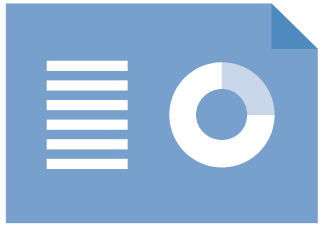
London North West University Healthcare NHS Trust

Data protection audit report

November 2020

Information Commissioner's Office

Executive summary



Audit Methodology

The Information Commissioner is responsible for enforcing and promoting compliance with the General Data Protection Regulation (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 sees auditing as a constructive process with real benefits for controllers and so aims to establish a participative approach.

The audit of London North West University Healthcare NHS Trust (the Trust) was conducted on a consensual basis.

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.

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 GDPR and national data protection legislation are in place and in operation throughout the organisation.

Personal Data Breaches	The extent to which the organisation has measures in place to detect, assess and respond to security breaches involving personal data, to record them appropriately and notify the supervisory authority and individuals where appropriate.
Ad hoc Disclosures	The extent to which the organisation has in place measures to manage 3rd party ad hoc requests for personal data and to prevent inappropriate disclosures.
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 were conducted from 14 – 17 September 2020. The ICO would like to thank the Trust for its flexibility and commitment to the audit during difficult and challenging circumstances.

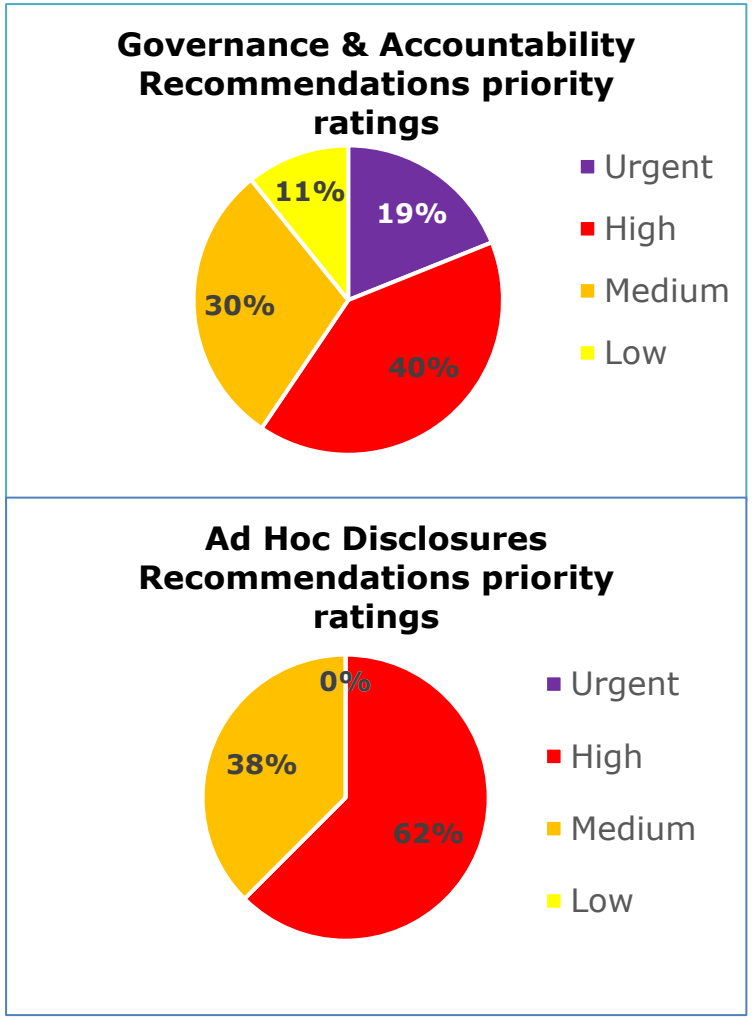
Where weaknesses were identified recommendations have been made, primarily around enhancing existing processes to facilitate compliance with data protection legislation. In order to assist the Trust in implementing the recommendations each has been assigned a priority rating based upon the risks that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

