Compliance

	Freedom of Information	DPA (Subject Access)	Data Breaches	Mandatory Training
This quarter	🟧	🟩	🟧	🟥
Prev.quarter	🟧	🟩	🟧	🟥

(For explanation of colour coding please refer to the subject specific pages)

Key risk indicators (KRI)

	Freedom of Information	DPA (Subject Access)	Data Breaches	Mandatory Training	IGWG	TBC	TBC
KRI1	🟩	🟩	🟩	🟥			
KRI2	🟩	🟩	🟩	🟥			
KRI3	🟥	🟩	🟥	🟥			

Code	🟩	KRI - Normal	🟥	KRI - Triggered

Headlines

This paper reports on Information Governance performance over the period – Quarter 4 2021-22.

There was a decrease in Freedom of Information requests with 64 received in the reporting period. 5 requests were received that did not require a response (see FOI section). Key risk indicator 3 remains red as requests have been above 50 for 3 consecutive quarters, this has been ongoing since the start of the pandemic.

There were five Subject Access Requests received in the reporting period. No deadlines were missed and were responded to within the 31 days. Key risk indicators remain green.

Three data breaches were reported to the ICO, all were reported within 72 hours. Key risk indicator 3 is red due to data breaches being reported to the ICO for 3 consecutive quarters.

Four significant data breaches have occurred between August 2020 to March 2022. Investigations into 3 of these incidents are ongoing, draft reports are being considered but have been impacted due to resource issues within the Directorate 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. Details of these data breaches are available on the supporting cover paper.

Key Risk Indicators have been triggered for Mandatory Training as three Directorates have been below 85% compliance for 3 reporting periods.

Contents

Subject   Page no

Glossary

DPA	Data Protection Act 2018	KRI	Key Risk Indicator		
DPO	Data Protection Officer	RIGM	Risk and Information Governance Manager		
FOIA	Freedom of Information Act 2000	SAR	Subject Access Request		
GDPR	General Data Protection Regulation 2016	SIRO	Senior Information Risk Officer.		
ICO	Information Commissioner's Office				
IGWG	Information Governance Working Group				
KPI	Key Performance Indicator				

Freedom of Information Requests

Compliance Status

🟥	2 or more legislative non-compliances	
🟧	Single legislative non-compliance	**X**
🟩	Fully compliant	

Response times per request (FOI)

Legend: Request number, Days to respond, Deadline (20), Average

Trends over time

Legend: Total, Missed, Average, Linear (Total)

