

## Implementation of the Public Records (Scotland) Act 2011 – Progress Report and Next Steps

Report by Mary Smith, Director, Education, Communities & Economy

### 1 Purpose of Report

To update Council on Midlothian Council's progress in relation to achieving compliance with the Public Records (Scotland) Act 2011 (PRSA).

### 2 Background

The Act places a duty on public authorities (named in a schedule to the Act) to prepare and implement a records management plan (RMP), which sets out proper arrangements for the management of their records. An authority's RMP must be submitted to, and agreed by, the Keeper of the Records of Scotland (the Keeper) and reviewed regularly. The Act took effect in January 2013 and Midlothian has been advised that our submission date will be in February 2014. Following extensive consultation, the National Records of Scotland (NRS) has published a Model Plan and guidance about the form and content of RMPs to which authorities must give due regard. The plan details 14 Elements, for some of which compliance is mandatory.

This report outlines the implications of the legislation for the Council, the steps required for the authority to meet its statutory obligations including procedural and cultural changes required and progress to date. The 14 elements are shown in the grid at **Appendix 1** along with the Council's compliance status (at the time of writing this report) and attendant narrative where required. Although the Keeper does not expect authorities to 'slavishly copy the Model Plan', he is unlikely to agree a RMP that does not include elements 1, 2, 3, 6, 7 and 8.

#### 2.1 Procedural Changes

Implementation of the Act requires some organisational changes as we will adopt new practices, formalise some existing ones and ensure a more consistent approach to others. Some key areas that are being worked on include:

- a) The development and implementation of a corporate Records Management Policy, to underpin good record keeping practice across the organisation.
- b) The development and implementation of a corporate file plan and retention schedule in all business areas.
- c) The establishment of record tracking and audit procedures.
- d) The training of all staff in role-relevant records management best practice and procedures.

- e) The establishment of clear procedures for the destruction and retention of corporate information.
- f) The expansion of existing information security procedures to prevent unauthorised access, destruction, alteration or removal of records.
- g) The development of a records-specific business continuity plan to ensure business critical functions can be maintained in event of disaster or emergency.
- h) The creation of a training programme for all third party service providers to ensure they are compliant with our Records Management Policies and Procedures, in accordance with the Act.

## **2.2 Cultural Changes**

The procedural changes above should inevitably reinforce the cultural changes required across the organisation including:

- a) The establishment of clear lines of responsibility for record-keeping at departmental, service and divisional levels
- b) Corporate awareness of the importance of maintaining records and information accurately and securely, supported by appropriate training and policies.
- c) The reinforcement of sound record-keeping practice at managerial level.
- d) A corporate commitment to sound records management practice across all service areas especially in view of the anticipated electronic document and records management system.

## **2.3 Responsibility Changes**

Records Management within the Council was historically located in the Education & Children's Services' Communities & Support Service under the Library Service. Although it sat comfortably alongside Local Studies and Archiving functions, with the growing emphasis on, and legislative complexities surrounding, information management, it (Records Management) was transferred to Customer Services with effect from 1 August 2013, thus locating all corporate information management functions within one service. The transfer sees the Head of Customer Services, who is also the Council's Senior Information Risk Officer as the 'individual at a senior level who has overall strategic accountability for records management' in compliance with Element 1 of the Model Plan.

## **2.4 Impact of Current Critical Initiatives**

The Records Officer staff resource is, and will continue to be, under particular pressure over the coming months due to additional demands placed on the service by the EWiM agenda (including EDRMS) and the Public Records (Scotland) Act (PRSA). As explained earlier, under PRSA, the Council is required to submit a 14-point Records Management Plan for approval to the Keeper of the Records of Scotland, for which the Records Officer is the main coordinator and point of contact. Several of the points require the establishment of new corporate procedures, and involve sections of the Council with little to no prior experience of records management. In addition, both the Asset Realisation and EDRM workstreams of the EWiM programme require substantial

Records Officer involvement to ensure that effective records management controls and procedures are incorporated into the project delivery and that the Council remains compliant with its legislative obligations under the Data Protection Act, Freedom of Information Act, and PRSA.

