

Impact of non-implementation of the Supreme Court Ruling (2025) on NHS staff: Evidence of organisational non-compliance, workforce impact and risk

1. Executive summary

This report presents findings from NHS staff on the impact of the failure to implement the Supreme Court ruling in *For Women Scotland Ltd v Scottish Ministers*¹, which clarified that 'sex' in the Equality Act 2010² refers to biological sex.

Staff responses indicate systemic non-compliance, with material risks to patient safety, workforce stability, and organisational governance.

What staff report

- **94.3%** report that unlawful self-identification policies remain in place.
- **83.5%** report no interim arrangements have been put into place for single-sex spaces.
- **77%** report reduced confidence in their employer to follow the law or uphold their legal rights.
- **67%** do not feel comfortable raising concerns about non-implementation.

Staff describe:

- ongoing use of opposite sex facilities
- inaccurate recording of sex in clinical systems
- a culture of fear, self-censorship, and reputational risk
- loss of trust in leadership
- staff leaving or considering leaving the NHS

Staff accounts

“I am still forced to share a changing room with a male colleague.”

“I cannot work for an organisation that prioritises this over women’s rights and the law.”

Summary

This is not an interim issue.

Staff describe sustained, widespread non implementation, impacting staff, workplace conditions and patient safety.

A perception of ideological influence over the organisation is presented in the findings and staff describe non-compliance with statutory and regulatory obligations. Risks are already present, and not hypothetical. Governance mechanisms appear to have failed, and staff report a culture in which lawful concerns cannot be raised without fear of reprisal.

Immediate action is required to restore legal compliance, protect staff, and safeguard patients.

2. Purpose and context

The survey was commissioned by the SEEN in Health Network³, to understand the impact of non-implementation of the Supreme Court Ruling on NHS staff.

The survey aimed to provide NHS staff an opportunity to voice their experiences and convey their reality of working in an organisation that is failing to meet its lawful obligations in respect of the ruling.

Almost a year has passed since the UK Supreme Court clarified that 'sex' in the Equality Act 2010 refers to biological sex.

- **All 210 NHS trusts** continue to operate without compliant single-sex staff facilities.
- **178 NHS trusts** continue to operate policies based on gender self-identification⁴.

The NHS is the largest employer of women in Europe.

Non-implementation disproportionately affects the majority of its workforce.

3. Methodology

The survey collected 89 responses from NHS staff who are members of the SEEN in Health Network, across a range of clinical and non-clinical roles and organisations.

It covers workforce, service delivery and personal impact through a combination of quantitative questions and extensive qualitative responses.

All respondents demonstrated clear understanding of the Supreme Court ruling, strengthening the reliability of the findings.

4. Core findings

4.1 Failure to implement legal change

Evidence indicates near total non-implementation across trusts.

Staff report that NHS organisations have not implemented the legal clarification provided by the Supreme Court ruling.

- **94.3%** report no confirmation that unlawful policies have been removed.
- **82.8%** report no clarification that policies will change.
- **83.5%** report no interim arrangements for single-sex spaces.

4.2 Communication failure and organisational bias

Staff report limited and unclear communication, perceived as partial, incomplete, or ideologically framed.

- **46.6%** report receiving any communication.
- Only **4.7%** of staff received communication that clarified workplace implications.

Staff told us

“Nonsense, it did not reflect the law”.

“A brief statement about the ruling without any explanation of practical implications”.

Thematic analysis of qualitative responses indicates:

- messaging framed as negative or 'bad news'
- expressions of support directed toward trans staff
- no acknowledgement of staff who welcomed the ruling
- no recognition or apology for previous unlawful policies

Staff accounts

“There was absolutely no regard given to staff who welcomed the judgment.”

“It was all pitched as though only trans individuals were affected, rather than the 80% of the workforce who are female.”

“An online meeting was held for those in the LGBTQ network.”

“The communication did not recognise the current unlawful policies, nor did it include an apology to women who have been discriminated against as a result.”

