1. Introduction

To comply with the Public Records (Scotland) Act 2011 ("the Act") NHS Shetland (and other public agencies) must produce, and submit to the Keeper of the Records of Scotland ("the Keeper") for agreement, a Records Management Plan (RMP) that sets out proper arrangements for the management of NHS Shetland's public records. NHS Shetland must agree its RMP with the Keeper by May 2017.

2. Background

The Public Records (Scotland) Act 2011

The Public Records (Scotland) Act 2011 received Royal assent on 20 April 2011. It is the first new public records legislation in Scotland since 1937 and came fully into force on 1 January 2013. Its primary aim is to promote efficient and accountable record keeping by named Scottish public authorities. NHS Shetland (together with other health boards and local authorities) is one of the public authorities named in the 2011 Act.

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 noted that its investigations were hampered by poor record keeping 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 highlighted how this situation resulted in former residents of children’s homes being 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. These findings culminated in the passage of the Public Records (Scotland) Act by the Scottish Parliament in March 2011.

To assist public authorities with the responsibilities placed upon them by the new Act the Keeper published a model Records Management Plan (“The Model Plan”).

The Keeper’s Model Plan has 14 elements and the Keeper expects each of these elements to be addressed in the RMP submitted by NHS Shetland. The 14 elements are listed below and they link to the detailed guidance available on the National Records of Scotland website:

- **Senior management responsibility** (Mandatory)
- **Records manager responsibility** (Mandatory)
- **Records management policy statement** (Mandatory)
- **Business classification**
- **Retention schedules** (Mandatory)
- **Destruction arrangements** (Mandatory)
- **Archiving and transfer arrangements** (Mandatory)
- **Information security** (Mandatory)
- **Data protection**
- **Business continuity and vital records**
- **Audit trail**
- **Competency framework for records management staff**
- **Assessment and review**
- **Shared information**

Whilst it is not compulsory for authorities to adhere strictly to the Model Plan, some of the elements are mandatory requirements under the Act. If an authority decides against including a non-compulsory element in their RMP the Keeper will expect to see an explanation in support of that decision.

To ensure that it will meet its obligation to agree a RMP with the Keeper by May 2017, NHS Shetland appointed a Project Manager and Project Team from within existing resources to oversee the development of its plan. The project is currently on schedule and the Project Team are working to submit a draft plan to the Keeper in February 2017.

### 3. Implications

The development of effective and efficient and systems for the management of public records is essential for achieving compliance with current legislation and best practice guidance on information handling and data security. Without an effective records management system NHS Shetland will find it increasingly difficult to fulfil the obligations and recommendations required by:
NHS Shetland has done some preparatory work on the IT systems it needs to put in place to support improvements in records management (e.g. Microsoft SharePoint) but it is important to recognise that technology is only part of the solution. Richard Jeffrey-Cook of *In-Form Consult*, one of the leading independent experts in corporate information and records management, is clear that whilst technology can help it is “not the silver bullet”. Based on his experience working with the public sector he is convinced that good information and records management is built upon good:

- Information governance frameworks
  - Roles and responsibilities
  - Policies and procedures
- Information architecture
  - Know what you have so you can then manage it
- Organisation culture
  - Staff understand, and are committed to fulfilling, the organisation’s records management responsibilities

The case study below illustrates how improvements in records management systems helped one organisation increase its efficiency and meet its statutory obligations. It identified a solution that met both its technical and cultural challenges.

**Case Study**

Working with a company called *Automated Intelligence*, **NHS Health Scotland** identified solutions to help it deliver its information governance and regulatory requirements in a cost-effective way.

To ensure that the records management solution was fully accepted by the end user, software from *Automated Intelligence* was chosen to integrate the organisation’s Outlook and SharePoint platforms. This allowed NHS Health Scotland staff to manage and retrieve documents and emails from the email system that was familiar to them, but in a way that also met the organisation’s requirements for good governance and effective document and records management.

