

Date 14/08/2025
Your Ref
Our Ref 10372

Enquiries to Richard Mutch
Extension 35687
Direct Line 0131 465 5687
loth.freedomofinformation@nhs.scot
richard.mutch@nhs.scot

Dear

FREEDOM OF INFORMATION – STAFF SPACES

I write in response to your request for information in relation to gender and staff spaces.

Question:

- If a staff member encounters another staff member of the opposite sex in a single sex provision - such as changing room, hygiene area or toilet - would they be supported by Health board policy, via line management, to challenge and report this as a breach of The Workplace (Health, Safety and Welfare) Regulations 1992?

Answer:

We do not have a policy relating to this matter. As per Section 17 of the Freedom of Information (Scotland) Act 2002 formally I must advise that we do not hold this.

Prior to the Supreme Court Judgement, [2025] UKSC 16 we had guidance for line managers. However this has been removed and replaced with a holding statement which is enclosed below that explains how we would approach this situation if it arose.

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. 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.

Headquarters
Mainpoint
102 West Port
Edinburgh EH3 9DN

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



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
Enc.

Access to Single Sex Spaces

Following the Supreme Court judgment in relation to the definition of sex in the Equality Act 2010, the Equality and Human Rights Commission (EHRC) has confirmed that it will update its Code of Practice about single and separate sex facilities and services by the summer.

NHS Lothian will review this guidance and communicate this to staff as soon as the situation is clearer. However, whilst the specific guidance on how we meet the needs of all our staff may need to change from that outlined to date, our organisational values, and our expectations that colleagues will treat each other and service users in line with them, hold fast. Above all, it is essential everyone is treated with dignity and respect.

In the meantime, as managers, you may be asked to clarify how the Supreme Court judgment affects people in your teams. Whilst there is a lot of commentary at present about what this judgement means, please do not make assumptions about how related matters should be handled. If this situation arises, please highlight this to your own manager and contact Ruth Kelly, Deputy Director of People & Culture or Laura Hutchison, Head of Equality & Human Rights, for guidance.

Please see [this article](#) * from our Chief Executive, Caroline Hiscox for further clarity on our expectations regarding the importance of diversity and inclusion in NHS Lothian and our shared responsibility for addressing attitudes and behaviours that are contrary to these values (posted on 16 May 2025).



***International Day Against Homophobia, Biphobia & Transphobia – a message from Caroline Hiscox, Chief Executive**

As this Saturday (17 May) is International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT), I want to take this opportunity to raise awareness of NHS Lothian's commitment to fostering a workplace culture and environment that values and respects everyone.

This day serves as an important reminder of the challenges and inequality that many of our colleagues, friends and family, in the LGBTQIA+ community continue to face. However, it is also a day to celebrate progress, resilience, and solidarity. In NHS Lothian, we must continue to stand united against all forms of discrimination, harassment and prejudice. We will do this by championing equality, respect and belonging for everyone.

We believe you and all our colleagues deserve to feel safe, supported and empowered to be yourselves.

I encourage each of you to take a moment today to reflect on what you can do as an individual, as part of your team and as part of NHS Lothian to help make sure all our workplaces are inclusive for everyone.

If you would like to be part of supporting NHS Lothian to continue on our journey of understanding and celebrating diversity and inclusion, please consider joining the NHSL LGBT+ Staff & Allies Network who can be contacted at loth.lgbtstaff@nhs.scot.

Kind regards
Caroline Hiscox
Chief Executive
NHS Lothian
16/05/2025 12:28 PM