

Report to:	QSMTM Q4 2022-22
Report by:	Helen Gardner-Swift
Meeting Date:	25 May 2022
Subject/ Title: (and VC no)	Information and Records Management – Information and Records Management Report 2021-22 and Assurance VC169772
Attached Papers (title and VC no)	None

Purpose of report

1. To present the Information and Records Management Report 2021-22 (set out in the Appendix) (IRM Report 2021-22) and the assurance report as required by the Key Document C1 Governance Reporting Arrangements (GRA).

Recommendation and actions

2. The following is recommended
 - (i) the Senior Management Team (SMT) note this Committee Report (CR), the IRM Report 2021-22 and the assurance provided
 - (ii) the CR and the IRM Report 2021-22 are published in accordance with the details set out in paragraph 18.

Executive summary

3. The IRM Report 2021-22 considers the following:
 - are records held for the appropriate time
 - are records destroyed in accordance with our procedures
 - is information held securely
 - is personal data being lawfully processed
 - are appropriate back-up arrangements in place
 - are key documents being managed in line with the C5 Key Documents Handbook

Records Management Plan (RMP)

4. The Keeper of the Records of Scotland invited the Commissioner to submit an updated RMP in 2021-22 and this was submitted on 30 June 2021.
5. The process of updating the RMP resulted in the review of the Information and Records Management Policy, the Information and Records Management Handbook and other related procedures and the updated documentation was submitted with the updated RMP. In addition, the approved Data Protection Policy and Handbook and the Employee Handbook were also submitted with the updated RMP.

Internal audit

6. Our internal auditor reviewed the effectiveness of our UK GDPR compliance and concluded that the Scottish Information Commissioner's procedures reflect good practice in a number of areas and that no high-risk, significant or reportable weaknesses were identified.

IRM Report 2021-22

7. The IRM Report 2021-22 identifies a good level of compliance with our Information and Records Management Policy and the procedures set out in the Information and Records Management Handbook.
8. The IRM Report 2021-22 also identifies two areas where further work is required
 - (i) the development and implementation of revised retention and destruction processes in VC – this work will continue in 2022-23 as part of the work related to the Records Management Plan
 - (ii) a project to consider and recommend a way forward for the management of Key Documents and reviews – this work will be in 2022-23

Assurance

9. Taking account of the IRM Report 2021-22, I am able to provide assurance that, as far as I am aware, the Commissioner's information and records are being managed in accordance with the Commissioner's policies and procedures and that:
 - records are held for the appropriate time
 - records are destroyed in accordance with our procedures
 - information is held securely
 - personal data is being lawfully processed
 - appropriate back-up arrangements are in place
 - key documents are being managed in line with the Key Document Handbook.

COVID-19 pandemic

10. Our priority as an organisation has been to continue to operate within available resource while safeguarding the health, safety and wellbeing of our members of staff. The office premises temporarily closed on 23 March 2020, re-opened on 3 May 2022 and a gradual return to working in the office premises is now underway. All members of staff are able to work remotely. Guidance on managing information when remote working and working in the office premises has been provided to staff.

Risk impact

11. This assurance report and our information management processes and procedures contribute to the control measures aimed at reducing the likelihood and impact of risk of the information we hold not being managed properly and held securely.

Equalities impact

12. No equality issues arise from this committee report.

Resources impact

13. The two actions to be carried referred to paragraph 5 above will require additional staff resource and it is anticipated that this can be met from existing staff resources.

Privacy impact

14. There are no privacy impact issues arising from this assurance report.

Operational/ strategic plan impact

15. None identified.

Records management impact (including any key documents actions)

16. None identified.

Consultation and Communication

17. QSMTM Q4 minute and the publication of this committee report.

Publication

18. I recommend that this CR is published in full but that paragraphs 10,13, 30, 31 and 32 of the IRM Report 2021-22 and the Personal Data Processing Spreadsheet are withheld on the basis that the exemption(s) in Sections 30(b)(ii) and 39(1) of the Freedom of Information (Scotland) Act 2002 would apply if a request were, at this stage, to be made for the information.