Monica Renicks from **NHS Health Scotland** describes how they tackled the issues:
“Under the Public Records Scotland Act, our organisation needs to submit a Records Management Plan to the Keeper of the Records of Scotland. As part of this process, we have assessed our record keeping procedures and the technologies we currently use to identify opportunities to improve information governance and records management. We evaluated the market for solutions that could help us meet any gaps that we identified from our assessment.

“We realised that we didn’t need to implement a standalone records management solution but we could benefit from an existing investment we have in Microsoft SharePoint, a solution we have implemented for document management and collaboration. By using tools from Automated Intelligence we will address the gaps in functionality for Records Management in a very cost-effective way and user-friendly way.”

Tasks

There are two distinct tasks that NHS Shetland must complete in order to fulfil its own obligations under the Public Records (Scotland) Act 2011 (PRSA):

1. Develop a Records Management Plan that will be agreed by the Keeper.

2. Implement the Records Management Plan agreed by the Keeper.

As was noted on page 2, the first task, the development of the NHS Shetland RMP is currently on schedule to be presented to the Keeper by the May 2017 deadline.

The second task, implementation of the agreed plan, will require NHS Shetland to commit resources to a structured programme of improvement work spanning a period of 3-5 years. Implementation of the improvement plan will impact upon every area of the organisation and have implications for e.g.:

- the management of clinical and non-clinical records (paper and electronic)
- the workload capacity of the Information and IT functions of NHS Shetland
- the amount of time to be set aside for staff training and support

Developing a timed and costed Records Management Improvement Plan is one of the deliverables of the current RMP project which, once completed, will support NHS Shetland in deciding how best to deploy its resources in order to fulfil its obligations under the PRSA.

To date, most (if not all) NHS organisations who have had their RMPs agreed by the Keeper, have had them agreed on an “improvement basis”, i.e. their RMP was “agreed” by the Keeper subject to the authority committing to deliver required improvements to its records management systems within the timescales set out in its Improvement Plan.

It is important to note that the Keeper has stressed that authorities who fail to make meaningful progress with the implementation of their agreed RMP will be at risk of being deemed to be in breach of the PRSA.
Whilst there are clear risks to patients, staff and the organisation from inadequate records management systems, there are correspondingly clear benefits where records management practices conform to best practice. The changes required by this law will ensure NHS Shetland can:

- know what records it has and locate them easily
- protect the interests of patients, staff and stakeholders
- increase organisational efficiency and effectiveness
- deliver improvements in administration services (staff time and storage)
- support decision making and accountability
- achieve business objectives and targets
- provide continuity in the event of a disaster
- achieve and maintain compliance with the Public Records (Scotland) Act 2011 and other related legislative and regulatory requirements

4. **Approval of the NHS Shetland RMP**

The *Public Records (Scotland) Act 2011* requires a RMP to be endorsed by a signed statement from an authority’s Chief Executive Officer. The following process is proposed for endorsement of the NHS Shetland RMP:

1. RMP recommended to RMP Project Board by RMP Project Team
2. RMP recommended to eISG by RMP Project Board
3. RMP recommended to CEO by eISG.
4. RMP endorsed by CEO.

NHS Shetland Board is invited to determine:

1. What role CCPGC should have in the RMP approval process (i.e. stakeholder or authoriser)
2. What input NHS Shetland Board wishes to have in the RMP approval process.

5. **Summary**

The *Public Records (Scotland) Act 2011* requires NHS Shetland to agree a Records Management Plan with the Keeper of the Records of Scotland by May 2017.

Implementation of the agreed Records Management Plan will require NHS Shetland to **commit resources to a structured programme of improvement work spanning a period of 3-5 years.**

Implementing the changes in records management practice required by this law is necessary to ensure NHS Shetland can a) comply with an increasingly rigorous information governance environment and b) improve its organisational effectiveness and efficiency.
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Background Documents:

More information about the Public Records (Scotland) Act 2011 and the NHS Shetland RMP Project is available on Intranet: