

Meeting Title	Board of Directors		
Date	22nd September 2022	Agenda item	Bo.9.22.26

Annual Data Protection Officer Information Governance Report

Presented by	Jenny Pope, Head of Information Governance and Data Protection Officer	
Author	Jenny Pope, Head of Information Governance and Data Protection Officer Graeme Holmes, Information Governance Manager	
Lead Director	Paul Rice, Chief Digital and Information Officer and Senior Information Risk Owner	
Purpose of the paper	Data Protection Officer Information Governance Annual Report	
Key control		
Action required	To note	
Previously discussed at/ informed by		
Previously approved at:	Committee/Group	Date
	N/A	
Key Options, Issues and Risks		
<p>The purpose of this report is to update the Board of Directors on the Information Governance programme, confirming the results of the Data Security and Protection Toolkit assessment for 2021/22 and internal audit outcome. To provide an overview of the arrangements in place to manage information risks and compliance in the year ahead and to provide a progress summary of the activities undertaken by the Information Governance service in-year. The report includes the opinion of the Data Protection Officer (DPO).</p>		
Analysis		
<p>IG training compliance at year end stood at 91% (absence and staff turnover adjusted).</p> <p>A workplan is in place that encompasses the Data Security and Protection Toolkit requirements, plus UK General Data Protection Regulation and Data Protection compliance related actions and improvements.</p> <p>There were no externally reportable incidents (to ICO Information Commissioners Office) in 2021/22.</p> <p>The position of the Trust and the level of compliance with IG related legislation and standards are good. Its profile can be raised further building on the heightened awareness brought about by critical activities undertaken during the pandemic and growing awareness of the Trust’s expansive Digital, Data Intelligence and Insight agenda. There is still room for further maturity and to this end the IG Service will continue to deliver a rolling programme of enhancements and checks. Where necessary improvements to policy, procedures and guidance supported by the right tools and advice for staff will follow This will enable colleagues to carry out their duties in accordance with best practice Information Governance standards. Training was impacted by the pandemic and operational pressures upon staff Trust wide and this will be an area of focus for 2022/23. Whilst the Brilliant Basics Programme 21/22 which would have incorporated substantial additional IG refresher training was not able to be delivered in line with expectations a reboot will occur in the latter part of 22/23 and on in to 23/24 as part of a wider programme of EPR optimisation that the Trust is embarking upon in conjunction with colleagues at Calderdale and Huddersfield NHS Foundation Trust.</p>		
Recommendation		
<p>The Board of Directors is asked to:</p> <ul style="list-style-type: none">Receive and note this report		

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- Be satisfied that the DPO role is being effectively planned and discharged to provide the Board of Directors and Trust with the appropriate information and assurances regarding compliance with the UK GDPR and Data Protection Act.

Risk assessment						
Strategic Objective	Appetite (G)					
	Avoid	Minimal	Cautious	Open	Seek	Mature
To provide outstanding care for patients, delivered with kindness			g			
To deliver our financial plan and key performance targets			g			
To be one of the best NHS employers, prioritising the health and wellbeing of our people and embracing equality, diversity and inclusion					g	
To be a continually learning organisation and recognised as leaders in research, education and innovation				g		
To collaborate effectively with local and regional partners, to reduce health inequalities and achieve shared goals					g	
The level of risk against each objective should be indicated. Where more than one option is available the level of risk of each option against each element should be indicated by numbering each option and showing numbers in the boxes.	Low		Moderate	High	Significant	
	Risk (*)					
Explanation of variance from Board of Directors Agreed General risk appetite (G)	No variance					

Benchmarking implications (see section 4 for details)	Yes	No	N/A
Is there Model Hospital data relevant to the content of this paper?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there any other national benchmarking data relevant to the content of this paper?		X	<input type="checkbox"/>
Is the Trust an outlier (positive or negative) for any benchmarking data relevant to the content of this paper?	<input type="checkbox"/>		X

Risk Implications (see section 4 for details)	Yes	No
Corporate Risk register and/or Board Assurance Framework Amendments		X
Quality implications		X
Resource implications		X
Legal/regulatory implications		X
Diversity and Inclusion implications		X

Regulation, Legislation and Compliance relevance
NHS Improvement: (Risk assessment framework, quality governance framework, code of governance , annual reporting manual)
Care Quality Commission Domain: Well Led
Care Quality Commission Fundamental Standard: Good governance
Other (please state): UK General Data Protection Regulation (GDPR) and Data Protection Act 2018

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Relevance to other Board of Director's Committee:					
Workforce	Quality	Finance & Performance	Partnerships	Major Projects	Other (please state)

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1 PURPOSE / AIM

This report is to update the Board on the Information Governance programme, confirming the results of the Data Security and Protection Toolkit assessment for 2021/22. The report provides an overview of the arrangements in place to manage information risks and compliance in the year ahead and a progress summary of the activities undertaken by the Information Governance Service in-year. The report includes opinion from the Data Protection Officer (DPO).

2 BACKGROUND / CONTEXT

It is good practice for Board to be sighted on Information Governance (IG).

The Data Protection Officer (DPO) is responsible for ensuring that the application of data protection and confidentiality legislation is consistently observed and any weaknesses in current practices are identified and remedied where possible.

The Trust is required to undertake an annual Data Security and Protection Toolkit assessment (DSPT) to provide assurance to the Board and external bodies that it is practising good information governance and data security and that personal information is handled correctly. The DSPT is a structured assurance framework and provides the basis for compliance with the UK GDPR and Data Protection Act 2018.

During 2021/22 the DPO and IG Service provided advice on data protection and confidentiality across the Trust. Common themes continue to include information sharing and assessing privacy risks. Clarity around internal and cross-organisational information sharing has been a key focus. An IG Work Plan informs this and other activities the team will progress throughout 2022/23 to further mature IG. In summary we have seen another year of progress but there are areas where we can continue to make improvements.

DPO opinion: The profile of Information Governance awareness in the Trust remains high. The pandemic brought additional requirements that the team has acted upon. It has also meant pressures on front-facing non-IG staff that have had implications for work priorities, and national changes in IG standards and legislation that the IG Service has had to ensure are in place. Despite this, staff training compliance was good, incidents did not again significantly increase as might have been expected, and the Trust evidenced against a much more demanding DSPT assessment and internal audit review once more achieving compliance against the DSPT standards. In my opinion the work undertaken by the Service and other colleagues is to be commended. The all staff training compliance target was deemed acceptable by Board and the SIRO prior to submission of the DSPT given the high absence and turnover rates however this should not detract from the fact that training does need to improve and the team should consider actions to raise awareness of this, perhaps introducing new ways to engage staff during this busy period for them. The extent of UK GDPR and Data Protection compliance achieved is testament to the IG team's and its colleague's expertise, drive and commitment in what has been another challenging year

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3 MONITORING AND COMPLIANCE

The Data Security and Protection Toolkit (DSPT) assessment provides assurance of good practice i.e. that an Information Governance framework is in place with the necessary controls, governance, and policies. The DSPT provides considerable assurance. It takes the form of an online assessment tool produced by the Department of Health and hosted by NHS Digital. It draws together the relevant Information Governance management legislation and national guidance under a single framework designed to enable an organisation to implement the relevant standards. It enables the Trust to measure its performance through an annual self-assessment and report upon levels of compliance against a set number of assertions based on the National Data Guardian's 10 data security standards.

For 2022/22 the Trust was required to measure itself against 38 Assertions (5 are non-mandatory) in total and 109 mandatory evidence items. Organisations can only achieve a final overall outcome of Standards Met by providing evidence against all mandatory items. This mechanism equates to a Standards Met outcome. There is no longer any Red Amber Green (RAG) rating.

The IG Manager alerts the Head of IG and SIRO to any high risks, that is where the completion of certain actions are critical to Standards Met, and where there are concerns they may not be completed. The IG service has worked with the relevant service area leads across the Trust to evidence this year's assessment. Publication of the DSPT nationally was extended to June 2022. Prior to completion the Trust's internal auditors, Audit Yorkshire reviewed a sample of mandatory assertions' evidence within a cross-section of the criteria. The approach and scope of the internal audit review continued to be as in depth as in 2020/21. The SIRO and Trust received a report against progress, and provided approval prior to the 30 June submission, which included the Internal Audit Report.

DPO opinion: The IG Service has worked tirelessly to ensure the Trust's policy and processes enable it to manage information risks and where required, improve compliance. Progress against some key activities undertaken by the IG service in-year is summarised throughout this report. The rigorous review conducted by internal audit took considerable time and resources and there are some lessons to be learned for the next audit.

General Data Protection Regulation / Data Protection Act

The General Data Protection Regulation (GDPR) that came into force on 25 May 2018 is supported by the UK Data Protection Act (2018), which updated the Data Protection Act (1998). Compliance with key legislation, such as the UK GDPR, Data Protection Act (DPA) 2018 and Freedom of Information Act 2000 (FOI) is regulated by the UK Information Commissioner's Office (ICO). Internally, the Digital and Data Transformation Committee receives assurance on IG. Access to Records under the DPA (Subject Access) and FOIA is not managed by the IG Service. The Access to Health Records Team manages Subject Access Requests / requests under the DPA and reports routinely to the SIRO via the former IG Sub-Committee. This committee was stood down during 2020 and new arrangements put in place by the SIRO.

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DPO opinion: The Trust has well established governance in place with engaged membership. Pragmatic interim arrangements were introduced during the pandemic. For 2022, reinvigoration of IG meetings is required. The terms of reference and membership of the previous IG Sub Group will be reviewed and refreshed to take account of this and of the changes that have occurred over the last 6-12 months.

The right of access to health records is governed by rules set out under the Data Protection Act. Requests must be processed under their own individual merit and Data Controllers consider whether each request meets the lawful requirements for provision. Many are straightforward. Those that are more complex often require expert review to ensure the confidentiality rights of the data subject (and any associated 3rd parties) are maintained. Safeguarding rules are also often applicable within this work. Input from the IG Service is provided to the Access to Health Records Team wherever appropriate.

DPO opinion: Some requests (such as HR/staff related) are handled by the service areas in question, with IG and Access to Health Records team input as necessary. Discussions have taken place and the IG team is to work with these teams to consider the process for incoming requests of all types to the Trust, so that all requests are received into the Trust and managed and applied consistently in case there is an opportunity for improved oversight and visibility. Solutions should also be explored of ways of managing such requests, to enable more automation, and reduce the burden on both services and colleagues responding to requests for information.

The Trust has controls in place so that it does not embark on new or changed processes without having considered privacy impact and staff have become more aware of the need for Data Protection Impact Assessments (DPIAs) for example. DPIAs capture rationale, risks, assurance of security, and legal basis for processing. The IG Service has provided assistance so that other teams can complete these as well as possible, provided support and guidance to address confusion about when and where they are needed, and has oversight of / and reviews completed assessments. It continues to work with services Trust-wide to help ensure such requirements are considered at the outset in line with Privacy by Design principles under UK GDPR.

Face to face IG audits or 'spot checks' that take place alongside such controls have been impacted in 2021/22 due to the pandemic. Virtual questionnaires were put in place which was acceptable.

DPO opinion: During 2022 the face to face checks should be reintroduced as soon as practical as they are valuable and simple way of checking processes are embedded and awareness is not fading. The IG Manager and Officer are considering an implementation schedule.

Our IT colleagues confirm improvements to cyber security are continuous. A number of external assurances are sought and received each year. The Head of IT and team provide separate assurances to the Digital and Data Transformation committee and SIRO routinely on the controls and actions in place and being progressed.

4 RAISING THE PROFILE / SUPPORTING TRUST SERVICES

The Information Governance Service has worked to provide an accessible forum for information rights and good practice advice and support to Trust services representing a variety of clinical and corporate areas.

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It has provided specialist advice regarding data sharing and encourages confidence in handling personal information safely. The team has worked hard to keep pace with the challenges associated with increasingly complex scenarios and requests for advice, not only due to legislative and national changed requirements but also in relation to Digital developments and the associated IG requirements. The Service regularly receives requests for advice and direction on a variety of work streams; most notably with regard to new initiatives, new suppliers, new partners and the data sharing, data processing, Data Protection Impact Assessment and contractual elements which underpin each.

DPO opinion: The challenge we saw emerging previously for the Trust to continue to meet demand now means attention must be given to ensuring the IG Service is adequately resourced and skilled in order to continue to assure the Trust that work in this area is safe, legal, efficient and stands up to scrutiny. The coming Digital developments and working relationships with external organisations make this even more vital.

