

PUBLIC AUDIT AND POST-LEGISLATIVE SCRUTINY COMMITTEE

POST LEGISLATIVE SCRUTINY - FREEDOM OF INFORMATION (Scotland) ACT 2002

SUBMISSION FROM : NHS Greater Glasgow and Clyde

1. In your view, what effects has the Freedom of Information (Scotland) Act 2002 (FOISA) had, both positive and negative?

- Improved records management and structure and consistency in recording information;
- Challenges in dealing with requests for information to integrated services, specifically Health and Social Care Partnerships.

2. Have the policy intentions of FOISA been met and are they being delivered? If not, please give reasons for your response.

In posing this question, it would have been helpful for the consultation to have provided signposting to information on the specific policy intentions of FOISA.

- Public authorities support the policy intentions of FOISA and recognise the benefit in having a formal and challengeable mechanism for members of the public to require the provision of what is public information. It may be beneficial at this stage of review of the Act and its application for the Committee to engage directly with Scottish public authorities and FOISA practitioners to understand in detail some of the challenges which are faced in ensuring compliance with the Act currently and how positive developments could be introduced which would build upon experience and bring benefits for all who engage with FOISA;
- FOI requests submitted to the public authority in which I work have increased from around 250 in financial year 2006/7 to almost 1,100 requests in 2018/19, but without increase in resources equitable with this increasing challenge;
- The financial climate within public authorities is extremely stretched. Within health, savings have to be made year on year and it can be difficult to persuade heads of service that FOI should receive additional resources which could otherwise be allocated to direct patient care.

3. Are there any issues in relation to the implementation of and practice in relation to FOISA? If so, how should they be addressed?

- In dealing with the growing number of requests for information, we have always looked at working 'smarter' as well as harder, but we face difficulties in trying to address the areas that ensure we provide the right response first time around, or those areas that would improve the quality of responses, or the wider accessibility of information. These are areas such as:
 - increasing pro-active publication and encouraging publication of routinely requested information;
 - monitoring and updating of the publication scheme;
 - undertaking self-assessment toolkits;
 - specialist training;
 - liaising with service providers to increase knowledge of and compliance with the requirements of FOISA.

The pressure of dealing with requests for information on a day-to-day basis does not allow sufficient resource to address the wider issues that would strengthen the culture of and compliance with FOI within the organisation.

- **Health and Social Care Partnerships**
In practice, dealing with FOI requests submitted to HSCPs is problematic. HSCPs are not public authorities for the purposes of FOISA, but have 'parent' organisations which are subject to FOISA (local authorities and NHS Boards). IJBs are also subject to FOISA but it is not clear that an FOI submitted to an IJB can be passed to the HSCP to respond to. If the HSCP provides the information then in practice this comes from either the local authority or the NHS Board, or both. In those circumstances, who would handle a subsequent Review? Guidance is required to clarify the application of FOISA within this area, for the benefit of practitioners and of members of the public interested in service provision.
- **Elected officials utilising FOISA where other appropriate avenues exist.** It may be beneficial to review [Appendix 1](#) as an example of this. A significant number of requests were included in this single email. The questions have all been asked before by this particular MSP/their researcher and this demonstrates a lack of respect for public money and the resource required in responding to requests. In particular, it is apparent that the applicant has not reviewed previous responses, as they have re-requested information where our previous response has already advised them that either:
 - We do not hold the information;
 - Information is available from a different public authority, and the applicant has previously been directed to the appropriate public authority that holds the information;
 - The applicant has previously been advised that the information is publicly available and links provided to where the information can be located, and that the applicant can reasonably obtain it without utilising FOISA;
 - The applicant has requested information from earlier financial years, where this was clearly provided in a previous response.

Processing such a request in accordance with the requirements of the Act, even only so far as to check that the posed questions have been previously dealt with, consumes significant time and resource, and results in no additional information to the requestor, or benefit to the wider public.

