NHS Lothian
Internal Audit Report 2022/23
Mandatory and Statutory Training

Assurance Rating: Significant Assurance

Date: 31 January 2023

Final Report

Contents

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Timetable

- Date closing meeting held: 24/01/2023

- Date draft report issued: 27/01/2023

- Date management comments received: 31/01/2023

- Date Final report issued: 31/01/2023

- Date presented to Audit and Risk Committee:20/02/2023

Executive Summary

Introduction

The Staff Governance Standard for NHS Scotland require all NHS organisations to prioritise the personal health and wellbeing of staff and patients in the delivery of services. To ensure the provision of a continuously improving, safe and person-centered working environment, all employees should undertake statutory and mandatory training appropriate to their role on entry to the organisation and at regular intervals during their career. Staff attendance at mandatory and statutory training enables staff to complete their work safely and ensures the security of everyone within NHS Lothian and those who come into contact with it.

Statutory training is defined as training that is prescribed or authorised by a statue of law and it is compulsory for all employees as part of induction and at appropriate intervals during employment.

Mandatory training is defined as training which has identified for employees as a requirement to support the safe delivery of services and for the safety and wellbeing of individual members of staff and patients. Mandatory training is deemed compulsory by the organisation and is commonly underpinned by statutory law, legislation, national guidance, and recommendations. This training is also delivered at induction and at appropriate intervals during employment. NHS Lothian have a requirement to ensure compliance with mandatory training for relevant employees. We acknowledge that NHS Lothian are continuing to face system pressures post pandemic and as a result of this specific Mandatory and Statutory training modules are being prioritised for certain staff groups. We considered this throughout the review.

Compliance rates for each directorate are reported to NHS Lothian's Corporate Management Team (CMT) and compliance rates for each module are reported to the Local Partnership Forum. The reporting provides narrative comparing rates to that of the previous report and work ongoing to improve compliance. Management are responsible for following up on noncompliance with mandatory training, should compliance fall CMT and the Local Partnership Forum should ensure management are fulfilling their responsibility.

Scope

The scope of the audit was to evaluate the adequacy of internal controls in place around Mandatory and Statutory Training and review the design and operating effectiveness of the controls to mitigate against the identified potential risk areas.

Through our planning work we identified the following risks which formed the basis of the audit work undertaken.

- Mandatory and statutory training identified by NHS Lothian does not include training modules required or recommended by statutory law or legislation. This may place NHS Lothian staff or service users at risk, causing possible reputational damage.

- Mandatory and statutory training requirements are not adhered to, resulting in NHS Lothian failing to adhere to legal and regulatory requirements which may lead to associated consequences such as litigation

- Failure to monitor and report completion rates of mandatory and statutory training by management to an appropriate committee may result in a lack of awareness. This can cause NHS Lothian to be unable to defend themselves in event of challenge.

Approach

Our audit approach was as follows:

- Obtain understanding of the key areas outlined in scope above, through discussions with key personnel, review of management information and walkthrough test, where appropriate.

- Identify the key risks relevant within Mandatory and Statutory Training.

- Evaluate the design of the controls in place to address the key risks.

- Test the operating effectiveness of the controls in place.

It is Management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit should not be seen as a substitute for Management's responsibilities for the design and operation of these systems.

Acknowledgments

We would like to thank all staff consulted during this review for their assistance and cooperation

Limitations in Scope

Please note that our conclusion is limited by scope. It is limited to the risks outlined above. Other risks that exist in this process are out with the scope of this review and therefore our conclusion has not considered these risks. Where sample testing has been undertaken, our findings and conclusions are limited to the items selected for testing.

This report does not constitute an assurance engagement as set out under ISAE 3000.

Executive Summary

Summary of Findings

We have concluded that the controls in place in respect Mandatory and Statutory Training provides a **Significant** level of assurance. The table below provides a summary of the findings. The ratings assigned are based on the agreed internal audit rating scale (**Appendix 3**).

Detailed findings, recommendations and agreed management actions are found in Section 2 of this report.