Requests from staff for advice and guidance are an indicator of awareness; they continued at pace and involve more with more complex questions. Tools and controls are in place such as policy and procedures, contract clauses, and templates. The IG Team has looked to areas where further improvements may be made. It has a rolling programme of work that includes development and refinement of existing documentation and the creation of new resources that form the backbone of our IG controls. We have made inroads to improve our Data Protection Impact Assessment tools, and work began to refine and further align our Sharing and Processing Agreement templates with other Trusts' examples, in particular Airedale Hospital NHS Foundation Trust (ANHST) given our joint IG service.

The IG Team has used requests from staff to help identify gaps and learning needs. For example, requests for advice and guidance in relation to collaboration agreements managed by the Bradford Institute for Health Research and external organisations. Also requests for help in fulfilling IG requirements of sharing and processing agreements, indicating a need for enhancements to staff guidance on when and where these are required, and how they should be completed.

DPO opinion: The Team has been pro-active in engaging with other services across the Trust who seek advice, or who the Trust relies on for evidence. It has provided considerable support, guidance and assistance to staff in relation to the DSPT, to sharing agreements and DPIAs. The pandemic, the operational pressures and resources/capacity of the IG Service has had a noticeable impact on their ability to progress this work. Investment is needed to change this for 2022/23.

5 TRAINING AND AWARENESS

Mandatory training compliance was lower than previously for the Trust. Allowing for staff absence rate and turnover the figure was 91% against the in-year target of 95% of employees undertaking IG training prior to the end of June DSPT submission.

DPO opinion: It is positive to see training compliance at this level despite the pandemic. It provides a level of assurance in itself, and is complemented by tailored messaging and communications on key issues throughout the year.

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However, as above, efforts must continue to raise awareness, increase uptake, and the support of managers, service leads, and staff within appraisals, must take account of the training requirement which is higher in many cases than other mandated NHS staff training and consequently particularly challenging.

Mandatory Information Governance (IG) training is available in several different formats to suit individual needs. The primary training all staff complete is e-learning provided by NHS Digital, but where appropriate staff may attend a trainer-led classroom session or complete a workbook and video. The interactive face to face classroom sessions were cancelled during the pandemic and have not yet resumed, though ad-hoc training has been delivered via MS Teams where requested.

Training at times of the year was affected by COVID-19 with reporting suspended between April and September 2021, and subsequent reports from Education Services confirmed the early part of 2022 IG staff training at 80% (April) increasing to 91% in May.

Whilst the national target is 95% staff compliance, training is regarded as ongoing and a rolling programme throughout the year and the Service will continue to promote and monitor compliance. This will fluctuate as individual's annual completion dates occur hence the above drop in May.

DPO opinion: Efforts by all concerned to achieve the current compliance figure are to be applauded, especially in these extraordinary circumstances and as the 95% national target is challenging for organisations and often higher for example than Trust's core mandatory training compliance. To emphasise again as above, support from the Trust leadership, HR and Education Services is critical to ensure the Trust continues to maintain and where necessary improve its IG training compliance and prevent blockages where staff have to be encouraged to complete at year end.

6 INCIDENTS

During 2021/22 142 IG incidents were reported by staff, a decrease of approximately 28%. All IG incidents are disseminated to the Caldicott Guardian, Head of IG and IG Manager in real time, as they are reported. This enables the service to respond promptly as necessary. The majority reported were lower level 'minor' incidents or near misses. All are assessed and advice is given on further mitigating actions or investigations where necessary.

More serious incidents are assessed and judged whether externally reportable according to criteria based on likelihood and impact of harm on the data subject(s). Externally reportable incidents must be reported to the Information Commissioner's Office within 72 hours where they meet the criteria. The Trust saw no reportable incidents during this period.

DPO opinion: It is positive to see there were no externally reportable incidents and a slight increase in IG incidents generally. The vast majority of staff have again embraced the need for honesty and transparency with regards to the management of personal information and paid attention to the security and confidentiality of data within their control.