4. Could the legislation be strengthened or otherwise improved in any way? Please specify why and in what way.

- Vexatious exemption is difficult to apply with confidence. It is the case that there are a small number of individuals who will use FOI together with a range of other processes available to them (eg complaints, whistleblowing). Isolating the request rather than the requester as vexatious is not helpful as such applicants will invariably submit further FOI requests on a different subject, making the applicant extremely difficult to deal with. Such applicants are incredibly resource intensive and often cause considerable stress for the individual FOI officers who are exposed to such applicants on a daily basis. Please see [Appendix 2](#) as an example of this.
- Inclusion into the scope of FOI of contractors/organisations providing public services with public money, for example PFI hospitals, schools, hospices, third sector organisations. If services are being bought with public money, then the public should have a right of access to that information;

- Delineation of service provision by Scottish public authorities and internal operational business matters.
- Application of the public interest test as a constituent part of consideration of all requests rather than as part of consideration of the application of an exemption.

5. Are there any other issues you would like to raise in connection with the operation of FOISA?

- Individuals or organisations who submit a survey under FOISA, in order to ensure that they will receive a response. These are often in survey monkey form and are looking for Yes/No answers or opinions. These types of requests are not in the spirit of FOISA and are difficult to answer. Please see [Appendix 3](#) for an example of this;
- Students who utilise public authority resources in place of researching;
- We continue to receive a significant number of requests from the public who still think that Freedom of Information legislation can provide them with access to their medical records/personal information, despite lots of information around the process that informs them that the FOISA should not be used to request personal information;
- Publication scheme only goes so far, and can be time-consuming to maintain. It is difficult to gauge how many individuals look at the publication scheme/guide to information before submitting a request, no matter how well signposted the publication scheme is.

Please note that it is not necessary to answer every question and you can provide any other information that you consider to be relevant.

I have included examples of FOI requests which demonstrate some of the issues raised above:

Appendix 1

Appendix 2

Appendix 3.

Yours sincerely

Alison Flynn
Freedom of Information Manager
NHS Greater Glasgow and Clyde

From: [REDACTED]@parliament.scot>
Sent: 03 April 2019 14:14
To: [REDACTED]
Subject: [ExternaltoGGC]FOI Request

Good afternoon,

This is a request made under the **Freedom of Information (Scotland) Act 2002**.

I would be grateful if you could supply me with the following information in **digital format**.

Please treat each question as **separate FOI requests**.

To provide under Freedom of Information Legislation, how many Health board patients have received treatment in private hospitals in each of the last 18 months, broken down by month, and the cost to the Health Board of providing this treatment.

To provide under Freedom of Information Legislation, how many procedures have been commissioned by the Health board in the private sector, in year 2016/17 to 2019/20 and the total breakdown of cost to the Health Board by year from 2016/17 to 2019/20

To provide under Freedom of Information Legislation the total number of agency nurse hours and total cost for the year 2016/17, 2017/18, 2018/19, 2019/20

To provide under Freedom of Information Legislation, how many Health Board GPs have taken early retirement each year from 2016/17, 2017/18, & 2018/19

To provide under Freedom of Information Legislation, how many consultants have taken early retirement from 2016/17, to current year broken down by year.

To provide under Freedom of Information Legislation, how many nurses have taken early retirement from 2016/17 to current year broken down by year.

To provide under Freedom of Information Legislation, how many notifications of GP practices that have been issued from 2016/17 to current year?

To provide under the Freedom of information, to provide a breakdown of current NHS staff who are European Union citizens (**excluding the United Kingdom**) for each year, 2016/2017, 2017/18, 2018/19 & 2019/20.

Please also provide breakdown of profession.

To provide under FOI legislation, a breakdown of funding by year for the **last 5 years** of dedicated funding for tackling childhood obesity levels and/or for maintaining healthy child weight.

To provide under FOI legislation, to provide an updated breakdown efficiency savings breakdown and projected efficient saving from

- 2017/18
- 2018/19
- 2019/20
- 2020/21
- 2021/22
- 2022/23

To provide under FOI legislation, the total number of GP practices the Health board has taken control of running each year from 2011/12 to date.

To provide a full-itemised list of expenditure from 2016 to current year that used the **Health board's Endowment fund**.

To provide the total amounts transferred each year from the endowment fund to the health board from 2016 to current year

To provide a full-itemised list of expenditure from 2016 to current year that used charitable monies.

To provide all notes and minutes on the usage of charity money for spending in Health board from 2016 to current year.

To provide all communication to the Scottish Government on the usage of charitable monies from 2016 to current year.

To provide under FOI legislation, a list of private providers used, the procedures being acquired, the number of procedures of each and the cost of each from 2015/16 to current year.

To provide under FOI legislation, the WTE of number of nurses, midwives, consultants and GPs from 2015/16 to current year.