Significant Assurance			
HIGH	**MEDIUM**	**LOW**	**ADVISORY**
-	-	-	1

Ref	Issue	H	M	L	A
1	**Risk area as per scope:** Mandatory and statutory training identified by NHS Lothian does not include training modules required or recommended by statutory law or legislation. This may place NHS Lothian staff or service users at risk, causing possible reputational damage.	-	-	-	1
2	**Risk area as per scope:** Mandatory and statutory training requirements are not adhered to, resulting in NHS Lothian failing to adhere to legal and regulatory requirements which may lead to associated consequences such as litigation.	-	-	-	-
3	**Risk area as per scope:** Failure to monitor and report completion rates of mandatory and statutory training by management to an appropriate committee may result in a lack of awareness. This can cause NHS Lothian to be unable to defend themselves in event of challenge.	-	-	-	-
Total		-	-	-	1

Main Findings

The Human Resources Mandatory Education & Training Policy, was authorised by the Area Partnership Forum in September 2016 and was due for review in September 2018. The policy contains the legislation and guidance that underpins mandatory training, however there are more up to date versions of the Public Records (Scotland) Act and the Data Protection Act. We were advised by the Head of HR and Organisational Development that the policy has not been updated as required due to the pending Once for Scotland approach for training.

Areas of Good Practice

Within the Mandatory Education & Training Policy there is a Mandatory Education Priority matrix, which prioritises the mandatory training modules for each job family/role. This allows staff to complete training in a defined order where availability to complete training limited.

NHS Lothian, inline with other NHS Boards, have a target of having 80% of staff complete their mandatory training. This target was agreed to take into account staff on maternity leave, long term sickness, or other leave. Eight out of eleven directorates have compliance above 80% and two directorates have compliance above 75%. The facilities directorate has 27% compliance as at January 2023. The root cause for low compliance by this directorate has been identified as facilities staff not having regular computer access, and an improvement plan is underway to remedy this. Compliance rates can be found at appendix 2.

Mandatory and Statutory training is held and recorded within LearnPro, the system automatically populates the training required for each job family. LearnPro also adds or removes training from the system which is no longer required. This ensures that all required training is held within the staff members learning log.

LearnPro allows management to easily review their staff members compliance rates, the system shows clearly compliance rate for each individual and for each module and shows if the module is valid, in-progress or overdue. This allows managers to follow up and escalate non-compliance with training.

Follow Up

Approximately two weeks following issue of the final Internal Audit report, a member of the Audit Team will issue an 'evidence requirements' document for those reports where management actions have been agreed.

This document forms part of the follow up process and records what information should be provided to close off the management action.

The follow-up process is aligned with the meetings of the Board's Audit & Risk Committee. Audit Sponsors will be contacted on a quarterly basis with a request to provide the necessary evidence for those management actions that are likely to fall due before the next meeting of the Audit and Risk Committee.

Mandatory and statutory training identified by NHS Lothian does not include training modules required or recommended by statutory law or legislation. This may place NHS Lothian staff or service users at risk, causing possible reputational damage.	**ADVISORY**
Finding 1.1 – NHS Lothian Human Resources Mandatory Education & Training Policy requires refresh.	

Control

The Human Resources Mandatory Education & Training Policy defines mandatory and statutory training. These align with national guidelines and good practice.

Observation

We obtained a copy of the Human Resources Mandatory Education & Training Policy, the current policy was authorised by the Area Partnership Forum in September 2016 and was due for review in September 2018. We reviewed the policy and confirmed that the contents are consistent with current practice and the list of training provided is the current training provided to staff and in line with other health boards. The policy contains an appendix which states the legislation and guidance that underpins mandatory requirements within this list Public Records (Scotland) Act 1937 and Data Protection Act 1998 are listed however there are more up to date versions of these pieces of legislation.

We were advised by the Head of HR and Organisational Development that the policy has not been updated as required due to the pending Once for Scotland approach for training.

Recommendation

Management should ensure that following the Once for Scotland guidance for mandatory and statutory training being issued NHS Lothian Mandatory Education & Training Policy should be updated to reflect this.

Management Response

As an improvement suggestion rather than finding, no management response is required for this recommendation.