Appendix

Information and Records Management Report 2020-21

Provide assurance that the Commissioner's information and records are being managed in accordance with published policies and procedures, in particular that:

- records are held for the appropriate time
- records are destroyed in accordance with our procedures
- information is held securely
- personal data is being lawfully processed
- appropriate back-up arrangements are in place
- key documents are being managed in line with the Handbook

Are records being held for the appropriate time?

File Plan and Retention Schedule (VC72711) (the Schedule)

1. The Schedule contains detailed rules for the retention of our records. The content reflects statutory and business requirements but is being updated as part of our work on UK GDPR implementation and records management review - the relevant retention periods relating to personal information are set out in our Privacy Notice which can be viewed here:

[Privacy notice | Scottish Information Commissioner \(itspublicknowledge.info\)](#)

2. The Schedule has been applied to the extent described above.

Simply Personnel (SP)

3. The SP system is a very basic system and information is held securely and access restrictions are in place. However, there is currently no process for the management of the content of the SP database and we are unable to delete the personal details held for former employees. We retain such data for 7 years following the termination of a contract of employment. In 2022-23, we will be procuring a different system which will enable us to manage the content of the database going forward.
4. Work on the retention plan for SP was delayed in 2021-22 due to the impact of the COVID-19 pandemic this and this work will now take place in 2022-23 and will be aligned with the work set out in above.

Are records being destroyed in accordance with our procedures?

5. There are procedures in place for the archiving/deletion of information held in Workpro and previously ACT! and, generally, these work well with information being archived and deleted in accordance with these procedures. ACT! was discontinued from January 2022 and work was undertaken to ensure all records were deleted in accordance with our retention policies.

- 6. Processes for the management of Outlook, P and Z drives and paper records are also implemented routinely. Guidance on remote working records management has been issued to all staff.
- 7. The project to revise the retention periods for records held in Virtual Cabinet (VC) will be carried forward into 2022-23 following the review of the Records Management Plan in 2021-22. It is hoped that we will be able to create some automated processes and tasks to support the records review processes subject to our duties and responsibilities as regards data protection and personal information.
- 8. Once revised retention periods have been agreed, further work will be required to configure VC to perform any new automated processes in line with the agreed retention periods.

Is information held securely?

- 9. Various improvements arising from a security review which took place in 2015-16 were implemented and security was further reviewed as part of GDPR implementation in 2017-19.
- 10. [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- 11. We received Cyber Essentials and Cyber Essentials Plus reaccreditation in December 2021 and February 2022 respectively.
- 12. We have in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed and these were followed in 2021-22.
- 13. [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

14. When working remotely, all members of staff are still bound by our requirements regarding the security of information and have been advised to comply with the key document C5 Information and Records Management Handbook.
15. As far as I am aware, all members of staff have complied with the above as far as possible.
16. Access to personal information has also been limited to only those employees, agents, contractors and other third parties who are permitted to access this information.

Data incidents

17. We have in place procedures to manage and report any data incidents and notify and seek advice from the DPO when a data incident takes place. We have a data incident log and, also, have in place procedures for notifying the ICO of a data breach where we are legally required to do so. These procedures were followed in 2021-22.
18. In 2021-22 there were a total of 8 data incidents and none of these required reporting to the ICO. The DPO has been consulted on all data incidents and the SMT has approved the recommended actions.
19. The table below provides a summary, for each quarter, of the number of data incidents and the action taken.

Data Incidents 2021-22			
	Number	DPO consulted	Reported to ICO
Q1	1	Yes	No
Q2	2	Yes	No
Q3	3	Yes	No
Q4	2	Yes	No
Total	8		

20. In 2021-22, we also recorded near misses so that we can learn from these too.
21. Taking account of the above, I am satisfied that there were sufficient processes were in place in 2021-22 to ensure that information was being held securely.

Is Personal data being lawfully processed?