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The absence of high numbers of the most serious incidents is testament to the positive culture of IG awareness cultivated in the Trust over the years. The ongoing reporting of lesser breaches reassures us that staff remain vigilant plus embrace the need for honesty and transparency regarding the management of personal information. Reporting is encouraging and needs to be encouraged as it demonstrates awareness. We must remember that it may conversely indicate complacency, or be an early sign of problem areas. So a useful indicator in both contexts but we remain watchful. Once again, the year has put tremendous pressures on staff across the Trust, and mistakes can happen, processes can be sidestepped at such times. Accumulated 'minor' incidents, themes or trends, or spikes in reporting, need to be monitored so that we learn from mistakes, and potential serious incidents are found before they become so. Predicting serious incidents is impossible but the Team has a good working relationship with the Caldicott Guardian in assessing, monitoring and acting upon incident reporting as well as seeking advice and support in any IG related investigations, and engagement with the reporters is good.

To improve clarity and consistency the team has explored ways it could extend learning and improved the way it reports internally to allow better analysis. It reached out to Complaints and Access to Health Records teams to work to try and improve some time disjointedness in processes which can cause unnecessary delays and confusion. Progress was limited due to the capacity of the team and competing demands. This will be progressed for 2022/23 and is part of the Improvement Plan. This will help all parties be clear about roles and responsibilities.

DPO opinion: The privacy and processing of personal data consciousness still shows occasional lapses and the team has worked and will continue to work with other areas to bring clarity. We are looking at improved ways of capturing, presenting, and analysing incidents better with the support of the Caldicott and SIRO. Progress was slow in this area in again this year and the team needs to plan for the resumption of this work.

The maximum penalty that can be imposed on organisations for serious breaches is 20 million euros (or 4% of annual turnover) for the most serious breaches of Data Protection Act (individual rights and 3rd country transfers) and up to 10 million euros (or 2% of annual turnover) for standard infringements (administrative requirements). During 2021/22 the Information Commissioner's Office imposed relatively few large monetary penalties and none on Trusts. 41 monetary penalties in total were issued. Again, as previously, far more non-health related companies than public sector were affected by enforcement action. The majority were marketing / retail sector related. The largest, high profile, fines related to EB Associates (£140,000) and Clearview AI (£17 Million) but fines of such magnitude are in the minority.

DPO opinion: The Trust continues to be pro-active and vigilant and whilst no guarantees can be made that the Trust will not be subject to fines or censure, the robust approach that continues to be taken lessens the risk.

7 INFORMATION SHARING

The Trust has a responsibility to work with partners to minimise the burden of data collection, and ensure that it uses information effectively to support the overall aims of health and social care. 2021/22 saw even more organisations looking towards future shared care models or collaborative working and the IG Team received additional requests to develop or contribute to 'patch wide' or 'purpose specific' Data Sharing Agreements.

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DPO opinion: It is my opinion that this will continue to increase as the requirements associated with cross-organisation sharing and developing digital agendas call for such agreements and for assurances within respective organisations. The team has seen this in demand for assistance and advice in review of DPIA and DSAs. But also in raised awareness by project teams and colleagues who increasingly are aware of this requirement whereas previously it often wasn't the case. Agreements requirements and content are becoming more complex and prolific as are related Digital requirements. The IG Service will need to ensure it can keep pace with the demand which it has to date. Staff across the Trust will need to be mindful of the requirements associated with complex data sharing scenarios and the IG Service, individual IAOs and IT/information security colleagues will be instrumental in embedding this understanding.

To help, the team has worked to improve and align templates and agreements, including consideration of multiple variations in use by or available to other organisations, and whether to continue to follow, or adopt an alternative to the existing Bradford Interagency Sharing Protocol which was owned by the Health Informatics Service (THIS). The Head of IG was asked to co-chair and contribute to a place based Bradford District and Craven IG work stream (BDC) in 2020. Good relationships have been forged and the BDC IG working group is jointly chaired by DPO/Head of IG and Bradford District Care Trust's informatics lead. However the IG Service has limited capacity to progress shared endeavours and collaborative work has had to take second place to BAU activities and priorities.

DPO opinion: The priority for the DPO is to ensure the Trust meets its obligations in terms of GDPR/Data Protection compliance and other non-legislative but mandated IG standards such as the annual DSPT. In order to progress other work such as this, additional resources are required.