Trend since Jan 2020

Legend: Total, Missed, Average, Linear (Total)
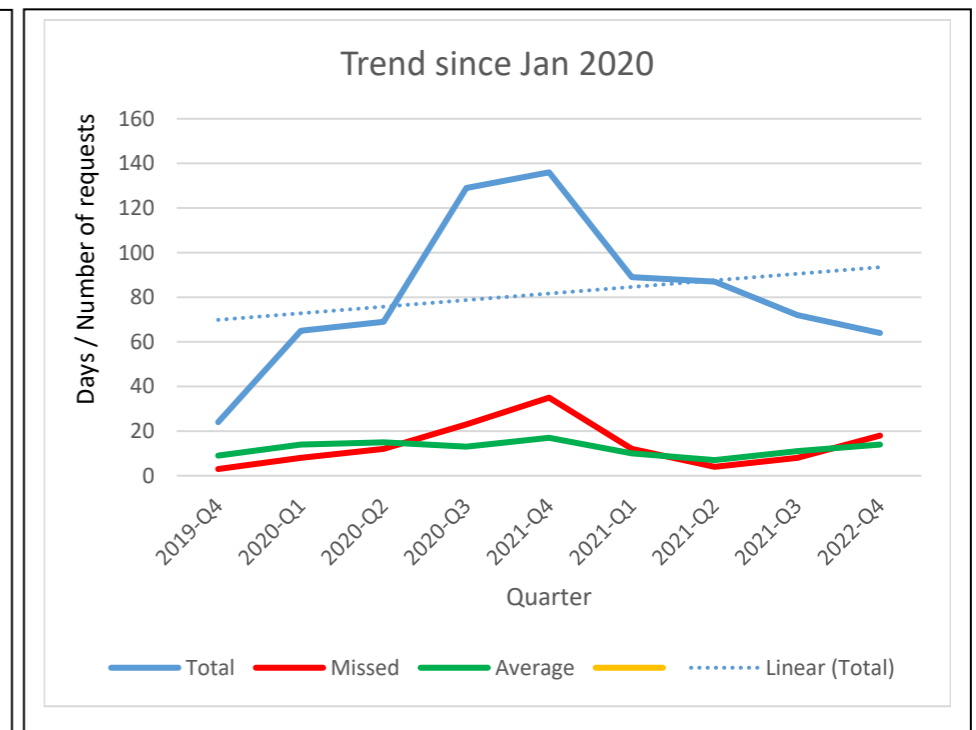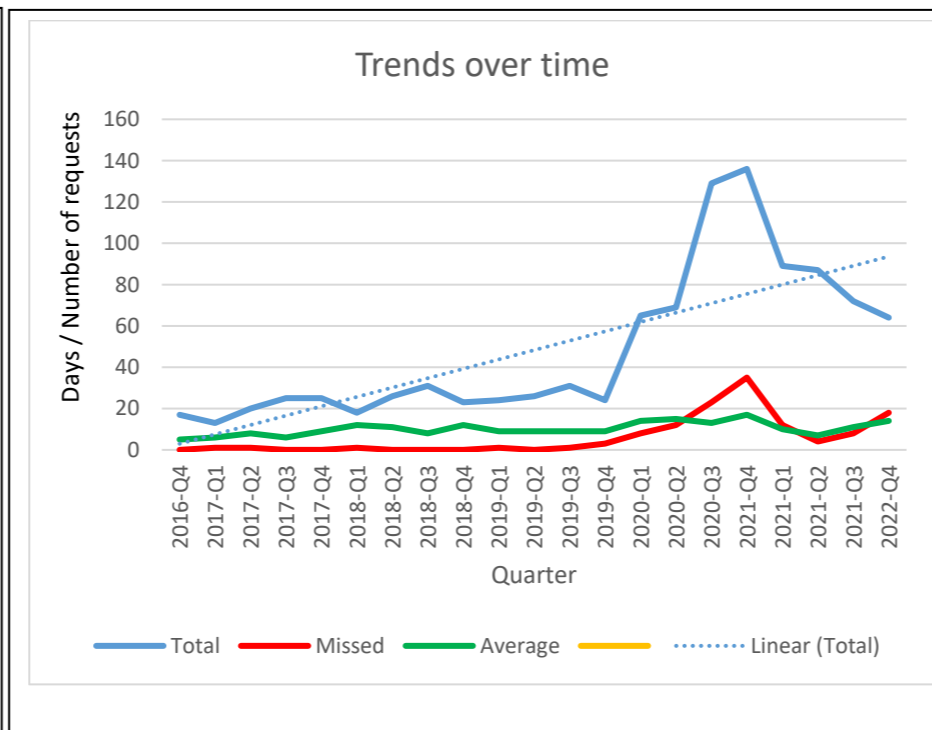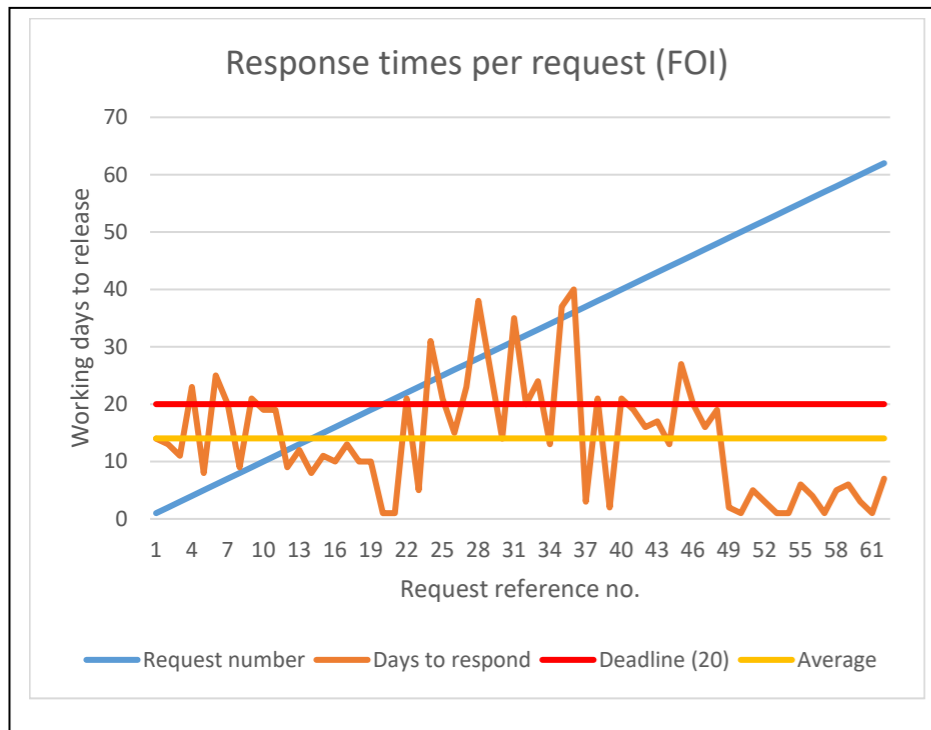
Narrative

