THE STATE HOSPITALS BOARD FOR SCOTLAND

INFORMATION GOVERNANCE ANNUAL REPORT

APRIL 2022 – MARCH 2023

(Including Health Records)

Lead Author	Director of Finance and eHealth / Senior Information Risk Owner
Contributing Authors	Records Services Manager
	Information Governance and Data Security Officer
Approval Group	The State Hospitals Board for Scotland
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Responsible Officer	Director of Finance and eHealth / Senior Information Risk Owner

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1 INTRODUCTION AND HIGHLIGHTS OF THE YEAR

The Information Governance Group, chaired by the Senior Risk Information Owner (SIRO) is responsible for progression of attainment levels in relation to Information Governance Standards.

These are recorded and monitored through the Information Governance Toolkit and Data Protection Compliance Toolkit (DPCT), and the Caldicott Guardian principles are fully integrated within the initiatives and standards required by NHS QIS for Information Governance. Although there is no longer a requirement to send the attainment levels to QIS or ISD, we continue to internally monitor our attainment levels biannually on this basis to ensure maintenance of the required standards.

This report is submitted on an annual basis to the Board, through the State Hospital's internal governance and approval structure.

The Committee has, over the course of the year continued to work to improve Information Governance standards and practices across the Hospital. We encourage staff to adopt good Information Governance standards through a number of measures undertaken by the group, and to complete mandatory online Information Governance learning modules.

In November 2022, the State Hospital (TSH) agreed to a consensual audit by The Information Commissioner's Office (ICO), who is responsible for enforcing and promoting compliance with data protection legislation and undertakes such reviews through article 58(1) of the UK General Data Protection Regulation (UK GDPR). ICO used their Accountability Framework as the basis for the audit, and its themes were organisational structure; policies and procedures; training for specialist IG roles; transparency; contracts with contractors; and data breaches.

The outcome of the review was an overall rating for The State Hospital of "High" ("a high level of assurance that processes and procedures are in place and are delivering data protection compliance"), and there were 12 recommended actions to be taken forward – all of which have been accepted. These are all now underway with specific agreed timeframes, to be monitored through regular quarterly reporting to the Information Governance Group.

This review was a major piece of work for the Hospital during 2022/23, and should be seen as a positive reinforcement of our IG Strategy.

We have also continued to adhere to recommendations included in the Scottish Government's "NHSScotland Information Assurance Strategy CEL 26 (2011)" document and as a result a regular schedule of Information Governance walkrounds within the Hospital – while interrupted by the restrictions required as a result of the Covid crisis – have now resumed in the last year, including non-patient areas. In addition, the group has continued to focus on other key areas of priority such as the electronic patient record (EPR) system and the outcomes of the FairWarning system – together with ad hoc issues such as record retention and email scams.

2   INFORMATION GOVERNANCE GROUP

2.1   Information Governance Group membership

Director of Finance and eHealth (Chair)
Associate Medical Director/Caldicott Guardian
Head of e-Health
Clinical Secretary Co-ordinator
Information Governance and Data Security Officer & Data Protection Officer
Senior Infrastructure Analyst & Information Technology Security Officer
Lead Nurse
Health Records Manager
Psychology Representative
Security Information Analyst
Finance Representative
Social Work Representative
Human Resources Representative
Health Centre Representative
Lead Pharmacist
AHP Representative
Risk Management Representative
Dietetics Representative
Procurement Representative
Board Secretary
Skye Centre Representative

2.2 Role of the group

The group has a wide reaching remit, being responsible for all matters in respect of Information Governance within the Hospital as the title suggests. The membership of the group is purposely broad. This allows the group to be representative of staff groups and departments from across the hospital.

2.3 Aims and objectives

- Ensure compliance and development of Information Governance overall as monitored by the DPCT.
- Address issues arising in the hospital in relation to Data Protection.
- Address issues arising in the hospital in relation to Records Management including structure, filing, storage, and archiving.
- Address Caldicott issues including monitoring DATIX reports and ensuring relevant training for staff.
- Provide a forum for the various staff groups within the hospital to raise any Information Governance issues and to receive feedback from Information Governance on such matters.
- To monitor requests made in relation to Freedom of Information and Data Subject Rights Requests.