To provide under FOI legislation, the total number of WTE nurses employed in colleges and universities from 2015/16 to date.

To provide under FOI legislation, the total spend on e-health each year since 2015/16 to date.

To provide under FOI legislation, number of abstinence programmes currently provided by the Health board.

To provide under FOI legislation, the total spend on abstinence programmes from 2015/16 to date

To provide under FOI legislation, the total number of nursing vacancies

To provide under FOI legislation, the total number of general nursing vacancies

To provide under FOI legislation, the total number of psychiatric nurse vacancies

To provide under FOI legislation, the total number of community nurse vacancies

To provide under FOI legislation, the total number of midwife vacancy

To provide under FOI legislation, total headcount of midwives

To provide under FOI legislation. The total number of WTE midwives

To provide under FOI legislation the number of part-time GPs from 2015/16 to current date

- number of full time GPs from 2015/16 to current date
- number of GP vacancies from 2015/16 to current date
- number of locum GPs each month from 2015/16 to current date
- cost of locum GPs from 2015/16 to current date.

To provide number of consultant vacancies

To provide the number of GPs taking early retirement from 2015/16 to date

To provide the number of consultants taking early retirement 2015/16 to date

To provide the number of GPs who take early retirement and went on to become locums from 2015/16 to current date

To provide under FOI legislation, the total number of bank nurse hours worked from 2015/6 to date.

To provide under FOI legislation number of patients on methadone programme – from 2015/16 to date

To provide under FOI legislation, the total number of agency hours and cost from 2015/16 to date

To provide under FOI legislation, number of WTE school nurses 2015/16 to date.

To ask the health board, the total amount it spent on **GP locums** each year from 2011/12 to current date, broken down by year.

To ask the health board, how many GP practices have closed in 2016/17, 2017/18, 2018/19 & 2019/20

I look forward to your response within 20 working days.

Kind regards,

██████████

████████████████████ | Parliamentary Researcher

Office of [redacted] MSP
Member of the Scottish Parliament for [redacted]
Tel: [redacted]
Scottish Parliament, Office [redacted] Edinburgh, EH99 1SP

[redacted]

Twitter: [redacted]



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The information in this email may be confidential. If you think you have received this email in error please delete it and do not share its contents.

[REDACTED]

From: [REDACTED]
Sent: 15 February 2019 11:40
To: FOI [REDACTED] [Chief Exec]
Subject: [REDACTED] False statements in FOI responses

Dear Sir,
Could I please (under FOISA), be supplied [REDACTED] internal Disciplinary procedures/documentation/leaflets on how any FOI officers would be Disciplined having made false statements within the text of their responses and the requirements [REDACTED] recommend when such statements are highlighted.

Kindest regards,
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 09 May 2019 22:34
To: [REDACTED]
Subject: FW: [ExternaltoGGC]Complaint re [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: [REDACTED] January 2019
To: FOI [REDACTED] scot.nhs.uk>; Data Protection [REDACTED] scot.nhs.uk>; [REDACTED] scot.nhs.uk>; [REDACTED] [Chief Exec] [REDACTED] scot.nhs.uk>;
Subject: [REDACTED]]Complaint re [REDACTED]

Dear Sir,
I submitted a complaint re a phone call from [REDACTED] referred to me as a '[REDACTED]' *

[REDACTED]

Please supply ALL information and communications [REDACTED] with regards my complaint

Please supply under FOI/DPA legislation.

kind regards,
[REDACTED]

* profanity removed

Appendix 3

Where the term neurological condition is used throughout this FOI, it refers to the progressive conditions of Parkinson's disease, multiple sclerosis, motor neurone disease, Huntington's disease, and also to acquired traumatic brain injury. It excludes the following conditions: headache, epilepsy, stroke, dementia, spina bifida, cerebral palsy.

Prevalence of neurological conditions

1. As at 1 November 2015 or the latest known date, how many residents in your health board area have one of the following neurological conditions, as specified? If possible, please break this information down by age.