The quantity of Covid related requests has reduced during February and March, resulting in a further fall in numbers of requests received on the previous quarter. However, the trend continues upwards.

The average time to respond to requests was 14 days, under the KRI threshold of 15 days. Sixteen responses during Q4 went over the 20 day period with 2 responses outstanding and are overdue. Delay is due to resourcing issues and the complex nature of the requests. The two outstanding requests will impact this average response time when finalised.

Six exemptions were engaged altogether under Section 38 endangering Health & Safety, Section 21 as the information is already in the public domain and accessible to the requestor. Two refusal notices were issued as Section 14 vexatious and Section 12 the cost of compliance exceeds the appropriate limit. Following an internal review the information that was initially declined as vexatious was later provided.

The key risk indicator is triggered as requests remain in excess of 50 per quarter for two years with deadlines regularly missed. Investment bids have now been approved for additional resources in the Information Governance Team with recruitment due to commence shortly. The work pressures across the organisation also continue to be an issue with response times.
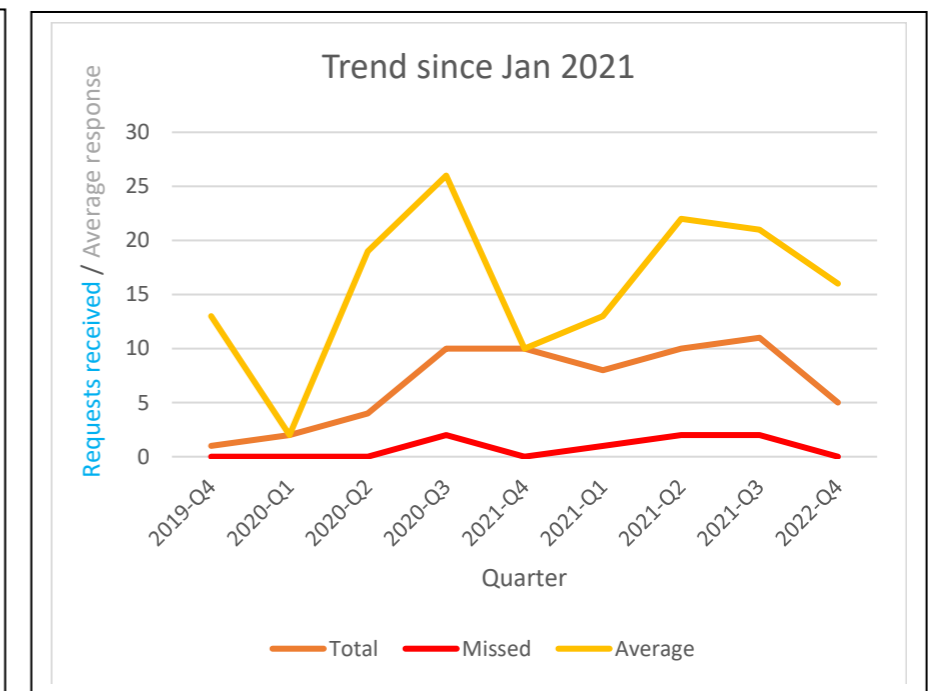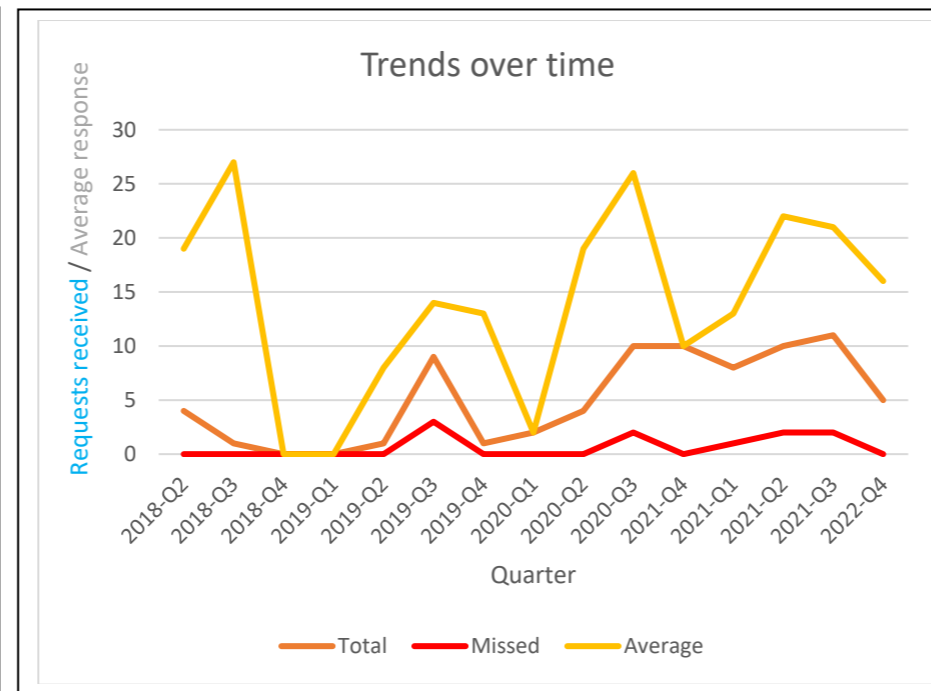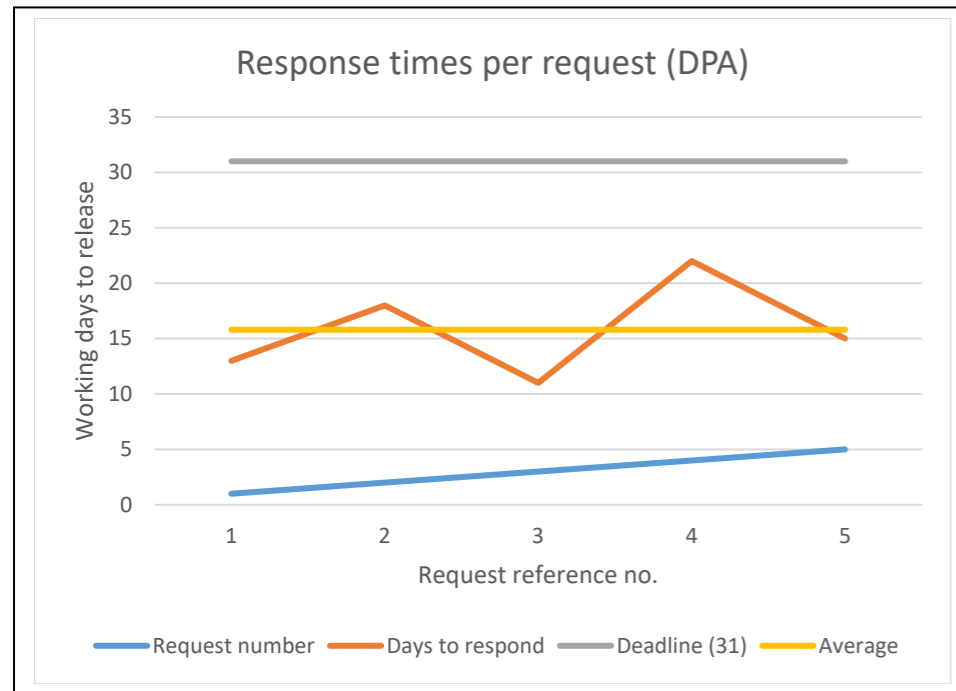
Performance Indicator	No	Target	Remarks
Total Requests Received	64	N/A	Includes two request that has yet to be processed
Requests not requiring a response	5	N/A	Not included in total received above
Full Release	27	N/A	
Partial release with exemptions	0	N/A	
Release declined – Exemptions engaged	8	N/A	Section 21 – information already accessible, Section 38 endangering Health & Safety, Section 14 Vexatious and Section 12 Exceeds Time/Cost
Release declined – Information not held	27	N/A	
Deadline not met*	16	0%	
Requests overdue for release and still outstanding*	2	0%	