2.4 Meeting frequency

The group meets on a quarterly basis to discuss any issues as outlined above, however the terms of reference have been updated to add the option to hold ad-hoc meetings following a recommendation from the ICO audit. Following agreement from the wider group, a small subgroup – the Information Governance DPCT Group – meets 6 monthly in order to concentrate on the assessment of the current attainment levels and supporting evidence required for the DPCT. In addition, another small subgroup also meets 6 monthly to review the Information Governance risk register (see para. 3.2).

2.5 Strategy and work plan

As noted in previous reports, the Caldicott principles have now been integrated within the initiatives and standards developed by NHS QIS for Information Governance. The Information Governance Toolkit and Data Protection Compliance Toolkit (DPCT) are completed twice yearly in order to monitor the performance of the hospital in relation to Information Governance.

The schedule of work for the subgroup is compiled in such a way as to allow the group to review progress with DPCT. This monitoring allows the group to develop an action plan of work to be undertaken by the group members. In addition, meetings are used to address the issues that may arise such as filing, relevant training, confidentiality issues etc..

2.6 Management arrangements

The Information Governance Group reports annually to the State Hospitals Board for Scotland through the Information Governance Group Report. The Information Governance Group also reports to the Corporate Management Team as relevant.

3 KEY PIECES OF WORK UNDERTAKEN BY THE GROUP DURING THE YEAR

3.1 Information Governance Standards

The Information Governance standards was retired at the end of 2021 and was replaced with the Data Protection Compliance Toolkit (DPCT). It has been developed from ICO's accountability framework, which supports the foundations of an effective privacy management programme.

The toolkit is divided into 10 categories, within each category there are a set of statement and questions that are rated on a 1 – 4 scale

Level	DPCT Status
1	Expectations not met
2	Expectations partially met
3	Expectations met without review cycle
4	Expectations fully with review cycle

Category	Level 1	Level 2	Level 3	Level 4	Status
1. Leadership and Oversight	0%	52%	48%	0%	**Level 2**
2. Policies and Procedures	6%	47%	47%	0%	**Level 2**
3. Training and Awareness	19%	52%	29%	0%	**Level 2**
4. Individuals' Rights	20%	34%	46%	0%	**Level 2**
5. Transparency	31%	50%	19%	0%	**Level 2**
6. Records of Processing and Lawful Basis	25%	50%	39%	0%	**Level 2**
7. Contracts and Data Sharing	11%	39%	50%	0%	**Level 2**
8. Risks and DPIAs	10%	38%	52%	0%	**Level 3**
9. Records Management and Security	16%	51%	33%	0%	**Level 2**
10. Breach Response and Reporting	16%	76%	8%	0%	**Level 2**
Overall	**15%**	**49%**	**36%**	**0%**	**Level 2**

Whilst the DPCT shows a range of attainment, this year's position was expected due to the implementation of a new method of monitoring compliance.

It has not possible to reach any level 4 status this year, this is because to achieve a level 4 status the control point needs to have been recorded in the DPCT as "fully met" for over a year and as the DPCT has not been operating for a full year yet.

It is anticipated that the majority of the current level 3 attainments will become level 4 next year.

Work continues in conjunction with the recommendations from ICO's audit to improve the organisations compliance status.

3.2 Information Governance Risk Assessments

Information Governance risks assessments are undertaken by a subgroup of the IGG – the IG Risk Assessment Group – comprising the Caldicott Guardian, Record Services Manager and Information Governance and Data Security Officer. The group first met in November 2011 to update risk assessments following the move to the current hospital site. Following on from this the subgroup try to meet on a 6 monthly basis to review current Information Governance risk assessments and update accordingly. The Group last met in October 2022 and the next meeting is planned for 4 August 2023.

There are currently four open Information Governance risk assessments on the risk register covering a variety of risks (e.g. failure to communicate a change in access requests to eHealth in a timely manner). All four risks are currently at or below their target risk rating of medium.

