

FOI Team | Optum Health Systems Support
South Kesteven District Council Offices,
St Peters Hill
Grantham
Lincolnshire,
NG31 6PZ

4th March 2020

Dear Requester

FREEDOM OF INFORMATION REQUEST - RESPONSE
FOI Reference: OPTUM FOI 500-898– SWL CCG

I refer to your email received on 12 February 2020. I can confirm on behalf of NHS South West Lincolnshire Clinical Commissioning Groups (CCG) supported by Optum Commissioning Support Services, and in accordance with S.1 (1) of the Freedom of Information Act 2000 (FOIA) that we do hold the information you have requested. A response to each element of your request is detailed below:

REQUEST AND RESPONSE

The British Association of Gender Identity Specialists (BAGIS) is an association of healthcare professionals founded for the purpose of promoting clinical research and exchange of knowledge of gender dysphoria and transgender health.

BAGIS is aware of the judicial review brought by the Equality and Human Rights Commission (EHRC) in August 2018 which challenged NHS England's failure to offer gamete storage to transgender patients as a general policy, rather than leaving this as a matter for individual CCG's to decide. BAGIS understands, from media reports, that this claim settled, shortly before the court hearing on 28 March 2019, on the basis that NHS England would revise its guidance on this issue. Subsequent media reports indicated that part of the basis for this settlement was NHS England's agreement to issue guidelines to all CCGs to the effect that "strong justification" needs to be shown by any CCG refusing to offer fertility preservation to transgender patients; and that a failure to provide this may be challenged in court ("Transgender fertility rules updated by NHS", The Guardian, 31 March 2019). The EHRC made media comments welcoming this development.

BAGIS is unaware of what if any guidance on this issue has been drawn up by NHS England. However, given that individual CCGs are responsible for clinical commissioning within their area, BAGIS kindly requests that the CCG confirm:

- 1. Whether the CCG has drawn up its own guidance on these issues; and if so, to provide a copy to BAGIS and to confirm whether it has been published;**

RESPONSE:

The CCG is part of the East Midlands Affiliated Commissioning Committee and adopt the policies that come out of this regarding Gamete and Embryo cryopreservation.

A new policy is being developed following guidance from NHS England, which states that fertility preservation services should be made equally available to all patients whose medical or surgical treatment may make them infertile.

A public consultation process has started, where people can share their views about the proposed policy before a final decision is made. If approved, the policy will ensure a standard approach is used for patients throughout the East Midlands. This consultation is being led by Leicester City Clinical Commissioning Group on behalf of the 16 CCGs in the East Midlands.

The survey is available online at <https://www.surveymonkey.co.uk/r/GameteCP>
Paper copies of the survey are also available. Please call the engagement office on 07773 031782 if you would like a copy.

The survey is open until Sunday March 1st 2020. This has been publicised locally on CCG social media sites.

2. In any event, what criteria are applied by the CCG in deciding whether to fund gamete storage facilities for transgender patients generally.

The draft proposed policy includes retrieval and storage for transgender patients who are receiving treatment for gender dysphoria which may cause permanent infertility (hormone therapy, reconstructive surgery etc.). Cryopreservation will be funded for patients on a transgender pathway provided the criteria for all patients are met. These are as follows:

- Females of reproductive age up to 42 years old (stimulation treatment to take place prior to individual's 43rd birthday). There is no minimum age limit;
- Males of reproductive age up to 55 years old (sperm retrieval to take place prior to individual's 56th birthday). There is no minimum age limit;
- Registered with a GP belonging to an East Midlands CCG (or unregistered but confirmed as the responsibility of the CCG);
- Written informed consent to treatment and gamete or embryo storage will be required.

3. How many requests for gamete storage were made by transgender patients shortly before gender conversion treatment?

4. For each month for which data is provided in response to question 3.

RESPONSE TO QUESTIONS 3 and 4:

Statistical data which relate to fewer than 5 people could lead to the identification of individuals, thus breaching Section 24(1) of the Data Protection Act 2018 and Article 21 of the General Data Protection Regulation. Therefore, we consider this information exempt from disclosure under Section 40(2) of the Freedom of Information Act 2000.

I trust that this answers your queries with the information we currently hold, but if we can be of any further assistance please do not hesitate to contact the FOI Team.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to

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If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the CCGs.

The Information Commissioner's contact details can be found here:

<https://ico.org.uk/global/contact-us/>

All information we have provided is subject to the provisions of the Re-use of Public Sector Information Regulations 2015. Accordingly, if the information has been made available for re-use under the [Open Government Licence](#) (OGL) a request to re-use is not required, but the licence conditions must be met. You must not re-use any previously unreleased information without having the consent from the CCG. Should you wish to re-use previously unreleased information then you must make your request in writing (email will suffice) to the FOI Lead. All requests for re-use will be responded to within 20 working days of receipt.

Yours faithfully

FOI Team
On behalf of NHS South West Lincolnshire CCG