Management Action

As an improvement suggestion rather than finding, no management action is required for this recommendation

Responsibility – N/A	**Target Date – N/A**

Appendix 1 – Staff Involved and Documents Reviewed

Staff Involved

- Director of HR and OD
- Associate Director OD & Learning
- Specialist Education Lead Staff Experience & Engagement OD and Learning
- Education Lead - Staff Engagement and Experience

Documents Reviewed

- Mandatory Education and Training Policy
- Mandatory Learning Standards
- CMT Mandatory and Appraisal Compliance Report June, September and January 2023.
- Local Partnership Forum and Staff Governance Narrative for Workforce Report September, November and January 2023.
- Audit of Core Mandatory Training - Directorate Level Data as at 16 January 2023.

Appendix 2 – Mandatory and Statutory Compliance rates as at January 2023.

DIRECTORATE	COMPLIANCE
Edinburgh Partnership	79%
East Lothian Partnership	82%
Midlothian Partnership	87%
West Lothian HSC Partnership	84%
Corporate Services	85%
Directorate of Primary Care	76%
Facilities	27%
Research and Development Trials	89%
Research and Training	83%
Royal Edinburgh Hospital and Associated Services	86%
Acute Services	81%

Appendix 3 – Our IA Report assurance levels

The table below shows the levels of assurance we provide and guidelines for how these are arrived at. We always exercise professional judgement in determining assignment assurance levels, reflective of the circumstances of each individual assignment.
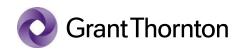
Rating	Definition	When Internal Audit will award this level
Significant assurance	The Board can take reasonable assurance that the system(s) of control achieves or will achieve the control objective. There may be an insignificant amount of residual risk or none at all.	There is little evidence of system failure and the system appears to be robust and sustainable. The controls adequately mitigate the risk, or weaknesses are only minor (for instance a low number of findings which are all rated as 'low' or no findings)
Moderate Assurance	The Board can take reasonable assurance that controls upon which the organisation relies to achieve the control objective are in the main suitably designed and effectively applied. There remains a moderate amount of residual risk.	In most respects the "purpose" is being achieved. There are some areas where further action is required, and the residual risk is greater than "insignificant". The controls are largely effective and in most respects achieve their purpose with a limited number of findings which require management action (for instance a mix of 'medium' findings and 'low' findings)
Limited Assurance	The Board can take some assurance from the systems of control in place to achieve the control objective, but there remains a significant amount of residual risk which requires action to be taken.	This may be used when: ■ There are known material weaknesses in key control areas. ■ It is known that there will have to be changes that are relevant to the control objective (e.g. due to a change in the law) and the impact has not been assessed and planned for. The controls are deficient in some aspects and require management action (for instance one 'high' finding and a number of other lower rated findings)
No assurance	The Board cannot take any assurance from the audit findings. There remains a significant amount of residual risk.	The controls are not adequately designed and / or operating effectively and immediate management action is required as there remains a significant amount of residual risk(for instance one Critical finding or a number of High findings)

Appendix 2 - Continued

The table below describes how we grade our audit recommendations based on risks

Rating	Description	Possible features
High	Findings that are fundamental to the management of risk in the business area, representing a weakness in the design or application of activities or control that requires the immediate attention of management	▪ Key activity or control not designed or operating effectively ▪ Potential for fraud identified ▪ Non-compliance with key procedures / standards ▪ Non-compliance with regulation
Medium	Findings that are important to the management of risk in the business area, representing a moderate weakness in the design or application of activities or control that requires the immediate attention of management	▪ Important activity or control not designed or operating effectively ▪ Impact is contained within the department and compensating controls would detect errors ▪ Possibility for fraud exists ▪ Control failures identified but not in key controls ▪ Non-compliance with procedures / standards (but not resulting in key control failure)
Low	Findings that identify non-compliance with established procedures, or which identify changes that could improve the efficiency and/or effectiveness of the activity or control but which are not vital to the management of risk in the business area.	▪ Minor control design or operational weakness ▪ Minor non-compliance with procedures / standards
Advisory	Items requiring no action but which may be of interest to management or which represent best practice advice	▪ Information for management ▪ Control operating but not necessarily in accordance with best practice

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