

Oxford SU – EHRC Code of practice for services, public functions and associations: consultation 2025

<https://www.equalityhumanrights.com/equality/equality-act-2010/codes-practice/code-practice-services-public-functions-and-associations>

Introduction

This is a consultation on our code of practice for services, public functions and associations. We previously consulted on this code of practice between 2 October 2024 and 3 January 2025. We are opening another consultation on the code to gather feedback on changes we have made following the UK Supreme Court ruling on 16 April 2025 in *For Women Scotland Ltd v The Scottish Ministers* (For Women Scotland).

The ruling was that the definition of sex in the Equality Act 2010 (the Act) should be interpreted as ‘biological’ sex only. This means that, for the purposes of that Act, a person’s legal sex is the one that was recorded at their birth. This is a change to the previous interpretation adopted by the courts, which was that the definition of sex also includes people who have obtained a Gender Recognition Certificate (GRC). According to the new ruling, obtaining a GRC does not change your legal sex for Equality Act purposes.

Our code of practice includes practical guidance for service providers, associations and those delivering public functions on how they should comply with the Act. It was drafted before the ruling and some of the information in it has therefore changed. We are consulting to gather feedback on these changes.

We acknowledge the importance of these changes to people with the protected characteristics of sex, sexual orientation and gender reassignment. Our role is to ensure everybody’s rights are protected in line with the law, so that no one experiences discrimination or harassment as a result of their protected characteristic when using services. We are committed to developing guidance that provides legal clarity and practical support for organisations following the Supreme Court judgment.

What we are consulting on

We are consulting on the changes we have made following the UK Supreme Court ruling in *For Women Scotland*.

On the following pages, you can read the parts of the code that we are consulting on that are new or have changed. These include changes to definitions and explanations, and new examples:

- [Code of practice consultation 2025: changes that apply across the code](#)
- [Code of practice consultation 2025: changes to chapter 2](#)

- [Code of practice consultation 2025: changes to chapter 4](#)
- [Code of practice consultation 2025: changes to chapter 5](#)
- [Code of practice consultation 2025: changes to chapter 8](#)
- [Code of practice consultation 2025: changes to chapter 12](#)
- [Code of practice consultation 2025: changes to chapter 13](#)

Any feedback provided on parts of the code that are not on these pages will not be considered an official response, but we will consider all comments in our future work.
You will be able to reference specific sections when you complete the survey.

Updated legal definition of sex

We have updated the legal definition of sex throughout the code of practice. Our previous definition explained that:

‘Legal sex is the sex that was recorded at your birth or the sex you have acquired by obtaining a Gender Recognition Certificate (GRC).’

Following the UK Supreme Court ruling in *For Women Scotland*, this definition is no longer accurate, because a GRC does not change your legal sex for the purposes of the Equality Act 2010. We have therefore updated this definition throughout the code to be:

‘Legal sex is the sex that was recorded at your birth.’

1. Do you want to provide feedback as part of this consultation?

Yes

2. Are you responding as an individual (service user), legal professional or on behalf of an organisation?

An organisation

3. Which of the following characteristics protected under the Equality Act 2010 are relevant to your response?

Disability

Gender reassignment

Pregnancy and maternity

Religion or belief

Sex

Sexual orientation

(Not age, marriage and civil partnership, race)

This part of the survey asks questions about specific changes to the Code of Practice following the UK Supreme Court judgment on 16 April 2025 in *For Women Scotland v The Scottish Ministers (For Women Scotland)*. The judgment found that the definition of sex in the Equality Act 2010 means biological sex.

These changes are all outlined in the [consultation pages](#).

You do not need to provide feedback on all changes.

Updated legal definition of sex

We have updated the legal definition of sex throughout the code of practice. Our previous definition explained that:

'Legal sex is the sex that was recorded at your birth or the sex you have acquired by obtaining a Gender Recognition Certificate (GRC).'

Following the UK Supreme Court ruling in *For Women Scotland*, this definition is no longer accurate, because a GRC does not change your legal sex for the purposes of the Equality Act 2010. We have therefore updated this definition throughout the code to be:

'Legal sex is the sex that was recorded at your birth.'