Key Risk Indicators		Status
KRI1	Average time to release information >15 days for three consecutive quarters	■
KRI2	Increase in requests for three consecutive quarters	■
KRI3	Requests remain above 50 for three consecutive quarters	■

*indicates legislative non-compliance

Data Protection (Subject Access) Requests

Compliance Status		
🟥	2 or more legislative non-compliances	
🟧	Single legislative non-compliance	
🟩	Fully compliant	X

Response times per request (DPA) — Working days to release vs Request reference no. (Request number, Days to respond, Deadline (31), Average)

Trends over time — Requests received / Average response by Quarter (Total, Missed, Average)

Trend since Jan 2021 — Requests received / Average response by Quarter (Total, Missed, Average)

Narrative

Five Subject Access Requests were received during the reporting period. The requests were for medical records, Tarian records and recruitment information. All requests were responded to within the timescale of one calendar month.

No exemptions were engaged but one proof of identity was not received and so this request was not processed and is not included within the total requests received.

There has been a decrease in requests received this quarter in comparison to 2020 where the increase in requests occurred.

The centre chart shows the rising trend in the number of requests over time since the start of these reports in 2017. For comparison, the right hand chart shows the number since the start of the pandemic in Q4 2019/2020. Whilst the data are not conclusive the much gentler upward trend over the last two years would suggest that although some requests are for Covid related personal data, the rise in requests is probably not directly related to the pandemic and is more likely to be connected with a growing awareness of data subjects' rights following implementation of the General Data Protection Regulation.

Performance Indicator	No	Target	Remarks
Total Requests Received	5	N/A	
Full Release	5	N/A	
Release declined – Exemptions engaged	0	N/A	
Deadline not met*	0	0%	

Key Risk Indicators		Status
KRI1	Average time to release information >25 days for three consecutive quarters	
KRI2	Increase in requests for three consecutive quarters	
KRI3	Requests remain above 10 for three consecutive quarters	

*indicates legislative non-compliance

Reported Data Breaches

Compliance Status

🟥	2 or more legislative non-compliances	
🟧	Single legislative non-compliance	**X**
🟩	Fully compliant	