On each occasion that the Information Governance risk assessment has been updated steps have been taken to minimise the risks highlighted (e.g. procedures to ensure identifiable information is sent recorded delivery; procedures re mobile devices; risks associated with staff leaving the organisation).

The Risk Assessment Group is currently working through registered risks to update them to reflect new technologies and working practices such as Teams and remote working. Reports are now provided to the group on all relevant incidents recorded through Datix and the DPO register of personal data breaches. The Group is changing its working methodology to be more proactive rather than reassessing out of date risks – this has had an impact on the efficiency of the Group however this is now being rectified and the upcoming meeting will ensure the Group is back on track.

3.3 Information Governance Training

The majority of Information Governance training for staff is delivered online via LearnPro. All modules remain mandatory for all staff. Monitoring of completion rates by staff is undertaken by the Training & Professional Development Manager, with oversight by the IGG. The completion of the modules can be seen in the table below.

Information Governance module completion					
Module	Mar 2019	Mar 2020	Mar 2021	Mar 2022	Mar 2023
IG: Essentials	81%	70%	78%	76%	95%
Confidentiality	96%	98%	98%	98%	98%
Data Protection	96%	98%	98%	97%	98%
Records Management	95%	98%	98%	98%	98%

Following a few years where attainment dipped below 80%, 2022/23 saw a training return to expected levels.

The Confidentiality, Data Protection and Records Management modules were reviewed and updated in line with current legislation and were issued at the start of the financial year.

In addition to the online modules Information Governance offer on demand training that has delivered 19 Data Protection Impact Assessments training sessions and 5 Freedom of Information sessions.

3.3.1 National Training Events

In November 2022 The State Hospital hosted the second Data Protection Officers training day on behalf of NHS Scotland. The event was attended by almost all Scottish health boards and was well received by all the delegates.

Courses that cover the specific tasks and skills for DPOs are not common and as most organisations only have 2 to 3 individuals needing trained the costs of using publically available courses starts around £150 per person.

By partnering with other boards not only were we were able to reduce the cost of training DPOs across NHS Scotland substantially, but we were able to have the course tailored to NHS Scotland's specific needs.

No further national events are planned for next year, however discussions have taken place at a national level to see if an ongoing national training plan can be put in place.

3.4 Category 1 & 2 Investigations

There were no Category 1 or Category 2 investigations related to Information Governance during the year.

3.5 Personal Data Breaches

Under the UK GDPR there is a requirement to record personal data breaches. In cases where there is a high risk to the individuals involved, these breaches must be reported to the Information Commissioner's Office no later than 72 hours from discovery. The State Hospital uses Datix to record potential breaches of personal data.

Reported Personal Data Breaches				
	2019/20	2020/21	2021/22	2022/23
Reported Breaches	16	19	56	35
Required ICO Notification	0	0	0	0

There were 35 recorded personal data breaches in 2022/23 that were attributable to The State Hospital, which is a reduction over last year.

Area	Percentage
Leak to the Media	24%
Internal Email Disclosures	15%
Information Disclosed Externally	15%
Internal Mail System	15%
Others	10%
Information Unavailable When Needed	5%
Information Disclosed Internally (non-email)	5%
IT Account Settings	5%
Incorrect Information	5%

The majority of recorded breaches related to our communication platforms (email and physical post), however information passed to the media was the single largest category this year.

We continue to encourage staff as to the importance of displaying high standards in relation to Information Governance. Guidance notes are circulated through the Staff Bulletin and Information Governance Walkrounds provide an opportunity for informal contact with staff to give guidance on Information Governance matters

No breaches required notification to the Information Commissioner's Office (ICO).

3.6   Electronic Patient Records

Members of the IGG were actively involved in the ongoing development of the EPR (RiO) – and the project-specific EPR Group continues to meet regularly. RiO 22 went live on 08 March 2022 with a successful transition period. Following this we have moved quickly to introduce BAU process for ongoing development of RiO. A multidisciplinary project approval group (Rio Oversight and Development (ROAD) Group) has been established that reports to the eHealth Sub Group. Included within the approval process is appropriate information governance scrutiny.

