

## Freedom of Information Response – FOI 32-2223

### Your Request:

Dear Public Health Agency for Northern Ireland

1. I quote Nigel Chambers, Head of LD team at DOH, letter Date: 15 July 2022  
Your Ref: STOF-0026-2022

"The learning disabled remain (July 2022) subject to infection prevention and control (IPC) guidance to minimise the risks associated with Covid-19 and respiratory illness."

As is the PHA's understanding : Why exactly are the learning Disabled subject to this IPC guidance and not any other part of NI society at present eg schools, cafes, clubs, football pitches.

b) Under whose "say so" , who has the last say in this decision?

2. He writes: "Beds in care homes, which have been subject to tightly defined admissions criteria and enhanced mitigations to minimise the spread of Covid-19. "

As is the PHA's understanding :

Why have they been subject to this "tightly defined" admission when the rest of the NI population are not?

Who (name) decided this?

3. As is your understanding: (knowing how the Learning disabled community wanted their day care and respite back to full capacity),

a) who (which DOH and PHA staff) were involved in commissioning the PHA to :

" undertake a review of IPC guidelines and their implementation in learning disability services. "

b) why did the DOH themselves not do this?

C) Why did the guidance the PHA came up with , still continue to discriminate against the LD versus how the rest of NI society are limited with the pandemic?

d) for the person who had the "last word" on this guidance in the PHA, who informed those decisions and what guidance did they themselves follow?

4. He writes:

"Due to limited capacity in adult day care, services have been prioritised for those living in the family home to minimise the risk of placement breakdown. " As is PHA's understanding:

a) Why is there limited capacity when the rest of NI are operating at full capacity, schools, work offices etc

b) what is PHA's understanding of Mr Chambers' meaning of "placement breakdown"

5. In relation to the PHA's review and the guidance that exists at present (Aug 10th 2022), which is the NI Body which is stating this guidance must be met: is it the DOH or the PHA?

b) the guidance - is it obligatory or optional?

c) Can Trusts choose to ignore it if they want to?

d) when does PHA/ DOH plan to review this again?

e), are the PHA cognizant that it is unlawful to do this under the Disability Discrimination act 1995 (targeting the LD to be eliminated from services due to their disability whilst allowing the rest of population access to services under different covid guidance. )

6. Is the PHA enabling the DOH and Trusts to save money in this exploitation of the disabled and hence why their logic fails to make sense?

(Giving families a fraction of their respite entitled "short breaks" saves each trust huge amounts of money that the families never see, despite their assessed need.)

7. For day care, the "LIMITED SPACES" - AND PRIORITIZING THOSE FROM "FAMILY HOMES" a) how long does the PHA/DOH intend to limit spaces at day care? (it appears forever?)

b) why does the PHA/DOH think those from family homes need day care more than someone in a care home?

c) If those in care homes get less individual attention, then wouldn't they need day care more? (is this based on the service users need, or broad guidance)?

d) if there are limited spaces for day care, who decides who gets a place and who doesn't, based on what criteria?

e) why are spaces not \*shared\*- why take away someone's FULL QUOTA OF DAY day care?

f) Re taking people from day care who live in care homes- is there guidance in place to check the specific needs of each LD adult before taking day care from them eg mental health issues, autism, need for stimulation?

g) and are PHA/DOH saying those of the LD who live in care homes must PERMANENTLY lose their place at day care, to give it to someone living with their parents? Forever?

h) If not forever, until when?

i) and based on what guidance?

j) from where and from whom exactly?

8. He writes:

"Trusts are currently identifying placement in day opportunities for this cohort of service users to ensure that they have a meaningful range of day activities aligned to their assessed needs. "

As PHA understand it :

What exactly does that mean?, does that mean Trusts are looking for activities in the care home setting, people to come in and provide activities? , or "alternative locations in the community for day care" or are they simply going to place these service users back with their friends \*where they belong?\*

9. Has PHA/DOH outlined to each Trust that in taking away daycare from a service user who has had it for potentially decades and needs it \*as an assessed need\*, the family and multi disciplinary teams should be notified under a best interests meeting?

(Mental health capacity act 2016)

In not doing so each Trust is acting unlawfully ?- does the DOH know this, that they too are legally liable?

b) has PHA/DOH an understanding that withholding day care from service users is a violation of their freedom of liberty, articles of human rights 3,5 and 8 and :

Article 19 of the Convention on the Rights of Persons with Disabilities recognises the equal right of all persons with disabilities to live independently and be included in the community, with the freedom to choose and control their lives.

## **Our Response**

The PHA would advise that the Freedom of Information Act covers recorded information only, for example, drafts, emails, notes, recordings of telephone conversations and CCTV recordings. Therefore, when questions are asked through the FOI Act we check whether we hold any recorded information which directly answers those questions and, if so, release that information (with any relevant exemptions applied) or, if not, advise the requestor that this information is not held. The Act does not require Public Authorities to create information to respond to a request (which includes answering questions/asking for opinions/views etc).

We have, therefore, considered your request and provided our response below, where this is appropriate.

I understand that PHA has addressed a number of your queries in previous correspondence. In relation to questions 1, 3c, 4a, 5e and 7a please refer to correspondence from our Complaints Team dated 9<sup>th</sup> August 2022 (reference TOF-1313-2022). As explained in TOF-1313-2022, the Infection Prevention Control (IPC) Policy does differ for health and social care settings, and this is to reflect different risks within populations groups. We also explained that the PHA, subject to a local risk assessment, does support the full resumption of services for people with a learning disability. This was also set out in correspondence provided to you in FOI 21-2223 (attached again at Appendix 1 for ease of reference). The guidance we issued indicates that, in line with Public Health Policy, Trusts make the determination on the delivery of services.

In relation to question 3a above, the Department of Health (Office of Social Services/Chief Social Work Officer) instructed PHA to undertake a review of adult day centre and short break services.

Regarding question 3b, we cannot comment on behalf of DoH and you may wish to contact them separately regarding this matter. Please see contact details below:

[FOI@health-ni.gov.uk](mailto:FOI@health-ni.gov.uk)

In relation to questions 5 (a -e), guidance was issued to Trusts on 28<sup>th</sup> June 2022 by our Chief Executive (see relevant link in Appendix 1 and [here](#)) – this was advisory, however Trusts are also required to adhere to the NI [IPC manual](#) and the [Infection Prevention and Control Measures for SARS-CoV-2 \(COVID-19\) in Health and Care Settings guidance](#).

PHA will keep the guidance of 28<sup>th</sup> June 2022 under review. However, we would restate that the application of the guidance is the responsibility of Trusts and subject to local risk assessment - PHA does support the full resumption of services for people with a learning disability.

In relation to questions 4b, 6, 7, 8 and 9, the Public Health Agency does not hold this information.

The Department of Health (NI) may be in a position to consider and respond to your information request separately and contact details are as follows:

[FOI@health-ni.gov.uk](mailto:FOI@health-ni.gov.uk)

In case this is of assistance, I would also refer you to the following link for further information:

<https://www.health-ni.gov.uk/publications/remobilisation-learning-disability-services-documents>