Manchester University NHS Foundation Trust

Data protection audit report

March 2022

Information Commissioner's Office

Executive summary

Audit Methodology

The Information Commissioner is responsible for enforcing and promoting compliance with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA18) and other data protection legislation. Section 146 of the DPA18 provides the Information Commissioner's Office (ICO) with the power to conduct compulsory audits through the issue of assessment notices. Section 129 of the DPA18 allows the ICO to carry out consensual audits.

The ICO is an independent, proportionate regulator and sees auditing as a constructive process with real benefits for controllers and so aims to establish a participative approach. High standards of personal data protection compliance help organisations innovate and deliver great services by building trust with the public. The ICO's expertise and consistent approach to regulation provides certainty enabling organisations to feel confident to use personal data responsibly, innovate and support economic growth.

Manchester University NHS Foundation Trust (the Trust) agreed to a consensual audit of their data protection practices.

The purpose of the audit is to provide the Information Commissioner and the Trust with an independent assurance of the extent to which the Trust within the scope of this agreed audit, is complying with data protection legislation.

The scope areas covered by this audit are determined following a risk based analysis of the Trust's processing of personal data. The scope may take into account any data protection issues or risks which are specific to the Trust, identified from ICO intelligence or the Trust's own concerns, and/or any data protection issues or risks which affect their specific sector or organisations more widely. The ICO has further tailored the controls covered in each

scope area to take into account the organisational structure of the Trust, the nature and extent of the Trust's processing of personal data, and to avoid duplication across scope areas. As such, the scope of this audit is unique to the Trust.

It was agreed that the audit would focus on the following area(s):

Scope area	Description
Governance & Accountability	The extent to which information governance accountability, policies and procedures, performance measurement controls, and reporting mechanisms to monitor data protection compliance to both the UK GDPR and national data protection legislation are in place and in operation throughout the organisation.
Data Sharing	The design and operation of controls to ensure the sharing of personal data complies with the principles of all data protection legislation.

Audits are conducted following the Information Commissioner's data protection audit methodology. The key elements of this are normally a desk-based review of selected policies and procedures, on-site visits including interviews with selected staff, and an inspection of selected records.

However, due to the outbreak of Covid -19, and the resulting restrictions on travel, this methodology was no longer appropriate. Therefore, the Trust agreed to continue with the audit on a remote basis. A desk based review of selected policies and procedures and remote telephone interviews was conducted from 22 to 25 March 2022. The ICO would like to thank the Trust for its flexibility and commitment to the audit during difficult and challenging circumstances.

Where weaknesses were identified recommendations have been made, primarily around enhancing existing processes to facilitate compliance with data protection legislation. In order to assist the Trust in implementing the recommendations each has been assigned a priority rating based upon the risks that they are intended to address.

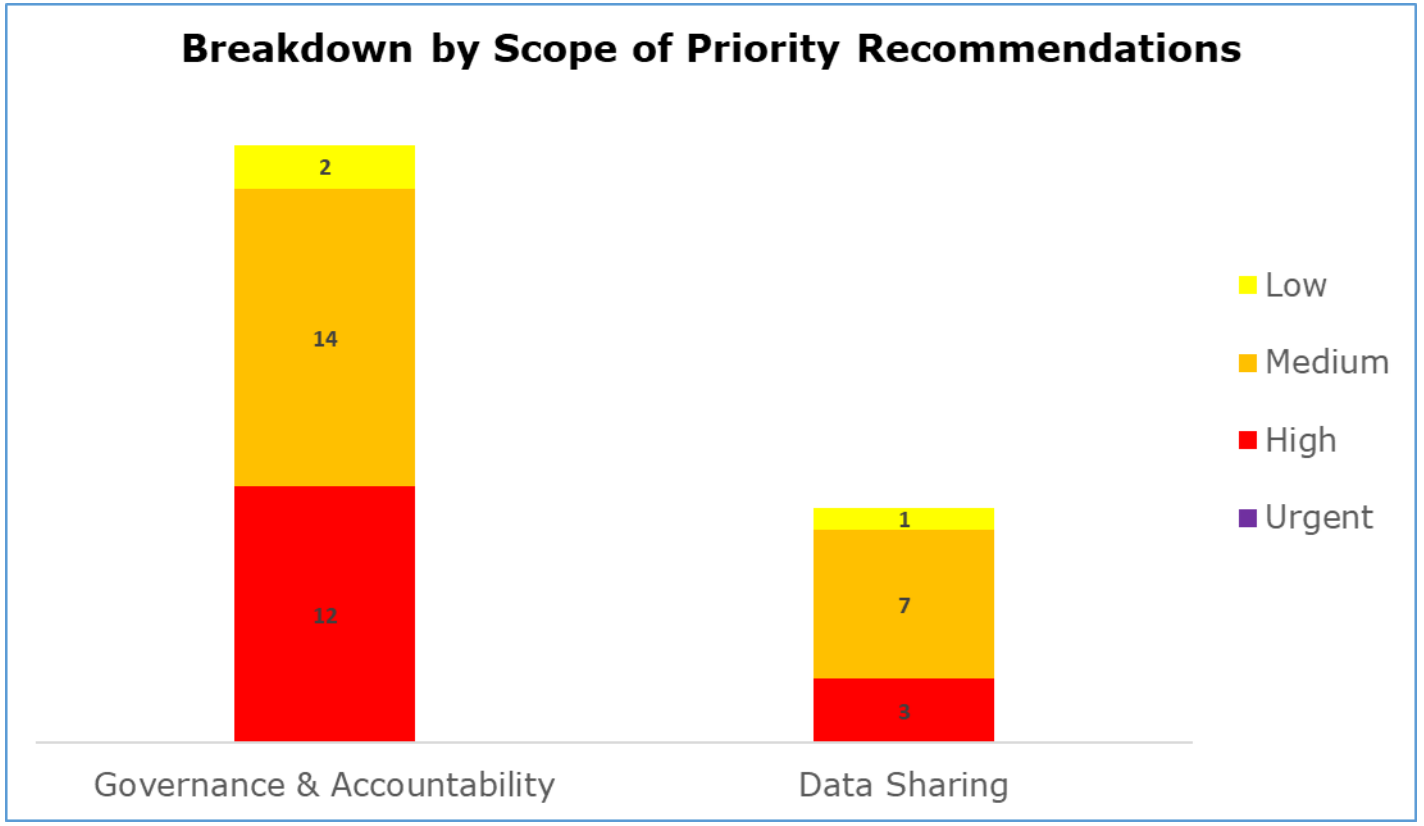
The ratings are assigned based upon the ICO's assessment of the risks involved. The Trust's priorities and risk appetite may vary and, therefore, they should undertake their own assessments of the risks identified.