### **3 Report Implications**

#### **3.1 Resource**

- a) The implementation of the Act and the concurrent demands detailed in section 2.4 require significant resources. An additional staff role is being allocated to support this area of work on a temporary basis to enable the continued day to day running of records management across the Council in addition to the requirements arising from the PRSA and EWIM. The cost of this will be met from existing resources.

#### **3.2 Risk**

Compliance with the Act will help to significantly reduce the risks and consequences associated with the following:

- a) Failure to meet our statutory obligations such as those under the Freedom of Information (Scotland) Act, the Data Protection Act, the Environmental Information Regulations and PRSA, with resultant loss of reputation and public trust.
- b) Financial penalties due to data security breaches of unmanaged records.
- c) Financial or legal losses if information required as evidence is not available or cannot be relied upon.
- d) Damage to Council operations due to a failure to identify and protect business-critical records.
- e) Unnecessary costs either from storing records and other information for longer than necessary or from staff resources wasted by searching for records that cannot be easily found.
- f) The ability to resource current work load requirements from the projects highlighted earlier is unsustainable and without additional albeit temporary resources there is a significant risk that either one or more of the projects will be delayed with higher cost implications or data and records management within the Council could be compromised with adverse cost and / or reputational implications.

#### **3.3 Single Midlothian Plan and Business Transformation**

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☒ Business transformation and Best Value
- ☐ None of the above

### **3.4 Impact on Performance and Outcomes**

Establishing effective records management arrangements by complying with the Act will contribute towards a number of corporate objectives and deliver significant benefits for Midlothian Council such as helping to,

- a) Increase efficiency and effectiveness, delivering savings in administration costs.
- b) Improve and develop service delivery.
- c) Ensure compliance with the Public Records (Scotland) Act 2011 and other legislative requirements, standards and codes of conduct.
- d) Support transparency and open government.

### **3.5 Adopting a Preventative Approach**

Compliance with the Act helps prevent the risks and consequences detailed in section 3.2.

### **3.6 Involving Communities and Other Stakeholders**

Nationwide consultation was undertaken during the creation of the Model Plan in which Midlothian Council fully participated.

The Records Officer and then temporary Records Officer (the contract has since ended) liaised extensively across services within the Council and the Records Officer continues to do so.

### **3.7 Ensuring Equalities**

There are no equalities implications arising from this report.

### **3.8 Supporting Sustainable Development**

The proposals contained in the plan will be sustainable as the scope of the Model Plan applies to all records irrespective of the technology used to create and store them or the type of information they contain.

### **3.9 IT Issues**

There are no implications directly arising from the Act but there are some relating to EDRMS, which are being considered and addressed.

## **4 Recommendations**

Council is asked,

- a) To note the contents of this report, particularly the requirements of the Act and the progress to date.
- b) To endorse the curriculum of cultural and procedural change (detailed in sections 2.1 and 2.2) needed to comply with the provisions of the Public Records (Scotland) Act 2011.
- c) To note the transfer of responsibility for Records Management to the Head of Customer Services as the Council's Senior Information Risk Officer.

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**Background Papers: None**

### **Declaration Box**

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**Title of Report:** Implementation of the Public Records (Scotland) Act 2011 – Progress Report and Next Steps

**Meeting Presented to:** Council

**Author of Report:** Ogo Onwuchekwa

*I confirm that I have undertaken the following actions before submitting this report to the Council Secretariat (Check boxes to confirm):-*

- ☒ *All resource implications have been addressed. Any financial and HR implications have been approved by the Head of Finance and Human Resources.*
- ☒ *All risk implications have been addressed.*
- ☒ *All other report implications have been addressed.*
- ☒ *My Director has endorsed the report for submission to the Council Secretariat.*

*For Cabinet reports, please advise the Council Secretariat if the report has an education interest. This will allow the report to be located on the Cabinet agenda among the items in which the Religious Representatives are entitled to participate.*

*Likewise, please advise the Council Secretariat if any report for Midlothian Council has an education interest. The Religious Representatives are currently entitled to attend meetings of the Council in a non-voting observer capacity, but with the right to speak (but not vote) on any education matter under consideration, subject always to observing the authority of the Chair.*