

Report

Edinburgh Integration Joint Board Responsibilities for Data and Information

Edinburgh Integration Joint Board
16 June 2017



Executive Summary

1. This report sets out the Edinburgh Integration Joint Board's (EIJB) responsibilities in relation to information governance. It highlights progress to date, future considerations and the current actions required to ensure compliance with information governance legislation.

Recommendations

2. The Edinburgh Integration Joint Board is asked to:
 - note progress made to date;
 - approve the proposal to register the Edinburgh Integration Joint Board with the UK Information Commissioner; and
 - note the intention to report to a future Joint board meeting on General Data Protection Regulations requirements and responsibilities.

Background

3. The Edinburgh Integration Joint Board has information governance responsibilities (separate to those of the Council and NHS Lothian) in relation to strategic planning and delegated functions which it determines and directs with its partners. These relate to the Data Protection Act 1998, the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and the INSPIRE (Scotland) Regulations 2011.

Main report

4. Organisations that process personal data are required to comply with the UK Data Protection Act 1998 (DPA). Personal data relates to information that can identify an individual, and processing is concerned with its collection, storage, use, management, sharing and disposal. Compliance with the DPA is regulated by the UK Information Commissioner.

5. Organisations that direct how personal data is processed are defined as data controllers and are required, under the section 17 of the DPA, to register with the UK Information Commissioner. The UK Information Commissioner's Office (ICO) has confirmed that the Edinburgh Integration Joint Board is a data controller. This means that the Board must register the types of personal data it processes and how that data is processed.
6. The City of Edinburgh Council's Information Governance Unit (IGU) has, in consultation with other Lothian IJB Information Governance colleagues, agreed the proposed content of the Edinburgh Integration Joint Board's ICO registration. This is attached as Appendix A to this report and it is recommended the Board approves completion of the registration process.
7. As a data controller, the Board is responsible for responding to Subject Access Requests (SARS) made under Section 7 of the DPA. SARS are requests made by an individual, known as a data subject, to see or obtain a copy of their personal data. Requests must be responded to within 40 calendar days. Discussions are on-going as to how this statutory responsibility will be processed and resourced. It envisaged that the City of Edinburgh Council or NHS Lothian will continue to fulfil this function on behalf of the Edinburgh Integration Joint Board's delegated functions pending discussions.
8. In relation to the joint processing of personal data for the delivery of delegated functions, the Edinburgh Integration Joint Board is a joint data controller, with the City of Edinburgh Council and NHS Lothian. To achieve appropriate governance in this regard, the Edinburgh Integration Joint Board is a signatory to the Pan Lothian Information Sharing Protocol. A memorandum of understanding (MOU) has also been drafted to ensure that responsibilities in relation to the processing of personal data are clearly set out and understood between the Edinburgh Integration Joint Board, the City of Edinburgh Council and NHS Lothian. Once agreed, the MOU will be underpinned by subsidiary agreements to ensure that information governance arrangements support integrated working and practices, and that statutory requirements are fully met. This will include the provision of appropriate privacy notices detailing how people's personal data is processed and used.
9. The General Data Protection Regulations (GDPR) will come into full force on 25 May 2018. GDPR provides a new privacy framework to regulate the processing of personal data and replaces the current UK Data Protection Act 1998.
10. While there are many similarities with the current legislation, there are new and different requirements which will have an impact on data protection governance and processing activities. The statutory emphasis around accountability and governance will require the Edinburgh Integration Joint Board to nominate a Data Protection Officer.
11. A future report will be prepared for the Board setting out GDPR requirements and responsibilities. The report will consider and incorporate the latest guidance issued by the UK Information Commissioner's Office and the Article 29 Working Group in relation to GDPR compliance.
12. The Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 and the INSPIRE (Scotland) Regulations 2011 provide

a statutory right of access to information held by Scottish Public Authorities, including the Edinburgh Integration Joint Board. Responses to requests must be provided within 20 working days, and applicants who are dissatisfied with a response to a request have a right to seek a review of that decision. They also have a right, if they remain dissatisfied, to appeal to the Office of the Scottish Information Commissioner and ultimately to appeal to the Court of Session on a point of law only.

13. The Edinburgh Integration Joint Board is also required, under Section 23 of The Freedom of Information (Scotland) Act 2002, to maintain a Publication Scheme which sets out the types of information that a Scottish Public Authority routinely makes available (called a 'Guide to Information') and how members of the public can access that information. The Publication Scheme must be approved by the Office of the Scottish Information Commissioner.
14. A Publication Scheme was prepared, on the Edinburgh Integration Joint Board's behalf, by the City of Edinburgh Council's Information Governance Unit which adopted the Scottish Information Commissioner's Model Publication Scheme. The Board received notification on 11 April 2017 that the Publication Scheme submitted had been approved by the Scottish Information Commissioner.
15. As above, discussions are on-going as to how statutory responsibilities will be processed and resourced going forward.
16. The Edinburgh Integration Joint Board is obliged to comply with the Public Records (Scotland) Act 2011 (PRSA). The PRSA is intended to promote better record keeping and requires public authorities to prepare and implement a five-year Records Management Plan (RMP) which sets out proper arrangements for the management of records, including areas identified for improvement. It must be approved by the Keeper of the Records of Scotland, reviewed regularly, and include the 14 record keeping elements outlined in a model RMP provided by the Keeper.
17. It is envisaged that the Edinburgh Integration Joint Board RMP will relate to records held directly by the Board and that records produced as part of a delegated function are covered in the respective RMPs of the City of Edinburgh Council and NHS Lothian. This arrangement will acknowledge that delegated functions are provided on the Edinburgh Integration Joint Board's behalf by each respective authority.
18. The Keeper has embarked on a phased programme to approve Records Management Plans. The Edinburgh Integration Joint Board will not be required to produce an RMP until the request for submission of a draft is made. A further report will be brought to the Board once RMP timescales have been confirmed.

