

NHS Ayrshire & Arran



Meeting:	Ayrshire and Arran NHS Board
Meeting date:	Monday 23 May 2022
Title:	Information Governance Committee Annual Report 2021-22
Responsible Director:	Dr Crawford McGuffie, Medical Director & Caldicott Guardian
Report Author:	Mrs Jean Ford, Non-Executive Director

1. Purpose

This is presented to the Board for: Awareness

This paper relates to:

- Government policy/directive
- Local policy

This aligns to the following NHSScotland quality ambition(s): Safe, Effective and Person Centred

2. Report summary

2.1 Situation

The Information Governance Committee provides an assurance report annually which sets out key achievements through the year in discharging its remit. The approved Information Governance Committee self-assessment checklist and annual report for 2021-22 is presented to Board Members to report on progress and provide assurance that the Committee has delivered its remit.

2.2 Background

Each NHS Board Governance Committee is required to provide an annual report to Committee and the Board to provide assurance that the Committee has discharged its role as set out in the agreed Terms of Reference. The Committees' approved Terms of Reference and information on the composition and frequency of the Committee is considered as an integral part of the Board Standing Orders.

The Governance Committee annual reports are part of the overall assurance mechanism for the NHS Board and are considered by the Audit Committee in order to provide assurance in support of the Board's annual governance statement that the committees have fulfilled their remit.

Further to recommendation by internal audit, committees are now required to complete a yearly self-assessment checklist in addition to the annual report, to further support the review of committee effectiveness.

2.3 Assessment

The Information Governance Committee annual report details the membership of the Information Governance Committee and provides information on the activities of the Committee in the past year.

Key Messages

- Overall and despite the impact of the COVID pandemic NHS Ayrshire & Arran (NHS A&A) has a good level of compliance with information governance requirements with no known material gaps
- In the year 2021-22, three personal data related incidents were considered to meet the criteria for notification to the Information Commissioner's Office (ICO). (one closed without any regulatory action and two still in progress)
- Two complaints were raised directly to ICO by patients of NHS A&A concerning the processing of personal data, neither required further action following investigation
- 93.6% of Freedom of Information requests received a response within the 20 working day deadline.
- As we move into 2022-23 we will refocus on activities which have slowed as a result of the pandemic.

2.3.1 Quality/patient care

Ensuring good information governance in monitoring delivery of programmes across Ayrshire and Arran supports the effective delivery of quality, patient-centred services.

2.3.2 Workforce

This assurance report has no workforce implications for the organisation.

2.3.3 Financial

There are no financial implications

2.3.4 Risk assessment/management

The annual report process ensures an assessment of committee business against the agreed Terms of Reference. This mitigates against the risk of any gaps in assurance and supports the NHS Board's annual assurance statement.

2.3.5 Equality and diversity, including health inequalities

An impact assessment has not been completed because this is an assurance reporting paper.

2.3.6 Other impacts

- Best value - Reporting ensures sound governance and accountability.
- Compliance with Corporate Objectives - Providing this assurance report supports compliance with objectives on quality, safety, improved patient experience and a learning organisation

2.3.7 Communication, involvement, engagement and consultation

This paper requires no engagement with external stakeholders.

2.3.8 Route to the meeting

The report was presented to the Information Governance Committee on 9 May 2022 and approved by members.

2.4 Recommendation

For awareness. Board members are asked to receive the report and note the progress of the Information Governance Committee in 2021-22.

3. List of appendices

- Appendix 1 – Information Governance Committee self-assessment checklist and Annual Report 2021-2022
- Appendix 2 – Information Governance Committee Terms of Reference