Reportable Databreaches by quarter
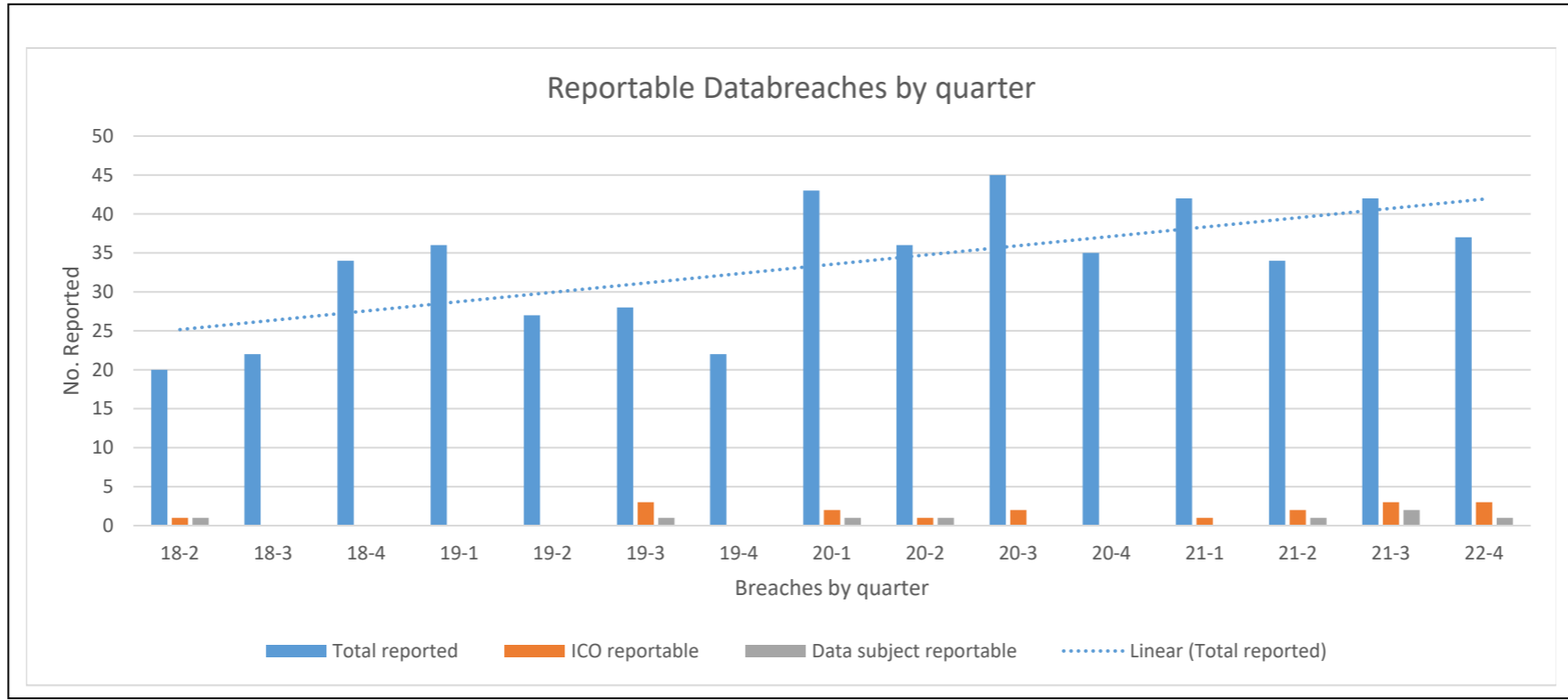
Narrative

There was a total of 37 data breaches reported during the period, three of which required reporting to the Information Commissioner.

The first ICO reportable data breach occurred when a batch of 2500 letters were posted asking for participants to take part in a survey. A complaint was received from participants that highlighted that someone else's personal data was included in the letter received. It was determined that it was also data subject reportable.

The second data breach occurred where a flood in a supplier's offsite storage facility resulted in irreparable damage to the personal data that was stored there. This incident is not data subject reportable, clinical risk is low and the majority of records were also digitised but is a significant data breach. The ICO are currently investigating this incident and have requested further information.

The third data breach occurred as a result of a cyber security incident where a staff member's account was compromised. The incident is currently under investigation but it is likely that it was a result of a phishing attack. The incident was reported to the ICO and also to the National Cyber Security Centre. It is not currently data subject reportable.
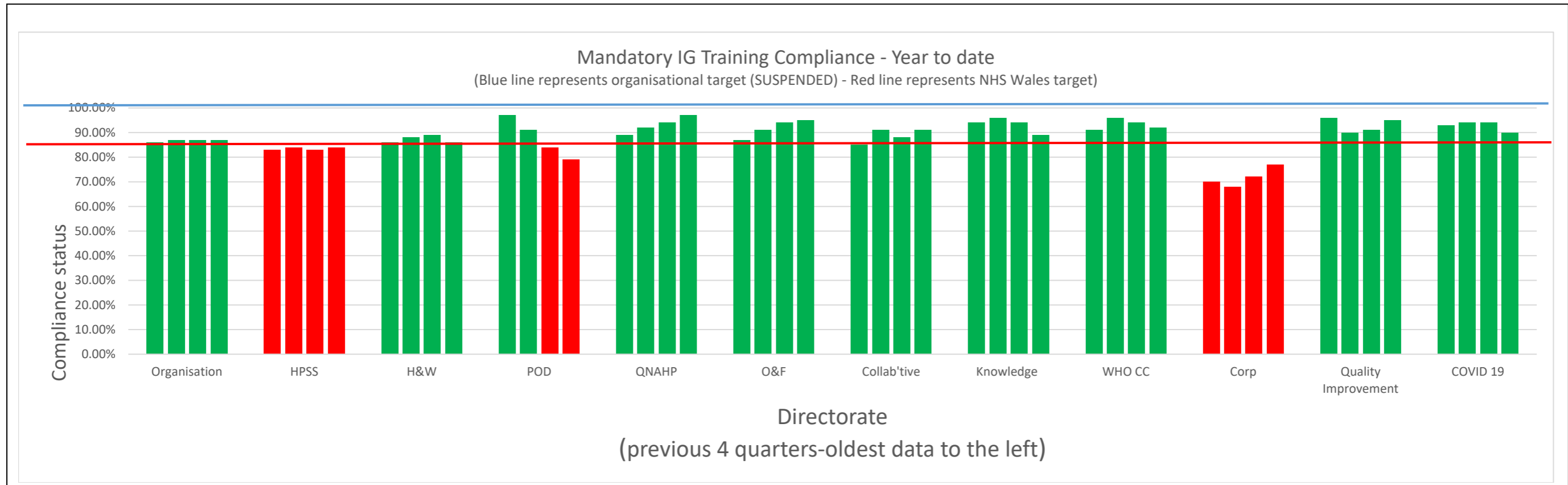
There is a slow upwards trend in the reporting of data breaches internally. Whilst this can partly be due to the way that awareness of the issue has been raised over the past 3 years resulting in more reports, there is a need for further analysis of the causes.