Please go to the [consultation page](#) to read about this change.

4. Would you like to provide feedback on the updated legal definition of sex throughout the code of practice?

Yes

5. To what extent do you agree or disagree with the following statement:

The explanation of the updated legal definition of sex is clear.

Agree

6. Is there anything you would change to make the explanation this update clearer?

Yes. While the updated legal definition is technically clear, its application and implications are not sufficiently explained. There is widespread confusion among organisations — including students' unions and universities — about:

- Whether single-sex services are now mandated to exclude trans women.
- The distinction between legal sex and gender identity.
- The cultural use of terms like “woman,” “lesbian,” and “female,” which are not strictly defined by legal sex but are often interpreted as such without legal basis.

This lack of clarity may result in over-correction, policy changes based on misinterpretation, and even unlawful discrimination due to perceived legal obligation. We therefore recommend the EHRC include:

- Clarification that the ruling permits, but does not require, single-sex exclusions — and only where they are objectively justified.
- Examples comparable to those already included for other protected characteristics — for instance:
 - o A women's group using the term “woman” is not required to define its membership strictly by legal sex.
 - o A lesbian society does not need to exclude trans women to be legally compliant.
- Explicit reassurance that organisations may continue trans-inclusive practice in alignment with the Equality Act's protection of gender reassignment.
- Acknowledgment that “biological sex” is not a medically or scientifically fixed concept — especially relevant to intersex people.

**7. Will your organisation make any changes as a result of this update to the code of practice?
For example, any changes to your policies, procedures or practices.**

Yes

8. What changes might your organisation make as a result of this update to the code of practice?

Oxford SU will ensure that this update is not used to justify discrimination and that our practices remain trans- and intersex-inclusive. Specifically, we will:

- Review and amend our constitutional rules and membership criteria to ensure they continue to include trans and intersex members, especially in gendered societies (e.g. women's groups, feminist networks).
- We will make clear that our use of terms like "woman" or "lesbian" refers to gender identity, not legal sex, which is lawful under the Equality Act.
- Review our sports and recreation policies to confirm that participation remains inclusive, while complying with safety and fairness clauses for gender-affected activities.
- We will only consider exclusions if objectively necessary and proportionate and will apply the least restrictive measures.
- Work with student groups (e.g. LGBTQ+ Society, FemSoc) to ensure all spaces and services remain inclusive of trans and intersex people.
- Train student leaders and societies on the difference between what is permitted under the Equality Act versus what is required — reinforcing that the Supreme Court ruling does not mandate exclusion.
- We will also advocate that the University of Oxford itself publicly commit to trans-inclusion and resist any policy regressions based on misinterpretation of this legal definition.

Change 2.1: New content on Gender Recognition Certificates

This content explains that the Supreme Court in For Women Scotland has ruled that a Gender Recognition Certificate (GRC) does not change a person's legal sex for the purposes of the Equality Act 2010 (the Act). It also outlines what protections trans people have under the Act whether or not they have a GRC.

We have included paragraphs 2.1.1 to 2.1.5 for context for this change. We are looking for feedback only on paragraphs 2.1.6 to 2.1.9.

Please go to [Change 2.1 on the consultation page](#) to read about this change.

9. Would you like to provide feedback on the new content on Gender Recognition Certificates?

Yes

10. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new content on Gender Recognition Certificates is clear.

Strongly disagree

11. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Yes. The new content does not clearly reflect the legal complexity introduced by the Supreme Court ruling. Rather than simplifying understanding, it risks conflating key legal concepts — in particular, the distinction between legal sex and legal gender, and the specific function of a Gender Recognition Certificate (GRC) in law.

Key points needing change:

- The guidance does not sufficiently explain that the GRA 2004 still confers legal recognition of gender in most areas of law. It is only in the specific context of the Equality Act 2010, due to Section 9(3) of the GRA, that this recognition is disapplied — and even then, only where clearly incompatible. The ruling does not invalidate the legal effects of a GRC more broadly.
- The phrase: “a trans woman with a GRC is a man” is deeply inappropriate. While it may reflect the limited application of the law in this specific context, it mirrors language frequently used in transphobic abuse and has significant impact on trans people’s sense of dignity and safety. The EHRC must avoid repeating such language uncritically — even in explanation — and should instead reframe to focus on legal classifications for the purposes of specific legislation, not identity.
- The lack of clarity risks organisations (e.g. universities, sports bodies, service providers) misinterpreting the law and implementing unjustified exclusionary practices. For example, many may wrongly believe they are required to exclude trans women from “women’s spaces”, which is not the case.

We strongly recommend:

- Redrafting 2.1.6–2.1.9 to clarify that the ruling only affects legal sex as it applies under the Equality Act, and not in broader legal or social contexts.
- Using neutral and careful language that avoids inflammatory phrasing.

12. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

13. What changes might your organisation make as a result of this update to the code of practice?

Oxford SU will take steps to prevent misinterpretation of this ruling and protect the rights and inclusion of trans students across the University.

We will:

- Develop and deliver training for staff and student leaders to:
 - Clarify the distinction between legal sex and gender identity.
 - Explain that trans people remain protected under the gender reassignment characteristic, regardless of whether they hold a GRC.
 - Ensure that inclusion of trans women in women’s spaces remains a permitted and justifiable choice, not an unlawful act.

- Work with student groups and Common Rooms to audit and update policies to reflect:
 - That exclusion is not mandated by this ruling.
 - That our constitutional language (e.g. “women’s groups”) refers to gender, not legal sex, unless otherwise stated.
- Proactively counter disinformation across the university that could lead to stigma, exclusion, or hostile environments for trans and intersex students.
- Advocate that the University also makes public commitments to trans inclusion, recognising that this legal ruling should not be used to justify discriminatory changes.
- Ensuring all students can access services, societies, and facilities aligned with their gender identity, and that no student is excluded or harmed due to poor or fearful interpretation of this legal update.

Change 2.2: New content on asking about sex at birth

This section gives information on how requests about sex at birth should be made. It outlines the circumstances in which making such requests, with or without evidential proof of birth sex, may be unlawful.

Please go to [Change 2.2 on the consultation page](#) to read about this change.

14. Would you like to provide feedback on the new content on asking about sex at birth?

Yes

15. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new content on asking about sex at birth is clear.

Strongly disagree

16. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Yes. The current explanation lacks clarity and poses serious legal and operational risks for organisations, especially those working in education or service delivery like students’ unions.

Key concerns:

- Paragraphs 2.2.2 and 2.2.3 place a burden on front-line staff (e.g. advice centre staff, sports officers, porters, welfare reps) to make subjective judgments about someone’s “legal sex” based on a “reasonable assumption.” This opens the door to invasive questioning, misgendering, or discriminatory treatment, and increases risk under Article 8 of the ECHR (privacy) and the EA 2010 (harassment/discrimination).
- In direct contradiction, paragraph 2.2.5 correctly notes it is “less likely to be discriminatory” to take the same approach with all individuals. However, this is not emphasised nearly enough, and the guidance does not go far enough in discouraging discretionary or individualised questioning.

- There is no clear example provided of when asking about sex at birth is both necessary and lawful, nor where it would fall foul of the law, e.g., curiosity, profiling, or admin convenience.
- The EHRC should explicitly discourage any discretionary asking unless there is a clear legal basis and a formal policy context, such as compliance with specific sports regulations. The Commission should also make clear that any such requests must comply with data protection and privacy laws and not be used to infer information about someone's gender identity. It is important to note here that, for example, women's spaces can be named that for those identified as a 'woman' by gender. Therefore, the times that asking someone's sex at birth would be needed is incredibly limited.
- Also, the Supreme Court ruling states that 'possessing a GRC is confidential to the person who has it and subject to stringent restrictions on disclosure [and] the duty-bearer cannot ask whether it has been obtained' - how is the reliance on birth certificates as evidence of 'sex recorded at birth' compatible with this?

We recommend:

- Emphasising how exceptional and rare it is to need to ask about sex at birth.
- Including concrete examples of when asking is not justified, especially in education and public-facing services.
- Strengthening the guidance on universal approaches to avoid discriminatory treatment.

17. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

18. What changes might your organisation make as a result of this update to the code of practice?

Oxford SU is reviewing how sex and gender data is collected, stored, and used, in light of the update.

