanding (MoU) for the transfer of records selected	Unchanged. The MOU is still current and the Keeper has the latest version. There will need to be some careful consideration of material stored in the NCF	A formal Memorandum of Understanding (MoU) was signed off between the Commission and National Records of Scotland (NRS) in September 2014. This MoU was signed by the

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	🟩	🟧	🟩	for permanent preservation. A draft MoU has been submitted in evidence. The Keeper requests that once the finalised MoU is signed off by MWC's Board it is then submitted to the assessment team for inclusion in MWC's evidence package.	database when the Forum is disbanded. Early discussions would suggest that, when the final reports/findings etc have been published then the contents of the database will be irrevocably destroyed and the database (CRM) will be fully decommissioned or destroyed. This subject is currently being revisited. Retention/archiving of records/data following closure of NCF is subject to ongoing discussion between MWC/NCF as of July 2017.	individual named at Element 1 and by the Deputy Keeper of the Records of Scotland. This has been confirmed by the NRS Client Managers. It is encouraging to learn that early discussions are already taking between the Commission and the NCF to establish the archiving or destruction arrangements for records created by the Forum. The Assessment Team commend this proactive approach and would welcome updates in future PUR submissions should any conclusions have been reached.

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						The Client Management Team at NRS may also be able to advise on the archiving/disposal of the Forum's records and they would likely welcome being kept informed of any decisions taken. The Assessment Team recognises the significant progress made in this area and the on-going initiative being undertaken by the authority under this element.
8. Information Security	G	G	G	Update required on any change	Following a cyber audit by our internal auditors, a penetration test of our IT systems and the recent,	It is clear from the submission that the Commission continues to take its information

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					high profile cyber security incidents, recommendations for improvements and changes to our IT security have been approved and are in the process of being implemented. July/August 2017.	security obligations seriously and that policies are reviewed and updated to ensure their on-going relevance. The Team considers such regular internal reviews as an example of good records management practice.

For example the new *IT Security Policy* (Bundle 1), which was approved by the Operational Management Group in September 2017, details the provisions that apply to records created by both the Commission and the NCF. It identifies the importance of information security and recognises the regulatory and |

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						legislative environment in which the authority operates. Crucially it not only offers staff guidance but outlines their responsibilities for complying with the *IT Code of Conduct*. The Assessment Team thanks the Commission for the submission of this updated document.

The Team also thank the Commission for sight of the revised *IT Code of Conduct* dated September 2017 and *Mobile Device Policy* dated July 2017. These policies, which apply to all staff including NCF personnel, provide |

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						guidance and outline staff responsibilities for using email, the Internet, and mobile devices. The security risks posed by use of these platforms is reduced by explaining allowable use and providing examples of misuse and inappropriate behaviour. As it is mandatory for staff to read and abide by these policies, and compliance is monitored, the Team consider the development of these documents as likely to further enhance information security provision. This is particularly commendable considering the high-profile

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						ransomware attacks earlier this year. Likewise, the implementation of new IT security procedures following internal audits and penetration tests reflects the Commission's efforts to ensure their policies and guidance remain fit for purpose. The Team commends this approach and would welcome sight of any new or revised documentation produced as a result of such reviews in future PUR submissions. The Assessment Team recognises the on-going

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						initiative being undertaken by the authority under this element.
9. Data Protection	G	G	G	Update required on any change	The data protection policy is routinely reviewed and updated (Bundle 5 - latest policy document with associated approval and covering note)

The Data Protection policy is equally applicable to NCF staff and members.

MWC & NCF have started to review internal processes and procedures, looking ahead to changes to data protection under GDPR. This activity includes; | As with Element 8, the Commission demonstrates a high level of compliance under this element by regularly reviewing its key policies and guidance. The *Data Protection Policy* (Bundle 5) was last reviewed and approved by the Commission's Board in July 2016 and applies to records created by both the Commission and the NCF. This policy is a robust document which details the Data Protection principles and outlines how |