The National Data Opt Out Programme does not affect sharing for direct care. It offers patients the opportunity to make an informed choice about whether they wish their personally identifiable data to be used only for their individual care and treatment or also used for research and planning purposes. Patients and the public who decide they do not want their data used for planning and research purposes will be able to set their opt-out choice online. The Trust lead took actions to ensure the Trust was ready for national live implementation in 2019/20, although the date when opt-outs must be upheld was moved and confirmed as 30 September 2022. There is a Trust process in place to carry out Opt-out requests.

DPO opinion: The Trust has responded to the Opt Out programme appropriately and in readiness for the new deadline. The Head of Information has confirmed this state of readiness.

8 INFORMATION ASSETS

Work took place to update policies and procedures. We have continued to work with business units to help ensure IG requirements are considered at the outset in line with Privacy by Design principles under UK GDPR. The Trust's information assets, what happens to them, and the controls surrounding them, inform a multitude of other areas. Thus the role Information Asset Owners (IAOs) play in ensuring such controls are in place remains key to our information asset management framework and mitigating information risk.

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DPO opinion: Training and engagement helps to provide assurance to the SIRO on the security, reliability, and integrity of assets plus reinforces their responsibilities and accountabilities

An annual refresh of the Information Asset Register has taken place. Further work is needed to engage with IAOs to help them understand their own and the Trust's obligations. Training helps to provide assurance to the SIRO on the security, reliability, and integrity of assets plus reinforces their responsibilities and accountabilities. A joint annual workshop specifically for Trust IAOs with Airedale NHS Foundation Trust IAOs was delayed again in 2021/22.

The IG team began a piece of work in collaboration with the team at Airedale, and IT colleagues which progressed more slowly than desired during 2021 due to competing work pressures, but will continue through 2022. A new information asset register (IAR) has been developed by IT colleagues that will provide improvements to the annual validation exercise and simplify completing the register for IAOs.

DPO opinion: The Trust has striven to improve its intelligence of its information assets and processing activities and had some success. The work should continue in phases to ensure the good work to date is maintained but where possible is improved. This is a key area which also informs the Trust's notification and register of processing activity obligations. The SIRO led Brilliant Basics work stream will help to progress the IAO / information risk management related work during the coming year.

9 RISKS

The SIRO and IG Team monitors and reports incident related and other Information Governance related risks reported on the Trust risk register routinely. The SIRO is responsible for overseeing the development and implementation of information risk strategy. The SIRO is supported in this by the IG team and by Information Asset Owners (IAO) within each business area. The IAO is responsible for managing information risks to the assets within their control. This may involve developing business continuity plans as well as documenting their personal data information flows and conducting regular risk assessments. The IG team support IAOs in achieving these objectives.

DPO opinion: The Trust has a robust system and governance structure for identifying, assessing and monitoring IG associated risks. Whilst some progress has been made again, it has been hampered once more by the pandemic, and demands on the IG Service more generally, and so work continues to embed these processes.

10 NETWORKING AND COLLABORATION

The Information Governance landscape has continued evolving, less due to the changes in data protection legislation and more in relation to the increasing focus on NHS digital aspirations.

Externally, the DPO contributes proactively to the IG sector sharing of advice, guidance and working practices in relation to the application of new legislation and general data protection compliance. The DPO and IG Team regularly contribute to and work alongside peers at Bradford District Care Trust, the regional (North Yorkshire and Humber) and National SIGN (Senior IG Network), other Trusts, and the Yorkshire and Humber Care Record programme.

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The North Yorkshire and Humber Directors of Informatics IG sub-group is a key group and national and regional level. It's well established monthly meetings have continued virtually during the pandemic, and included respected representation by senior professionals from across the North with the emphasis on IG in a health and care setting. The key issues and themes are often repeated as they remain challenging for organisations and as changes in national guidance or requirements are issued, so during the course of the year have again included:

- Information sharing and agreements
- COVID-19 and the many associated IG activities such as need for DPIAs and around COPI for sharing during the pandemic
- EU-Exit data flows and alternative contractual assurance in the absence of the now defunct US privacy shield
- Increased use of and demand for digital technologies in the NHS advanced by the pandemic, and the required IG elements and assurances.