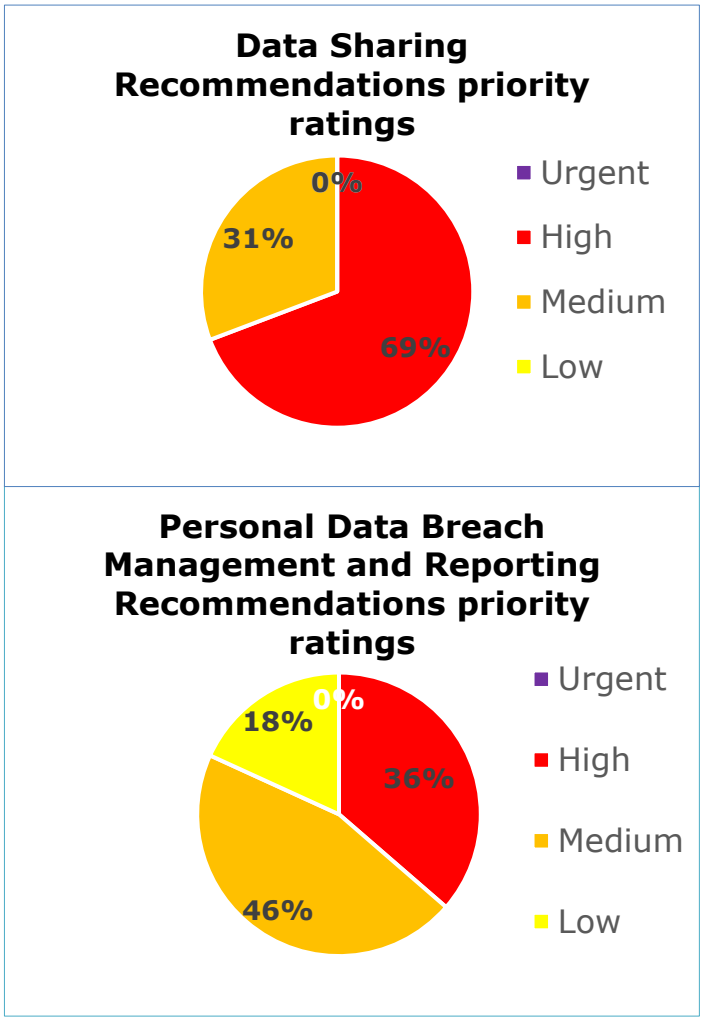
Audit Summary*

Audit Scope Area	Assurance Rating	Overall Opinion
Governance & Accountability	Limited	There is a limited level of assurance that processes and procedures are in place and are delivering data protection compliance. The audit has identified considerable scope for improvement in existing arrangements to reduce the risk of non-compliance with data protection legislation.
Personal Data Breach Management and Reporting	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	Limited	There is a limited level of assurance that processes and procedures are in place and are delivering data protection compliance. The audit has identified considerable scope for improvement in existing arrangements to reduce the risk of non-compliance with data protection legislation.
Ad Hoc Disclosures	Limited	There is a limited level of assurance that processes and procedures are in place and are delivering data protection compliance. The audit has identified considerable scope for improvement in existing arrangements to reduce the risk of non-compliance with data protection legislation.

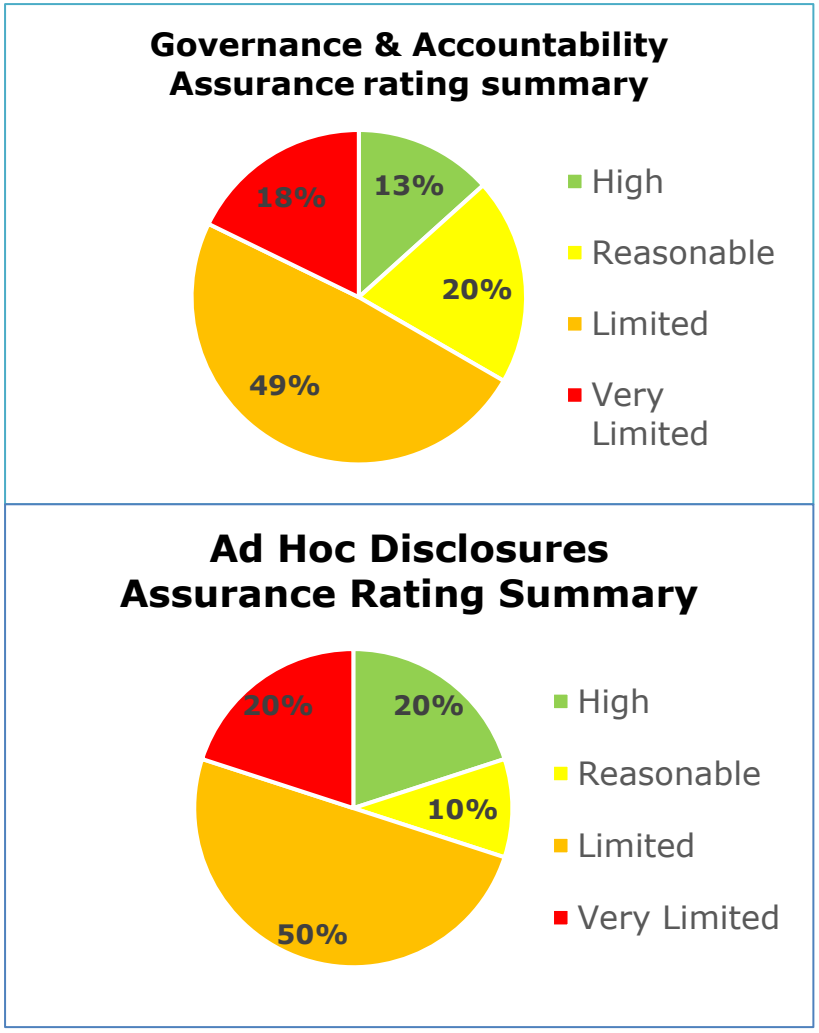
*The assurance ratings above are reflective of the remote audit methodology deployed at this time and the rating may not necessarily represent a comprehensive assessment of compliance.