4.3 Ongoing non-compliance in practice

Staff describe practices that directly contradict statutory requirements, including:

- use of opposite-sex facilities
- lack of clear rules governing single-sex spaces
- continued use of policies based on self-identification

Staff told us

“I am still forced to share a changing room with a male colleague.”

“Inaccurate interpretations of the law continue to be promoted, and concerns about compliance are not addressed.”

“Confirmation that staff and others could continue to use the toilets and facilities of their choosing regardless of their sex.”

4.4 Impact on workforce function

Staff report that non-implementation of the ruling is affecting their clinical decision making, safeguarding, and operational delivery.

- **48.9%** report moderate to severe impact.
- **84.2%** of clinical staff describe the impact as negative to very negative.

Clinical staff report:

- difficulty delivering sex-based care
- safeguarding risks
- patient safety concerns

Non-clinical staff report:

- data inaccuracies
- policy confusion
- loss of confidence in leadership

Staff told us

“Data field records gender as they identify... Historically this was recorded as biological sex.”

"Potential for patient harm with sex self ID and mismatch of CHI number and patient's actual sex.”

“Language such as 'women and other people with a cervix' is still common”.

Staff link these issues directly to their ability to work safely and effectively.

4.5 Personal and psychological impact

Staff describe a hostile or unsafe working environment and a sense of exclusion within their organisations.

- **89.5%** report a personal impact.
- **77%** report reduced confidence in employer compliance.
- **75%** report reduced trust in leadership.

Staff told us

“I feel like a second-class citizen... I feel very unwelcome.”

“It is particularly difficult for trainees to speak up about the SC ruling because our relationship with our supervisors, colleagues etc (however good) are inherent to our course assessment.”

“It feels risky to raise concerns at a time when Trusts are already looking to make savings. Raising your head can make you a target.”

4.6 Suppression of concerns

Fear of reprisal is widespread.

- **67%** do not feel comfortable raising the subject.
- **40.5%** report raising concerns but receiving no positive response.

Staff told us

“It feels unsafe to voice my perfectly reasonable views.”

“I feel I have to be very careful who I discuss these issues with.”

“I felt unable to say the ruling was a great victory to lesbians.”

Concerns described as being dismissed or ignored, and respondents report feeling unable to raise lawful issues openly.

5. Staff voice: lived experience of non-implementation

The qualitative staff responses provide direct accounts of the lived experience of non-implementation. These accounts detail the day-to-day reality of working within organisations that have not acted on the Supreme Court ruling.

Staff describe a workplace environment characterised by:

- fear and self-censorship
- reputational damage
- moral distress
- perceived institutional bias

Staff told us

“The short answer is that it increases a sense of fear.”

“It feels that anyone who was to express relief with the supreme judgement would be branded transphobic. ”

“I feel that the NHS is no longer a workplace I can be in without feeling stressed over having to hide my reasonable views or pressured into pretending to agree with falsehoods, accepting the second-class status of women.”

“The LGBTQ+ staff network appears to be operating with significant influence but without clear oversight or accountability.”

In their own words

Staff told us about the impact of non-implementation.

Staff describe a loss of trust in their employer and a sense that their experiences are not recognised

“Personally, I know that I may encounter a man in the ladies and would not be supported by my employer if I objected.”

“I am viewed as a liability and troublemaker.”

Some staff report leaving, or considering leaving, the NHS as a result.

“I have lost the little trust I have in the organisation and have taken voluntary redundancy.”

“I cannot work for an organisation that prioritises fetishist men over women's rights and the law! ”

"I am deeply ashamed of the NHS and it has really marred working for them as an organisation."

Women in particular feel ostracised, undervalued and discriminated against as a result of non-implementation.

"Women feel very undervalued... women's feelings are ignored."

"The utter disregard of female staff is really depressing".

"Tells women our safety doesn't matter. Tells me my organisation is in thrall to this ideology."

"I feel very unwelcome as a woman who does not want to be forced to lie to keep my job, or have to navigate a system that erases females."

"My Trust issued a statement of sympathy and support for transgender staff post the ruling which made me feel, as a woman, very unsupported."

Staff describe sustained personal and professional impact associated with non-implementation.