Audit Summary

Audit Scope area	Assurance Rating	Overall Opinion
Governance & Accountability	Reasonable	There is a reasonable level of assurance that processes and procedures are in place and are delivering data protection compliance. The audit has identified some scope for improvement in existing arrangements to reduce the risk of non-compliance with data protection legislation.
Data Sharing	Reasonable	There is a reasonable level of assurance that processes and procedures are in place and are delivering data protection compliance. The audit has identified some scope for improvement in existing arrangements to reduce the risk of non-compliance with data protection legislation.

*The assurance ratings above are reflective of the remote audit methodology deployed at this time and the rating may not necessarily represent a comprehensive assessment of compliance.

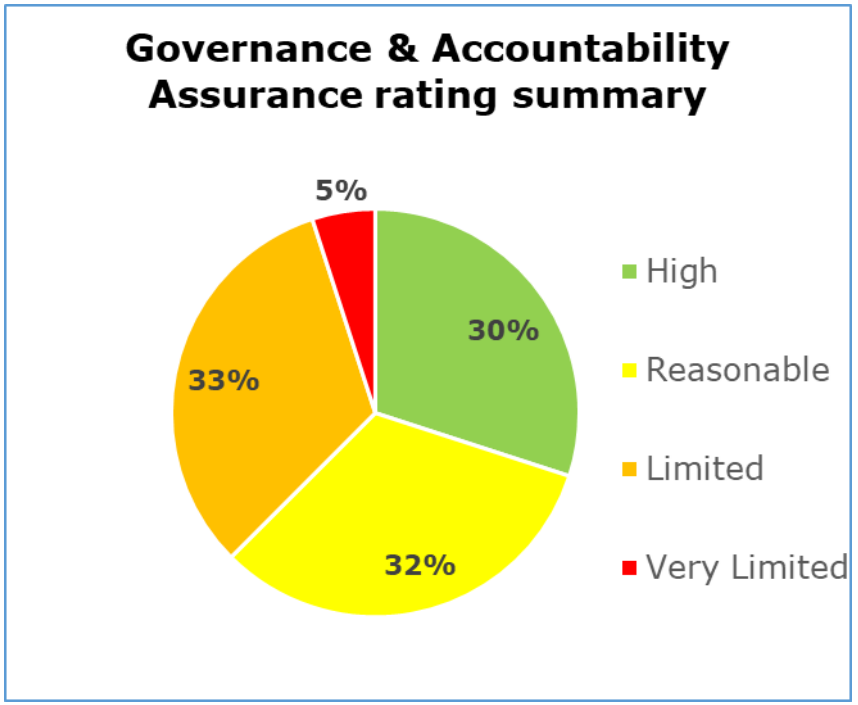
Priority Recommendations



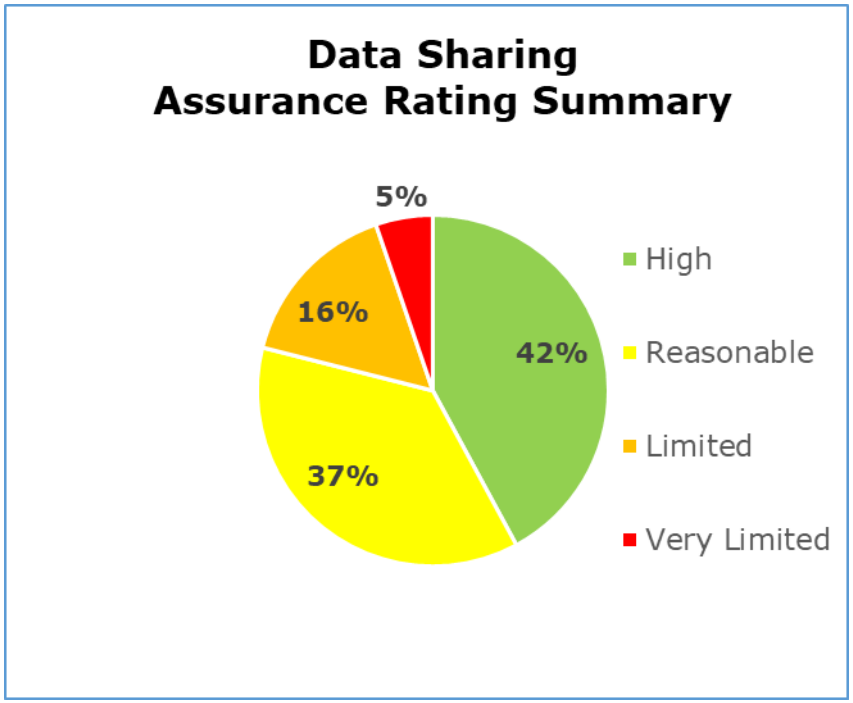
The bar chart above shows a breakdown by scope area of the priorities assigned to our recommendations made:

- Governance & Accountability has 12 high, 14 medium and 2 low priority recommendations
- Data Sharing has 3 high, 7 medium and 1 low priority recommendations

Graphs and Charts



The pie chart above shows a summary of the assurance ratings awarded in the Governance & Accountability scope. 30% high assurance, 32% reasonable assurance, 33% limited assurance, 5% very limited assurance.



The pie chart above shows a summary of the assurance ratings awarded in the Data Sharing scope. 42% high assurance, 37% reasonable assurance, 16% limited assurance, 5% very limited assurance.

Areas for Improvement

Governance and Accountability

- There are significant vacancies in the Information Governance management team and the Informatics Head of Governance has substantial operational responsibilities alongside their role as the Data Protection Officer (DPO). The Trust should ensure that the DPO function is adequately resourced to fulfil their statutory duties thoroughly and effectively.
- The Trust should ensure that the training needs for all staff with specialised data protection roles and functions across the trust are identified and that the training is delivered and refreshed at an appropriate frequency.
- Key Performance Indicators (KPIs) covering all aspects of information security and records management in place across all hospitals across the Trust should be reviewed regularly by appropriate senior staff, to ensure that there is sufficient oversight of compliance in these areas.