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					reviewing fair processing notices; imbedding PIA (DPIAs) as part of our internal project management process and our tendering/procurement processes (to promote the "*privacy by design*" agenda); testing staff understanding of DPA and cyber security principles.	the authority will comply with its data protection obligations. It also provides guidance to staff on handling of personal data and Subject Access Requests. The Assessment Team similarly commend the Commission's endeavours to ensure they remain compliant in the light of new legislation, specifically the General Data Protection Regulation (GDPR). The *Data Protection Policy Cover Note* makes clear that the authority is aware of its obligations under this new legislation and recognises

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						the key aspects of GDPR that may affect the Commission's operations. This document identifies the steps that need to be taken to ensure compliance with GDPR, including the carrying out of Privacy Impact Assessments (PIAs). Other documents submitted from Bundle 1 also make reference to the need to comply with GDPR; an *Operational Management Group Cover Note* states that an internal audit testing GDPR readiness will be completed in January 2018, whilst the *Board*

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						Cover declares the need for commitment from all levels of the organisation in the lead-up to the introduction of GDPR.

The Commission's proactive approach to GDPR and corresponding updating of policies is commended as good practice by the Assessment Team. Should significant changes in data protection arrangements take place following the introduction of GDPR the Team would welcome updates in future submissions.

The Assessment Team |

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						recognises the on-going initiative being undertaken by the authority under this element.
10. Business Continuity and Vital Records	G	G	G	MWC has set out its current arrangements for the protection of its Vital Records. There is, however, no indication as to what steps they would take to recover these Records or what would happen in the event of a disaster. It may be the case that this is set out in the BCM Strategy, which is mentioned in the policy. If so, the Keeper would like to see this document (redacted if necessary).	The Commission runs an annual disaster recovery test for its main servers (this includes testing back ups for NCF servers). This test includes checking that it is possible to rebuild the Information Management Portal (IMP) from back up should systems fail, become unavailable or irrevocably damaged. IMP houses service user records as well as final versions of corporate, high level records.	The Keeper's Model Plan recommends that recovery systems are not only designed to be robust but that they are regularly tested and reviewed. The Assessment Team therefore consider the annual disaster recovery tests conducted by the Commission as evidence of good practice. Should such tests lead to significant changes in recovery procedures the Team would welcome

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					Details of this process and how other backups are tested were supplied to the Keeper in the first evidence portfolio. The Commission also uploads key documents (including contact details) on 2 encrypted memory sticks which are kept by 2 members of staff off-site. NCF server is backed up and subject to disaster recovery testing once a year. Key documents and contact details are also kept on the same MWC encrypted	updates in the future. The submission also outlines how such tests ensure that the Information Management Portal, which contains much of the authority's records, can be rebuilt from back-ups in the case of a disaster. The Assessment Team thanks the authority for this update. The storing of encrypted memory sticks containing key documents and contact details off-site is recognised as an appropriate strategy. Crucially, it is clear from

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					memory sticks and stored offsite.	the submission that such procedures also encompass the records created by the NCF. The NCF servers are backed-up and undergo similar annual disaster recovery testing and their key records are stored off-site on the same encrypted memory sticks. The Team thanks the Commission for this update.

The Assessment Team recognises the on-going initiative being undertaken by the authority under this element. |

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11. Audit Trail	A	A	A	For records sitting outside the IMP system, MWC intends to impose its BCS on to electronic records once it has migrated to a new server in 2014-15. The Keeper agrees that MWC has recognised a need for improvement in this area and he is assured that MWC has shown a commitment to closing the gap in provision in this area. The Keeper requests that he is kept informed of progress in implementing the BCS on MWC's new server.	The Commission migrated files and folders across to a new structure in early 2015. The BCS structure was created on the new server and staff were given guidance and instructions about how to move required files into the new structure so that they were starting with a clean slate. The Commission is in the process of deploying another new server and this process with be repeated. All MWC/NCF staff have been reminded of their responsibility for maintaining the BCS structure and implementing the retention specified in their area.	The Commission clearly recognises the importance of audit trail functionality for their electronic records and is taking steps to close gaps in provision under this element. Establishing the new folder structure in 2015 upon the BCS is considered good practice by the Assessment Team. The Team are similarly pleased to hear that staff were issued guidance on populating and maintaining this new structure and that such guidance has been made available to staff on the Commission's intranet. This will likely ensure that

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					New and updated guidance has been added to the commission's intranet about managing records at the Commission. Staff are required to; make changes to the BCS and communicate this to IT staff who will build the top levels structures on the new server. Staff will then migrate files across from the old to the new server mimicking the agreed BCS structure.

