

Request Reference: FOI/004/21
Published: 01 June 2021

Information requested:

A) A full copy of all recorded information detailing the services international law expectations under the UN Convention of Rights of Persons with Disabilities regarding its disabled service users.

B) A full copy of all recorded information detailing the services British law requirements to its disabled service users under the Human Rights Act of 1998 and the Equality Act of 2010, respectively.

C) A full copy of all recorded information detailing the services Scottish law proscribed public sector equality duties to its disabled services users.

D) A full copy of all recorded information detailing the services disability awareness, training, anticipatory action, adjustment provisions and access measurements in regards its disabled service users.

E) A full copy of all recorded information detailing the services anti- direct discrimination, indirect discrimination, harassment, and victimisation policy regarding its disabled service users.

F) A full copy of all recorded information detailing the services guidance to its employees for interaction with disabled service users with the following disabilities: Asperger's Syndrome, Autism, OCD, Depression, Dyslexia, and communicative or behavioural, social and communication disabilities.

G) A full copy of any recorded information detailing the services pro-disability progress from 1/1/2019 to 1/1/2020 regarding the services performance to its disabled service users.

H) A fully copy of all recorded information detailing the services present disability recruitment and promotion scheme to its disabled services users.

Response:

We have provided a response for questions A, B, C, D, E, F & H.

A clarification request for question G has been made and we await a response.

For all questions:

We have assumed that "service users" means our patients and carers throughout.

For questions A, B, C, F & H:

We direct you to our "Supporting Patient and Carer Involvement Policy". Which is accessible from our website <https://www.tsh.scot.nhs.uk/Policies/Docs/PCIS05%20-%20Supporting%20Patient%20and%20Carer%20Involvement%20Policy%20-%20Sep%202020.pdf>

This policy sets out how The State Hospital will ensure information provided to patients and carers complies with local standards and that any amendments are made to the content by the person sharing the information prior to being shared.

The policy makes reference to a number of laws, guidance and support documentation. It is these documents that we have used to formulate the policy and we believe they form part of the information you are seeking.

As documentation can cover more than one specific law or legal framework and legislation can incorporate requirements of other laws in its text is not easy to attribute a single document to a specific law or legal framework.

An example would be;

We have measures in place to assess any communication requirements for a referred patient and to make any reasonable adaptations as necessary. This could be seen as compliant with UN Convention of Rights of Persons with Disabilities Article 9, which in turn could be seen as complaint with The Equalities Act 2010 Section 20.

Our working practices mean that we use the Internet to access document libraries for almost all external documentation. This means we are accessing the latest versions of a document and are not reliant on local copies which may be out of date. It also means that these documents are otherwise accessible.

We have provided a reference section at the end of our response with URLs to these resources.

Question A;

We have searched our Person Centred Improvement Departments local files and found nothing that details the expectations of international law under the UN Convention of Rights of Persons with Disabilities regarding our disabled service users, with the exception of the "Convention on the Rights of Persons with Disabilities and Optional Protocol" and the documentation listed the reference section. These are exempt from disclosure under section 25(1) of FOISA as they are otherwise accessible.

The Convention on the Rights of Persons with Disabilities and Optional Protocol:

<https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

and further information from here:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

Question B;

We have assumed "British" law refers to laws laid down by the United Kingdom parliament that have jurisdiction in Scotland.

We have searched our Person Centred Improvement Department's local files and found nothing that details the requirements of United Kingdom law to our disabled service users under the Human Rights Act of 1998 and the Equality Act of 2010, with the exception of the acts of law themselves and the documentation listed the reference section. These are exempt from disclosure under section 25(1) of FOISA as they are otherwise accessible.

The Equality Act 2010: <https://www.legislation.gov.uk/ukpga/2010/15/contents>

The Human Rights Act 1998: <https://www.legislation.gov.uk/ukpga/1998/42/contents>

Question C;

We have searched our Person Centred Improvement Department's local files and found nothing that details the services Scottish law proscribed public sector equality duties to its disabled services users, with the exception of The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. This are exempt from disclosure under section 25(1) of FOISA as they are otherwise accessible.