National NHSx webinars have been valuable for during the pandemic as there have been new or changed IG requirements which the team have had to implement or provide assurance against including the recent end of the Covid-9 COPI Notice.

DPO opinion: The previously formed NHS IG did not bring forth the quantity of newly developed guidance that was expected but that is now starting to change. There needs to be consistent health sector guidance and tools to prevent unnecessary duplication but also ensure clarity across the sector. Despite national bodies such as the ICO, NHS Digital, and NHSx developing guidance there are still gaps. The DPO has highlighted such matters through regional and national IG groups.

Internally

The Data Protection Officer and IG Team are represented at various groups and committees such as the newly established digital groups, including Digital and Data Transformation Committee.

DPO opinion: Staff at both Trusts have continued to work closely to align or replicate processes and guidance where possible and as required. Examples include the joint Improvement (Work) Plan, processes for the DSPT assessments and audit, IAO guidance and learning materials and communications and advice to staff particularly in relation to 'exceptional' sharing of data during the pandemic. The pandemic and capacity given the existing IG resources have though affected deliverables. There are considerable challenges working across two teams, and with limited resources affecting capacity which not only inhibit the Service's ability to progress BAU activities but to manage new and increasing demands on their expertise and support.

Shared Service

The Information Governance Service has worked to develop shared or aligned protocols and training in line with the ever involving data security and protection agenda, and the expanding digital agendas of both Trusts. The Head of IG manages the Service.

The team consists of an IG Manager at both locations, supported by 1 x IG Officer (1.0) at BTHFT, and 1 x FOI/IG Assistant (0.8) at ANHST.

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The Airedale team lost 1 x IG Officer (0.5) May 2022. The 0.8 FOI/IG Assistant has subsequently retired and resource establishment requirements are being addressed. Whilst progress has been made and continues to be, it is slower than desirable. The size of the Service and the complexities and disparities of existing processes in some areas between the Trusts means there is more to do. The pandemic put extra pressure on the IG Team and the accumulated effect of stretched resources has also hindered progress. BAU activities have been the focus by necessity and these have been challenging. Required activities are included within a 'joint' IG Work Plan to ensure the programme of work at each Trust is set in the context of the shared IG Service. A risk assessment is in place around the IG Service and its capacity and resource needs and work is underway to consider the Airedale based IG Team BAU establishment needs and then to address the wider IG Service resource requirements.

DPO opinion: Further investment is now required to sustain the IG Service in the short term, then also to develop and grow this Service, and any place based contributions, as the IG agenda and Digital agenda increasingly develop and grow. The loss of support at Airedale has had an impact on both teams, and must be addressed in 2022/23 as a priority.

11 FUTURE PLANS AND KEY ACTIVITIES

The Information Governance landscape continues to evolve. We must continue to respond to the challenges faced by changing working practices in order to ensure that we keep pace with the ever-changing information society we work in. Going forward, this will only become even more demanding. National developments will have a bearing on the direction of the Information Governance programme. IG requirements and advice in relation to digital developments and use of safe digital technologies for example is an area that will only grow and yet there is still some confusion and inconsistent messages on the subject.

The IG Service catalogue will help provide clarity for staff across services, sites and Trusts. It will help inform and clarify reporting requirements both assurance and performance. The Team will continue to develop and deploy a range of communication methods and materials to engage and support staff including use of newsletters and presentations and consider all avenues for staff IG training.

Areas for continued development this year still include:

- Data Protection by Design and Default principles; including
- Transparency and the need to ensure patients are fully informed about what we do with their data as sharing arrangements and relationships grow and mature. Many requirements of IG compliance and assurance stem from or relate to this. For example, national changes such as National Data Opt Out or COVID-19 and requirements to share data mean that this 'message' is continuously changing. Therefore we need to update and maintain clear privacy notices.
- Ensuring we have a strong understanding of our processing activities and work with IAOs to keep our information assets register and data flows up to date and correct and that when needed, DPIAs and other agreements are in place.

DPO opinion: An IG Service catalogue yet to be finalised due to COVID-19 and BAU pressures more generally will need to be completed in 2022 to provide clarity for staff across the Trust.