"I find it immensely distressing to work within an organisation that promotes this ideology. That impacts my ability to work well."

"The fact that the NHS, a medical organisation, advocates and cheer leads for this harm is horrific".

"They claim to be inclusive, but in actual fact are anything but."

Staff also describe the impact extending beyond the NHS and into trade unions.

"As a whole the Trust and the Union are very much pro Trans and people are fearful of speaking out."

"Unions within the workplace follow the same format where a transwoman was put in a senior female category."

"Lack of union support if I did go against Trust policy in line with my convictions/sex realism."

"Union response was that there was "nuance" in various court judgements which had to be viewed collectively."

6. Governance and accountability failure

Findings indicate a breakdown in governance, with:

- unclear ownership
- deferred responsibility
- internal networks exerting disproportionate influence

6.1 Perceived influences on decision-making

Staff were asked what they believe is influencing organisational policy and practice.

- **8.2%** identify internal staff networks.
- **53.4%** identify senior leadership.
- **42%** identify lobby or advocacy groups.

They describe decision-making as influenced by internal groups, with limited challenge or oversight.

"The organisation is captured by staff networks and activists."

"Some staff networks are advocating for and pushing a specific narrative which is contrary to the law."

“I do not trust my employer and feel they have allowed the LGBTQ+ staff network to act as an activist network.”

“Leadership do not challenge this.”

Staff told us

“They are waiting for NHS England guidance before any decisions can be made.”

“No one seems willing to take responsibility.”

“It demonstrates lack of leadership and leadership by ideology”

“I think that there are many activists within the Trust, in particular in the 'equality' teams, and they are preventing action.”

“There is no accountability.”

“It feels like governance processes are not functioning.”

7. Legal and regulatory breaches

Staff responses raise concerns that current practices may not align with statutory and regulatory obligations.

Areas of concern raised by staff in relation to:

- **Equality Act 2010:** Staff describe policies that they believe do not reflect the clarified definition of sex, raising concerns about lawful practice and discrimination.
- **Workplace (Health, Safety and Welfare) Regulations 1992:** ⁵ Staff report mixed-sex facilities and lack of clarity, raising concerns about dignity, privacy, and employer duty of care.

- **Data accuracy and clinical safety (Caldicott Principles):** ⁶Staff describe inaccurate recording of sex, which they link to risks in clinical decision-making and patient safety.
- **Public Sector Equality Duty (PSED):** ⁷ Staff describe a lack of balanced consideration of protected characteristics in organisational decision-making.

Staff accounts

"The Trust have issued an FAQ in January 2026 telling staff to continue using whichever single sex space "they feel is right for them". (Equality Act)

"I am still forced to share a changing room with a male colleague... I feel demoralised and not heard by management." (Workplace Regulations 1992)

"I am particularly concerned regarding consent. Women seeking female only care are at risk of being treated by a trans identified male without their consent. This constitutes assault/sexual assault." (Caldicott Principles).

"I feel that we continue to have staff who believe the supreme court ruling is transphobic as there is no explanation of the other side of the argument and how it is positive for women." (Public Sector Equality Duty)

8. System-level risks

Staff responses describe risks that extend beyond individual experience and are already affecting workforce stability, service delivery, and patient care.

These risks are cumulative and mutually reinforcing.

8.1 Patient safety risk

Staff describe concerns about:

- inaccurate or unreliable data affecting care
- lack of clarity in care pathways
- safeguarding risks

8.2 Workforce and service impact

Staff report:

- reduced morale and disengagement
- staff leaving or considering leaving their roles
- loss of experienced staff
- difficulty carrying out roles effectively

8.3 Governance risk

Staff describe:

- a lack of clear accountability
- continued unlawful practices
- lack of urgency
- absence of corrective action

9. Recommendations

The following actions reflect the issues consistently raised in staff responses and are intended to address the impacts described across workforce, service delivery, and patient care.

These actions represent the minimum required to restore legal compliance and protect staff and patients.

9.1 Immediate actions

Staff describe ongoing non-compliance with legal requirements and a lack of clear direction.

