
STATUTORY INSTRUMENTS

2022 No. 742

GENDER RECOGNITION, ENGLAND

The Gender Recognition (Disclosure
of Information) (England) Order 2022

Made	- - - -	at 1.16 p.m. on 30th June 2022
Laid before Parliament		at 4.00 p.m. on 30th June 2022
Coming into force	- -	28th July 2022

The Secretary of State makes the following Order in exercise of the powers conferred by section 22(5) and (7) of the Gender Recognition Act 2004(1).

Citation, commencement, expiry, extent and application

1.—(1) This Order may be cited as the Gender Recognition (Disclosure of Information) (England) Order 2022 and shall come into force on 28th July 2022.

(2) This Order ceases to have effect at the end of 27th July 2027.

(3) This Order—

- (a) extends to England and Wales, and
- (b) applies in relation to England only.

Disclosure for the purposes of the Cass Review

2.—(1) It is not an offence under section 22(1) of the Gender Recognition Act 2004 for an authorised person to disclose protected information to another authorised person where the disclosure is—

- (a) made by and to an authorised person in England, and
- (b) necessary for the purposes of facilitating, assisting or undertaking relevant research.

(2) In this article—

- (a) an “authorised person” is a person listed in the Schedule;

(1) 2004 c. 7; section 22(2)(a) was amended by the Marriage (Same Sex Couples) Act 2013 (c. 30), Schedule 5, paragraph 13, and the Civil Partnership Act 2004 (c. 33), section 250(5)(c).

- (b) “the Cass Review” means the independent review into gender identity services for children and young people, for which terms of reference were published in Appendix 1 of its interim report as submitted to NHS England and dated February 2022⁽²⁾
- (c) “relevant research” means research requested by NHS England—
 - (i) for the purposes of the Cass Review, and
 - (ii) in respect of a person who —
 - (aa) has been referred to Tavistock and Portman NHS Foundation Trust’s Gender Identity Development Service for assessment or treatment, and
 - (bb) was under the age of 18 years at the date of their referral.

At 1.16 p.m. on 30th June 2022

Sajid Javid
Secretary of State,
Department of Health and Social Care

(2) The interim report, including Appendix 1, is available at the following web-link: <https://cass.independent-review.uk/publications/interim-report>

SCHEDULE

Article 2(2)

Authorised persons

A person employed by Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust

A person employed by Devon Partnership NHS Trust

A person employed by the Health and Social Care Information Centre

A person authorised in writing by the Health and Social Care Information Centre to act on its behalf in order to facilitate or assist relevant research

A person employed by Leeds and York Partnership NHS Foundation Trust

A person employed by Leeds Teaching Hospitals NHS Trust

A person employed by Northamptonshire Healthcare NHS Foundation Trust

A person employed by Nottinghamshire Healthcare NHS Foundation Trust

A person employed by Sheffield Health and Social Care NHS Foundation Trust

A person employed by Tavistock and Portman NHS Foundation Trust

A person employed by University of York

A person authorised in writing by the University of York to act on its behalf in order to facilitate, assist or undertake relevant research

A person employed by University College London Hospitals NHS Foundation Trust

EXPLANATORY NOTE

(This note is not part of this Order)

Section 22 of the Gender Recognition Act 2004 (“the Act”) provides that it is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person. “Protected information” is defined in section 22(2) as information relating to a person who has applied for a gender recognition certificate under the Act, and which concerns that application (or a subsequent application by them), or their gender prior to being granted a full gender recognition certificate.

Section 22(4) sets out certain circumstances where disclosure of protected information does not constitute an offence (for example, where the person to whom it relates is not identifiable or has agreed to the disclosure).

This Order prescribes an additional circumstance where the disclosure of protected information does not constitute an offence. Article 2(1) provides that this is where protected information is disclosed between authorised persons because it is necessary for the purposes of facilitating, assisting or undertaking relevant research (being certain research for the purposes of the Cass Review). To benefit from the exception the authorised person who makes or receives such disclosure must be in England when they do so. Article 2(2) provides the necessary definitions of authorised person, the Cass Review and relevant research.

This Order applies in relation to England only.

Status: *This is the original version (as it was originally made).*