Regular audits are carried out on various areas within Rio, with documentation and guidance updated as required. Issues are discussed at the Information Governance Group, or the ROAD Group.

A robust system is in place for Requests for Change to Rio – this may involve a quick assessment and authorisation by the system owner, or a more thorough review by members of the team including IG checks and workability.

Further work has been carried out to integrate links between Rio and the medication prescribing system (HEPMA) – a link for users from Rio to HEPMA is under development. The use of further modules to allow more flexible use of Rio (e.g. bedside) is also being explored. Grounds access processes are still under review however some advancement has been made and this is expected to go live in Autumn 2023.

3.7   Information Governance Walkrounds

Having been introduced in 2015 as a recommendation following the publication of the NHS Scotland Information Assurance Strategy CEL 26 (2011) the Information Governance Walkrounds have built on the success of the previous years. The unannounced walkrounds now occur a random throughout the year and encompass all areas of the organisation were personal information is used.

This year saw a return to Information Governance walkrounds, with the staff members involved in conducting these walkrounds noted the good standards of Information Governance that have been apparent in visited areas.

As with previous years only a small number of minor issues have been encountered during the walkrounds, with all issues being appropriately resolved after communication with the relevant staff members and managers.

The walkrounds compliment the Records Management plan and general information governance goals by providing an informal opportunity for staff to raise questions or seek guidance on specific aspects of their work as well as raising general awareness of information governance considerations.

3.8   FairWarning

The group receives exception reports on the levels of FairWarning alerts raised and a subgroup is tasked with maintaining appropriate alerts and thresholds to provide a proportionate audit of access to personal information.

FairWarning alerting rate remained consistent with last year and reflects changes in the patient population over the year. This is the seventh consecutive year in which no incidences of inappropriate access have been alerted via FairWarning.

The group continues to be satisfactory assured that there are no areas of concern regarding inappropriate access.

Whilst the focus of FairWarning is to detect potential inappropriate access to patient records, the sustained absence of such actions from any area of the organisation should be seen as a very positive statement about the professional conduct of staff.

The FairWarning platform was moved to NHS Scotland's cloud based FairWarning tenancy without incident.

3.9 Records Management

This year has been extremely busy but positive for the Health Records Department. The addition in staffing resources has meant that day-to-day workload is mostly manageable and there has been some movement in the wider Records Management workload.

The State Hospitals Board for Scotland submitted its Records Management Plan (RMP) to the Keeper of the Records in December 2016. The Plan was agreed and accepted by the Keeper with some elements graded as amber, and having work outstanding. A Plan Update Review (PUR) was carried out and submitted to National Records of Scotland (NRS) in October 2021. A positive response to this was received in December 2021, recognising the work that has now been carried out in areas such as the creation of a Corporate Records Policy and a formal Information Asset Register. As there have been noted improvements in Records Management within the organisation, a full RMP will be completed in late 2023 for submission to NRS for assessment and agreement. This was planned to take place earlier, however NRS are offering guidance surgeries on this later in the year so it seems sensible to attend these prior to resubmission.

One disappointing area during the year was the organisational change process and updated job descriptions being reviewed after a lengthy process, however not gaining the hoped for bandings. On a more positive note, the move to a separate service (Records Services Department) is well underway, with a split from eHealth taking place with some areas still to be ironed out. This is allowing the department to function independently and becoming involved in projects and work around the hospital, liaising with staff from various departments to promote RM in all areas.

Plans are in place to resurrect the Records Management Group with a meeting scheduled for June 2023, alongside updated Terms of Reference. A sub-group of the IGG is also being formed with responsibility for the oversight of clinical records – this is also set to meet for the first time in Summer 2023. A Quality Improvement project to reduce data held in shared drive space, and also to being using a Business Classification Scheme has begun although is at an early stage, and it is recognised that this work may take time.

Work on merging the current Health Records Policy Corporate Records Policy is planned to being in Autumn 2023. Work is also ongoing to create formal retention and destruction policies, as well as version control and naming convention guidance. It is hoped that this work will be completed by Autumn 2023.