Recommended actions

- Formal instruction from NHS England requiring immediate compliance with the Equality Act 2010.
- Confirmation of compliance from NHS organisations.
- Immediate cessation of policies reported by staff as unlawful.
- Clear interim arrangements for single-sex spaces.

9.2 Governance and oversight

Staff describe a lack of accountability, unclear ownership, and delayed decision-making.

Recommended actions

- Clear allocation of accountability at organisational and national level.
- Independent review of NHS policy development processes.

- Assessment of the influence and oversight of internal staff networks and advocacy groups.

9.3 Data and patient safety

Staff report concerns about inaccurate data and its impact on the clinical care of patients.

Recommended actions

- Mandatory accurate recording of sex in line with legal and clinical requirements.⁸
- Alignment with national data standards and relevant review recommendations.⁹
- Clinical risk assessment of current data and recording practices.

9.4 Workforce protection

Staff describe fear of raising concerns and a lack of support when doing so.

Recommended actions

- Safe and effective mechanisms for raising concerns, including whistleblowing protections.
- Protection for staff expressing lawful views.
- Acknowledgement of the impact described by staff and appropriate organisational response.

10. Conclusion

The NHS is operating outside the legal framework and presenting this as ‘complexity’ where none exists. Of all public sector organisations, the NHS is the one in which sex must be understood at its most basic level in order to deliver safe, lawful care.

This survey offered staff a rare opportunity for staff to speak openly. Responses demonstrate a longstanding culture in which staff feel frustration and concern but fear speaking up. These issues have been present for some time and are not a recent consequence of the Supreme Court ruling. Several individuals told us they did not feel safe responding at all, fearing their employer might identify them and impose punitive consequences.

Staff describe working in organisations where legal requirements have not been implemented in practice.

They report:

- ongoing use of policies and practices they believe are not compliant with the law
- a lack of clear direction
- limited confidence that concerns will be addresses
- a perception of institutional bias and lack of accountability
- some staff are leaving or disengaging from the workforce

Staff accounts

“Feeling gagged, inhibited from speaking truth and reality by the censorship.”

“The culture in NHS England still feels very pro- the incorrect legal position.”

The personal impact is significant. Morale is eroded, and women in particular report feeling marginalised, silenced and unsupported. Staff describe a culture in which lawful

concerns cannot be raised without fear of reprisal, and where trust in leadership has collapsed.

They also link non implementation directly to their ability to deliver safe, effective care. Respondents describe risks to patient safety, safeguarding concerns, and entrenched non-compliance that faces little internal challenge.

Staff emphasise that non implementation of the Supreme Court ruling is not an interim or transitional issue, but an ongoing condition within NHS organisations.

The impacts they describe are:

- sustained rather than temporary
- widespread rather than isolated
- affecting workforce experience, service delivery and patient care

Staff accounts

“Patient files have occasionally been altered to reflect a young person’s chosen name (with no official change of name in place) or sex i.e. marked as female when they are biologically male. This can make treatment difficult.”

“Ongoing harm to patients who are being gaslit into believing male staff are female and allowing intimate care which they might otherwise have refused.”

Without decisive action, staff warn that these impacts will continue to shape workforce stability, service delivery and patient safety across the NHS.

More troubling still is staff testimony that the NHS – the largest public institution in the country – is disregarding the law in ways that erase and sideline its female and same sex attracted workforce.

SEEN in Health ask: if an organisation of this scale is willing to ignore its own legal duties to its own people, what else might it be willing to overlook?

¹ **For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent) - UK Supreme Court**

² **Equality Act 2010: guidance - GOV.UK**

³ **SEEN In Health**

⁴ Data taken from a grass roots audit between Feb and July 2025 details available from SEEN in Health.

⁵ **Workplace health, safety and welfare. Workplace (Health, Safety and Welfare) Regulations 1992. Approved Code of Practice and guidance - HSE**

⁶ **The Caldicott Principles - GOV.UK**

⁷ **Public Sector Equality Duty: guidance for public authorities - GOV.UK**

⁸ **Incoherent and unsafe**

⁹ **Independent review of data, statistics and research on sex and gender - GOV.UK**