

A consultation on a new law about public records

The Scottish Government wants to change the law on how public records are kept and looked after. This will help public services to work better, and it will make it easier for people to get important information when they need it.



The main reason for changing the law is because Tom Shaw wrote a report about abuse in children's homes and residential schools. He said that proper records had not been kept. This made it very hard for the people who had lived there to find out about their family and medical background. He said that there should be a new law to make sure this does not happen again.

This paper is a consultation. That means that the Scottish Government has not made any firm decisions yet. It wants to know what you think about its plan for public records and then it will say what will happen.

There are 9 questions and you can answer as many of them as you want. The questions are on pages 10-14.

Please send your answers and the form on pages 15-16 to:

The Keeper of the Records of Scotland
HM General Register House
3 Princes Street
Edinburgh
EH1 3YY

Or email Business.Management@nas.gov.uk

Please reply by Wednesday 4 August 2010

If you have any questions about this consultation, you can call the Keeper on 0131 535 1311.

Background

The Scottish Government wants public bodies, like councils and health boards, to keep better records. A record is information about someone or something.

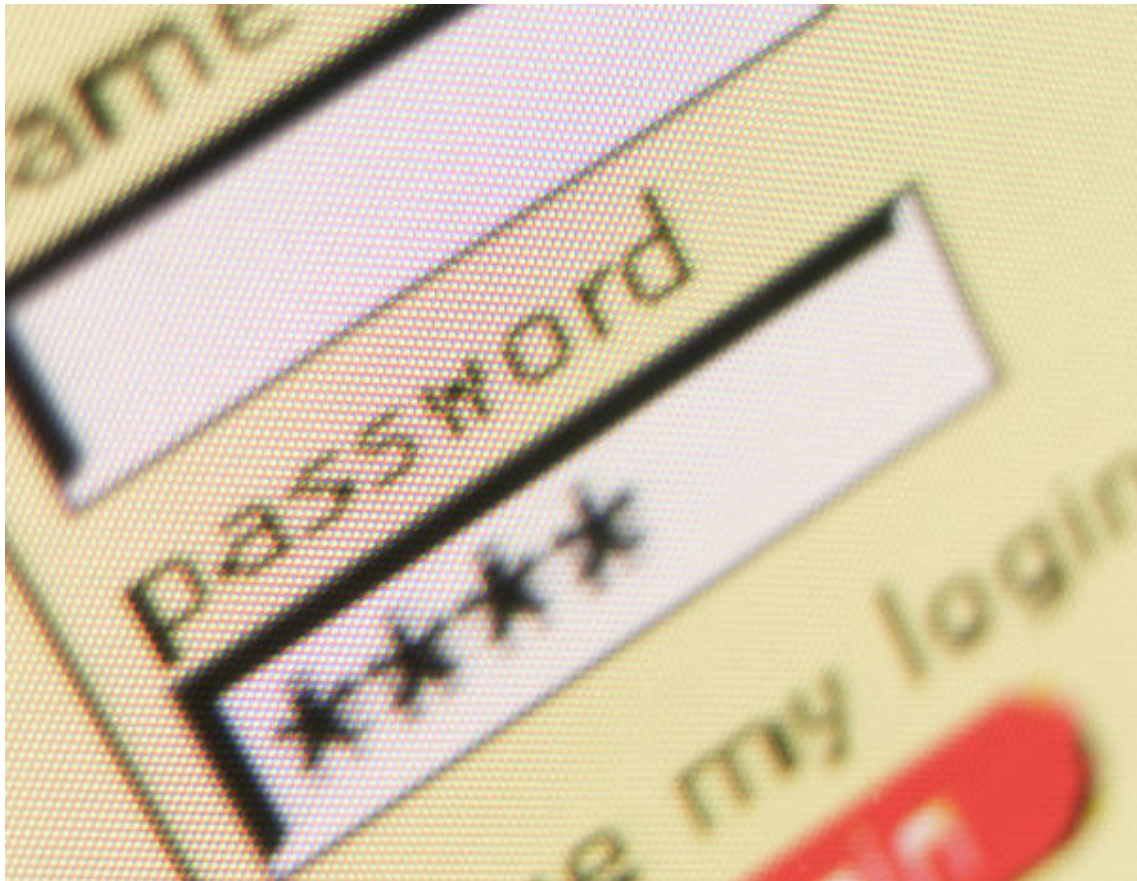
After Tom Shaw wrote his report that said record keeping in children's homes and residential schools was poor, the Scottish Government asked the Keeper to look at the law and see if it needed to be changed. The Keeper is the person who is in charge of public records in Scotland.



The Keeper looked at how records were managed, and what the laws were in other countries. He spoke to lots of people, like social workers, police and people who had been in a care home. He also spoke to experts on Data Protection (keeping information safe) and Freedom of Information. The Freedom of Information Act gives people the right to see most of the information that public bodies have.

The Keeper wrote a report that said that the law about public records was not good enough. He said a new law should:

- say what the Keeper's job is
- say what a public record is
- say what records voluntary and private organisations have to keep when they are doing work for a public body
- support public bodies to manage information better
- fit in with other laws about information, like the Freedom of Information Act and the Data Protection Act.



The main changes in the new law

The Keeper

The new law will say that it is the Keeper's job to tell public bodies how to keep good records, and to make sure that they do it.

Public Records

The new law will say that "public records" means every record that is made by a Scottish public body. Public bodies are the Scottish Parliament, the Scottish Government, local councils, NHS Boards and other national organisations. There are more than 150 public bodies. The new law will cover all the records that a public body has.



Question 1

Do you think that every record a public body makes should be a public record?

Private and voluntary organisations

Sometimes, private or voluntary organisations carry out work for public bodies. For example, some councils pay voluntary organisations to care for children who cannot live at home. The new law will mean that any records that private or voluntary organisations keep about this kind of work will be public.



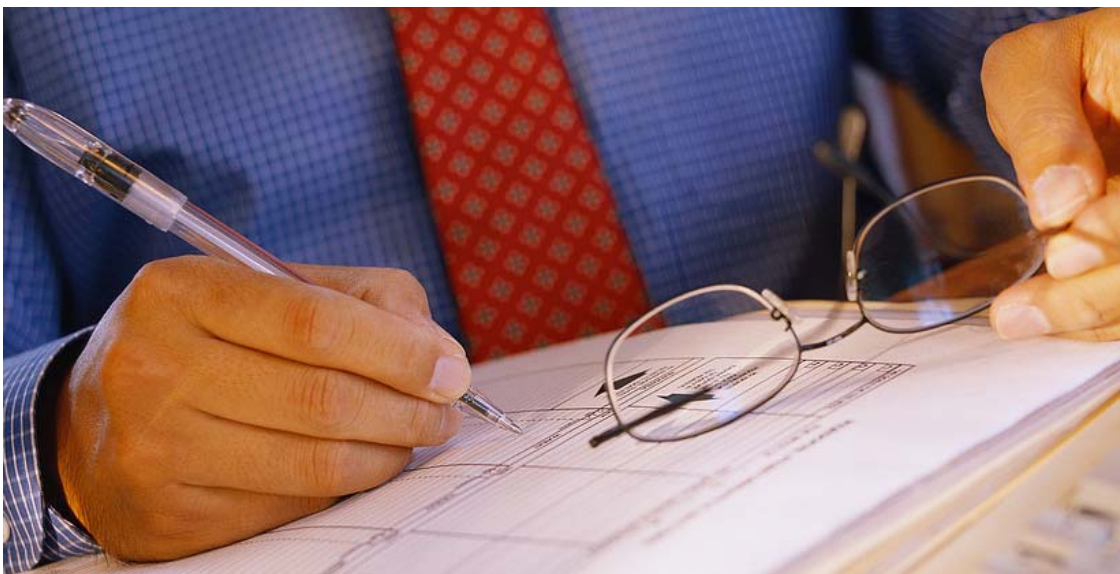
Question 2

Do you think that the records these organisations keep when they carry out public services should be public?

Record keeping

It is up to every public body to decide what records to make. Every record they make will be a public record.

The new law will say that each public body must have a Records Management Plan that says how it will look after, keep and get rid of records and when it will do this. The Keeper will write a plan that public bodies can copy and use.



Question 3

Do you think that it is the Keeper's job to write a plan for public bodies to use?

Question 4

Does each public body need to write a plan? This means there would be more than 150 plans. Would it be better to have one plan for all the councils and one plan for all the health boards? This means there would be fewer than 30 plans.

Local Councils

There is already a law that says that local councils have to make “proper arrangements” to manage their records, but it does not say what these are. That will change to say that they need to have a Records Management Plan.



Question 5

Do you think that saying councils must have a Records Management Plan that says how they will look after, keep and get rid of records is better than saying they must make “proper arrangements”?

Making sure that public bodies do what is in their plans

The new law will say that public bodies must follow their Records Management Plan and report on how well they do this. The Keeper can check that they are managing records well. If he finds a public body that is not doing what is in its plan, he can order it to do better.

Question 6

What should happen to public bodies that do not manage their records well?

Question 7

Do you think public bodies should check up on each other to see how well they are following their Records Management Plan?

Question 8

Do you think the new law should cover every public body or just the ones that deal with looked-after children?

Have Your Say

1) Should every record a public body makes be a public record?

2) Should the records that voluntary and private organisations keep when they carry out public services be public?

3) Is it the Keeper's job to write a Records Management Plan for public bodies to use?

4) Does each public body need to have a plan or can public bodies that do the same thing, like health boards, share a plan?

5) Do councils need a Records Management Plan too, even though there is already a law that says they must look after their records?

6) What should happen to public bodies that do not manage their records well?

7) Do you think public bodies should check up on each other to see how well they are following their Records Management Plan?

8) Do you think the new law should cover every public body or just the ones that deal with looked-after children? (Children and young people that have a supervision requirement from a Children’s Hearing.)

Please fill in this form and send it back with pages 10-14.

Your name:

Your address:

The Scottish Government wants to let other people know what you think about its plan for a new public records law. It can do this by putting your comments on its website or in its library. Is that okay?

- It is okay to share what I said and my name and address.
- It is okay to share what I said and my name, but **not** my address.
- It is okay to share what I said but **not** my name and address.
- It is **not** okay to share what I said or my name and address.

If you are replying for a group or organisation, the Scottish Government will put your group's name and address on its website or in its library. Can it print your comments too?

- Yes
- No, please keep my comments private.

We will show your comments to people who work for the Scottish Government and who know about records management. They might want to contact you. Is that okay?

- Yes
- No

Thank you very much for taking part in this consultation. We will look at everyone's replies, and if most people think there needs to be a new law, we will put it before the Scottish Parliament.

When the consultation has closed, you will be able to read what other people said about public records on the Scottish Government's website: www.scotland.gov.uk/consultations