


Agenda item:	[Insert agenda item number]
Report title:	Exclusion of information from the List of Registered Medical Practitioners
Report by:	
Considered by:	Senior Management Team
Action:	To consider

Executive summary

In response to requests from individual doctors, medical students and an organisation specialising in gender dysphoria and transgender health, we have considered our policy on gathering information on gender from doctors and publishing that information on the List of Registered Medical Practitioners (LRMP).

We propose an interim policy to not display gender information on LRMP when a doctor requests this, but that our approach to the collection of gender information is reviewed as part of a wider corporate discussion when the outcome of reforms to the Gender Recognition Act is published.

Recommendations

SMT is asked to agree:

- our interim policy framework to remove or not publish gender on LRMP when a doctor makes a request; and
- that we begin discussions with IS to understand if it is possible to override the current gender categories in the event that a doctor refuses to identify as male or female
- that the issue of non-binary gender be considered further at a cross-directorate level when the outcome of the reforms to the Gender Recognition Act is published.

Background

- 1 The Medical Act 1983 ('the Act') places us under a legal obligation to keep a register of medical practitioners. The Act sets out the information we are obliged to include in the register and gives us discretion to specify other categories of information to be included.
- 2 The GMC (Form and Content of the Registers) Regulations 2015 sets out additional information the register must contain, which includes a medical practitioner's gender*. The regulations are made by Council and do not require Privy Council approval to amend.
- 3 The Act also provides broad discretion in relation to the categories of information contained on the register that are to be published (i.e. appear on LRMP). Gender is one of these discretionary categories.
- 4 There is therefore flexibility within the Act and the 2015 Regulations in relation to the collection of gender information for the purposes of registration and the publication of this information on LRMP.

Issue

- 5 In 2019, we received a number of enquiries about gender. Some doctors asked for the gender they declared at registration not to be displayed on LRMP, others asked for their gender to be recorded or displayed as non-binary and some medical students asked their medical schools to withhold information about their gender from us.
- 6 Four doctors also queried our approach to the collection of gender information when responding to the external stakeholder engagement exercise on the new LRMP.
- 7 Currently our IT and registration processes assume only two genders. This causes difficulties for us where doctors feel we are 'misgendering' them.
- 8 Non-binary gender[†] is not currently recognised in UK law. The legal position is that all individuals are considered to be either male or female – whichever was reflected when their birth was registered.

* The 2005 Council paper [Improving access to information about doctors](#) includes reference to gender and the inclusion of the letter 'm' for man and 'w' for woman next to a doctor's name on LRMP. Currently on-line applications for registration and Siebel only include the options of man and woman.

[†] The Government defines a non-binary person as someone who identifies as in some way outside of the man-woman gender binary. They may regard themselves as neither exclusively a man or a woman, or as both, or take another approach to gender identity. ([Para 130, GRA 2004 Consultation](#))

- 9** In 2018, the Government ran a [public consultation on reforms to the Gender Recognition Act*](#), which included a specific question on non-binary gender identities. The outcome of that consultation has yet to be published and we are keen to understand what emerges from that and any recommendations before we make significant changes to our systems and processes (for example, introducing non-binary as an option when applying for registration; stopping the collection of gender information; or removing all gender identities from LRMP).
- 10** However, to address the queries raised by doctors we have developed an interim policy approach for not displaying gender information on LRMP on a case by case basis, where a doctor identifies as non-binary and doesn't want the gender they provided for the purposes of registration published.
- 11** There is already an established policy and process in place for not displaying other types of information on LRMP[†], which we have adapted to support this policy.
- 12** Although we have not yet had an applicant for registration refuse to identify as either male or female we have begun to consider an interim process to have in place if such a situation arises before the GRA consultation results are published and we determine our wider approach to non-binary gender. The issue requires further conversations with IS to understand if it is possible to override the current two categories and to assess the impact on other parts of our work, e.g. SoMEP, NTS, future data modelling etc.

The policy framework

- 13** Our proposed framework has been developed in collaboration with colleagues from the Equality Diversity and Inclusion team. It consists of guidance for decision makers and an operational procedure for staff who are asked to consider such requests and includes the factors to take into account when making decisions.
- 14** We will continue to collect gender information as part of the registration process as we are required to under the regulations, but we will no longer publish this information, or we will remove it from LRMP if we are requested to do so.
- 15** Requests are likely to involve disclosure of sensitive information. As such, these decisions will be based on information provided by the doctor and made by

* In Scotland, gender recognition is a devolved matter. The Scottish Government published the results of its own consultation in November 2018. It has said that that it does not intend to extend legal gender recognition to non-binary people but recognises the need to address the issues that non-binary people face. However, there are plans to hold a second consultation.

[†] [Exclusion of information from the List of Registered Medical Practitioners](#)

colleagues who have experience of dealing with requests of a similar nature (i.e. change in gender status).

- 16** When a doctor's gender isn't displayed on LRMP the section will appear blank. We do not propose to include any explanation for this as we anticipate that will drive queries. In line with our approach when other types of information are not displayed on LRMP we will not disclose the reasons why, except in exceptional circumstances, where the relevant party has a legitimate reason for requesting that information and has passed the appropriate security checks. There is an established information access procedure to cover such requests.*
- 17** The implementation of this updated policy to not display gender is dependent on the launch of the updated LRMP which is planned for January 2020.

Equality and diversity

- 18** In developing this interim policy, we are taking a positive step in ensuring our approach is fair, consistent and sensitive to the needs of individual doctors. During the development of our approach we have engaged extensively with our Equality, Diversity and Inclusion team and plan to closely monitor cases to identify and mitigate any potential impact, and where appropriate, amend our policy to address any issues raised.

Associated issues

- 19** Non-binary gender recognition is a complex issue. The Government plans to use the Gender Recognition Act consultation and its 'call for evidence' on non-binary gender identities to better understand the experience of, and the difficulties faced by non-binary people living in the UK and examine some of the potential implications in other areas of law and society. The Government's intention is to publish the findings of both the consultation and non-binary call soon.
- 20** The Government's approach to non-binary gender identification will have a significant impact for our organisation, both as an employer and a regulator. At that stage, we think that a wider corporate discussion will be required to consider how we want to reflect and recognise the growing issues around non-binary gender identity in all areas of our work for example, the ongoing collection of gender information or inclusion of gender options other than male and female on registration applications. We will also review this interim policy, and at the appropriate point, contact doctors

* Such requests are covered under the [Level 3 information access procedure](#)

and stakeholders who have engaged with us on this issue to update them on our position.

Next steps

- 21** Subject to the launch of the new LRMP and our recommendations that we begin conversations with IS to understand if it is possible to override the current two categories and that the issue of non-binary gender be considered by the organisation when the outcome of the Government's consultation on reforms to the Gender Recognition Act is published, we plan to introduce this policy and guidance in February 2020.
- 22** As this is an interim policy which may change, we will not publicise our approach to excluding gender from LRMP, but we will respond to requests on a case by case basis*.
- 23** Key messages will be shared with registration colleagues and our outreach and strategic relationships teams, highlighting the policy and the team for considering such requests.
- 24** We will write to doctors who have already contacted us about this issue and let them know about the changes. We will also share our approach with key stakeholders such as GLADD and LGBTQ+ network.

* This is in line with our existing policy for excluding revalidation and information from LRMP