Appendix 1

Information Governance Committee Annual report for 2021-2022

Committee self-assessment effectiveness checklist for 2021-2022

The Role and Work of the Committee	Yes / No / NA	Comments
The Committee has a clear understanding of its role and authority as set out in its terms of reference.	Yes	ToR are reviewed annually.
The Committee undertakes an annual review of its remit and terms of reference and submits to the NHS Board for approval.	Yes	ToR were reviewed by Committee on 7 February 2022 with no changes made. The ToRs were approved by the NHS Board on 28 March 2022.
The Committee has been provided with sufficient membership, authority and resources to perform its role effectively and independently.	Yes	The Board Chair and Head of Corporate Governance review membership annually and provide appropriate membership. There is always the option to co-opt additional expertise.
In discharging its role, the focus of the governance Committee is on seeking and reviewing assurances rather than operational issues.	Yes	The agenda is focused on assurance. The Information Governance Operational Delivery Group was re-established and met for the first time on 16 June 2021. This group is responsible for progressing operational issues and minutes of meetings are reported regularly to IGC.
Remit - the Committee discharges its role to provide assurance that information governance is being discharged in relation to the Boards statutory duty for quality of care.	Yes	There are regular reports on the key areas of information governance compliance with follow up action taken when necessary.
The Committee regularly reviews the strategic risks relevant to its remit and seeks assurance on mitigating controls and actions	Yes	Risk reports are submitted to every IGC meeting, further work will be done to place more emphasis on the control environment.
The Committee identifies further risk for consideration and escalation from the papers presented and discussion.	Yes	A process is in place to escalate any appropriate risks.

The committee receives internal audit reports relevant to its remit and monitors progress against recommendations.	Yes	An update report was provided on local audit activity and NHSAA's interim Network and Information Systems Regulations audit report activity on 9 June 2021.
The Committee has visibility of the mechanisms that are in place to monitor all aspects of its remit.	Yes	This is revisited annually to ensure that the content remains relevant.
The work of the Committee enables it to assure the Board that policies and procedures which are monitored, as relevant to the Committee's remit, are robust.	Yes	Agenda content ensures regular reporting to provide assurance on effectiveness.
The Committee links well with other Board committees and the Board itself, and opportunities are taken to share information, learning and good practice.	Yes	Relevant information is presented to the Board for visibility. The Chair sits on the Integrated Governance Committee.
The Committee produces an annual work plan.	Yes	Produced annually at the start of the financial year.
The Committee periodically assesses its own effectiveness.	Yes	Annual governance return and this self-assessment.
Committee Meetings, Support and Information	Yes / No / NA	Comments
The Committee has a designated secretariat	Yes	Angela O'Mahony
The committee meets regularly, at least four times a year, and this is set out in the Terms of Reference.	Yes	IGC met on the following occasions: 9 June 2021, 30 August 2021, 8 November 2021 and 7 February 2022. The meeting scheduled to take place on 10 May 2021 was cancelled as iniquorate.
The scheduling of those meetings is appropriate to meet the body's business and governance needs	Yes	Dates are established as part of the overall plan by the Head of Corporate Governance.
The length of Committee meetings is appropriate to allow the Committee to discharge its role.	Yes	Standard time is 1 ½ hours but there is flexibility.
Papers presented to the Committee are of a high standard and an effective format and ensure that members have access to appropriate information	Yes	Standard template is in place but there is programme of continuous improvement.
The Committee receives adequate information in relation to national policy and direction to enable it to fulfil its role and responsibilities.	Yes	There are regular information flows to enable this to be fulfilled e.g. national Information Governance Forum

The Committee agenda is well managed and ensures that all topics within the remit are considered.	Yes	Annual work plan provides the main structure, pre-meetings with Chair and Head of IG & DPO take place.
The agenda and papers are circulated in advance of meetings to allow adequate preparation by committee members and attendees.	Yes	Papers are routinely circulated at least 3 working days in advance of the meeting. This is in line with the ToR.
Minutes are prepared and circulated as set out in the Terms of Reference.	Yes	
The Committee provides an effective annual report on its own activities.	Yes	An Annual Report is produced which is vetted and approved by Committee members and the Chair.
An action log/matters arising are well managed and indicate who is to perform what and by when.	Yes	An IGC action log is maintained and actively managed.
Committee Membership and Dynamics	Yes / No / NA	Comments
Chair and Membership of the committee has been agreed by the NHS Board and a quorum set	Yes	Chair and membership has been agreed by the NHS Board and quorum of three set.
A Vice Chair of the Committee has been proposed by the Chair and agreed by Committee.	Yes	Joe Cullinane
Membership of the Committee is appropriate with the correct blend of skills, knowledge and experience.	Yes	The Board Chair and Head of Governance review membership annually and provide appropriate membership. There is always the option to co-opt additional expertise.
All members of the Committee contribute to its deliberations on an informed basis.	Yes	Position is monitored by the Chair.
Committee members are offered an appropriate induction on joining and development opportunities to support them in undertaking their role.	Yes	Information Governance induction provided to all NHS Board Members. Workshops and events are organised where appropriate.
The leadership of the Committee by the Committee Chair is effective and supports input from all members.	Yes	
Committee members attend meetings on a regular basis and if not this is reported to the Board Chair for action.	Yes	Three members attended all meetings. One member was unable to attend due to the meeting schedule. There was a change of membership in November 2021.
The Accountable Officer and other senior officers normally attend the committee as considered appropriate, as noted in the terms of reference.	Yes	There was good attendance from ex officio members.