Appraisal of patient records for permanent preservation or destruction has continued, with more records having been destroyed. Work is ongoing to gather metadata on items for permanent preservation with the National Records of Scotland. It has also been agreed that referral files for patients can now be appraised and destroyed if appropriate.

Work is being undertaken in relation the to the Hospital's Information Asset Register. This includes staff recording data as well as assisting staff to complete the process of registering systems and data held, whilst offering advice and encouragement to incorporate records management methodology.

Work relating to M365 is still ongoing with the Health Records/Records Service Manager being involved in national groups to ensure good RM is included in all areas. There is also national work to update the Records Management Code of Practice ongoing which the Health

Records/Records Services Manager is contributing to. Information and updates from this work is shared regularly with internal colleagues.

As 2023 celebrates the 75th birthday of the NHS, the department are looking to put on a display of historical artefacts and information relating to changes in how The State Hospital has developed throughout the years. This will focus on both clinical and non-clinical practices and it is hoped that this will engage a number of staff, and also some community liaison to provide a positive display of how far mental health treatment and support has come.
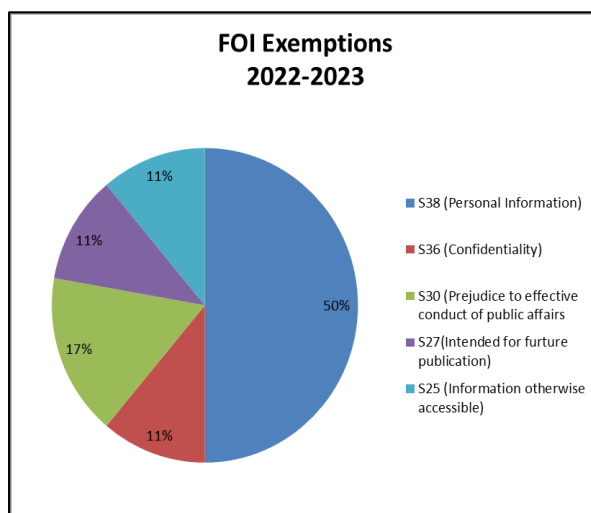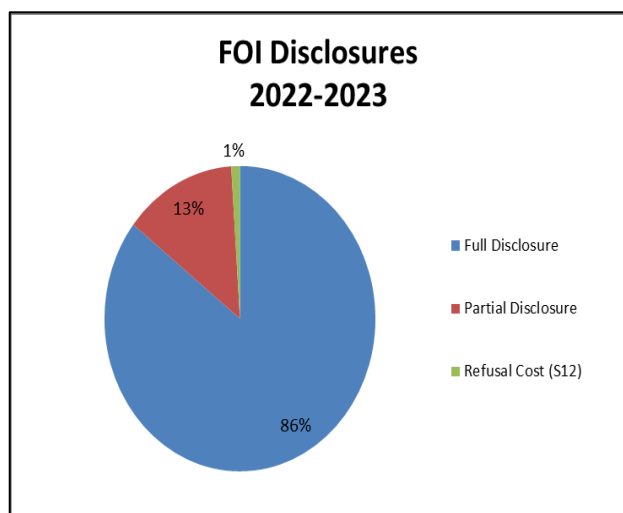
3.10   Freedom of Information

The group is kept informed of all Freedom of Information (FOI) requests and of the timescales achieved in responding to these. Requests have mainly come from the general public (62%), with the charities, lobby or campaigning group (11%) the second largest requestors. The recorded numbers of requests were down 17%.

Number of Freedom of Information Requests					
	2018/19	2019/20	2020/21	2021/22	2022/23
Requests made	33	224	262	172	145
Completion rate within timescales	94%	100%	89%	99%	91%

This year has seen a drop in requests for reviews, with all the reviews finding that The State Hospital's original response was an appropriate response, which required no modification.

