

## Freedom of Information request 451-20

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### Request

I am writing to request information under the Freedom of Information (Scotland) Act relating to your bodies' duties under the Human Rights Act (1998) and Scotland Act (1998) to comply with the European Convention on Human Rights (ECHR) Section 6 of the Human Rights Act obliges public authorities to comply with the ECHR and Sections 29 and 57 of the Scotland Act oblige the Scottish Parliament and Ministers to likewise act in a way compatible with the ECHR. The Human Rights Act framework establishes that; the ECHR rights form a common set of binding values among public bodies; public bodies must have human rights principles in mind when making decisions about people's rights, and that human rights must be part of all policy. Specifically I would like to request any information you hold regarding:

1. How your authority has monitored and evaluated its compliance with the Human Rights Act and any outputs from the monitoring and evaluation process.
2. Specific actions taken to comply with the HRA and ECHR. For example only, this might include staff training, employment of a human rights lawyer to advise on policy, carrying out due diligence on any private bodies contracted or outsourced to (the HRA applies to all bodies performing a public function, including private companies), carrying out human rights impact assessments on policy.
3. Human rights considerations related to any change of practice or services provided due to the Covid-19 pandemic.

I would like to request the information outlined in points 1 and 2 above for the calendar year of 2019, and points 1, 2 and 3 for the period of the Covid-19 pandemic, March – September 2020. I would like the information broken down by these two time periods.

### Response

Please note the following response covers the period January 2019 to September 2020:

1. NHS Borders has not monitored or evaluated its compliance with the HRA. However NHS Borders utilises Health Inequalities Impact Assessment (HIIA) as a tool to assess the impact on people of applying any proposed, new or revised policy or service change. Amongst other consideration the HIIA will assess the impact on human rights. In addition NHS Borders contributes to the annual reporting on actions to ensure implementation of the UN Convention on the Rights of the Child.
2. Human rights impact assessment on policy is included in HIIA tool described above. We do not employ directly human rights lawyers to advise on policy but legal services are provided by the NHS Scotland Central Legal Office (CLO). The CLO has provided training on Human Rights legislation which a small number of staff has attended.
3. NHS Borders is a member of the Child Protection Delivery Group (CPDG) sub-group of the Child Protection Committee. The CPDG reviewed a summary paper from United Nations Committee on Rights of Child and this was circulated in response to Covid and the particular relationship to the Public Protection Committee to ensure appropriate action was in place.

If you are not satisfied with the way your request has been handled or the decision given, you may ask NHS Borders to review its actions and the decision. If you would like to request a review please apply in writing to, Freedom of Information Review, NHS Borders, Room 2EC3, Education Centre, Borders General Hospital, Melrose, TD6 9BS or [foi.enquiries@borders.scot.nhs.uk](mailto:foi.enquiries@borders.scot.nhs.uk).

The request for a review should include your name and address for correspondence, the request for information to which the request relates and the issue which you wish to be reviewed. Please state the reference number **451-20** on this request. Your request should be made within 40 working days from receipt of this letter.

If following this review, you remain dissatisfied with the outcome, you may appeal to the Scottish Information Commissioner and request an investigation of your complaint. Your request to the Scottish Information Commissioner should be in writing (or other permanent form), stating your name and an address for correspondence. You should provide the details of the request and your reasons for dissatisfaction with both the original response by NHS Borders and your reasons for dissatisfaction with the outcome of the internal review. Your application for an investigation by the Scottish Information Commissioner must be made within six months of your receipt of the response with which you are dissatisfied. The address for the Office of the Scottish Information Commissioner is, Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife.