

SPSO decision report

Case: 201904556, Lanarkshire NHS Board
Sector: Health
Subject: Record keeping
Decision: not upheld, no recommendations

Summary

C complained that the board's community mental health team recorded their transgender status in their medical records, without C's knowledge or consent. In their complaint response, the board said that they considered C's gender transition was relevant to their mental health treatment and medical staff would require access to the information when providing C with treatment.

We took independent advice from appropriate clinical specialists. We found from a clinical perspective that, at the time the information was recorded, it had been reasonable for staff to conclude that consent had been given as this information was provided by C, and that the information was relevant to the treatment being provided and, therefore, reasonable to record. We did not uphold this complaint.

However, we did not make a decision on specific points raised about the ongoing and future management of personal data in the records as we considered these were ultimately more appropriate for the Information Commissioner's Office.