

Freedom of Information (Scotland) Act 2002
Environmental Information (Scotland) Regulations 2004

Date received	18/10/2022	Subject	Data Breaches	
Date passed	19/10/2022	Respond by	08/11/2022	
Passed to	Information Governance		FOI number	2022-437
Category of information requested	Governance - Information			

Question/s to be answered

1. How many data breaches have occurred at NHS Shetland over the past five years?

In accordance with FOISA s 16(1), NHS Shetland confirms that it holds the information requested but that it is exempt from disclosure under FOISA s 25(1) as the information requested is accessible without submitting a request under FOISA s 1(1). The information you have requested for the last 5 years up to 30 August is available here:

<https://www.shb.scot.nhs.uk/board/foi/2022/08/2022-335.pdf>

<https://www.shb.scot.nhs.uk/board/foi/2022/08/2022-356.pdf>

Between 30 August 2022 and 18 October 2022 (the date of your request) there have been the following further incidents recorded:

Total: 8 (eight)

Reported to ICO: 0 (zero)

2. For each breach, could you please indicate:

We have interpreted this part of your question as referring only to incidents which were reported to the Information Commissioner's Office (ICO).

Please note that prior to the introduction of the GDPR and DPA 2018 there was no requirement to report incidents to the ICO.

- a. The date(s) that it occurred
- b. The date on which NHS Shetland became aware of it
- c. The date on which the Information Commissioners Office was informed
- d. How NHS Shetland was made aware of it (i.e. member of staff or public)
- e. The department/practice in which it occurred
- f. The number of patients/staff affected by it
- g. The cause identified for the breach

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- h. Whether it resulted in disciplinary action for staff members involved (please indicate number of staff disciplined and type of action taken)
- i. Any further audits undertaken in the affected department/team as a result
- j. Any further training undertaken in the affected department/team as a result

Please see the table on the following pages for the answers to these questions:

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Incident Date	NHS Shetland aware	ICO report	How NHS Shetland became aware	Department	Number of data subjects affected	Root cause	Disciplinary action	Further audits	Further training	Data subjects notified?
23/08/18	23/08/18	28/08/18	Member of staff during checks	Accident & Emergency	648	Inadequate staff training; Lack of / inadequate procedure; System configuration	None	Audit of historical occurrences, weekly audit introduced	Training on system	No
25/02/19	25/02/19	27/02/19	Member of staff during checks	Medical Records	1	Lack of / inadequate procedure	None	Audit, rewriting of procedure and additional security measures implemented		Yes
26/04/19	30/04/19	01/05/19	Public	Mental Health	1	Phone number / address not checked before sending	None			Yes
28/05/19	31/05/19	03/06/19	Member of staff	Locum GP	100*	Failure to follow policy / procedure	None		All staff email	No
25/06/19	26/06/19	27/06/19	Public	Health Records	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
24/07/19	24/07/19	06/08/19	Member of staff during checks	Accident & Emergency	57	Inadequate staff training; Previous recommendations not implemented	None		Training on system	No
24/07/19	24/07/19	25/07/19	Public	Mental Health	1	Records not updated	None			Yes
07/10/19	07/10/19	10/10/19	Public	Occupational Health	1	Inadequate document check before sending	None			Yes
06/11/19	07/11/19	08/11/19	Public	Health Records Department	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
29/11/19	29/11/19	25/09/20	Member of staff during checks	Maternity	20	No procedure to confirm successful data transfer	None	Daily checks introduced		No
23/12/19	23/12/19	24/12/19	Member of staff	Mental Health	1	Failure to follow policy / procedure	None	Checking process introduced		Yes
21/01/20	21/01/20	22/01/20	Public	Maternity	1	Failure to follow policy / procedure; Misfiling of patient information	None		Procedure changed	Yes
05/05/20	05/05/20	19/06/20	Member of staff during checks	Information Services	1	Inadequate document check before sending	None			Yes
06/05/20	12/05/20	12/05/20	Public	Lerwick GP	2	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
22/06/20	22/06/20	25/06/20	Public	Mental Health	1	Inadequate document check before sending	None	Checking process introduced		Yes

