NHS Lothian

Internal Audit 2024/25

Compliance with Waiting Times Governance Regulations

February 2025

FINAL REPORT

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Report Distribution

Executive Lead:

• Jim Crombie, Deputy Chief Executive

For action:

• Andrew Jackson, Associate Director – Analytical Services

For Information:

• Caroline Hiscox, Chief Executive

• Craig Marriott, Director of Finance

• Amanda Kirkpatrick, Programme Manager – Waiting Times Governance

• Audit and Risk Committee

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Executive summary

Background

This review builds on the findings from our January 2024 audit, which highlighted NHS Lothian's progress in aligning its policies with the Scottish Government's updated Waiting Times Governance Regulations. The previous audit confirmed that NHS Lothian's Local Access Policy demonstrated alignment with national standards, particularly in treatment time guarantees, patient communication, and managing unavailability. However, it identified areas for improvement, specifically in expanding communication methods to better support patient engagement.

The purpose of this year's review was to verify that NHS Lothian remains on track to meet the November 2025 compliance deadline while supporting continuous improvements in waiting list governance and patient care by focusing on:

- Evaluating Internal Controls and Adherence to National Standards. Assessing the robustness of NHS Lothian's internal controls and processes in managing waiting lists, in line with the requirements established in the NHS Scotland Waiting Times Guidance issued in November 2023.

- Monitoring Progress Toward Full Implementation. Reviewing NHS Lothian's efforts to close any remaining procedural gaps and ensure that effective communication methods are implemented.

Executive summary

Objectives

The objective of this audit is to assess the effectiveness of NHS Lothian's controls and governance for managing Planned Care waiting lists in the Acute sector, ensuring compliance with national guidance and providing assurance to the Board on progress toward the November 2025 compliance deadline.

Our review focused on the following potential risk areas:

- NHS Lothian's procedural guidelines may not fully align with evolving NHS Scotland Waiting Times Guidance through to the November 2025 compliance deadline.
- Deficiencies in NHS Lothian's audit procedures could potentially lead to non-compliance with waiting list regulatory requirements.

The findings and conclusions from this review will feed into our annual opinion to the Audit and Risk Committee on the adequacy of the overall internal control environment.

Limitations in scope

Our findings and conclusions are limited to the risks identified above. The scope of this audit does not allow us to provide an independent assessment of all risks and controls linked to Waiting List Governance.

Where sample testing was undertaken, our findings and conclusions are limited to the sample tested only. Please note that there is a risk that our findings and conclusions based on the sample may differ from the findings and conclusions we would reach if we tested the entire population from which the sample is taken.

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

Acknowledgement

We would like to take this opportunity to thank your staff for their co-operation during this internal audit.

Headline messages

Significant Assurance

We have reviewed the processes and controls relating to the Board's self-auditing mechanisms for managing planned care waiting lists, with a focus on assessing the Board's internal mechanisms for monitoring compliance with waiting times governance regulations. We have concluded that the processes have provided **Significant Assurance**. This was confirmed through testing in specific areas of the organisation and through discussions with management.

We have provided 'Significant Assurance' based on our findings, indicating the Board can take reasonable assurance that the its self-auditing mechanisms are reliable, and that the Board can accurately monitor its compliance with national regulations.

The NHS Scotland Waiting Times Guidance (November 2023) outlines key requirements for managing waiting lists to ensure timely, person-centred, and equitable care. It includes specific standards, such as the 12-week Treatment Time Guarantee (TTG) for inpatient and day case treatment, the 18-week Referral-to-Treatment (RTT) standard, and the six-week limit for eight key diagnostic tests. The guidance also introduces new expectations for regular three-stage waiting list validation processes and improved patient communication about their responsibilities and the consequences of declining reasonable offers.

NHS Lothian has made progress in implementing these updates, including the development and approval of an implementation plan by the Executive Leadership Team in January 2024. The plan was subsequently reviewed and approved at the March 2024 meeting of the Access Compliance Assurance Group (ACAG) and submitted to the Scottish Government in April 2024, meeting the stipulated deadlines.

Our sample testing of the waiting list validation process confirmed that NHS Lothian's systems and procedures are effective, providing assurance on their accuracy, consistency, and alignment with national requirements. The validation testing confirmed no discrepancies in our test results compared to the findings of the waiting times governance team, confirming the adequacy of the internal processes in managing waiting lists and identifying exceptions.

We did identify an issue with the Trak system effecting compliance with the NHS Scotland Waiting Times Guidance. Currently, the system lacks functionality to automate or enhance patient communication and reporting processes in line with the updated guidance. Specifically, it does not support consistent, detailed notifications to patients about the consequences of declining reasonable offers of treatment and the potential re-setting of the waiting time clock. This limitation may result in patients being inadequately informed of their responsibilities, potentially leading to non-compliance with national guidance. Addressing the Trak system limitations will require collaboration with the Scottish Government and system developers.