- The Trust should ensure that adequate due diligence checks are undertaken by the Trust on all its data processors before contracts are entered into. It should also carry out regular audits or compliance checks with processors once a data processing arrangement is operational to provide assurance that the contract remains fit for purpose and that processors are complying with the terms and conditions.
- The Trust should ensure their Data Protection Impact Assessment (DPIA) procedure is documented and its main procurement, project and change management policies and procedures stipulate the need for DPIA screening and, where required, DPIA completion to begin early in the life of a project.

Data Sharing

- The Trust should introduce specialised training for those staff involved in making data sharing decisions. This will ensure that they are adequately trained and made aware of their responsibilities.
- The Trust should implement regular scheduled reviews on a risk based frequency to their data sharing agreements to ensure they remain accurate and up to date.
- The Trust should improve their access control to third parties, by ensuring there is a documented process in place which outlines how access is to be restricted for third parties once they have reached the end of the agreement and ensure this is done in a timely manner.

Disclaimer

The matters arising in this report are only those that came to our attention during the course of the audit and are not necessarily a comprehensive statement of all the areas requiring improvement.

The responsibility for ensuring that there are adequate risk management, governance, and internal control arrangements in place rest with the management of the Trust.

We take all reasonable care to ensure that our audit report is fair and accurate but cannot accept any liability to any person or organisation, including any third party, for any loss or damage suffered or costs incurred by it arising out of, or in connection with, the use of this report, however such loss or damage is caused. We cannot accept liability for loss occasioned to any person or organisation, including any third party, acting, or refraining from acting as a result of any information contained in this report.

This report is an exception report and is solely for the use of the Trust. The scope areas and controls covered by the audit have been tailored to the Trust and, as a result, the audit report is not intended to be used in comparison with other ICO audit reports.