Performance Indicator	No	Target	Remarks
Total no. of databreaches reported*	37		
Databreaches reported internally after > 48hours*	0		
Databreaches reported to ICO <72hours	3		
Databreaches reported to ICO >72hours ǂ	0		
Databreaches reported to Data Subject	2		

Key Risk Indicators		Status
KRI1	Increase in reported data breaches for three consecutive quarters	
KRI2	Increase in data breaches reported >48hrs for three consecutive quarters	
KRI3	Data breaches reported to the ICO for three consecutive quarters	

*indicates legislative non-compliance

Mandatory Training Compliance

🟥	2 or more Directorates non-compliance with NHS Wales target	**X**
🟧	Single Directorate non-compliance with NHS Wales target	
🟩	Fully compliant	

Mandatory IG Training Compliance - Year to date
(Blue line represents organisational target (SUSPENDED) - Red line represents NHS Wales target)

Directorate
(previous 4 quarters-oldest data to the left)

Narrative

Organisation-wide compliance with mandatory training remains a concern. Three Directorates are below the NHS Wales compliance target of 85%. It should be noted that one of the first questions raised by the Information Commissioner when investigating a data breach is to confirm mandatory training status of people involved.

People and Organisational Development have dropped below 85%, and Health Protection and Screening Services are currently at 84%, having been below the target for 4 consecutive quarters. Corporate which includes the Board, Board Business Unit and the Executive Team still remains below 85% compliance where it has been since Q3 2018/2019. All three KRIs are triggered for mandatory training.

Organisational compliance stands at 87%, and of the three Directorates that remain below the WG target, Health Protection and Screening Services stand at 84%, People and Organisational Development at 79%. Corporate has slightly improved again and is at 77%. Work has commenced on a fully revised Training Needs Analysis for Information Governance in an effort to determine the efficacy of the existing all Wales training that is currently mandated.

Performance Indicator	No	Remarks
Directorates compliant with Public Health Wales target	0	Target currently suspended
Directorates compliant with NHS Wales target	8	
Directorates below 85% compliance	3	HPSS 84%, Corporate 77%, POD 79%

Key Risk Indicators		Status
KRI1	3 or more Directorates below 85% compliance for 1 reporting period	
KRI2	2 or more Directorates below 85% compliance for 2 reporting periods	
KRI3	1 or more Directorates below 85% compliance for 3 reporting periods	

Information Governance Working Group

Date of last meeting – 1st September 2021

Key points

- An update and discussion on the Artificial Intelligence project underway within Breast Test Wales took place.
- There was a discussion on the use of the Caldicott Issues log.
- The impact on other departments, including IG of the removal of the General Enquiries mailbox was highlighted.
- The revised Terms of Reference were produced and agreed
- The CCTV procedure was presented for consultation
- It was agreed that there was a need for an Information Governance risk workshop to refresh the IG risk register

Assurance report

Internal audit reports

None received during the reporting period

External audit reports

None received during the reporting period

Self-inspection reports

None received during the reporting period