Headline messages

Conclusion

We have raised one recommendation. The grading of this recommendation, based on risk, is summarised in the table below.

Objectives	Assurance rating	Number of recommendations			
		High	Medium	Low	Imp
NHS Lothian's procedural guidelines may not fully align with evolving NHS Scotland Waiting Times Guidance through to the November 2025 compliance deadline.	Significant Assurance	-	-	1	-
Deficiencies in NHS Lothian's audit procedures could potentially lead to non-compliance with waiting list regulatory requirements.	Significant Assurance	-	-	-	-

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Summary of findings

Examples of where recommended practices are being applied

- Our review confirmed that NHS Lothian is implementing the necessary adjustments to ensure compliance with the new waiting list guidance introduced on 4 December 2023. The Scottish Government acknowledges the need for a transition period, extending full implementation until 30 November 2025. NHS Lothian has taken appropriate steps, including the development of an implementation plan to address the complexities of achieving full compliance. The plan was finalised, approved by the Executive Leadership Team, and submitted to the Scottish Government on 18 April 2024, ahead of the required deadline, meeting the national requirement.

- An assessment and comparison of NHS Lothian's Local Access Policy with the NHS Scotland National Access Policy and Waiting Times Guidance found a significant level of alignment with national standards. While some adjustments in the Local Access Policy are necessary to achieve full alignment, such as updating the timeframe for reasonable offers, the current access policy accurately reflects the Board's current position as it progresses towards complete implementation of the new guidance by the November 2025 deadline.

- Sample testing confirmed the accuracy and effectiveness of NHS Lothian's audits related to managing patient waiting times. The consistency between our findings and those of the Waiting List Governance Team provides confidence that there are robust audit processes. The alignment of our findings also provides assurance that NHS Lothian internal reviews are both reliable and well-aligned with established standards.

- Based on a review of the Access Compliance Assurance Group (ACAG) meeting minutes for 2024, it is evident that the ACAG has been diligent in its oversight responsibilities. The group has focused on adhering to the updated NHS Scotland Waiting Times Guidance, confirming its role in monitoring regulatory compliance and upholding waiting list governance.

- Additionally, the Access Compliance Assurance Group minutes confirm a proactive approach towards auditing and continuous improvement across various service areas. For instance, the audit results, action plans and specific target audits were regularly discussed, demonstrating the ACAG is delivering its duties in identifying, addressing, and mitigating issues related to waiting times and service delivery.

Summary of findings

Areas requiring improvement

- The NHS Scotland Waiting Times Guidance (November 2023) emphasises the need for clear communication with patients about the impact of declining reasonable treatment offers. While NHS Lothian's Local Access Policy aligns with key aspects of the guidance, including treatment time guarantees and waiting list validation, limitations within the Trak system present a compliance risk. The system does not provide automated notifications to patients when their treatment clock is reset due to declining multiple reasonable offers. This increases the risk of misunderstandings, which could lead to disputes, and potential non-compliance with national standards relating to clear communication.

- The NHS Scotland Waiting Times Guidance (November 2023) emphasises effective communication with patients during waiting list validation, encouraging the use of accessible and engaging methods. NHS Lothian's Outpatient Waiting List Validation SOP aligns broadly with this guidance, incorporating robust traditional communication methods. An area for improvement has been identified in expanding the use of modern communication technologies, such as digital platforms and electronic communication, to further enhance patient engagement and alignment with national standards. This issue was highlighted in the 2023/24 Waiting List Compliance review, with an agreed implementation plan already in progress. As the implementation date is not yet due, the finding is noted for reference, and no new recommendation has been raised.

Detailed findings & action plan

1.1	Significant Assurance	NHS Lothian's procedural guidelines may not fully align with evolving NHS Scotland Waiting Times Guidance through to the November 2025 compliance deadline.

