

Working with transgender (trans) patients - Sharing and storing information

Sharing information about a trans person's gender history with a third party

Don't share gender history of a trans person unless it is directly relevant and you have the express permission from the patient. Don't assume permission has been implicitly given because they are a patient in your care or assume that sharing information with a colleague is exempt. Sharing gender history without express permission is unlawful. These principles apply to **all** trans patients.

Where a trans patient has been granted a gender recognition certificate, and therefore an amended birth certificate, they have even greater privacy protections. It then becomes criminal to disclose their gender history without their express permission. The Gender Recognition (Disclosure of Information) (Scotland) Order 2005 provides a limited exception permitting disclosure for medical purposes of the protected information about someone's gender recognition history **only** where the following three criteria are **all** met:

- The disclosure is made to a health professional; and
- The disclosure is made for medical purposes; and
- The person making the disclosure reasonably believes that the subject has given consent to the disclosure or the subject cannot give such consent (for example, unconscious).

For patients that have been granted a gender recognition certificate, the Gender Recognition Act (2004) makes provision to bring prosecutions against individuals who disclose protected information. Individuals who

fail to gain written consent to share information could face criminal prosecution and a £5000 fine.

No consent?

If a patient refuses to grant permission to share their trans history when it is pertinent to their care, they should be advised of the possible impact of non-disclosure and reassured that disclosure of information will be handled with utmost sensitivity. However, if consent is still withheld this must be respected. These principles apply to **all** trans patients.

Changing and storing trans information in patient records

Any protected information in the record relating to someone's gender identity can only be shared with the express permission of the patient.

Names and titles on records can be changed upon request from the patient or GP Practice. Requests are made to Practitioner Services Division (PSD) who amend CHI, names and gender titles. A patient is not required to possess or provide a Gender Recognition Certificate (GRC) before an application is made and should **not** be asked for one.

A patient's record may hold treatment history that would disclose their trans status. For example a trans man may have a history of Gynae treatment. Placing an open alert on the medical record disclosing the patient as trans would constitute a breach of the Gender Recognition (Disclosure of Information) (Scotland) Order 2005 (unless the criteria previously mentioned had been met).

Trans people seeking to change their CHI and amend their medical records should be advised of the possible implications this may have. For instance – changing a patient's CHI sex identifier may create some challenges for screening programmes that use CHI sex identifiers as inclusion criteria. At the moment once PSD receive notification from a patient to change the CHI they will amend the record in such a way that screening programmes will be informed that screening should be offered (e.g. trans man will be offered cervical screening). If PSD do not amend the record appropriately the onus then is on the GP Practices and other services to alert the Screening Department if patients should be offered the appropriate screening prompt and reminders. Any queries relating to Breast Screening should be directed to regional centres. NHS Inform

has developed [screening information](#) for the trans community that captures possible permutations and should remove concerns.

Further information

If you have any questions related to the content of this document or have further queries, please contact Alastair Low, Planning and Development Manager, Equality & Human Rights Team, NHSGGC Alastair.Low@ggc.scot.nhs.uk

Useful contact information

[Practitioner Services Division](#), Meridian Court, 5 Cadogan Street,
Glasgow
G2 6QE

Screening Department, NHSGGC, Templeton Business Centre, 62
Templeton St, Glasgow G40 1DA. Telephone: 0141 277 7634

Source of further information

<http://www.legislation.gov.uk/ssi/2005/125/contents/made>

<https://www.scottishtrans.org/>

<https://nhsnss.org/services/practitioner/medical/patient-registration/sensitive-cases/>

<https://www.gires.org.uk/>

<https://www.bma.org.uk/advice/employment/gp-practices/service-provision/prescribing/gender-incongruence-in-primary-care>

Note

The Scottish Government has undertaken an extensive consultation on revisions to the Gender Recognition Act (2004) and its application in Scotland. It is expected that qualifying requirements for legal recognition for an acquired gender will change significantly, removing many of the barriers reported by trans people. This may include a broader inclusion of gender identity to protect people who define themselves as non-binary.