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Incident Date	NHS Shetland aware	ICO report	How NHS Shetland became aware	Department	Number of data subjects affected	Root cause	Disciplinary action	Further audits	Further training	Data subjects notified?
26/06/20	26/06/20	29/06/20	Public	Lerwick GP	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
29/06/20	30/06/20	02/07/20	Member of staff during checks	Physiological Measurement, General Practice, Patient Focussed Booking	2	CHI not used to identify patients	None		Lessons learned communicated to department	Yes
01/09/20	01/09/20	04/09/20	Public	Lerwick GP	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
29/09/20	29/09/20	19/10/20	Member of staff	Yell HC	180	Email addresses not checked before sending	None		Lessons learned communicated to department	No
23/10/20	26/10/20	26/10/20	Public	Lerwick GP	1	Redaction procedure not followed; Inadequate/incomplete records	None		Lessons learned communicated to department	Yes
28/10/20	29/10/20	29/10/20	Member of staff	Public Health	1	Phone number not checked before sending; Phone number / address not checked before sending	None		Lessons learned communicated to department	Yes
16/11/20	25/11/20	25/11/20	Public	Physiotherapy	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
26/01/21	28/01/21	28/01/21	Public	Lerwick GP	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
05/03/21	05/03/21	05/03/21	Public	Mental Health	2	Inadequate document check before sending	None			Yes
31/05/21	31/05/21	31/05/21	Public	Medical Records	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
22/06/21	22/06/21	29/07/21	Member of staff	Scalloway Health Centre	1	Failure to follow policy / procedure; Misfiling of patient information	None		Lessons learned communicated to department	Yes
10/11/21	11/11/21	12/11/21	Public	Mental Health	1	CHI not used to identify patients; Inadequate document check before sending	None		Lessons learned communicated to department	Yes

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30/12/21	30/12/21	30/12/21	External contractor processor	External contractor/processor	6	System configuration	None			No
02/02/22	07/02/22	15/02/22	Member of staff	Maternity	1	Phone number / address not checked before sending; Records not updated	None		Lessons learned communicated to department	Yes
25/05/22	30/05/22	27/05/22	Informed by other Boards	Primary Care	33	System configuration	None	Daily checks introduced until issue resolved		No
22/06/22	22/06/22	24/06/22	Public	Medical Records	1	Inadequate document check before sending	None		Lessons learned communicated to department	Yes
15/06/22	23/06/22	24/06/22	Member of staff during checks	Medical Records	1	Failure to follow policy / procedure	None	Audit of all potentially affected records conducted	Training provided to staff member	Yes
04/08/22	05/08/22	05/08/22	Informed by other Boards	External contractor / processor	100*	Ransomware	None	Business continuity measures activated and daily checks carried out until issue resolved		No

*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.

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3. How many of these data breaches were the public notified of?

In accordance with data protection legislation, where NHS Shetland has believed there to be a high risk to the rights and freedoms of the data subject, we have notified the affected data subjects. We have also informed data subjects about incidents involving their personal data even if there is no legal requirement to do so – for example, through good practice / transparency.

The only incident (reported to the ICO by NHS Shetland) for which there was a notification made to the wider public was the Advanced Cyber Incident. The notification was made by Advanced and details of the impact on Adastra – the only system used by NHS Shetland – are available here:

<https://www.oneadvanced.com/cyber-incident/>

<https://www.oneadvanced.com/cyber-incident/adastra/>

At this stage, no NHS Shetland patients are believed to be at risk of harm as a result of this incident.

4. Is NHS Shetland currently investigating any data breaches and, if so, how many are being investigated

There are two incidents which have been reported to the ICO that are currently under investigation.