Key risks

19. Failure to comply with information governance legislation can result in the following:
 - Distress or harm to individuals or organisations.
 - Reputational damage to the Edinburgh Integration Joint Board, City of Edinburgh Council and NHS Lothian.

- Financial loss or monetary penalty imposed.
- Detrimental impact on Council business and service delivery.
- Non-compliance with legislation and potential litigation.

20. A review of A review of data integration and sharing was undertaken by Internal Audit on behalf of the Integration Joint Board in May 2017. The report makes recommendations in respect of the need for:

- Roles and responsibilities for the management of access to critical systems; reporting and escalation of issues; and ensuring compliance with legal regulations to be clearly defined and communicated; and
- Processes, such as access management and communication protocols for data sharing to be fully established and embedded.

Action plans are in place to address these recommendations.

Financial implications

21. Failure to comply with the requirements of the Data Protection Act 1998 could result in enforcement action by the Information Commissioner's Office, including imposition of a civil monetary penalty that could result in a fine of up to £500,000 for each breach.

Involving people

22. Information governance legislation upholds the information rights of individuals and ensures that their personal data is processed appropriately and lawfully.

Impact on plans of other parties

23. Information governance arrangements and issues are discussed by the Joint Information Governance Group to ensure a consistency of approach between NHS Lothian, the Lothian Councils and Lothian Integrated Joint Boards.

Background reading/references

[Data Protection Act 1998](#)

[Freedom of Information \(Scotland\) Act 2002](#)

[Environmental Information \(Scotland\) Regulations 2004](#)

[INSPIRE \(Scotland\) Regulations 2009](#)

[Public Records \(Scotland\) Act 2011](#)

[Office of the Scottish Information Commissioner](#)

[Information Commissioner's Office](#)

Report author

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Appendix A

Data Controller: Edinburgh Integration Joint Board

Address:

Health & Social Care Partnership
City of Edinburgh Council
Waverley Court
4 East Market Street
Edinburgh, EH8 8BG

This data controller states that it is a public authority under the Freedom of Information Act 2000 or a Scottish public authority under the Freedom of Information (Scotland) Act 2002

This register entry describes, in very general terms, the personal data being processed by:

Edinburgh Integration Joint Board

Nature of work - Integration Joint Board

Description of processing

The following is a broad description of the way this organisation/data controller processes personal information. To understand how your own personal information is processed you may need to refer to any personal communications you have received, check any privacy notices the organisation has provided or contact the organisation to ask about your personal circumstances.

Reasons/purposes for processing information

We process personal information to enable us to:

- oversee the provision of delegated health and social care services in our area
- maintain our accounts and records
- promote our services
- undertake research
- support and manage our employees
- administer our Board

Type/classes of information processed

We process information relevant to the above reasons/purposes. This information may include:

- personal details
- family, lifestyle and social circumstances
- goods and services
- financial details

- employment and education details

We also process sensitive classes of information that may include:

- physical and mental health details
- sexual life
- racial or ethnic origin
- trade union membership
- religious or other beliefs of a similar nature
- offences and alleged offences
- trade union membership

Who the information is processed about

We process personal information about:

- patients and service users
- staff
- suppliers and service providers
- survey respondents
- business contacts
- professional experts and consultants
- offenders and suspected offenders

Who the information may be shared with

We sometimes need to share the personal information we process with the person to whom it relates and also with other organisations. Where this is necessary, we are required to comply with all aspects of the Data Protection Act (DPA). What follows is a description of the types of organisations we may need to share some of the personal information we process with for one or more reasons.

Where necessary or required we share information with:

- NHS Lothian
- Other Lothian Councils: West Lothian Council, Midlothian Council, East Lothian Council
- Other Lothian Integration Joint Boards: West Lothian Integration Joint Board, Midlothian Integration Joint Board, East Lothian Integration Joint Board
- healthcare, welfare and social professionals
- social and welfare organisations
- central government
- local government
- family, associates and representatives of the person whose personal data we are processing
- suppliers and service providers
- financial organisations
- current, past and prospective employers
- voluntary and charitable organisations
- legal representatives
- employment agencies and examining bodies
- survey and research organisations
- security organisations
- police forces

- persons making an enquiry or complaint

Transfers

It may sometimes be necessary to transfer personal information overseas. When this is needed, information will normally be shared within the European Economic Area (EEA) or other adequate countries under the General Data Protection Regulation (GDPR), and when outwith these countries, with appropriate controls in place.