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Public Health
Wales

Name of Meeting:
Audit and Corporate
Governance Committee

Date of Meeting:
13 October 2022

Agenda item:
6.1

Public Health Wales Information Governance Performance Report Q4 2021/2022

Executive lead:

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Approval/Scrutiny route:

Rhiannon Beaumont-Wood,
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Business Executive Team
(7 June 2022)

Purpose:

Receive the Information
Governance Performance
Report

Recommendation:

APPROVE

CONSIDER

RECOMMEND

ADOPT

ASSURANCE

The Committee is asked to:

- **Take assurance from** the Information Governance Performance Report.

Link to Public Health Wales [Strategic Plan](#)

Public Health Wales has an agreed strategic plan, which has identified seven strategic priorities and well-being objectives.

This report contributes to the following:

Strategic Priority/Well-being Objective	All Strategic Priorities/Well-being Objectives
Strategic Priority/Well-being Objective	Choose an item.
Strategic Priority/Well-being Objective	Choose an item.

Summary impact analysis

Equality and Health Impact Assessment	No Equality and Health Impact Assessment is required.
Risk and Assurance	This report will provide assurance that the Information Governance Management System is operating effectively. The performance report includes the latest version of the Information Governance Risk Register.
Health and Care Standards	This report supports and/or takes into account the Health and Care Standards for NHS Wales Quality Themes Governance, Leadership and Accountability Choose an item. Choose an item.
Financial implications	This report outlines the performance of the Information Governance Management System to further reduce the risk of breaches of data protection legislation with the associated risk of significant fines and sanctions from the Information Commissioner.
People implications	No people implications

1. Purpose / situation

The purpose of this paper is to introduce the Information Governance Performance Report.

2. Background

In order to discharge its responsibilities with regards to ensuring the security and appropriate use of personal information, together with being able to demonstrate compliance with data protection legislation, Public Health Wales maintains an Information Governance Management System. As well as being able to report that the organisation is compliant or otherwise, it is essential to be able to report on whether the system is achieving its intended purpose or not. The Information Governance Performance Report fulfils this requirement.

Information Governance is also supported by an operational level organisation wide risk register which is available on request.

3. Description

The areas currently reported on are as follows:

- Freedom of Information Act compliance

This section indicates compliance or otherwise with the requirements for releasing information under the Freedom of Information Act 2000.

Chart 1 shows the length of time taken to respond to each request, together with the average time and the legislative requirement.

Chart 2 shows the number of requests over time including the average time to respond and the number of non-compliances with the legislative requirement.

Chart 3 shows the trend since the start of the pandemic in Q4 2019/2020.

- Data Protection Act compliance

This section reports compliance or otherwise with the requirements of the General Data Protection Regulation 2016 (GDPR), in relation to the right of access of data subjects to the information which we hold about

them. This may be service users or staff. The charts provide the same information as for Freedom of Information compliance.

- Personal Data Breaches

This is a requirement under the GDPR in which we are required to risk assess all personal data breaches and under certain circumstances to report them to the Information Commissioner's Office and the data subjects involved. The chart shows the number of breaches over time, along with those requiring reporting.

- Mandatory Information Governance Training

This section reports compliance or otherwise with targets for mandatory Information Governance Training. The chart shows compliance against the NHS Wales target of 85%. Figures are shown for the previous 12 months where available to indicate overall trends in compliance.

- The Information Governance Working Group (IGWG)

This section reports on key points and any outstanding actions from the meetings.

- Assurance

Finally, the report provides an overview of any assurance reports received over the reporting period. The report summarises performance up to the end of Quarter 4 as the most up to date complete reporting period.

4. Analysis

Freedom of Information Act (FOIA) requests whilst falling back towards pre-pandemic levels, remain significantly higher than at the start of the pandemic with 64 being received during the reporting period.

The requests are now more varied and are no longer almost exclusively attributable to information requests in relation to the pandemic. Requests still carry a considerable administrative burden on the organisation and require Teams to search out the information and then consider the appropriate response.

The average time to respond has increased, as has the number of missed deadlines, and these numbers themselves are artificially low as there are requests still outstanding. The reduction in performance is partly due to the complexity of the requests requiring time and resource.

To help increase compliance and provide more support to the Information Governance Team, an investment bid has been approved to increase resource and the capacity of the Information Governance Team.

Despite implementing an improvement to encourage requestors to do their own research before submitting a formal request, formal FOIA requests are still being received. Formal and informal requests require consideration, verification checks and response by the Information Governance Team. When a requestor does not require a formal response, a considerable amount of pressure is removed the department involved. It is anticipated that responding to FOIA requests is going to continue to place a significant burden on the organisation for some time to come. During the reporting period six requests were appropriately refused for reasons as specified in the main report.

