

Data rights are human rights: The protection of trans people's privacy and autonomy

Controlling your data allows you to chart the course of your own life. Your data affects your access to healthcare, social security, employment, and housing. Data can be misused, abused, lost, destroyed; data management is not without human bias or error; and **data can be used to affirm or deny your human rights.**

Trans people's human rights are under constant threat. Data protection is a crucial arena for human rights. In a fast-moving digital landscape, UK data legislation and standards are subject to continuous review. This has been a site for anti-trans lobbying, especially after the tipping point in the For Women Scotland Supreme Court ruling (FWS) of April 2025.

Trans people have a right to privacy, dignity, and equal participation in public life. Data privacy is recognised under Article 12 of the Universal Declaration of Human Rights, Article 8 of the European Convention on Human Rights, Article 17 of the International Covenant on Civil and Political Rights, and the UK General Data Protection Regulation (GDPR). The latter is affirmed in the Data (Use & Access) Act 2025 and the prerequisite Data Protection Act 2018.

The Sullivan Review (2025)

The Sullivan Review (2025) advocates a "one-size-fits-all" approach to data policy that embeds exclusion and contradicts long held data best practice. The review was commissioned by the **previous Conservative Government, who employed a prominent anti-trans campaigner** to review how public bodies collect data on sex and gender.

The Sullivan Review consists of two parts. The second, Barriers to research on sex and gender (July 2025), has not been published on the gov.uk website. **The Sullivan Review has been criticized on the grounds of poor research ethics.** It argues that a person's sex assigned at birth is the *only* relevant data point, disregarding the gender and lived experiences of trans people. Sullivan concludes that the language of sex assigned at birth is the only means for "clear language" in data collection.

In doing so, the Sullivan Review ignores the scientific, medical consensus on both sex and gender (including sex as a continuum), dismisses the value of community input in question design, and advocates for leading questions that push respondents towards an anti-trans position. This flies in the face of best practice in data collection: to understand respondents on their own terms. Bodies like the UK Research Integrity Office and UK Research and Innovation require researchers to prioritise the dignity, safety and autonomy of research participants.

The Sullivan Review would see trans people erased from the public record - not only:

1. hampering the capacity for public bodies to collect information about trans people to inform service provision, but also -
2. risking trans people being outed, harassed and/or discriminated against in public life when showing their ID or accessing healthcare.

The Sullivan Review's recommendations include guidance for NHS England that is likely to breach trans people's right to privacy under international human rights law.

Data (Use & Access) Act 2025

Following the Sullivan Review, anti-trans recommendations were brought to the committee stage of the Data (Use & Access) Bill in the House of Lords.

The Committee considered written evidence submitted by Sex Matters, an anti-trans campaign group. Sex Matters argued that by recording anything other than someone's sex assigned at birth, such as through digital ID, would "degrade the quality of data". The Committee did not table any written evidence from trans and intersex-led organisations.

At its final stage in the House of Lords, **two amendments were proposed to the DUA Bill**, through which digital verification providers would be legally required to collect data on "sex at birth".

The amendments hinted to applications where **someone's gender history could then be used to exclude them from services**. The amendments did not account for applications to other data categories which rely on self-identification (sexuality; ethnicity; religion; disability).

The amendments were not passed. However, concerns remain about the ongoing use of "sex at birth" in public data, namely the census and the Government Statistical Service Data Harmonisation project.

Since trans status can relate to a person's medical history, it has proximity to special category data under UK GDPR Article 9. Data-driven discrimination violates the junction of Articles 8 and 14 of the Human Rights Act 1998. Alongside this, trans people's right to privacy is affirmed in Section 22 of the Gender Recognition Act 2004 (GRA), which made it a **criminal offence for officials to disclose a person's gender history** without their permission.¹

¹ There are very few exceptions to disclosing someone's gender history: namely, (1) if the disclosure is by order of a court or tribunal, and (2) if the person has given consent for disclosure. See Section 22(4) of the GRA 2004: <https://www.legislation.gov.uk/ukpga/2004/7/section/22#section-22-4>

Digital ID

In September 2025, Prime Minister Keir Starmer announced plans for mandatory digital ID in the UK. The government's primary motivation for digital ID is to verify right to work.

The announcement was met with serious concern from human rights authorities, including Amnesty International UK, Liberty, and Big Brother Watch.

TransActual has raised concerns that the digital ID scheme, combined with ongoing review of data standards in the UK (such as the Government Statistical Service Data Harmonisation project), **could be instrumentalised for trans people's exclusion**. TransActual concurs with objections by other human rights organisations, including concern that the digital ID scheme will carry major risks for:

1. data insecurity, including with respect to Gender Recognition Certificates,
2. reducing the available pathways for trans people to update gender markers on different forms of ID, and
3. abuse through predictive policing.

In the UK Government's open consultation on digital ID, they confirmed that "Information about sex and gender is not necessary for the intended purpose of the digital ID". This answer addressed whether sex and/or gender would be included on digital ID cards. However, it does not offer clarity on the deeper data infrastructure. **'Digital ID' is more extensive than the virtual cards at its surface**. We remain alarmed by plans to introduce digital ID in the UK.

Census 2031

A question on trans identity was introduced in the most recent Census for England and Wales (2021) and Scotland's Census (2022). There is no question on trans identity in Northern Ireland's census.

No UK census has ever included questions or options to collect data on the intersex population. Combined with the lack of alternative options to binary sex/gender markers on legal ID, **intersex people are systematically erased from national statistics**.

During the development of the 2021 census, following a High Court Judgement, the Office for National Statistics (ONS) was mandated to update their guidance for answering the census question on "sex assigned at birth" according to either birth certificate or Gender Recognition Certificate. This was prompted by lobbying from the anti-trans group Fair Play for Women.

Following this, anti-trans campaigners logged complaints with the ONS and Office for Statistics Regulation (OSR) about the published estimates of the trans population in the 2021 census. The OSR decided that gender statistics could not be officially accredited.

On the topic of data, **gender critical groups will typically argue that a “male/female” discrete variable for sex offers “accuracy”**. In statistics, this is known as false precision. Many other categories of data in national statistics are based on self-identification, including ethnicity.

Key recommendations

We call on the UK Government to:

1. **Champion inclusive data definitions for sex and gender in the Government Statistical Service harmonised standards**, to the aim of (a) properly account for trans and intersex identity in the 2031 Census for England and Wales and all censuses thereafter, and (b) better align with the scientific and medical understanding of both gender and sex existing on a continuum.
2. **Amend the ‘Background’ to the gov.uk publication Review of data, statistics and research on sex and gender (March 2025) as a matter of public interest**, acknowledging reception of the Sullivan Review and the researcher’s affiliation to anti-trans campaign groups.
3. **Ensure that new data practices and digital infrastructure are rights-respecting** and cannot be used to ‘out’ or identify intersex people and trans people outside of the existing processes established in the GRA 2004.
4. **Ensure that any reform or innovation in government digital services, including digital ID, does not create barriers to changing one’s name** or temporarily holding multiple names.
5. **Establish a public consultation** for LGBTQ+ people to input on the development of public data standards and digital ID.

TransActual is a leading advocacy organisation working to uphold legal protections for trans people in the UK. We exist to tackle misinformation, expose anti-trans hatred, and share trans people’s lived experiences with policymakers who defend human rights. Contact: Tammy Hymas, Policy Lead policy@transactual.org.uk