

By email to: Chief Executive and Chair of the Board,
NHS Lothian and NHS Greater Glasgow and Clyde

10 September 2024

Dear Sir/Madam,

We have previously [written](#) twice to Dr Gregor Smith, Chief Medical Officer, to raise concerns regarding the NHS practice of allowing patients to change the sex marker in their CHI number. We consider this practice to be a known clinical risk that introduces significant risk to the screening system (only partially resolved) and broader diagnosis criteria, particularly when blood tests on sex-specific ranges may be incorrectly interpreted. Health care professionals can no longer trust that CHI data is accurate for any individual or that a patient will be [honest](#) about their sex, and time and resources are spent confirming this basic information prior to routine procedures.

Dr Smith confirmed last year that the NHS CHI number “contains a sex code which represents the individual’s sex at birth (male and female)” but a person may ask their GP to change it to reflect their “self-identified gender”.

Since then, the Court of Session Inner House has issued an important [ruling](#) regarding the law on the protected characteristic of sex. It states (at paragraph 65) that a person with a Gender Recognition Certificate (GRC) in their acquired gender possesses the protected characteristic of gender reassignment. Separately, they also possess the protected characteristic of sex according to the terms of their GRC. Individuals without a GRC, whether they have the protected characteristic of gender reassignment or not, retain the sex in which they were born.

We believe that in addition to the clinical risk, NHS Scotland is operating contrary to the court's ruling. Self-identification of sex or gender is not law in Scotland and a person's sex can only be changed (for some purposes) once a GRC has been obtained.

It is necessary for NHS Scotland to update its practices in this regard and close down the mechanism which allows for the sex marker to be changed on request and remedy all previous occurrences. We would be grateful if you could confirm that this will be attended to promptly.

A copy of this letter goes to the CMO and Cabinet Secretary for Health and Social Care.

Kind regards,

Trina Budge, Marion Calder and Susan Smith
Directors, For Women Scotland