Lothian NHS Board

NHS Lothian Headquarters
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Date 5 November 2026
Your Ref
Our Ref 11963

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Dear

FREEDOM OF INFORMATION – SURROGACY

I write in response to your request for information in relation to surrogacy.

Question:
For each calendar year from 1 January 2018 to the date of this request, please provide:

1. The number of pregnancies and/or births involving a surrogate mother recorded by the health board, where this can be identified from existing records or structured data.

2. The number of clinical incident reports, including Datix or equivalent incident reports, which relate to surrogacy arrangements.

3. The number of formal complaints relating to the maternity, neonatal or postnatal care of:
    - a surrogate mother;
    - a baby born through surrogacy; or
    - intended parent(s).

4. The number of safeguarding referrals or safeguarding concerns recorded in connection with a surrogacy arrangement.

5. The number of occasions on which staff sought internal or external legal advice in relation to a surrogacy arrangement.

For questions 2–5, where this information is held and can be provided without identifying individuals, please also provide the broad nature of the issue, the service or department involved, and the outcome or resolution.
I am particularly interested in incidents, complaints or requests for advice concerning:

- consent to medical treatment for a newborn;
- disclosure of confidential information to intended parents;
- discharge of a baby into the care of intended parents;
- legal parenthood or birth registration;
- disagreements between a surrogate and intended parent(s);
- safeguarding concerns;
- access to maternity or neonatal wards;
- the involvement of intended parents in maternity or neonatal care.

Answer:

1.	I am advised that Women's Services does not hold this information. Surrogacy is only recorded as free text on TRAK, in multiple locations, with no structured field or code. We cannot reliably search free text across records, so we cannot identify the number of pregnancies or births involving surrogacy, or any related incidents, complaints, safeguarding concerns or legal advice requests. Identifying them would need a manual review of individual patient records. Under the Freedom of Information Act NHS Lothian is not required to create new records to enable it to respond to your enquiry. This information is not collated or held in aggregate form and it would be necessary to review all case files relating to patients over the period you have requested to assemble the information you seek. Even if NHS Lothian did this – and there would be significant cost implications in doing so – it would be unable to respond in full to your request. The information requested is therefore exempt under section 12.1 – Cost. We also do not hold a local surrogacy policy or guidance, or any staff training specific to surrogacy.
2.	No information is held in relation to this on Datix. As per Section 17 of the Freedom of Information (Scotland) Act 2002 formally I must advise that we do not hold this information.
3.	NHS Lothian does not record surrogacy as a specific field or code within its maternity, incident-reporting, complaints or safeguarding systems. Therefore we searched under the key words suggested of "surrogacy", "surrogate", "intended parent" or "parental order" within Datix with no results for the dates requested (from 01.01.2018.)
4.	As per response to question 1.
5.	No information is held in relation to this on Datix.

Question:
Please also provide:

6. A copy of the health board's current policy, guidance, protocol or standard operating procedure relating to surrogacy, together with the previous version immediately preceding it, if one exists.

7. The date on which the current policy or guidance was approved, the date of its most recent review, and the date on which it is next due to be reviewed.

8. Details of any training, briefing or guidance provided to maternity, neonatal or other relevant staff specifically concerning surrogacy since 1 January 2018. Where held, please provide the date, title or description of the training and the number of staff who attended or completed it.

If the health board does not record surrogacy as a specific field or code within its maternity, incident-reporting, complaints or safeguarding systems, please state this.
In that event, I would also be grateful if you could identify:

- the relevant system or systems used;
- whether surrogacy can be identified through any structured field, code or category;
- and whether records containing terms such as “surrogacy”, “surrogate”, “intended parent” or “parental order” can be searched within those systems.

Answer:

6.	As per responses above. Information not held or not held in a centrally extractable format
7.	
8.	

I am sorry we cannot help with this 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.

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

Yours sincerely

ALISON MACDONALD
Executive Director, Nursing
Cc: Chief Executive