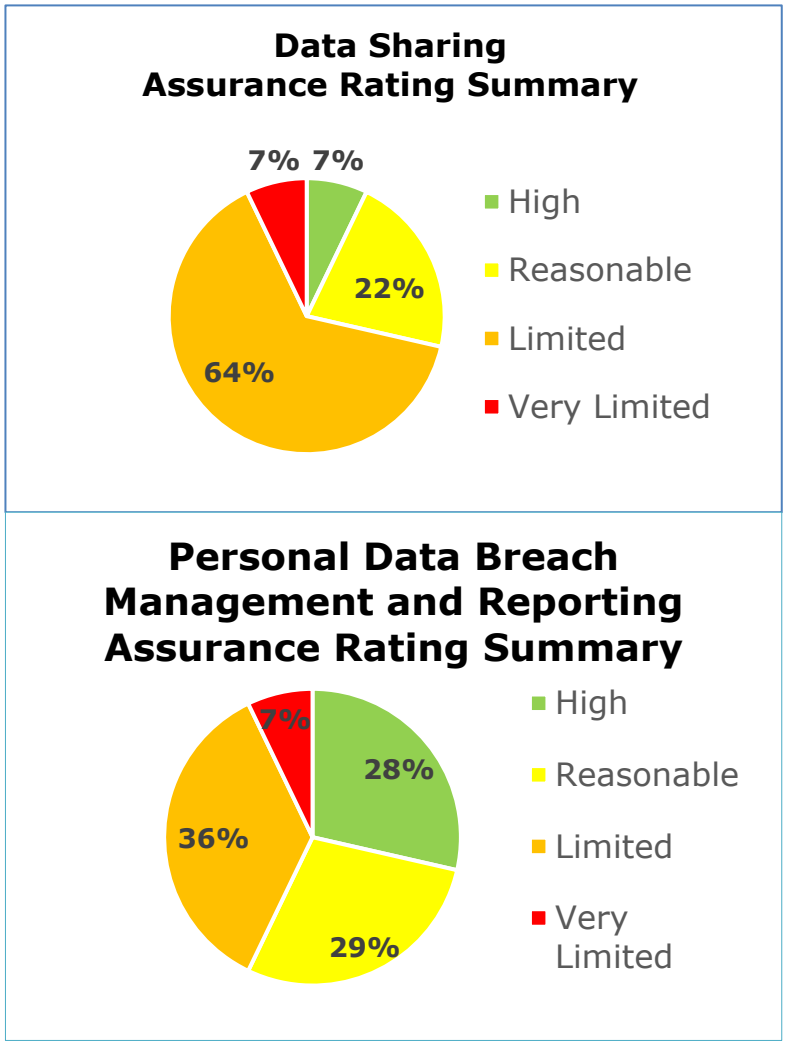
Priority Recommendations





Graphs and Charts





Areas for Improvement

- Following the departure of the Data Protection Officer (DPO) an interim DPO is now in place. The Trust should ensure that any permanent replacement also has the relevant knowledge, is appropriately resourced and has operational independence as required under GDPR.

- Contracts with data processors should be reviewed to ensure they comply with all of the requirements of GDPR and in particular the requirements around the reporting of personal data breaches.

- The Trust should ensure that it completes its data mapping exercise so that it has a clear understanding of all its data processing and can go on to develop the Record of Processing Activities (RoPA), Information Asset Registers and ensure compliance with GDPR Article 30 obligations.

- The Trust needs to formally identify, define and document internally its lawful basis (or bases) for all processing and sharing of personal data, in order to comply with its obligations under GDPR Articles 5 (1) (a), 5 (2), and 6.

- The Trust does not hold an up to date register of active data sharing agreements, and so currently does not have adequate oversight of all data sharing.

- The process for managing third party ad hoc requests for information is not documented in an appropriate policy.

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 London North West University Healthcare NHS 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 London North West University Healthcare NHS Trust. The scope areas and controls covered by the audit have been tailored to London North West University Healthcare NHS Trust and, as a result, the audit report is not intended to be used in comparison with other ICO audit reports.