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012:

<https://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>

Question D;

To answer this question, we will require to undertake a significant amount of searches and preparation work in order to provide the information requested.

We will need to search all our training records that we hold to provide the details of training, then our training materials. All our internal communications and committee / governance / group papers to detail awareness.

Adjustment provisions and access measurements would require us to manually search each patient health record held by the organisation to ascertain if any patient had any adjustments recorded. There will be other searches that are required on the findings of the above searches.

We have therefore looked at the cost of compliance for this request.

We have had around 2600 patients, each with a health record, some on paper and some digital, and we estimate that each record would take at minimum 1 hour to search. The hourly cost of an individual authorised to have access to these highly sensitive records is at least £10.09 meaning the cost of conducting this search alone would be approximately (2600 x 1 x 10.09 = 28340) £28,340.

This is only one search that we would need to make to answer this request and therefore under section 12(1) of FOISA we are not obliged to comply with this request.

Although we are not obliged to provide an answer, we have enclosed a copy of our Pre-Admission Specific Needs Information form which is used as part of our evaluation of a patient's needs prior to admission.

We can also advise that our staff are required to complete TSH Understanding Equality, Diversity & Rights online module plus attend at a half day workshop which includes disability within the content.

We would be happy to discuss refining the question so that the costs could be reduced and we could therefore provide at least part of the information you are seeking.

The State Hospital Pre- Admission Specific Needs Information

1. Patient Details			
Name:		Preferred first name (if different):	
DoB:		CHI No:	
2. Communication			
What language(s) does the patient speak?		Please specify:	
Interpreter required?	*Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please provide details of arrangements in place, including name and contact no.:	
Translator required?	*Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please provide details of arrangements in place, including name and contact no.:	
Speech difficulty?	*Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:	

<input type="checkbox"/>	
Learning disability? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:
Learning difficulty (e.g. dyslexia)? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:

Literacy skill deficits?			
Reading: Yes <input type="checkbox"/>	No <input type="checkbox"/>	Writing: Yes <input type="checkbox"/>	No <input type="checkbox"/>

3. Senses

<p>Eyesight</p> <p><input type="checkbox"/> Normal vision <input type="checkbox"/> Registered blind</p> <p><input type="checkbox"/> Glasses: <input type="checkbox"/> Distance <input type="checkbox"/></p> <p>Reading</p> <p><input type="checkbox"/> Contact Lenses</p>	<p>Hearing</p> <p><input type="checkbox"/> Normal <input type="checkbox"/> Hearing impaired</p> <p><input type="checkbox"/> Hearing aid: <input type="checkbox"/> Left ear <input type="checkbox"/> Right ear</p>
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4. Nutrition and Hydration

Special diet required? (e.g. vegetarian, halal, kosher, gluten free) *Yes <input type="checkbox"/> No <input type="checkbox"/>	Please specify and include rationale e.g. cultural, allergies, intolerances:
Prescribed Meal Replacements / Supplements? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:
Swallowing difficulties? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:

5. Mobility

Patient fully mobile/independent? Yes <input type="checkbox"/> *No <input type="checkbox"/>	*Please specify:
Diagnosis affecting mobility e.g. dyspraxia, Parkinson's, M.S.? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:
Uses aids and/or adaptations? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:

6. Spiritual and Pastoral Care

Has the patient disclosed his religion? *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify:
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<p>Is there anything with regard to faith or culture that we need to know about in order to support continuity in this respect (e.g. access to specific faith related people including the Chaplaincy Team/ items/ environments/ activities/medicine ingredients)?</p> <p>*Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>*Please specify:</p>
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7. Smoking Status

<p>Does the patient currently smoke tobacco/cigarettes?</p> <p>*Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>*Please specify:</p> <p>Number per day: Frequency:</p>
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<p>Is the patient currently using nicotine replacement products?</p> <p>*Yes <input type="checkbox"/> No <input type="checkbox"/></p>	<p>*Please specify:</p> <p>Product: Strength (mg): Frequency:</p>
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8. Contact Details

Solicitor Name:	Telephone No.
Other Contacts Name:	Telephone No.
Other Contacts Name:	Telephone No.