22. As regards relevant terminology, we now operate under the “UK GDPR” with references to the EU’s version being the “EU GDPR”.
23. A positive EU-UK adequacy agreement is in place and this means the free flow of personal data between the EU and the UK can continue. The agreement is due to be reviewed again in five years.
24. In 2021-22, our internal auditor reviewed the effectiveness of our UK GDPR compliance and concluded that our procedures reflect good practice in a number of areas:
 - a Data Protection Policy and Handbook is in place which covers all the expected areas under the UK GDPR as well as staff procedures for Data Subjects Access

Requests (DSARs), Data Protection Impact Assessments (DPIAs) and data incident reporting.

- a Personal Data Processing Spreadsheet is in place which includes a record of the data assets held by the Scottish Information Commissioner. The spreadsheet details information about each asset, including how it is processed, the purpose for collection, where it is held, the retention period and whether it contains special category data.
- there is regular monitoring of subject access requests (SARs) via quarterly Committee Reports. These report that within the first three quarters of 2021 -22, 100% of SARs received were processed within one calendar month.
- templates are in place for both a pre-Data Protection Impact Assessment (DPIA) checklist and a DPIA. The Commissioner has completed DPIAs and also reviewed completed DPIAs.
- there is extensive mandatory training for all staff on data protection leading practices. There is also regular awareness raising activities which focus on reducing the risk of data protection incidents.

25. The internal audit did not identify any high-risk, significant or reportable weaknesses.

26. Most of the personal data we process is provided to us directly for one of the following reasons:

- by an employee of the Commissioner or by someone who has applied to work with the Commissioner
- by an enquirer making an enquiry to the Commissioner
- by an applicant making an application (appeal) to the Commissioner
- by a representative of a Scottish public authority subject to FOI legislation
- by a person making an information request or subject access request to the Commissioner
- by a person indicating they wish to attend, or having attended, an event organised by the Commissioner
- by a person subscribing to our email and newsletter services
- by a complainant making a complaint to the Commissioner
- by a person making a whistleblowing complaint to the Commissioner
- by a person or company providing contracted services to the Commissioner

27. We may also receive personal information indirectly, in the following scenarios:

- we have contacted a Scottish public authority about an appeal made to the Commissioner and it provides personal information about another person as part of the investigation

- an applicant provides personal information about another person in their application correspondence
 - an applicant provides personal information about another person in their correspondence when making an information request or subject access request to the Commissioner
 - a complainant provides personal information about another person in their complaint
 - a person making a whistleblowing complaint provides personal information about another person in their reporting to us
 - we have received personal information about another person from other public authorities, regulators or law enforcement bodies
 - an employee of the Commissioner provides personal information about another person, for example contact details, emergency contact details or a referee
28. The Commissioner's Privacy Notice, which is regularly reviewed and updated, provides comprehensive information regarding the personal data processing undertaken by the SIC and can be viewed here:
- [Privacy notice | Scottish Information Commissioner \(itspublicknowledge.info\)](https://www.scot.nhs.uk/itspublicknowledge/info)
29. As far as I am aware, personal data is being lawfully processed in a way that is lawful and correct in accordance with the DPA 2018 and UK GDPR principles and, also, in accordance with our published policies and procedures.

Are appropriate back-up arrangements in place?

30. [Redacted]
31. [Redacted]
32. [Redacted]

Are Key Documents being managed in line with the Handbook?

33. Key documents have been reviewed and there is a streamlined process for non-substantive planned reviews to assist progress.
34. To assist with reviews, the Review Schedule is considered every two months by the SMT.

35. The project to consider and recommend a way forward for the management of key documents and reviews commenced in 2020-21 and will be carried forward to 2022-23.
36. I am satisfied that there are appropriate processes in place for the management of key documents and that, generally, key documents have been created and managed in line with the Key Documents Handbook. If any key document has been created or amended/approved out with the relevant procedures, the Responsible Manager should ensure that corrective action is taken within Q1 2022-23 to ensure that the key document has been amended and approved in line with the procedures set out in Key Documents Handbook.

COVID-19 pandemic

37. Temporary business continuity arrangements due to the impact of the COVID-19 pandemic were continued in 2020-21. All members of staff were able to work remotely with remote access to our office systems.
38. Additional guidance on managing information securely when remote working was provided to all members of staff working remotely.