Support provided to the Committee by executives and senior management is appropriate.	Yes	Good support to the Committee is in place from all relevant areas.
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Annual Report for Information Governance Committee 2021-2022

1. Summary

1.1 This Annual Report together with the Committee Effectiveness Checklist provides detail on the activities of the Information Governance Committee, the membership and attendance and gives assurance that the Committee has discharged its remit and duties as defined in the Terms of Reference (TOR) contained in Appendix 1.

1.2 Key Messages

- Overall and despite the impact of the COVID pandemic NHS Ayrshire & Arran (NHS A&A) has a good level of compliance with information governance requirements with no known material gaps
- In the year 2021-22, three personal data related incidents were considered to meet the criteria for notification to the Information Commissioner's Office (ICO). (one closed without any regulatory action and two still in progress)
- Two complaints were raised directly to ICO by patients of NHS A&A concerning the processing of personal data, neither required further action following investigation
- 93.6% of Freedom of Information requests received a response within the 20 working day deadline.
- As we move into 2022-23 we will refocus on activities which have slowed as a result of the pandemic.

2. Remit

2.1 The Committee remit and duties are defined in sections 2 and 3 of Terms of Reference which are attached as Appendix 1.

Some specific areas of the remit cover ensuring compliance with Freedom of Information (FOI), Data Protection, IT Security and Data Sharing and Caldicott Principles.

In addition, the Committee oversees the development and implementation of a Records Management Plan (RMP) for NHS Ayrshire & Arran (NHS A&A) to ensure records, both clinical and corporate, are being managed throughout their lifecycle in compliance with the Public Records (Scotland) Act 2011 (PRSA).

3. Membership

3.1 The Committee's membership during the reporting period was as follows:

Mrs Jean Ford, Non-Executive Board Member (Chair)
Cllr Joe Cullinane, Non-Executive Board Member (Vice Chair)
Mr Michael Breen, Non-Executive Board Member

Mr Marc Mazzucco, Non-Executive Board Member (joined 01/11/2021)
 Ms Sheila Cowan, Non-Executive Board Member
 Ms Laura Brennan-Whitefield, Non-Executive Board Member (left 01/11/2021)

Ex-officio Members:

Mrs Lesley Bowie, Board Chair
 Mr John Burns, Chief Executive (left 30/06/2021)
 Prof Hazel Borland, interim Chief Executive (from 01/07/2021 to 12/01/2022)
 Ms Claire Burden, Chief Executive (from 13/01/22)
 Dr Crawford McGuffie, Medical Director & Caldicott Guardian
 Mr Derek Lindsay, Director of Finance (Senior Information Risk Owner)
 Mrs Jillian Neilson, Head of Information Governance & Data Protection Officer (left 04/03/2022)
 Ms Nicola Graham, Director Infrastructure & Support Services

4. Meeting

4.1 The Committee met on 4 occasions between 1 April 2021 and 31 March 2022. The meeting scheduled for 10 May 2021 was inquorate and therefore rescheduled to 9 June 2021.

4.2 Meeting Attendance for each member is recorded in the Annual Report in line with NHS Board requirements and is shown in the table below.

Member	Dates (Y denotes attended, N non-attendance)				
	10/05/2021	09/06/2021	30/08/2021	08/11/2021	07/02/2022
Jean Ford (Chair)	Rescheduled as inquorate	Y	Y	Y	Y
Joe Cullinane (Vice Chair)		Y	Y	Y	Y
Michael Breen		Y	N	Y	Y
Sheila Cowan		Y	Y	Y	Y
Marc Mazzucco (joined 01/11/2021)				N	Y
Laura Brennan-Whitefield (left 01/11/2021)		N	N		

5. Committee Activities

5.1 Committee activity and assurance is delivered through a suite of regular update reports which are submitted throughout the year. Some brief detail on each follows.