Number of Freedom of Information Reviews					
	2018/19	2019/20	2020/21	2021/22	2022/23
Requests for review made	2	0	3	4	2
Upheld without modification	2	0	3	4	2
Upheld with modification	0	0	0	0	0
Substituted a different decision	0	0	0	0	0
Reached a decision where no decision had been reached	0	0	0	0	0

FOI Disclosures 2022-2023
- Full Disclosure 86%
- Partial Disclosure 13%
- Refusal Cost (S12) 1%

FOI Exemptions 2022-2023
- S38 (Personal Information) 50%
- S36 (Confidentiality) 11%
- S30 (Prejudice to effective conduct of public affairs 17%
- S27(Intended for furture publication) 11%
- S25 (Information otherwise accessible) 11%

Where the organisation held information, it provided a full response to applicants for the majority of requests (86%).

Five exemptions were used to withhold or decline to publish information. In most cases (50%) this was because the answer to the request would identify an individual such as a patient or member of staff.

3.10.1 Freedom of Information Self-Assessment

The FOI Committee drive a continuing improvement cycle based on the Scottish Information Commissioner's self-assessment toolkit.

The toolkit comprises of six modules each reviewing a particular area of our FOI obligations providing a four-point scale of performance (Unsatisfactory, adequate, good and excellent) that reviews the year's performance. Modules 5 & 6 were introduced by the Commissioner in 2021/22.

Ratings	Meaning
Excellent	Greatly exceeds the requirements of FOI
Good	Exceeds the requirements of FOI
Adequate	Meets the requirements of FOI
Unsatisfactory	Below the requirements of FOI

Public authorities, such as The State Hospital, are expected to deliver an 'adequate' service, taking in to account their local setting.

Standards and Criteria	2018/19	2020/21	2021/22	2022/23
1. Responding on time	Good	Good	Good	Good
2. Searching for, locating and retrieving information	Adequate	Good	Good	Good
3. Advice and assistance	Adequate	Adequate	Adequate	Good
4. Publishing information	Adequate	Adequate	Adequate	Adequate
5. Conduct of Reviews	N/A	N/A	Good	Good
6. Monitoring and managing FOI performance Standards and Criteria	N/A	N/A	Good	Good
Overall	**Adequate**	**Adequate**	**Adequate**	**Adequate**

The assessment shows that the management of FOI requests continues to meet the requirements of the Freedom of Information (Scotland) Act. The overall rating is determined by the lowest score over the six sections and although the hospital's overall rating is "adequate", it is clear over the last 4 years that the organisation has made improvements to the FOI service and now exceeds the requirements in all but one section.

With the improvements to the hospital's Internet website and ensuring patients can access as much of the information about the organisation that the general public can, it is anticipated that the organisation will reach a "good" rating next year.

3.11   Subject Access Requests

Subject access requests continue at expected numbers of requests with patient requests accounting for about 79% of all requests.

Whilst the number of requests has remained at the same level as last year, there were more requests this year for *all the information holds about a patient* than in previous years. These

requests place a significant burden on the organisation as they can be in excess of 10,000 pages of information.

The added complexity of these requests is reflected in a higher number of 2 month extensions used than in previous years and they also account for most of the late responses this year.

3.12 MetaCompliance

MetaCompliance is a policy management system which is designed to ensure that key policies are communicated to all members of staff in order to ensure they obtain, read and understand their content. It also provides evidence of communication to line management and can identify individual staff members as having read and understood key policies.

In November 2017 the operation of MetaCompliance transferred to Information Governance which coincided with a review of policies deployed via the system.

MetaCompliance is supported by the complimentary system MyCompliance which provides a way to acknowledge policies prior to MetaCompliance enforcing a response.

The current MetaCompliance service continues to provide assurance that policies are read and understood by members of staff, but following a review of the service's operation a project has started to replace the current version with a modern cloud based platform that would be allow more flexibility for staff and better reporting for the organisation.

Over the last year the number of policies delivered by MetaCompliance has dropped by 15% to 61. Most "All Staff" policies achieve around 88% awareness and agreement within three months of release. Whereas "Clinical" policies achieve around 84% awareness and agreement within the same timeframe.

