

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 29 December 2019 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for a full disclosure on the project comprising “Sex and/or gender – working together to get the question right”

1. Who took the decision to initiate this study?
2. Who framed the terms of reference?
3. What law promoted the obligation to carry out this study?
4. Were existing Disclosure Scotland staff involved? If yes, how were the staff selected?
5. Were outside consultants used? If yes, was this contract put out to tender? On what basis was the contractor selected?
6. How many hours were taken up by this study in total including accounting and administrative support, venue hire, travelling costs, etc.
7. Who took the decision to expand the study to include multiple state funded bodies?
8. How were the organisations selected from the target “users”?
9. Copies of all email, policy documents, quotations, drafts, Ministerial contact, Civil Servant contact, etc.

Response to your request

I enclose a copy of most of the information you requested.

While our aim is to provide information wherever possible, in this instance we are unable to provide some of the information you have requested because an exemption under the following section of FOISA applies to that information:

- section 38(1)(b) (personal information)

The reasons why this exemption applies is explained in Annex A.

1. Who took the decision to initiate this study?

This research was not a study, the work referenced was taken forward as part of the wide-ranging user research carried out as part of the preparatory work to introduce a system whereby people can apply for a Basic certificate online. The Disclosure Scotland Lead User Researcher and their team who initiated and led this piece of work were employed on the transformation programme and engaged with a wide range of users for example, employees, employers, people with low literacy,

accessibility needs, differing age ranges, geographic location, internet and broadband access as well as the trans community.

2. Who framed the terms of reference?

While there were no specific Terms of Reference for this piece of work, the Disclosure Scotland User Research Team framed the scope based on feedback from users. The scope is included in the blog you referred to as the source material for this freedom of information request. For ease of reference this is included below:

“Disclosure Scotland is transforming existing services, moving from a predominately paper service to online. We’re taking an evidence-based approach to designing and building new and improved, end-to-end, inclusive services.

One of the goals as a user researcher in this process is to help teams make evidence-based decisions. A big part of this is working closely with content designers to ensure content is written with a full understanding of the context of our users.

An evidence-based approach is essential to:

- improve the service for the user
- ensure the consistency of user experience in UK Government and government in each of the devolved nations
- create efficiencies
- save time and resources
- reduce the chance of reputational damage
- meet the digital service standards

Sense-making workshop

The research team invited everyone to take part in a sense-making workshop to discuss and review all existing evidence which could be found, specifically:

- when to ask about sex and/or gender
- what to ask about sex and/or gender

The research team asked working group attendees to send in all evidence they had that informed existing question patterns they were using, as well any other relevant research they had.”

3. What law promoted the obligation to carry out this study?

Disclosure Scotland is bound under legislation to ensure they comply with Police Act 1997 Part 5 which requires us to gather the necessary information required to provide citizens with accurate disclosures. Equally we are bound by wider legislation under Equality and GDPR to make sure that we gather only relevant information and do so, impartially.

4. Were existing Disclosure Scotland staff involved? If yes, how were the staff selected?

Three Disclosure Scotland staff were involved in this work. The staff undertook this work as part of their day to day work in user research and content design.

5. Were outside consultants used? If yes, was this contract put out to tender? On what basis was the contractor selected?

There was no consultant resource specifically recruited and employed for the sole purpose of undertaking this part of our user research. Therefore there was no tender for this work. We used members from our wider Transformation Programme team, who were a mix of permanent staff and contractors. The contractors were employed for specific roles under the Scottish Government Interim Managers procurement framework.

6. How many hours were taken up by this study in total including accounting and administrative support, venue hire, travelling costs, etc.

Approximately 6 days for the three personnel employed on the programme as part of their day job.

Travel for 3 Disclosure Scotland employees to travel from Glasgow to Edinburgh, calculated using off-peak return at £13.60 per person = £40.80

Venue hire for 16 people for the 'Sense Making Workshop' held on 20 March 2018 cost inclusive of VAT £674.40.

7. Who took the decision to expand the study to include multiple state funded bodies?

There was no study. The decision to widen the discussion to other government departments was made by the Disclosure Scotland User Research Team responsible for designing the on line basic disclosure service. The team were part of the wider DS Transformation Programme.

In government standard design patterns and guidance are used across various organisations to ensure a consistent design across all public services. We initially reached out to other government departments to understand how they asking users about their gender and what options they provide to this question.

Reaching out to other parts of government who may have come across similar questions during research is common practice. Shared learning is a common theme of design and delivery of new or improved services.

8. How were the organisations selected from the target "users"?

A request was put out on cross government design and research groups, resulting in areas volunteering to be part of the working group. Disclosure Scotland shared their discovery work with the Scottish Trans Alliance and as a result representatives from that organisation were invited, along with Engender and Stonewall.

9. Copies of all emails, policy documents, quotations, drafts, Ministerial contact, Civil Servant contact, etc.

Individual strands of user research are not subject to Ministerial approval. We have attached a copy of a post on our internal social media which asked civil servants for input. Information within this has been redacted under Section 38(1)(b) of the Freedom of Information (Scotland) Act 2002. Details of the exemption are explained at the Annex.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Lorna Gibbs, Chief Executive, Disclosure Scotland, PO BOX 250, Glasgow, G51 1YU, or email DS.foi@disclosurescotland.gov.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

REASONS FOR NOT PROVIDING INFORMATION

Section 38(1)(b) – applicant has asked for personal data of a third party

An exemption under section 38(1)(b) of FOISA (personal information) applies to some the information requested because it is personal data of a third party, ie names and contact details of individuals, and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.