5.2 Breaches

An Information Security Breaches report is submitted to each Committee highlighting volume of breaches and actions being taken together with detail of any notifiable incidents.

Throughout the year 2021-22, three personal data related incidents were considered to meet the criteria for notification to the ICO and were duly reported.

One incident was closed by the ICO with no regulatory action taken and the remaining two are still in progress.

Two complaints were raised by patients of NHS A&A directly to the ICO with regards to the processing of personal data with both duly investigated and no regulatory action taken.

A total of 131 breaches were recorded in 2021/22, an increase of 26 on previous year. There is evidence that robust processes are in place to ensure that information security breaches are appropriately recorded and effectively managed in line with Data Protection Legislation and organisational procedures. The Information Governance Operational Delivery Group (IGODG) reviews all breaches in detail at each meeting, taking ongoing action to make improvements.

5.3 PRSA - Records Management Plan (RMP)

Reporting on the progress of implementing corporate records management improvements continues to be submitted to the Information Governance Committee to provide assurance of compliance with the Public Records (Scotland) Act 2011. NHS A&A has a high level of compliance with requirements with a robust improvement plan in place.

Although the COVID pandemic has resulted in limited progress being made this year there are no material concerns. The annual (voluntary) progress update report to National Records of Scotland is in the process of being compiled by the organisation.

Planning for the implementation of Microsoft 365 within the organisation continues to be a key priority of the RMP, and work is being done in an attempt to ensure that corporate records management requirements are captured and considered.

5.4 Information Asset Register (IAR)

In order to comply with Data Protection Legislation a robust Information Asset Register should be in place. Whilst a register has been created in NHS A&A with at present 1,061 assets registered, in 2021 it was agreed that a number of actions required to be undertaken to improve this. These included the development and migration to a new electronic platform to host the register, re-engagement and training of information asset owners, implementation of a new IAR form and associated guidance. Progress here has been hampered by both COVID and national programmes and we are currently looking into utilising the applications on Microsoft 365, and the team is awaiting the implementation of SharePoint to progress with this.

5.5 Freedom of Information (FOI)

Despite the continuing circumstances faced by the Board due to the COVID pandemic it is very pleasing to note that the Board has received a 'good' rating from the Office of the Scottish Information Commissioner's - Effective performance matrix.

The Committee oversees the volume and frequency of FOI requests, compliance levels and monitors the FOI improvement plan. In 2021, NHS A&A received 629 requests, eight of which were withdrawn or no clarification provided. 581 of the remaining 621 requests (93.6%) received a response within the statutory 20 working days, up from 92% in previous year. The volume of requests received have returned to pre-pandemic levels.

Some other points of note:-

- 29% of requests are complex and require response and co-ordination between and from more than one directorate.
- 32.9% of all requests received were processed by the Acute Directorate and over 10% by each of Organisational & Human Resources Development and Pharmacy.
- 20% of all requests (mostly Acute related) were fully or partially answered by the Information Team (Business Intelligence)
- 18% of total requests received related to COVID specifically, however unlike 2020 these requests were not part of a concerted campaign.
- There were three requests for internal review in 2021 following provision of FOI responses. Two cases were upheld indicating that processes are sound. The third case was overturned and all the information requested provided, the main reason for the change being due to an initial overestimation of the costs involved.
- Work has continued to streamline FOI processes and the FOI Officer has been providing ad hoc training, to promote FOI awareness.
- A new LearnPro FOI Foundation Module has been launched in NHS A&A and the FOI Officer is chairing a national Short Life Working Group to create a Once for Scotland FOI Advanced Module.

5.6 Health Records

Regular updates are received covering the management, retention and destruction of all Health Records including progress with automation of these. There are no current issues in this arena.

5.7 Audit Reports and Actions

Due to the overlap with security of information held, updates on local audit activity and NHSA&A's interim Network and Information Systems (NIS) Regulations audit report have been provided to the Information Governance Committee to ensure appropriate awareness and consideration of any action required. These audits have a particular focus on Cyber Security and IT Resilience which is within the overall remit of the Integrated Governance Committee.

5.8 Risk Management

The Information Governance Committee maintains regular scrutiny of the risks associated with Information Governance. A Strategic Risk Register report is routinely discussed at each Information Governance Committee meeting and processes are in place for escalation of events and risks.

6. Information Governance Operational Delivery Group (IGODG)

- 6.1 The IGODG was re-established during the year to support the work plan of the Information Governance Committee.

In particular this Committee will bring increased focus to the delivery of NHS A&A Information Governance Improvement Plan which has been heavily impacted by the COVID pandemic

7. Some Additional Pertinent Information

The Information Governance team continue to regularly deliver Data Protection training sessions to staff and students across NHS A&A. Training on the Caldicott Principles is also provided to Health and Social Care Partnership staff that require access to NHS A&A electronic systems.

The Information Governance team in conjunction with the IT Security team continue to review and appraise any changes or developments to the way personal information is processed. There is a structured process of conducting data protection impact assessments and IT security assessments to ensure that proposed methods of processing information are secure, meet regulatory requirements and have the necessary documentation in place.

Since 2020 the Deputy Data Protection Officer (DDPO) has had responsibility (delegated from DPO) for providing Data Protection Officer services to all GP Practices in Ayrshire and Arran and continues to inform and advise GP Contractors and employees about their obligations under the UK General Data Protection Regulation, Data Protection Act 2018 and other associated data protection legislation. Data protection training and awareness sessions are provided on demand or where a need is identified. The DDPO assists GP Contractors in identifying information security breaches and advises on remedial actions to be taken. The DPO is responsible for reporting any GP Practice information security breaches to the ICO and is the escalation point for patient data protection related complaints. In the year 2021-22, no GP Practice personal data related incidents were considered to meet the criteria for notification to the ICO and there were no GP Practice patient complaints raised with the ICO.

8. Priorities for 2022/23

- 8.1 The Committee will seek to maintain the current level of compliance and make progress with improvements which have been hampered by the COVID pandemic. Particular emphasis will be on the Information Asset Register, Office 365 implementation and outstanding PRSA matters

The IGODG will be utilised more to progress plans and a more structured assurance framework will be put in place using matrices which were considered by the Committee during 2021.

9. Chair's Comments

- 9.1 The last year has remained very challenging both for communities and for health and care services. We remain under emergency planning conditions but retain our

ambition to ensure that we are as careful and considerate of the confidential patient information as we are with the care we provide to our citizens.

As Chair of the Information Governance Committee, I am pleased to report that NHS A&A has a good level of compliance with Information Security requirements as the evidence presented suggests and that we continue to make progress as a Board.

I thank all members and contributors to the Committee over the year for their support and in particular extend my thanks to Jillian Neilson, former Head of Information Governance and Data Protection Officer for her dedication and leadership over her 17 years in NHS A&A and to Angela O'Mahony our Committee Secretary.

Jean Ford
Chair – Information Governance Committee
09/05/2022

Information Governance Committee Terms of Reference

1. Introduction

- 1.1 The Information Governance Committee is established as a Committee of the NHS Board as described in the Board's Standing Orders. The approved Terms of Reference and information on the composition and frequency of the Committee have been informed by the Board's Standing Orders with specific reference to Section 9 Committees.
- 1.2 The Terms of Reference will be reviewed annually and submitted to the NHS Board for approval.

2. Remit

- 2.1 To provide assurance to the NHS Board that information governance is being discharged in relation to the Boards statutory duty for quality of care.

3. Duties

The Committee shall be responsible for the oversight of information governance arrangements within NHS Ayrshire and Arran. Specifically it will:

- 3.1 Consider and scrutinise the health system's compliance with relevant legislation and performance against national standards with regards to information governance and health and corporate records management.
- 3.2 Hold the relevant officers of NHS Ayrshire & Arran to account in respect of their compliance with relevant information governance legislation, organisational and national standards.
- 3.3 Review action taken by the organisation on recommendations made by the Committee or the NHS Ayrshire & Arran Board on information governance matters.
- 3.4 Monitor and review risks falling within its remit.
- 3.5 Receive annual reports and quarterly updates on Information Governance performance in order to provide assurance and accountability.
- 3.6 Provide assurance to the NHS Board on compliance with information governance legislation, organisational and national standards, highlighting issues, breaches and action being taken where appropriate.
- 3.7 Consider and scrutinise the health system's compliance with relevant legislation and performance against national standards with regards to IT Security. Monitor and review audit reports and IT Security risks with particular emphasis on Cyber Security and IT Resilience.