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The team should continue to work towards an updated suite of 'joint' IG policy, staff guidance and tools to help improve awareness, avoid confusion, and further embed good practice so staff are acting in a consistent and aligned manner.

I expect continued maturity of the IG Work / Improvement Plan bringing extra clarity and additional assurance around some key IG related Trust deliverables, with a particular focus on the Information Asset Owner work. These should take account of recommendations out of this year's internal audit review of the DSPT. This should help us see an improvement in the engagement and timely completion of key actions and delivery of evidence by business leads against some key Data Security and Protection Toolkit standards.

12 SUMMARY

The Trust has a robust process for managing IG and the associated responsibilities that come with our commitment to adopt best practice processes and procedures in order to protect patient and Service users' information.

DPO opinion: The Trust can be assured that the DPO has been afforded free access to senior management as is required of the role and has been able to undertake the role independently without management direction.

The Trust received a favourable Internal Audit opinion of its DSPT assessment review. It has made improvements across the Trust in terms of raising awareness of IG, though training requires fresh impetus, in implementing and updating the required new and existing policy and procedures, and compliance with UK GDPR / Data Protection legislation.

The IG Service has a dynamic plan to refresh and improve compliance with the DSPT standards and other non DSPT related IG improvements. Evidence for many of the assertions is refreshed as part of established daily business or monitoring activities throughout the year though this needs to take place much earlier in some cases. Some objectives are more challenging and for this reason are constantly targeted as being key areas and will receive early oversight.

DPO opinion: In my opinion, the position of the Trust remains good and the level of compliance with the UK GDPR / DPA, DSPT assessment and audit is evidence of this. But there have been significant pressures and challenges to bring us to that position and there remains room for further improvement.

The IG Service will continue to work with other NHS organisations in our Region sharing good practice, and to aim for an integrated approach.

DPO opinion: The Service and teams have had another challenging year, more so this year, with periods where there have been gaps in resources and increasing demands on the Service for assistance and guidance. This has meant some work is yet to be completed.

The IG Service and Caldicott Guardian regularly receive requests for advice and direction on a variety of work streams; most notably with regard to partners and data sharing. It is evident that this emerging challenge from the past two years is still very much at the forefront of requests for advice and guidance.

Meeting Title	Board of Directors		
Date	22 nd September 2022	Agenda item	Bo.9.22.26

As previously reported the IG resources available to the Trust are limited and more needs to be done to align policy, procedures and guidance between the Trust and ANHSFT. This has been challenging due to the availability and capacity of existing IG resources and high demand for advice and assistance. In addition, because the wider IG landscape is ever changing and evolving, to aid the path towards a truly digital NHS, the Trust will need to keep pace.

The Service is already attempting to do this in its efforts to align policy, procedures and guidance between the Trust and Airedale NHS Foundation Trust and to equip the IAOs with the appropriate knowledge, skills and tools in order that they can promote and encourage IG good practice themselves within their own service areas to help cascade this throughout the Trust. This will ease some of the burden on a small IG Service and allow it to enhance existing quality guidance, support and advice it provides. It will also importantly enable all staff to help themselves by having the right tools, advice and support. However the time is now to recognise the further investment needed and which previous reports have drawn attention to. Our increasing Digital agenda also makes this essential in order for the IG Service to be able to deliver the required advice, support, guidance and assurance regarding compliance that digital developments and more stringent data protection / information governance legislation and standards are bringing.

I believe that the Board of Directors can take assurance that the controls upon which the Trust relies to manage Information Governance are suitably designed, applied and effective. However, there is room for further continual improvement across different areas and I am sure that this will remain the case. Information Governance is a changing and developing area regionally and nationally and it is important we are conscious of this to avoid complacency and a potential lull in progress or backward steps. The Service has been affected by staffing and capacity issues which impact on this Trust as well as the Airedale based team.

13 RECOMMENDATIONS

The Board of Directors is asked to receive and note this report and satisfy itself that the Data Protection Officer role is being effectively planned and discharged to provide the Board of Directors and Trust with the appropriate information and assurances regarding compliance with the UK GDPR and Data Protection Act 2018.

It is asked to support plans to ensure that the Trust achieves an overall satisfactory DSPT 'Standards Met' position for 2022/23, and that it continues to improve and embed IG best practice into routine working practice across the Trust.