Name of person completing form:	
Designation:	
Date:	
Planned admission date: *Yes <input type="checkbox"/> No <input type="checkbox"/>	*Please specify date:

Question E:

The State Hospital does not have an “anti- direct discrimination, indirect discrimination, harassment, and victimisation policy” and therefore give notice under section 17 of FOISA that we do not hold the information you are seeking.

The State Hospital does have a Bullying and Harassment policy which is available from <https://workforce.nhs.scot/policies/bullying-and-harassment-policy-overview/> and is therefore otherwise accessible and exempt from disclosure under section 25(1) of FOISA.

Question F:

All patient care is led by a Consultant Psychiatrist and patients are provided with individualised care based on their needs. Medical staff complete training as required by the Hospital and additionally are required to undertake personal development plans to ensure that their expert knowledge remains up to date.

We have provided training to staff on Deaf Awareness. This was a national training package which was provided and hosted by NHS NES. The package no longer functions and is inaccessible due to a reliance on Adobe Flash which been depreciated.

Training on Sign language and Dyslexia has also been provided. These courses were provided by external providers and we do not hold a copy of the training materials.

We also direct you to our “Supporting Patient and Carer Involvement Policy”. Which is accessible from our website <https://www.tsh.scot.nhs.uk/Policies/Docs/PCIS05%20-%20Supporting%20Patient%20and%20Carer%20Involvement%20Policy%20-%20Sep%202020.pdf>

Question G:

We asked for clarification on 18 May 2021 and are awaiting a response.

Question H:

The services The State Hospital provides differ from that of most NHS Scotland services as we only receive patients that are compelled to be detained with us. We therefore do not actively recruit patients or promote them.

We assess each patient's individual needs and provide a tailored solution in each case that can include, reasonable adaptations, changes to practice and support for the individual.

We give notice under section 17(1) of FOISA that we do not hold the information you are seeking.

Reference URLs

Equality Act, 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

Equality Act, 2010, Scottish Government.

<https://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>

British Sign Language (Scotland) Act 2015

<https://www.legislation.gov.uk/asp/2015/11/contents/enacted>

Mental Health (Care and Treatment) (Scotland) Act, 2015, Scottish Government.

<https://www.legislation.gov.uk/asp/2015/9/contents/enacted>

The Human Rights Act, (Scotland Act), 1998, Scottish Government.

<https://www.legislation.gov.uk/ukpga/1998/46/contents>

A Fairer Scotland for Disabled People: delivery plan, 2016, Scottish Government

<https://www.gov.scot/publications/fairer-scotland-disabled-people-delivery-plan-2021-united-nations-convention/>

Patient Rights (Scotland) Act, 2011, Scottish Government.

<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2016/12/fairer-scotland-disabled-people-delivery-plan-2021-united-nations-convention/documents/00510948-pdf/00510948-pdf/govscot%3Adocument/00510948.pdf?forceDownload=true>

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<https://www.legislation.gov.uk/asp/2011/5/contents>

The Charter of Patient Rights and Responsibilities, 2019, Scottish Government.

<https://www.gov.scot/publications/charter-patient-rights-responsibilities-2/>

Carers (Scotland) Act, 2016, Scottish Government.

<https://www.gov.scot/publications/carers-scotland-act-2016-statutory-guidance/>

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<https://www.legislation.gov.uk/asp/2016/9/contents/enacted>

Augmentative and Alternative Communication (AAC) – Communication equipment and support: Part 4 of the Health (Tobacco, Nicotine etc. and, Care (Scotland) Act, 2016, Scottish Government.

<https://www.legislation.gov.uk/asp/2016/14/part/4/enacted>

Race Relations Act, 2002, Scottish Government.

<https://www.legislation.gov.uk/ukpga/2000/34>

The Healthcare Quality Strategy for NHSScotland, 2010, Scottish Government.

<https://www.gov.scot/publications/healthcare-quality-strategy-nhsscotland/>

Clinical Strategy, 2016, Scottish Government.