4. Authority

4.1 The Committee is authorised to investigate any matters which fall within its Terms of Reference, and obtain external professional advice.

4.2 The Committee may establish sub-committees to support its functions.

4.3 The Committee is authorised to seek and obtain any information it requires from any employee whilst taking account of policy and legal rights and responsibilities.

4.4 The Committee will have the authority to require the attendance of any employee of NHS Ayrshire and Arran, as may be required.

5. Committee Membership

5.1 The Committee shall be established by the NHS Board and be composed of five Non-Executive members.

5.2 The NHS Board shall appoint the Chair and approve membership of the Committee.

5.3 A Vice Chair will be proposed by the Information Governance Committee Chair and agreed by the Committee.

5.4 Committee membership will be reviewed annually or as required, by the Board Chair.

6. Quorum

6.1 Three Non-Executive members will constitute a quorum.

7. Attendance

7.1 The Medical Director (Caldicott Guardian), the Director of Finance (as Senior Information Risk Owner), the Director of Infrastructure and Support Services and the Head of Information Governance and Data Protection Officer will attend in an *ex-officio* capacity to provide the Committee with advice and guidance. The Chief Executive may also be in attendance.

7.2 The Committee may co-opt additional advisors as required.

7.3 With the prior approval of the Chair, the Medical Director and the Director of Infrastructure and Support Services will be able to provide deputies on an exceptional basis.

8. Frequency of Meetings

8.1 The Committee will meet at least four times per annum.

8.2 The Chair may at any time convene additional meetings of the Committee.

9. Conduct of business

- 9.1 Meetings of Committee will be called by the Committee Chair.
- 9.2 The agenda and supporting papers will normally be available to members at least five working days before the date of the meeting.

10. Reporting Arrangements

- 10.1 A minute will be kept of the proceedings of the Committee. A draft minute of the meeting will be circulated, normally within ten working days, to the Chair of the Committee. Once the Chair has approved, the draft minute will be shared with committee members for information, not for comment, prior to consideration at a subsequent meeting of the Committee.
- 10.2 The Chair of Committee shall provide assurance on the work of the Committee. A summary of key points from each meeting and the approved minute will be submitted to the NHS Board meeting for information.
- 10.3 Committee will conduct an annual review of its role and function by completing a self-assessment checklist and providing this and an annual assurance report to the NHS Board each year.
- 10.4 Items requiring urgent attention by the NHS Board can be raised at any time at NHS Board Meetings, subject to the approval of the Chair.

Version:	Date:	Summary of Changes:	Approved by
01.1	04/06/18	Addition of Vice chair arrangements	IGC 04/06/18
02.0	19/06/18	Attendance – addition of Senior Information Risk Owner and Data Protection Officer. Duties – addition of scrutiny and monitoring in regard to IT security and cyber security risk	IGC 03/09/18 NHS Board 27/05/19
03.0	16/07/20	Review of Terms of Reference against new Board Model Standing Orders	IGC 21/07/20 NHS Board 17/08/2020
03.1	08/02/21	Annual review – addition under item 8.1, Duties, to include scrutiny and oversight of health and corporate records management.	IGC 08/02/21
04.0	10/03/21	Amendments to deliver a standard approach to Governance Committee ToR. <ul style="list-style-type: none">Sections reordered to bring committee business together, ie. Remit/Duties/AuthorityDuplication removed if referred to in Board Standing OrdersIntroduction amended to note that ToR are informed by the Board standing orders and the requirement for an annual review.Reporting arrangements amended to 10 days for draft minute to be available and ensuring approved draft shared with members. Inclusion of requirement for	NHS Board 29/03/2021

		<p>annual self-assessment checklist in addition to the Annual Report.</p> <ul style="list-style-type: none"> • No change to Remit or Duties 	
05.0	07/02/22	Annual review of Terms of Reference – no changes made	NHS Board 28/03/2022