NCF staff are involved in the same process as MWC staff and they will be expected to carry out the same process with regards to migrating their BCS structure and then | there is greater staff awareness and buy-in concerning maintenance of the file structure and revising it where appropriate to ensure it remains accurate and fit for purpose.

As the Commission is in the process of migrating the file structure to a new server the Team would welcome updates on this work as this project progresses.

The submission makes clear that similar endeavours are taking place at the NCF and that staff are expected to |

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					populating it with relevant files. NCF staff have access to the guidance and the intranet and will be supported by MWC staff to effect the migration. The timescale for build and transferring files to the new server was scheduled for June 2017. Owing to resourcing issues, this implementation schedule is being reviewed.	comply with the processes developed by the Commission. The Team considers this good practice and commends the support of Commission staff being offered to the NCF to assist in this migration. If available, the Assessment Team would welcome sight of documentation highlighting where progress has been achieved in this area, such as any signed, operational naming convention and version control policies, and where work is continuing to bring this element into full

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						compliance. The Assessment Team consider that progress is being made and that this element should remain under improvement.
12. Competency Framework	G	G	G	A draft Information and Records Management Competencies document (Appendix 21), drawn up by an external consultant, has been submitted. The Keeper would like to know whether this document forms the basis of further work in incorporating these competencies into all staff job descriptions, and if so, how this will be done and the	The Commission has now added two core competencies as part of a new PDP process. These competencies cover; data handling and records management. Staff of NCF and MWC will be expected to demonstrate an adequate level of competency in these areas. The Commission has very recently signed a contract to deploy a	The evidence submitted within Bundle 2 indicates that the records manager at the Commission will be professionally qualified or working towards a qualification. Although this is not a requirement the Assessment Team commends this commitment. The Team also applaud the statement that the records manager

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				timescale involved.	Learning Management System and appropriate courses will be identified, made mandatory, test results recorded and retained and intervals for refresher training established. LearnPro has been purchased and appropriate modules are being developed. These will cover records management, secure data handling and the basics of cyber security. These core competencies will be applicable to NCF staff (who are also MWC	will be sufficiently senior within the organisation to have the authority to act effectively and influence the development and implementation of records management policies. The Team similarly applaud the assigning of core records management competencies to staff throughout the authority; the involvement of localised areas in delivering records management will improve the likelihood of successful implementation and continued compliance with policies. The training provided to staff and the

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					employees) and will form part of their PDP process.	adding of new core competencies as part of the PDP process are also commended. It is clear from the submission that such provisions apply to both the Commission and the NCF staff. The Commission has indicated that it has purchased LearnPro as a Learning Management System and that training modules in areas such as data handling and cyber security are being identified and purchased. These will form the basis of a suite of mandatory records management training modules to ensure

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						that all staff are aware of the records management principles and their need to comply with the relevant policies. The Team commend this initiative and would be pleased to hear progress of this project as it becomes embedded within the authority.
13. Assessment and Review	G	G	G	MWC have established a Records Management Review Group (RMRG) to implement the RMP and monitor its effectiveness. The Keeper commends this commitment to internal review of records management arrangements and would welcome updates	The Commission did have regular Records Management Review Group meetings, the group consisting of the senior executive team and managed and minuted by the Information Governance and IT Manager. These meetings are no longer held	The Keeper's Model Plan outlines the importance of authorities conducting regular internal reviews on their records management arrangements to ensure they remain relevant and to help them gauge staff compliance.