<https://www.gov.scot/publications/national-clinical-strategy-scotland/>

Mental Health Strategy, 2017-2027, Scottish Government.

<https://www.gov.scot/publications/mental-health-strategy-2017-2027/>

Health and Social Care Delivery Plan, 2016, Scottish Government.

<https://www.gov.scot/publications/health-social-care-delivery-plan/>

British Sign Language (BSL) National Plan, 2017-2023, Scottish Government.

<https://www.gov.scot/publications/british-sign-language-bsl-national-plan-2017-2023/>

Realistic Medicine, 2017-2025, Scottish Government.

<https://www.gov.scot/publications/chief-medical-officer-scotland-annual-report-2015-16-realising-realistic-9781786526731/>

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<https://www.nhsinform.scot/care-support-and-rights/nhs-services/using-the-nhs/realistic-medicine>

'Keys to Life: Improving quality of life for people with learning disabilities', 2013, Scottish Government.

<https://www.gov.scot/publications/keys-life-improving-quality-life-people-learning-disabilities/>

2020 Vision for Health and Social Care, 2011, Scottish Government.

<https://www.webarchive.org.uk/wayback/archive/20180514155843/http://www.gov.scot/Topics/Health/Policy/Quality-Strategy/routemap2020vision>

Active and Independent Living Programme, 2017, Scottish Government.

<https://www.gov.scot/publications/allied-health-professions-co-creating-wellbeing-people-scotland-active-independent/>

'Five Must Dos', 2012, Scottish Government, Person-Centred Health and Care Collaborative.

<https://www.gov.scot/publications/person-centred-care-non-executive-directors/>
Making it Easier: a Health Literacy Action Plan for Scotland, 2017, Scottish Government.
<https://www.gov.scot/publications/making-easier-health-literacy-action-plan-scotland-2017-2025/>

'See, Hear' Strategic Framework, 2014, Scottish Government.
<https://www.gov.scot/publications/see-hear/>

Scotland's National Dementia Strategy, 2017-2020, Scottish Government.
<https://www.gov.scot/publications/scotlands-national-dementia-strategy-2017-2020/>

'House of Care', 2016, Scottish Government.
<https://www.alliance-scotland.org.uk/wp-content/uploads/2017/10/ALLIANCE-HOC-LearningReport-2016.pdf>

'Excellence in Care', 2015, Scottish Government.
<https://www.gov.scot/publications/excellence-care-scotlands-national-approach-assuring-nursing-midwifery-care-event-report/pages/1/>

Other references used by The State Hospital:
RNID (previously known as known as Action on Hearing Loss)
<https://rnid.org.uk/>

British Deaf Association Scotland, Communicating with Deaf People; Guidelines for communication
<https://bda.org.uk/help-resources/#communicating>

British Deaf Association, 2012, Report on NHS BSL/English interpreting provision within health settings in Scotland
https://bda.org.uk/wp-content/uploads/2017/03/NHS_interpreter_Website.pdf

Change People, 2016, How to Make Information Accessible
<https://www.changepeople.org/getmedia/923a6399-c13f-418c-bb29-051413f7e3a3/How-to-make-info-accessible-guide-2016-Final>

Communicating with someone with Dementia,
<https://www.alzheimers.org.uk/about-dementia>

Deafblind Scotland
www.deafblindscotland.org.uk

Deaf Sector Partnership, 2015, Implementing the BSL (Scotland) Act 2015,
www.deafsectorpartnership.net

Enable Scotland
www.enable.org.uk

Guide Dogs for the Blind Association
www.guidedogs.org.uk

Makaton Sign Language
www.makaton.org

Mencap
www.mencap.org.uk

NHS Education for Scotland, 2014, Basic Sensory Impairment Awareness,
<http://www.knowledge.scot.nhs.uk/media/CLT/ResourceUploads/4053428/Basic%20Sensory%20Impairment%20Awareness%20Resource.pdf>

Plain English Campaign, 2009
www.plainenglish.co.uk/files/howto.pdf

Royal College of Speech and Language Therapists, 2013, Five Good Communication Standards, RCSLT, London
<https://www.rcslt.org/wp-content/uploads/media/Project/RCSLT/good-comm-standards.pdf>

