

Date 06/06/2025  
Your Ref  
Our Ref 10077

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Dear

## FREEDOM OF INFORMATION - PROTECTED CHARACTERISTICS

I write in response to your request for information in relation to the protected characteristics of employees.

### Question:

1. My request is in relation to data the Board's function as an employer is required to gather, use and publish on the protected characteristics of employees, as set out in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, as amended, and specifically in relation to the protected characteristic of 'gender reassignment' [commonly described as 'trans']. In this connection I ask that you provide me with the precise text of the question [and any sub-clauses to it] put to employees and from which the Board extracts and publishes the data on the protected characteristic of 'gender reassignment' [or 'trans'], including the overall number and any sub-sets for the most recent year data has been gathered.

### Answer:

Equality monitoring data is collected for employees using NHS Scotland national systems - Job Train and electronic Employee Support System (eESS). Information about the equality monitoring questions asked on Job Train, including information about the protected characteristic gender reassignment can be accessed using this.

<https://www.careers.nhs.scot/blog/recruiting-and-supporting-a-diverse-workforce-equality-and-diversity-monitoring/>

At this time, eESS has not been updated nationally to match the information collected on Job Train. The question about gender reassignment on eESS is: "Have you, are you or do you plan to undergo gender reassignment (changing sex)?"

NHS Lothian publishes employee equality information annually on our [Public Sector Equality Duty reports webpage](#).  
[Recruiting and supporting a diverse workforce: equality and](#)

This information is exempt under Section 25 of the Freedom of Information (Scotland) Act 2002 - Information otherwise accessible

Headquarters  
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Chair Professor John Connaghan CBE  
Chief Executive Professor Caroline Hiscox  
*Lothian NHS Board is the common name of Lothian Health Board*

(1) Information which the applicant can reasonably obtain other than by requesting it under section 1(1) is exempt information.

Question:

2. In addition and in the Board's function as a service provider, where the Board gathers data on service users to evidence meeting the general equality duty of the Equality Act 2020 and eliminating discrimination in the provision of services, I ask about data gathered specifically in relation to the protected characteristic of 'gender reassignment' [commonly described as 'trans']. In this connection I ask that you provide me with the precise text of the question [and any sub-clauses to it] put to service users and from which the Board extracts data and publishes the data to evidence the absence of discrimination, on the protected characteristic of 'gender reassignment' [or 'trans'], including the overall number and any sub-sets.

Answer:

NHS Lothian provides a template for staff to use when collecting and using equality information in relation to the people accessing our services. The questions in relation to sex and gender reassignment are taken from [Scottish Government guidance for public bodies on the collection of data on sex and gender](#). The template is enclosed.

NHS Lothian does not publish data about the protected characteristics of people who access health services.

I hope the information provided helps with your request.

If you are unhappy with our response to your request, you do have the right to request us to review it. Your request should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner within 6 months of receipt of our review response. You can do this by using the Scottish Information Commissioner's Office online appeals service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal). If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

If you require a review of our decision to be carried out, please write to the FOI Reviewer at the email address at the head of this letter. The review will be undertaken by a Reviewer who was not involved in the original decision-making process.



FOI responses (subject to redaction of personal information) may appear on NHS Lothian's Freedom of Information website at: <https://org.nhsllothian.scot/FOI/Pages/default.aspx>

Yours sincerely

**ALISON MACDONALD**  
**Executive Director, Nursing**  
Cc: Chief Executive