

Our Reference	North East and North Cumbria ICB\\FOI ICB 25-320	North East and North Cumbria ICB Pemberton House Colima Avenue Sunderland Enterprise Park Sunderland SR5 3XB
Your Reference	202511	

Tel: 0191 512 8484
E-mail: nencicb.foi@nhs.net

By Email

2 December 2025

Dear Applicant

Freedom of Information Act 2000 – Request for Information – NHS North East and North Cumbria Integrated Care Board (NENC ICB)

Thank you for your request received on 10 November 2025 for information held by NHS North East and North Cumbria Integrated Care Board (the ICB) under the provisions of the Freedom of Information Act 2000. The ICB covers the areas of County Durham, Newcastle Gateshead, North Cumbria, North Tyneside, Northumberland, South Tyneside, Sunderland, and Tees Valley.

Please find the information you requested on behalf of the ICB as follows.

Your Request

Under the Freedom of Information Act, please supply the following information, with regard to Services and Facilities provided by or commissioned through the Integrated Care Board (ICB). I have 3 questions:

1. Personal Information and Status Protection

What policy, guidance and arrangements have you in place, within the Healthcare and other Services Provided by/through the ICB and associated Built Estate (i.e. NHS Services in all the hospitals and healthcare facilities) to maintain the dignity, confidentiality and privacy of

- a. Transsexual People who have a Gender Recognition Certificate (GRC) reference: Gender Recognition Act section 22 and GDPR (see notes below) with respect to;
 - 1) Patients? and
 - 2) Staff? and
 - 3) Patient Carers and Visitors? and
- b. Those that are Protected under section 7 (gender reassignment) of the Equality Act 2010 (EA) (see notes below) with respect to;
 - 1) Patients? and
 - 2) Staff? and

- 3) Patient Carers and Visitors? and
2. **Single Sex Spaces**
If areas or facilities are designated as 'Single Sex',
 - a. How do you establish that 'Sex' – for Staff (Managers, Doctors, Nurses, Auxiliaries, Porters, Cleaners, etc), Patients, Carers or Visitors?
 - b. Is any ban of the opposite sex a 'blanket' ban with exceptions/exclusions applying to some people (i.e. Transsexuals), all people of the opposite 'sex' (patients, carers, staff and or visitors) or is it only applicable to Transsexual people? To whom does it apply?
 - c. If there are exclusions, how is this/do you justify this on a 'proportionate means to achieve a legitimate aim' basis, both on an individual basis and as a whole?
3. **Equality and Health Inequalities Impact Assessment**
Please provide Any 'Equality and Health Inequalities Impact Assessment' (EHIA) associated with any policies or guidance affecting transsexual people implemented or proposed since the SC Judgement in April 2025.

Notes

1. There is a personal liability of all staff to protect, directly and indirectly the Gender history and Status of Transsexual individuals (with a GRC), as per section 22 of the Gender Recognition Act 2004 (GRA), when they find this out as part of their role. Especially, if this information is either; intentionally or inadvertently disclosed to; other staff (who don't have a need to know), patients, visitors and members of the public. There are also similar organisational obligations and personal protections of personal data under GDPR.
2. There is no obligation for a Transsexual person (as defined in the GRA) to disclose their gender history/information, unless it is directly connected or relevant to, the medical procedure being investigated or treated.
3. The Transsexual status of an individual cannot be shared even within the hospital, either directly or 'indirectly', unless permission is given by the individual, on an approved need to know basis. – 'indirectly', an example of indirectly identifying a transsexual person would be by making the individual use a service of the wrong gender presentation or by being referred to by pronouns that do not match their Legal Sex and/or gender presentation. And as a consequence, either being overheard or seen to be using a service (by e.g. non-medical staff, other patients, or the public) that does not align with their legal sex or gender presentation.
4. GRCs are not available for public scrutiny and are not carried by the holder. The holder has a 'corrected/re-issued birth certificate which again is not normally carried around in everyday life.
5. Treating transsexual people differently to others could be discriminatory, either through direct discrimination or indirect discrimination on the basis of Gender Reassignment, especially if they are singled out and treated less favourably than other people.

(reference Equality Act 2010 section 7). e.g. not permitting a transsexual patient on a single sex ward, but allowing staff, other patients, patient carers and visitors of both sexes into that same area. Proportionate justification could be problematic.

Supplementary Notes

S1. Extracts from GRA section 22 – Prohibition on disclosure of information

- (1) It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.

(3) A person acquires protected information in an official capacity if the person acquires it—
(a) in connection with the person's functions as a member of the civil service, a constable or the holder of any other public office or in connection with the functions of a local or public authority or of a voluntary organisation,
(b) as an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer, or
(c) in the course of, or otherwise in connection with, the conduct of business or the supply of professional services.

(4) But it is not an offence under this section to disclose protected information relating to a person if—
(a) the information does not enable that person to be identified,
(b) that person has agreed to the disclosure of the information,

(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

S2 A summary of section 7 The EA protects against several forms of discrimination based on gender reassignment:

- Direct discrimination: Treating someone less favourably because of their transgender status.
- Indirect discrimination: Having a policy that applies to everyone but disproportionately disadvantages transgender people. This can be unlawful unless the policy is objectively justified.
- Harassment: Unwanted behaviour related to gender reassignment that creates a hostile, degrading, or offensive environment.
- Victimisation: Treating someone badly because they are Transsexual or Transgender or have made or supported a complaint of gender reassignment discrimination.
- Discrimination by perception or association: The protections extend to people who are wrongly perceived to be transgender or are associated with someone who is.

Important considerations

- No Gender Recognition Certificate required: An individual is protected as soon as they propose to transition, regardless of whether they have a Gender Recognition Certificate (GRC).
- GRC Those with a GRC (transsexuals) under the GRA 2004, are legally the sex acquired under the GRA with a GRC and have additional protections.
- Sex vs. gender reassignment: The protected characteristics of "sex" and "gender reassignment" are distinct. A Supreme Court ruling in April 2025 clarified that for the purposes of the Equality Act, "sex" refers to biological sex, separate from legal gender recognition through a GRC. Yet there is no legal definition of said sex, other than in that judgment as pertaining to be as designated at birth i.e. on a birth certificate.
- Exceptions for single-sex services: The Act allows for exceptions in certain circumstances. Providers of single-sex services (e.g., women's shelters or sports competitions) can exclude transgender people if it is a "proportionate means of achieving a legitimate aim," such as ensuring fairness or safety.
- Non-binary and intersex people: In some situations, the gender reassignment protections may also cover non-binary people and those with variations in sex characteristics (VSC), depending on the specific circumstances.

I would like the above information to be provided to me as email or email with any relevant documents attached to it [pdf, Microsoft Word document].

Our Response

1. We can confirm, as per Section 1(1) of the Freedom of Information Act 2000, the ICB on this occasion is not able to provide the requested information. In line with your rights under section 1(1)(a) of the Act to be informed whether information is held, we confirm the ICB does not hold any of the information requested. However, we have determined that the information is held by the acute hospital NHS foundation trusts (FTs) within the North East and North Cumbria region.

In accordance with our duty under s.16 of the FOIA to provide reasonable advice and assistance to an individual requesting information, we have provided the FOI contact addresses for those foundation trusts to make your request.

NENC Acute Hospital FTs	Email/Online portal
County Durham and Darlington NHS FT	cdda-tr.cddftfoi@nhs.net
Gateshead Health NHS FT	ghnt.foi.enquiries@nhs.net
North Cumbria Integrated Care NHS FT	foirequest@cumbria.nhs.uk
North Tees and Hartlepool NHS FT	nth-tr.foi@nhs.net
Northumbria Healthcare NHS FT	foi@northumbria.nhs.uk
South Tees Hospitals NHS FT	stees.foi.admin@nhs.net
South Tyneside and Sunderland NHS FT	stsft@infreemation.co.uk
The Newcastle upon Tyne Hospitals NHS FT	https://www.newcastle-hospitals.nhs.uk/help/foi/

2. Please refer to the response to question 1.
3. The ICB has not undertaken any 'Equality and Health Inequalities Impact Assessment' (EHIA) linked to the Supreme Court judgement in April 2025.

We are following information provided by NHS England and await further guidance from the Government based on the EHRC draft code of practice. Further detail can be found at [UK Supreme Court ruling on the meaning of sex in the Equality Act: our work | EHRC](#).

In accordance with the Information Commissioner's directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log. Therefore, a version of our response which will protect your anonymity will be posted on the NHS ICB website <https://northeastnorthcumbria.nhs.uk/>.

If you have any queries or wish to discuss the information supplied, please do not hesitate to contact me on the above telephone number or at the above address.

If you are unhappy with the service you have received in relation to your request and wish to request a review of our decision, you should write to the Information Governance Manager using the contact details at the top of this letter quoting the appropriate reference number.

If you are not content with the outcome your review, you do have the right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act 2000.

Generally, the Information Commissioner cannot make a decision unless you have exhausted the ICB's complaints procedure.

The Information Commissioner can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or www.ico.org.uk.

Any information we provide following your request under the Freedom of Information Act will not confer an automatic right for you to re-use that information, for example to publish it. If you wish to re-use the information that we provide and you do not specify this in your initial application for information then you must make a further request for its re-use as per the Re-Use of Public Sector Information Regulations 2015 www.legislation.gov.uk. This will not affect your initial information request.

Yours faithfully

Information Governance Support Officer

Information Governance Support Officer
North East and North Cumbria Integrated Care Board