# About the EHRC Code: A Guide for NHS Staff

**The EHRC Code of Practice for Services, Public Functions and Associations became operational on 5 August 2026. Here is what it means for you as a healthcare professional.**

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## The Law on Gender Reassignment in Healthcare

The Equality Act 2010 applies in full to the NHS and all healthcare settings. This means that all NHS staff — from reception and admin to consultants and surgeons — are **legally obliged** to treat trans patients without discrimination.

The protected characteristic of **gender reassignment** covers any person who is proposing to undergo, is undergoing, or has undergone any part of the process of gender reassignment. No medical intervention — no diagnosis, no hormone therapy, no surgery — is required for this protection to apply.

Discrimination against a patient on the basis of gender reassignment is unlawful, whether it is direct, indirect, or amounts to harassment.

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## What This Means in Practice

### In Appointments and Admissions

- Trans patients must be treated no less favourably than any other patient
- A patient who has told you they are trans should be addressed and recorded using their **affirmed name and pronouns** — failing to do so is discriminatory
- Where administrative systems require a legal name, this should be noted alongside the patient's affirmed name, and staff should be trained to use the latter in all communications

### In Clinical Care

- Gender reassignment history is a **sensitive characteristic**. It should only be recorded where directly relevant to clinical care, and handled in line with Caldicott principles
- Trans patients have the same right to all NHS services as any other patient — GPs, hospital services, mental health services, screening programmes, and community services

- Clinical decisions must be based on clinical need. A patient's trans status must not be used as a reason to withhold or reduce treatment

### In Single-Sex Accommodation

The NHS is permitted to provide single-sex accommodation — and in some clinical situations this may be necessary. However, the EHRC Code is clear that:

- Restrictions on trans patients' access to facilities matching their gender identity **must be individually justified** — a blanket policy excluding all trans patients is almost certainly unlawful
- Where a trans patient has a **Gender Recognition Certificate**, their acquired gender is legally recognised for all purposes, including access to single-sex accommodation
- Staff who have concerns about patient dignity or privacy in shared facilities should raise these through their line manager and documented protocols — not by excluding or challenging individual patients without guidance

### In Records and Identification

- NHS numbers, not names, are the primary patient identifier — this should be used consistently
- Where a patient's gender marker in NHS systems is causing problems (for example, with screening invitations based on registered sex), staff should seek guidance from their Caldicott Guardian or data protection lead
- A trans patient is not obligated to disclose their gender history; staff should not ask about it unless it is directly clinically relevant

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## Handling Concerns from Other Patients

You may encounter situations where another patient objects to sharing a bay or facility with a trans person. The correct response is:

1. **Do not exclude the trans patient** to resolve the objection — this would be direct discrimination
2. **Explain** that the trans patient has an equal right to use the facility
3. **Address the objecting patient's concerns sensitively** — with explanation, not argument
4. **Escalate** to a senior nurse or manager if the situation cannot be resolved
5. **Document** the interaction and any decisions made

A blanket policy of excluding trans patients from mixed-sex accommodation because another patient has objected is unlikely to be lawful. The law requires that any restriction be **objectively justified** — which means a documented, proportionate response to a specific situation, not a general policy.

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## If a Trans Patient Makes a Complaint

- Take all complaints seriously — trans patients face significant health inequalities and discrimination, and this context matters
- Follow your Trust's complaints procedure fully
- If the complaint involves potential discrimination, this should be escalated to the Patient Experience team and the Trust's Equality and Diversity lead

- Support the patient to access advocacy if needed — advocacy organisations can provide specialist advice

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# Key Points for NHS Staff

- **Every trans patient has the same rights to NHS care as any other patient**
- **Gender reassignment protection applies from the moment someone begins to transition** — no medical intervention required
- **Using a patient's affirmed name and pronouns is not optional** — it is a legal obligation and a basic matter of dignity
- **Excluding a trans patient from single-sex accommodation requires individual justification** — a blanket policy is unlikely to be lawful
- **Other patients' objections do not override a trans patient's legal rights**
- **If in doubt, escalate to a senior colleague — do not make individual decisions about patients' rights without guidance**

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*This guide is intended as general information, not legal or clinical advice. For clinical guidance on trans healthcare, refer to NHS England clinical policies and the relevant NICE guidelines. For equalities guidance specific to your Trust, consult your E&D lead or Caldicott Guardian.*

*Sources: Equality Act 2010; EHRC Code of Practice for Services, Public Functions and Associations (2026); Equality Act 2010 (Schedule 3); NHS England Health and Care Women and Girls Strategy.*