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				on the work being achieved by RMRG.	owing to time constraints and logistics of arranging these meetings with senior executives. Time is set aside to discuss progress and agree action plans as part of OMG (Operational Management Group) every six months. The monthly Ordinary Management Group (OMG) holds a session dedicated to Projects and Management updates every 3rd month in the meeting cycle. Reports regarding records management are submitted to this group every 6 months and action progress is reported and action points	The Assessment Team therefore applaud the Commission's regular reviews, initially through their Records Management Review Group and now through the Operational Management Group. The setting aside of time to discuss and agree action plans is commendable, as is the submission of records management reports to the Group every 6 months. It is particularly important that senior management, in the form of the Executive Team, are present at such meetings. Should significant changes in arrangements take place

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					are agreed by the Executive Team who attend these meetings	as a result of these reviews and discussions the Assessment Team would welcome updates through the PUR process. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.
14. Shared Information	G	G	G	Update required on any change	MWC is registered as a Data Controller with the Information Commissioner's Office. MWC will abide by the requirements of the Data Protection Act when sharing information and will also conduct a risk assessment before doing so. MWC has	The submission makes clear that both the Commission and the NCF have appropriate protocols in place surrounding the sharing of information with other authorities. Such protocols are necessary to ensure that data is shared

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					entered into a number of MoUs with other bodies with whom they share records. The NCF has a Protocol with Police Scotland around the sharing of information which describes the circumstances where data can be disclosed legitimately within the boundaries of data protection legislation. The need for registration will disappear under GDPR. The Commission has started to look at more accurately recording and describing the data it holds and clarifying the role of information asset owners in knowing the "who,	lawfully and securely. The conducting of risk assessments prior to sharing information further reflects the Commission's commitments under this element. The Commission is taking proactive steps in the light of upcoming GDPR legislation to ensure that there is an understanding of the legal basis for sharing and that staff are trained in, and have access to, formal data sharing protocols. The Assessment Team commends such initiatives and welcomes updates once work in this area is

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					why and how" of any information assets that fall within their remit. This needs to include a clear understanding of the legal basis for sharing as well a clear protocol of how data is disclosed/shared securely and that staff who have access to it are adequately trained in safe data handling. The outcome of this work will be shared with the Keeper in due course.	concluded. The Assessment Team recognises the on-going initiative being undertaken by the authority under this element.

Version

The progress update submission which has been assessed is the one received by the Assessment Team on 27 September 2017.
The author of the progress update submission is Alison Aiton, Information Manager.

The progress update submission makes it clear that it is a submission for the **Mental Welfare Commission for Scotland**.

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

The Assessment Team has reviewed the **Mental Welfare Commission for Scotland** 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

There has been a significant change in circumstances since the Keeper agreed the Records Management Plan of the Mental Welfare Commission; the National Confidentiality Forum (NCF) has become an established committee of the Commission. Whilst the NCF is not named in the Public Records (Scotland) Act Schedule, and therefore does not have to submit a Plan for the Keeper's agreement, it was recognised by all parties that the procedures for managing records created by the Forum should follow those established by the Commission. This PUR submission, alongside documents drawn up by the Forum in August 2015, makes clear that the arrangements in place for the Commission extend to the records created by the Forum and that they are entirely appropriate.

This submission highlights the on-going commitment by the Commission to develop and enhance their records management arrangements. This is reflected in the review and publishing of key policies such as the *It Code of Conduct* and *IT Security Policy* and investment in a new mandatory suite of training through the LearnPro Learning Management System. The authority is also taking proactive steps to be ready for the implementation of the General Data Protection Regulation in May 2018.

With the signing of the Memorandum of Understanding (MoU) with National Records of Scotland (NRS) there has been sufficient progress made under Element 7 for the Assessment Team to award a Green RAG status. Although this is an informal marking which does not alter the statutory marking awarded by the Keeper in August 2014, it provides an indication of the Team's opinion as to the current state of archival provision within the authority.

Elements 4, 5, and 11 remain under an Amber marking. However, the Assessment Team have been notified of significant progress in these fields, particularly in respect to the development of a combined Business Classification Scheme (BCS) and Retention Schedule and the use of this document to inform the authority's file plan. The Team understands that work is on-going in these

areas and will likely be delayed due to more urgent priorities such as ensuring readiness for GDPR. The Team would therefore welcome updates and sight of any formal documents and policies concerning arrangements under these elements 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. The Public Records (Scotland) Act Assessment Team's Evaluation

Based on the progress update assessment the Assessment Team considers that the **Mental Welfare Commission for Scotland** continues to take its statutory obligations seriously and is 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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Neil Adams
Public Records Officer