Royal National Institute of Blind People
www.rnib.org.uk

Scottish Accessible Information Forum, 2006, Making Information Accessible,
<http://www.saifscotland.org.uk/information-and-advice/publications/making-information-accessible-checklist/>

&
<http://www.saifscotland.org.uk/information-and-advice/publications/making-information-accessible-guidelines-for-producing-accessible-printed-and-electronic-information/>

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<http://www.saifscotland.org.uk/information-and-advice/making-information-accessible-guidelines-producing-accessible-printed-electronic-information/>

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<http://www.saifscotland.org.uk/accessible-information-one-aspect-of-inclusive-communication/>
Scottish Association of Sign language
www.sasli.co.uk
Scottish Commission for Learning Disability, 2015, The Keys to Life
<https://www.sclld.org.uk/the-keys-to-life/>
Scottish Council on Deafness, Access to Information
www.scod.org.uk/scotdeaf
Scottish Government, 2010, Equality Act,
<https://www.gov.uk/guidance/equality-act-2010-guidance>
Scottish Government, 2016, A Fairer Scotland for Disabled People: delivery plan
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Scottish Government, 2017, British Sign Language (BSL) National Plan 2017-2023,
<https://www.gov.scot/publications/british-sign-language-bsl-national-plan-2017-2023/>
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<https://www.scotphn.net/wp-content/uploads/2015/09/Dementia-Health-Care-Needs-Assessment-July-2013-1.pdf>
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www.visibility.org.uk
See Hear, 2014, A strategic framework for meeting the needs of people with a sensory impairment in Scotland
<https://www.gov.scot/publications/see-hear/>
Sense Scotland
www.sensescotland.org.uk
Talking Mats
www.talkingmats.com
The National Autistic Society, 2018, Communication Tips
<https://www.autism.org.uk/advice-and-guidance/topics/communication/tips>
The State Hospital BSL Action Plan (2018-24)
<https://www.tsh.scot.nhs.uk/Person%20Centred/Docs/BSL%20Action%20Plan%202018-24.pdf>
Widgit Symbols
www.widgit.com
The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
<https://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>
Equalities Outcomes Update Report 2017-21 and 2021-25 including Workforce Monitoring and Non-Executive Board Member Gender Profile
<https://www.tsh.scot.nhs.uk/Person%20Centred/Docs/Equality%20Outcomes%20-%2030%20Apr%202021.pdf>
NHS Scotland Human Resources Policies
<https://workforce.nhs.scot/policies/>

Advice and Guidance

We have made some assumptions in the response regarding who is a service user and with the interpretation of “British” law. If these assumptions are not what you expected, could you provide clarifications and we will look to update our response.

Freedom of Information grants the right to request information from a Scottish Public Authority, however this right only extends to written information that is held by the authority. It does not require a Scottish Public Authority to create new works or to incur excessive costs in

providing responses.

In most of your questions you have used the phrase “A full copy of all recorded information detailing...”, this suggests to us that we would need to search all our documentation and records to provide a “full” response. As we have indicated in our response to question D, the cost of searching across all of our records quickly accumulates to a significant amount and well beyond the £600 prescribed limit.

The Scottish Information Commissioner provides advice and guidance for FOI Applicants which is available here:

<https://www.itspubliknowledge.info/YourRights/WhatAreMyRights.aspx>

Background

The State Hospital is one of four high secure hospitals in the UK. Located in South Lanarkshire in central Scotland, it is a national service for Scotland and Northern Ireland and one part of the pathway of care that should be available for those with secure care needs. The principal aim is to rehabilitate patients, ensuring safe transfer to appropriate lower levels of security.

There are 140 high-secure beds (plus four beds for emergency use) for male patients requiring maximum secure care: 12 beds specifically for patients with an intellectual disability. A range of therapeutic, educational, diversional and recreational services including a Health Centre is provided.

Although The State Hospital shares the same values, aims and challenges as the rest of the NHS in Scotland, it is unique because it has the dual responsibility of caring for very ill, detained patients as well as protecting them, the public and staff from harm.