

<b>Report to:</b>	QSMTM Q4 2022-23
<b>Report by:</b>	Helen Gardner-Swift
<b>Meeting Date:</b>	26 May 2023
<b>Subject/ Title:</b> (and VC no)	Information and Records Management – Information and Records Management Report 2022-23 and Assurance VC187239
<b>Attached Papers</b> (title and VC no)	None

## Purpose of report

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1. To provide the Information and Records Management Report 2022-23 (set out in the Appendix) (IRM Report 2022-23) and the assurance report as required by the Key Document C1 Governance Reporting Arrangements (GRA).

## Recommendation and actions

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2. The following is recommended
  - (i) the Senior Management Team (SMT) note this Committee Report (CR), the IRM Report 2022-23 and the assurance provided
  - (ii) the CR and the IRM Report 2022-23 are published in accordance with the details set out in paragraph 19

## Executive summary

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3. The IRM Report 2022-23 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 2020-21 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 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.

6. On 10 May 2023, interim comments on the updated RMP and an interim recommendation to approve the updated RMP were provided by the Keeper's office. The interim comments are being considered by the HOCS and the Finance and Administration Manager (FAM) and the majority of these, in effect, have been superseded by actions taken by us in 2021-22 and 2022-23. If there is anything significant that needs to be brought to the attention of the SMT, I will submit a CR to you as soon as possible.

#### Internal audit

7. In 2021-22, the 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 2022-23

8. The IRM Report 2022-23 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.
9. The IRM Report 2022-23 also identifies three areas where further work is required
  - the development and implementation of revised retention and destruction processes in VC – this work will continue in 2023-24 as part of the work related to the Records Management Plan
  - the Virtual Cabinet upgrade
  - a project to consider and recommend a way forward for the management of Key Documents and reviews – this work was started in 2022-23 and will be continued in 2023-24

### **Assurance**

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10. Taking account of the IRM Report 2022-23, 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**

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11. Our priority as an organisation has been to operate 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 hybrid working is now in place. All members of staff are able

to work remotely. Updated guidance on managing information when remote working and working in the office premises has been provided to all members of staff.

## **Risk impact**

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12. 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**

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13. No equality issues arise from this committee report.

## **Resources impact**

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14. The three actions to be carried referred to paragraph 9 above will require additional staff resource and it is anticipated that this can be met from existing staff resources.

## **Privacy impact**

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

## **Operational/ strategic plan impact**

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16. None identified.

## **Records management impact (including any key documents actions)**

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17. None identified.

## **Consultation and Communication**

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18. QSMTM Q4 minute and the publication of this CR.

## **Publication**

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19. I recommend that this CR is published in full but that paragraphs 14, 15, 18, 35, 36 and 37 of the IRM Report 2022-23 and the Personal Data Processing Spreadsheet are withheld on the basis that the exemption(s) in Sections 30(b)(ii), 30(c) 38(1) 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 2022-23

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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?

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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 \(itspublicknowledge.info\)](https://itspublicknowledge.info)

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

Simply Personnel (SP)

3. SP, our Human Resources (HR) software was in operation up and until 31 January 2023. During 2022-23, it was confirmed that Croner Group Limited (which supplied the SP software) would no longer provide updates for the onsite version of SP that we used (as they now only provide cloud-based solutions).
4. As the onsite version would no longer be supported, for data protection and cyber security reasons, it was decided SP should no longer be used as our HR system.
5. The Operational Plan 2022-23 had an existing project to replace the HR system and this project covered the decommissioning of SP and the interim HR procedures that would be put in place are part of this project.
6. As we needed to replace SP, it was also sensible to use this opportunity to review our HR system requirements to establish whether a better HR software solution could be found rather than simply moving to the cloud-based version of SP.
7. The SP system that was in operation for part of 2022-23 was a very basic system with information held securely and access restrictions in place. However, there was no process for the management of the content of the SP database and we were unable to delete the personal details held for former employees - such data should be retained for 7 years following the termination of a contract of employment. In 2023-24, the project to procure a

new HR system, which will enable us to manage the content of the related database going forward and will have in place suitable retention policies, will continue.

8. A temporary and interim HR system is now in place: a spreadsheet has been created for each member of staff, saved to their own HR Admin cabinet in VC, with three separate tabs which their manager and the FAM will have access to for approvals and reporting purposes and which enables:
  - booking holidays and recording ongoing days taken, pending and remaining
  - recording ill health
  - recording special leave

### **Are records being destroyed in accordance with our procedures?**

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9. There are procedures in place for the archiving/deletion of information held in Workpro generally, these work well with information being archived and deleted in accordance with these procedures.
10. 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 updated and issued to all staff.
11. The project to revise the retention periods for records held in Virtual Cabinet (VC) will be carried forward into 2023-24 following the upgrade of VC and the work related to the RMP. 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.
12. 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?**

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13. Various improvements arising from a security review which took place in 2015-16 were implemented and security was further reviewed as part of EU GDPR implementation in 2017-19.
14. [REDACTED]
15. [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

16. We received Cyber Essentials in March 2022 and are currently in the process of obtaining Cyber Essentials Plus reaccreditation (this work has been carried forward into 2023-24 Q1).
17. 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 2022-23.

18. [REDACTED]

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

19. 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.
20. As far as I am aware, all members of staff have complied with the above as far as possible.
21. 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**

22. 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 2022-23.
23. In 2022-23 there were a total of 3 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.
24. The table below provides a summary, for each quarter, of the number of data incidents and the action taken.

Data Incidents 2022-23			
	Number	DPO consulted	Reported to ICO
Q1	0	N/A	N/A
Q2	1	Yes	No
Q3	2	Yes	No
Q4	0	N/A	N/A

<b>Total</b>	<b>3</b>		
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25. In 2022-23, we also recorded near misses so that we can learn from these too.
26. Taking account of the above, I am satisfied that there were sufficient processes were in place in 2022-23 to ensure that information was being held securely.

## **Is Personal data being lawfully processed?**

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27. As regards relevant terminology, we now operate under the “UK GDPR” with references to the EU’s version being the “EU GDPR”.
28. 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.
29. 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.
30. The internal audit did not identify any high-risk, significant or reportable weaknesses.
31. 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 or company providing contracted services to the Commissioner

32. 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

33. 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://itspublicknowledge.info)

34. 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?**

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35.

[REDACTED]

[REDACTED]



36.

37.

### **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 and this was done in 2022-23.

35. The project to consider and recommend a way forward for the management of key documents will be carried forward to 2023-24.

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 2023-24 Q1 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. Our priority as an organisation has been to operate while safeguarding the health, safety and wellbeing of our members of staff. The office premises temporarily closed on 23 March 2020 and re-opened on 3 May 2022.

38. For 2022-23:

- temporary business continuity arrangements were continued for part of 2022-23 Q1
- all members of staff were able to work remotely with remote access to our office systems.
- following the re-opening of the office premises, hybrid working has been in place
- guidance on managing information securely when remote working was updated and provided to all members of staff