Finding and implication	Audit recommendation	Management response, including actions
<u>Limited Communication on Reasonable Offers.</u> The NHS Scotland Waiting Times Guidance (November 2023) highlights the importance of clear communication with patients regarding waiting list management, including the consequences of refusing reasonable offers of treatment. Patients should be fully informed of their responsibilities and the potential impact on their care if offers are declined. NHS Lothian has processes in place to communicate with patients about waiting list management, including adherence to treatment time guarantees with patients, for example, receiving an explanation on how their actions can influence the waiting time clock when they are originally added to the waiting list. However, as NHS Lothian has previously highlighted to the Scottish Government, a limitation in the Trak system affects patient communication in cases where patients decline appointments, but a clinical review determines they should remain on the waiting list. In these instances, the consequences of refusing previous offers (while not resulting in removal from the waiting list) may include resetting the waiting time clock, which may not always be clearly communicated to patients. The NHS Scotland Waiting Times Guidance (November 2023) states that if, following a clinical review, it is not reasonable to refer the patient back to their referring clinician, a further appointment should be offered, with the waiting time clock reset to zero from the date of the missed appointment. Health Boards must inform patients of these consequences as soon as possible after treatment is agreed. The lack of automated notifications in the Trak system may result in patients not fully understanding how their decisions have affected their treatment timelines.	**Recommendation 1** To comply with NHS Scotland Waiting Times Guidance, NHS Lothian should work with the Scottish Government, Public Health Scotland and System Suppliers to address Trak system these limitations or establish a process to ensure patients are informed when their treatment clock is reset due to declining reasonable offers.	**Actions:** The limitation on letters relating to this situation will be raised by NHS Lothian representatives at the national Waiting Time Information Group, which is chaired by Public Health Scotland, in order that a Scotland wide solution to this national issue can be considered. **Responsible Officer:** Andrew Jackson, Associate Director, Analytics **Executive Lead:** Jim Crombie, Deputy Chief Executive **Due Date:** 30 November 2025

Detailed findings & action plan

2.1	Significant Assurance	Deficiencies in NHS Lothian's audit procedures could potentially lead to non-compliance with waiting list regulatory requirements.

Finding and implication	Audit recommendation	Management response, including actions
Three Stage Waiting List Validation Process. A review of NHS Lothian's Outpatient Waiting List Validation Standard Operating Procedure (SOP) against the NHS Scotland Waiting Times Guidance (November 2023) confirmed that the SOP broadly aligns with national guidance. An area for potential enhancement was identified in relation to communication methods. While the SOP effectively utilises traditional communication channels, further alignment with national guidance could be achieved by incorporating a wider range of digital and electronic communication methods. This issue was previously highlighted in the 2023/24 Waiting List Compliance review, with an agreed implementation timeline extending to November 2025. NHS Lothian is actively progressing work in this area as part of its digital transformation initiative. Outpatient appointment, cancellation, DNA, rebook, and reminder letters have now gone live, supporting a more consistent patient experience and enabling faster electronic delivery. Further developments are planned, with standardised inpatient, waiting list, and radiology letters scheduled to go live in 2025. This work remains on track for completion within the agreed timeframe. No new recommendation has been raised, and this finding is included for information and reference only.	**Previously agreed Recommendation:** To ensure full compliance with NHS Scotland Waiting Times Guidance, enhance NHS Lothian's Validation SOP by integrating multi-channel communication (e.g., email, SMS) with traditional methods. **Previously Agreed Actions:** The Lothian eHealth team are currently rolling out digital support for conducting and tracking the waiting list validation process. Additionally, they are currently reviewing the functionality of Lothian's primary communications system. An update is imminent and will increase the flexibility of communication methods and types of letters that can be issued such as easy read and different languages. The WL Validation SOP will be updated to reflect these elements and at a point consistent with the nationally coordinated implementation and in line with SGHD's target date of no later than November 2025.	**Responsible Officer:** Andrew Jackson, Associate Director, Analytics **Executive Lead:** Jim Crombie, Deputy Chief Executive **Due Date:** 30 November 2025

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Appendices

Appendix 1:
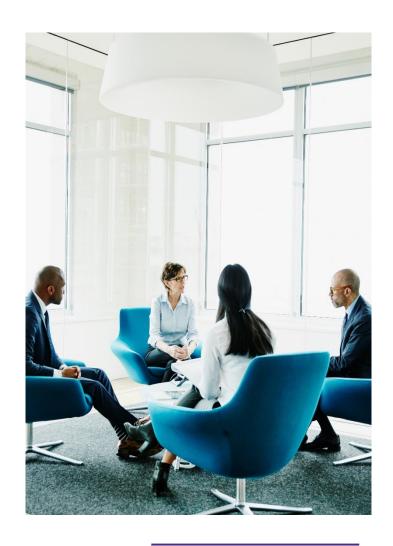# Staff involved and documents reviewed

Staff involved

- Amanda Kirkpatrick, Programme Manager – Waiting Times Governance
- Andrew Jackson, Associate Director – Analytical Services

Documents reviewed

- Board papers
- ACAG Minutes
- Guidelines for Re-Audit by Waiting Times Governance Team
- Waiting Times Implementation Paper
- Local Access Policy
- Validation Audit Results

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Appendix 2:
Our 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	Description
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 a number of HIGH rated recommendations)

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Appendix 3:
Our recommendation ratings

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
Improvement	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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