

Reference:	FOI.20017.26
Subject:	Supreme Court judgment in For Women Scotland Ltd v Scottish Ministers
Date of Request:	25 March 2026

Requested:

I request the following information under the Freedom of Information Act 2000:

1. Any recorded information (including communications, guidance, or briefings) issued to staff concerning the implications of the Supreme Court judgment in For Women Scotland Ltd v Scottish Ministers.
2. Any recorded information relating to the review or amendment of staff policies arising from that judgment.
3. Any recorded information relating to guidance or policy updates for patient services arising from that judgment.
4. In relation to legal advice obtained concerning that judgment:
 - a. The dates on which such advice was sought or received;
 - b. The identity of the provider (e.g. internal legal team, external counsel);
 - c. The subject matter or issues on which advice was sought (at a high level);
 - d. Any recorded information summarising, implementing, or reflecting the effect of that advice in policy or operational decisions.

This request is limited to information created or held from 1 January 2024 to the date of searches.

Response:

1. Hywel Dda University Health Board (UHB) confirms the only communication shared with staff members was following receipt of a consultation by the Equality and Human Rights Commission on their Code of Practice for services, public functions and associations, where the Inclusion Team asked staff members for their comments/contributions. A copy of the communication issued to staff can be found at Attachment 1.
2. The UHB confirms it does not hold the information requested as it is currently in the process of reviewing its policies to identify where updates may be required following the judgement. Following the review, any guidance will be based on compliance with the legal requirements of the Equality Act and the implications of the judgement, in addition to the anticipated publication of the Equality and Human Rights Commission's Code of Practice for services, public functions and associations which is currently going through Parliament.
3. The UHB does not hold the information requested. Please see response provided to question 2.
- 4a. The UHB confirms legal advice was received on 24 March 2026.
- 4b. The UHB confirms External Counsel were asked to provide legal advice.

- 4c. The UHB confirms the subject matter on which advice was sought on was the pending Code of Practice from the Equality and Human Rights Commission, as the UHB wanted to ensure that it was aware of its legal duties in respect of the provision of single sex services and facilities.
- 4d. The UHB has considered the application of an exemption under Section 42(1) of the Freedom of Information Act 2000 (FoIA) to this part of your request as the concept of Legal Professional Privilege protects the confidentiality of communications between a lawyer and client. The information being exempted constitutes legal advice and when considering this qualified exemption, although it falls within Section 42(1), public authorities must then apply the public interest test. The information can only be withheld if the public interest in maintaining the exemption outweighs the public interest in disclosure.

The UHB has therefore considered the following:

In favour of disclosure: There is a public interest in transparency and in knowing that legal advice has been followed and all issues properly considered. Furthermore, there is a public interest in the scrutiny of actions/advice of public officials and how the UHB makes decisions.

Against Disclosure: There is a strong public interest in maintaining legal professional privilege. This principle protects the confidentiality of communications between legal advisors and their clients, ensuring that the UHB is able to seek and receive full and frank legal advice. Furthermore, it is essential that the UHB is able to act upon any legal advice as required in a confidential manner, as this enables consideration of all legal aspects and prevents premature disclosure of matters still under consideration.

Decision: The UHB considers that the public interest in withholding the legally privileged information is greater than the interest in disclosing it as it is vital that the UHB is able to seek required advice when necessary. This provides the UHB with the confidence and assurance that it has taken decisions following unbiased consideration of advice, thus ensuring that the best interests of all parties involved have been considered without the outside influence of opinion, expectation or judgement.

The UHB considers that the public interest in withholding the advice or the application of the advice received is greater than the interest in disclosing it. While transparency is important, it does not outweigh the need to preserve the confidentiality of any legal advice obtained.