

Freedom of Information (Scotland) Act 2002

Date received	30/08/2022	Subject	Data Breaches		
Passed to	Information Governance	Date passed	30/08/2022	Respond by	20/09/2022
Category	Private	FOI number	2022-356		

Question/s to be answered

1. The number of patient data breaches recorded in 2019, 2020, 2021, and up to August 2022, broken down by date and details of the breach, and whether any staff faced disciplinary action for the breach (written warnings, reported to Police Scotland etc.)

Year	Number of incidents	Number reported to ICO
2019	57	10
2020	70	11
2021	115	7
2022 to 30 August	57	5
Total	299	33

In none of these incidents did any member of staff face disciplinary action.

Please note the following:

- We have interpreted your question to refer to personal data breaches as defined by Article 4(12) of the UK General Data Protection Regulation (UK-GDPR): “a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed”.
- The wording of your questions 2 and 3 (below) suggest you are requesting information about breaches of confidentiality only. However, the UK-GDPR art 4 definition and the figures we have provided also encompass breaches affecting the integrity and availability of personal data – see the [CIA triad \(Confidentiality, Integrity and Availability\)](#)
- The figures in the table above only include incidents for which NHS Shetland was the sole or joint data controller. While we do record incidents for which NHS Shetland is not the data controller (for instance, if patient information is erroneously sent to NHS Shetland by another health board / data controller) we have not included these incidents as NHS Shetland has no responsibility for them.
- Since the advent of the GDPR and Data Protection Act 2018 (DPA 2018), NHS Shetland has carried out extensive work in training / raising awareness of data protection issues as well as improvements to the categorisation of data incidents on our adverse event reporting system, leading to both an increase in numbers of incidents reported and those categorised as data incidents.

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- NHS Shetland records and investigates all data breaches reported through our adverse event reporting system, regardless of severity. As part of the investigation process, and in accordance with [our duties under the UK-GDPR](#), we assess whether each incident is likely to result in harm to the rights and freedoms of the data subject(s) involved. If this is assessed to be the case, we self-report the breach to the Information Commissioner's Office (ICO).

In all the incidents reported to the ICO to date and for which the ICO has issued a decision notice, the ICO has determined that no further action was necessary.

Details of breaches:

NHS Shetland categorises incidents using same types as the [ICO in their reporting](#). Using these categories, the breakdown by year is as follows:

2019

Incident type	Count	Reported to ICO
Alteration of / error in personal data	20	0
Data emailed/texted to the wrong recipient	8	1
Data posted/faxed/handed to incorrect recipient	10	4
Hardware/software misconfiguration	3	1
Loss/theft of device containing personal data	1	0
Loss/theft of paperwork/data or paperwork/data left in unsecure location	9	1
Other non-cyber incident	3	1
Unauthorised access	2	1
Unauthorised access (cyber)	1	1
Grand Total	57	10

2020

Incident type	Count	Reported to ICO
Alteration of / error in personal data	17	2
Data emailed/texted to the wrong recipient	13	0
Data posted/faxed/handed to incorrect recipient	9	5
Failure to redact	3	3

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Failure to use bcc	1	1
Hardware/software misconfiguration	5	0
Loss/theft of paperwork/data or paperwork/data left in unsecure location	5	0
Other non-cyber incident	12	0
Unauthorised access	5	0
Grand Total	70	11

2021

Incident type	Count	Reported to ICO
Alteration of / error in personal data	62	0
Data emailed/texted to the wrong recipient	22	0
Data posted/faxed/handed to incorrect recipient	12	4
Hardware/software misconfiguration	6	1
Loss/theft of paperwork/data or paperwork/data left in unsecure location	4	1
Other non-cyber incident	5	0
Unauthorised access	3	1
Verbal disclosure of personal data	1	0
Grand Total	115	7

2022 to 30 August

Incident type	Count	Reported to ICO
Alteration of / error in personal data	28	1
Data emailed/texted to the wrong recipient	11	0
Data posted/faxed/handed to incorrect recipient	8	2
Hardware/software misconfiguration	4	1
Other non-cyber incident	2	0
Ransomware	1	1
Unauthorised access	2	0

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Verbal disclosure of personal data	1	0
Grand Total	57	5

2. In cases where information was shared in the breaches, a breakdown of the type of information that was shared (e.g. email address, medical information/conditions etc.)

Incidents in which information was shared inappropriately come under the 'confidentiality' category. The table below shows all confidentiality breaches in the years specified for which NHS Shetland was the sole/joint data controller. The table also breaks down these numbers into 'identifiers only' (basic demographic information such as name, address, email address, etc.) and '[special category data](#)'. The most common special category data involved in the incidents is data concerning health.

We have excluded incidents in which data was incorrectly shared with another service/department within NHS Scotland as these incidents are contained within a trusted environment.

Year	Identifiers only	Special category data
2019	4	9
2020	5	11
2021	3	11
2022 to 30 August	2	11
Grand Total	14	42

3. The total number of patients whose data was breached in 2019, 2020, 2021, and up to August 2022, broken down by year.

We have used the same filters for Q2 above and also divided the data between 'identifiers only' and 'special category data'.

Where the exact number of data subjects affected by an incident cannot be established, NHS Shetland records an estimated number or the maximum number of data subjects who could possibly be affected. Totals which included estimated values are marked with an asterisk.

Year	Number of data subjects (identifiers only)	Number of data subjects (special category data)
2019	104*	55
2020	189	13
2021	5	14
2022 to 30 August	3	12

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Grand Total	301*	94
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