If due to the Data Protection Act completing the table would prejudice the data protection rights of any individual, please ignore the breakdown by age and include only the total for each neurological condition

	Parkinson's disease	Multiple sclerosis (MS)	Motor neurone disease (MND)	Huntington's disease	Acquired Traumatic Brain Injury	Total	Date to which this data applies
0 – 17 years							
18 - 24 years							
25 - 34 years							
35 - 44 years							
45 - 54 years							
55 - 64							

years							
65 – 74 years							
75 – 84 years							
85 years +							
Total							

Service provision for people with neurological conditions

2. Do you directly provide neurological health care services in your health board area or are your health board residents with neurological conditions provided with neurological health care services by a different territorial health board?

Your health board directly provides your health board residents with neurological health services	
Your health board residents are provided with neurological health services by a different territorial health board	

2b. What specialist health and social care services are provided/commissioned by the health board for residents with the neurological conditions specified in this FOIA request in the health board area? How many people were accessing these on 1 November 2015? If it is not possible to state figures for this date, please use the latest date known and state what this is. Please note this question is being sent to local authorities and health boards, to ensure the capture of all services provided/commissioned by the NHS and local authorities.

Service	Available (yes or no)	Not known if available	Number of people accessing (if known)	Date to which this data applies
Specialist residential neurological centre ¹ in health board area				
Specialist residential neurological centre outside health board area				
Specialist residential respite care				
Specialist day respite care				
Specialist maintenance or short term rehabilitation for people with neurological conditions				
Specialist slow stream rehabilitation for people with neurological conditions				
Specialist self management for people with neurological conditions				
Specialist home care for people with neurological conditions				
Assistive technology – daily living				
Assistive technology – communication				
Specialist physiotherapy				
Specialist occupational therapy				
Neuropsychological support				
Neuropsychiatric support				

¹ A specialist residential neurological centre provides specialised care and rehabilitation exclusively for people with neurological conditions; is likely to have a physiotherapist and/or members of multi-disciplinary team on site, otherwise contract in; may have the ability to cater for those with challenging behaviours; registered as a care home or care home with nursing; service users are often long term

Neurologist				
Specialist nurse (neuroscience or neurology specialist nurse or specialist nurse for specific neurological condition)				
Other (please define)				
Total				

Clinical standards and related issues

3. Please indicate your performance against the Clinical Standards for Neurological Health Services 2009, and state when performance against each standard was last measured

Standard	Met	Partially met	Not met	Date measured
1 General neurological health services provision				
2 Access to neurological health services				
3 Patient encounters in neurological health services				
4 Management processes in neurological health services				
11 Access to specialist motor neurone disease services				
12 Diagnosis of motor neurone disease				
13 Ongoing management of motor neurone disease				
14 Access to specialist				

multiple sclerosis services				
15 Diagnosis of multiple sclerosis				
16 Ongoing management of multiple sclerosis				
17 Access to Parkinson's disease services				
18 Diagnosis of Parkinson's disease				
19 Ongoing management of Parkinson's disease				

4a. Does your health board have a 3-year neurological service plan as required by Standard 1.2 of the Clinical Standards for Neurological Health Services 2009? Please indicate the web address or alternative route for accessing the plan, the timespan the plan applies to and indicate the timescale for review. Please also indicate who has overall responsibility for leading implementation of this plan and for its review, with job titles.

3-year (minimum) neurological service plan – yes/no	
If yes, web address or other way for accessing plan	
If yes, timespan of plan	
Timescale for review	
Implementation lead	
Review lead	

4b. In order to provide a comparison, please indicate whether your health board has a service delivery plan or similar for heart disease? Please indicate the web address or alternative route for accessing the plan, the timespan the plan applies to and indicate the timescale for review.

Heart disease service plan – yes/no	
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If yes, timespan of plan	
Timescale for review	

5a. If someone who resides in your health board area has a neurological condition as specified in this FOIA request, is their care across health and social care services co-ordinated by one professional or service?

Service/professional	Yes	No
Neuroscience or neurological specialist nurse		
Neurological condition-specific specialist nurse		
Neurologist		
District Nurse		
GP		
A neuro navigator or navigation service		
Social worker/care manager		
Other - please specify		
Such an approach does not exist		

5b. For the purposes of comparison with another condition please can you indicate whether if someone who resides in your health board area has heart disease, is their care across health and social care services co-ordinated by one professional or service?

Service/professional	Yes	No
Heart disease/failure specialist nurse		
Consultant		
District Nurse		
GP		
A heart disease navigator/navigation service		
Social worker/care manager		
Other - please specify		
Such an approach does not exist		

Any Additional Comments