Subject Access Requests have reduced by 60% since quarter three. All target times were met for the responses. Despite the reduction in requests received during the period, there is a continued upward trend. Analysis of the current data does not indicate as to why this is the case but it is probably attributable to the growing awareness following implementation of the General Data Protection Regulation.

Personal data breaches continue to occur and there were three incidents which required reporting to the Information Commissioner (ICO). In two of these cases there has been no response from the ICO up to the writing of this cover paper. The ICO have requested further information for one of the data breaches regarding the flood at the storage unit.

Four significant data breaches have occurred between August 2020 to March 2022. Investigations into 2 of these incidents are ongoing with draft investigation reports and action plans being considered. Progress has been hampered by resource and work pressures within the Directorates concerned and the Information Governance Team. Investment bids have now been approved for additional resources in the Information Governance Team with recruitment due to commence shortly.

A summary of the significant data breaches is below.

Data Breach 1 - Covid 19 Dashboard August 2020

In August 2020, PHWs CDSC inadvertently published, to a public facing website information usually reserved for internal consumption. The information contained personal data relating to 18,105 people who had tested positive for Covid 19. The report was in the public domain for approximately 20 hours before being removed.

There were a number of contributory factors that led to this incident and have been addressed in the improvement action plan. The independent formal investigation into this data breach was carried out by DHCW and an action plan for improvement in response to the recommendations was established. Of the 19 actions, 13 have been completed and 6 are in progress. It is anticipated that all actions will be closed by September 2022 provided that the CDSC Peer Review by Public Health Scotland scheduled for July is completed.

ICO update – no regulatory action required but actions are expected to be completed as soon as possible.

Data Breach 2 - Temple of Peace Records August 2021

The move to CQ2 involved relocating numerous teams from across 11 buildings into one new building with extremely limited room for physical records. A programme of work took place which involved sorting documents to be retained and destructed. It is likely that during this process records relating to the Hepatitis B outbreak at the Temple of Peace were destroyed in error. The data protection risk to the rights and freedoms of the data subjects was assessed as being low risk. An internal investigation has taken place and there are 5 recommendations for consideration which are mainly related to records management improvements, including how to integrate remaining records using an Electronic Management (EDRM) system and a review of the records retention requirements.

ICO update – The ICO have requested the final version of the investigation is shared with them so they can decide whether formal regulatory action is required.

Data Breach 3 - Frisky Wales Test Kits – November 2021

The expansion of the Frisky Wales test and post to an all-Wales basis took place within a short period of six weeks. This was at the height of the first wave of the pandemic where sexual health clinics were closed. The immediate cause of the breach was due to a programming error with the supplier and compounded by a mistaken and untested assumption that Monday results included Saturday and Sunday results. An internal investigation has taken place and the report contains 4 recommendations for consideration and are mainly around the contractual arrangements with the supplier, IG review of the STA pro form and that management consideration is required around policies and procedures and how they can be more user friendly.

ICO update – ICO have confirmed no further action is required for this incident. However, that is on the basis that recommendations are

considered. A number of these have been incorporated within the recommendations of the investigation.

Data Breach 4 – Damage/loss of records at storage facility – February 2022

Prior to digitalisation, screening records were held as hard copies, on film and in paper form. Due to the number of hard copy records involved, Public Health Wales were unable to store these on any hosted sites, so a storage company was engaged in 2008 and provided a facility where those records could be held securely, prior to them reaching the end of their life cycle in the records management process. The storage provider was acquired by another provider in 2021 who assumed responsibility for the records and moved them to a new site, owned by them.

The cause of the data breach was due to a flood at the storage facility and as a result boxes of screening records were destroyed. 578 boxes of Breast Test Wales film packets, 299 Cervical Screening request forms and 3 boxes Newborn hearing consent forms. An internal investigation is ongoing.

ICO update – no further update to date as at 25/05/22

Mandatory Information Governance Training remains a concern, with three directorates below the NHS target of 85%. Corporate is now at 77% which has improved slightly during this reporting period, but has been out of compliance since 2019. Directorates are regularly being reminded to ensure that staff maintain complete and up to date Mandatory Information Governance Training.

The overall organisational compliance is 87% which is just above the NHS target of 85%. There is a risk that reportable data breaches may occur where staff are not compliant with their mandatory training.

A further significant issue is the inability to release staff across the organisation to carry out investigations into data breaches and other Information Governance related incidents. Investigating Officers have had to be sourced externally for recent incidents to ensure appropriate investigations are being completed. The lack of available staff internally to undertake investigations impacts the timeliness of the learning available to inform improvement and enable the organisation to better deliver on its objectives.

The Information Governance Working Group met in September 2021. Further meetings are to be scheduled for 2022 and a review to take place on the current membership, to ensure there is appropriate representation across the organisation.

Recommendation

The Audit and Corporate Governance Committee is asked to:

- **Take assurance from** the Information Governance Performance Report