4   INFORMATION COMMISONER'S OFFICE AUDIT

The Information Commissioner's Office (ICO) audited the State Hospital to assess the risk of non-compliance with data protection legislation, the utilisation of ICO guidance and good practice notes and the effectiveness of data protection activities.

The audit was conducted in November 2022 with the organisation being awarded a high assurance rating.

Audit Scope area	Assurance Rating	Overall Opinion
Governance & Accountability/Data Sharing	High	There is a high level of assurance that processes and procedures are in place and are delivering data protection compliance. The audit has identified only limited scope for improvement in existing arrangements and as such it is not anticipated that significant further action is required to reduce the risk of non-compliance with data protection legislation.

The audit identified some areas were the state hospital could improve their compliance and following consultation with ICO a 12 point action plan was agreed to be completed over the next two years.
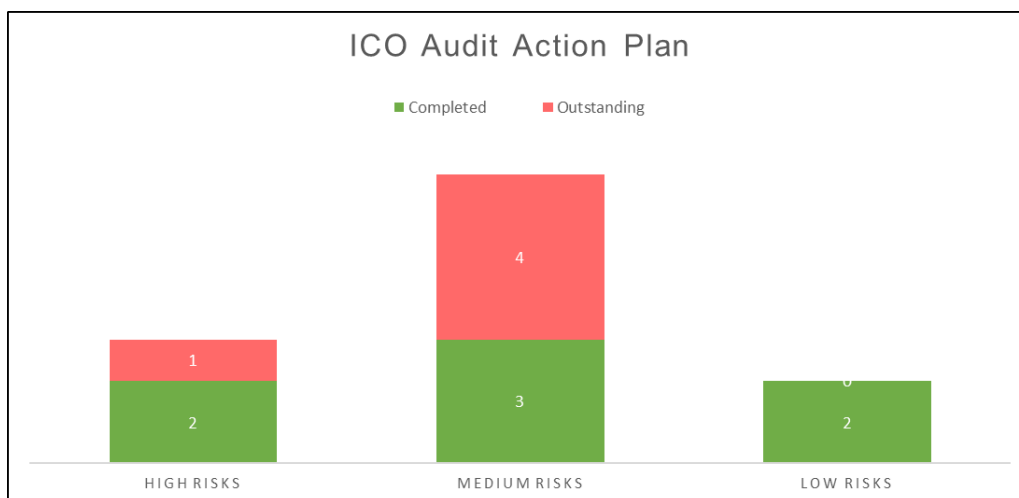
The organisation has already completed 58% of the action plan and work continues on the outstanding points.

5 IDENTIFIED ISSUES AND POTENTIAL SOLUTIONS

We have continued to try to improve attendance at the IGG meetings as full attendance at this group can sometimes be difficult to achieve – although continuing to have remote Teams meetings has encouraged a strong turnout. We encourage attendance by making the remit of the group relevant to staff members' roles, incorporating user feedback on eHealth matters into the agenda for the group. The attendance by deputies in the event of diary pressures is also now in place with a stronger emphasis for all members to encourage attendance.

The 2022 ICO review, as highlighted in section 1 - required significant time and resource to plan, manage and deliver, which served to highlight the resource pressures facing the IG function. These are being addressed in 2023/24 through collaboration with the Records team and will be monitored on an ongoing basis.

New technologies, such as increasing use of Teams (part of Microsoft Office 365), continued to support performance in 2022/23. However, while the timing remains unconfirmed and has been subject to a number of national delays, the anticipated introduction of Office 365 nationally will bring additional information governance challenges as NHS Scotland migrates to a cloud based hybrid working environment.

6 FUTURE AREAS OF WORK AND POTENTIAL SERVICE DEVELOPMENTS

Work/ Service Development	Timescale
Records Management Plan to be resubmitted	Late 2023/24
Historical display to celebrate NHS @ 75 to be held	July – September 2023
Provide support and input to the preparations for the NIS Audit (October 2023)	April – September 2023
Implement the action plan from ICO's audit	2023 - 2024
Reach 80% completion for the IG: Essentials learning module.	Ongoing
Maintain 85% completion for all other IG learning module.	Ongoing

7 NEXT REVIEW DATE

April 2024