We will:

- Audit and revise our data collection practices across platforms (e.g. student group registration, elections, events, and advice services) to:
 - Ensure there is a clear and lawful basis for collecting information on sex or gender.
 - Distinguish between sex assigned at birth, legal sex, and self-identified gender where relevant — and only ask for this data when necessary.
 - Make sure the use of such data is gender-affirming and inclusive, especially for graduation ceremonies, welfare records, and how students are addressed by staff and peers.
- Train all front-facing staff and officers on:
 - The risks of assuming or questioning someone's sex or gender identity.
 - How to apply EHRC's own advice to treat everyone equally unless absolutely necessary.

- The legal risks under the ECHR, EA 2010, and UK GDPR when mishandling this information.
- Work with Common Rooms and liberation campaigns to develop student-led guidance that ensures our data collection and language reflect trans-affirming values and are not based on assumptions about legal status or sex at birth.
- We will also continue to advocate for national guidance that reflects best practice in inclusive data collection and respects trans students' rights and dignity.

Change 2.3: New content on defining sex at birth

This content defines 'sex', 'man' and 'woman', and explains how a GRC does not change a person's legal sex for the purposes of the Equality Act 2010.

Please go to [Change 2.3 on the consultation page](#) to read about this change.

19. Would you like to provide feedback on the new content on defining sex at birth?

Yes

20. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new content on defining sex at birth is clear.

Strongly disagree

21. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Yes. This section lacks the clarity required for organisations like students' unions to navigate the practical and legal implications of the Supreme Court's definition of sex under the Equality Act 2010 (EA2010).

Key points:

- Paragraph 2.3.2 defines sex for the purposes of EA2010 as “biological sex, biological woman and biological man... the sex of a person at birth.” However, it fails to distinguish between this narrow legal interpretation and the broader cultural and institutional uses of terms like “woman” and “man.”
- This is a critical omission, because in most of our SU's policies, spaces, campaigns, and services, “woman” includes all who identify as women, including trans women. The same applies to the term “man” for trans men. The failure to explicitly separate legal and cultural definitions risks creating confusion over the applicability of rights, inclusion, and protections for trans people.
- The EHRC's use of “woman” to mean “biological woman” throughout the guidance—without reinforcing that this meaning applies only within the narrow legal framework of the EA2010—risks leading organisations to believe this is the correct and lawful usage in all contexts. This opens up risk of discrimination, particularly in areas where protections under gender reassignment or human rights legislation apply.
- The guidance should include a clear glossary that distinguishes between:
 - “Legal sex” under the EA2010

- o “Sex assigned at birth”
- o “Gender identity”
- o Common or cultural usage of “woman”/“man”
- Also, guidance should include information on how intersex individuals may not fit into this “sex” binary.

**22. Will your organisation make any changes as a result of this update to the code of practice?
For example, any changes to your policies, procedures or practices.**

Yes

23. What changes might your organisation make as a result of this update to the code of practice?

Oxford SU will undertake a review of its internal and external use of gendered language, to ensure that:

- Our policies reflect the correct legal framework under EA2010, without applying the strict definition of “sex” where it is not legally necessary or appropriate.
- Our day-to-day language remains inclusive of trans students and consistent with their lived experiences and identities.
- This includes:
 - o Reviewing the language used in constitutional documents — for example, ensuring that terms like “women’s officer” remain inclusive of trans women, and clearly framed in line with gender identity, not legal sex.
 - o Developing a glossary and inclusive language guide for use across our governance structures, staff, and affiliated common rooms and societies.
This guide will help ensure our members understand:
 - The legal meaning of sex under the EA2010.
 - The differences between sex, legal sex, and gender identity.
 - How and when to appropriately use these terms in a respectful, inclusive, and compliant way.
 - o Consulting with our LGBTQ+ Society and liberation officers to co-produce this guidance and ensure it centres lived experience and is practical to apply.
 - o Providing training for staff and elected reps to understand the difference between legal compliance and trans inclusion, especially when managing services, events, and representation structures.

Change 2.4: Updated description of the protected characteristic of sexual orientation

We updated our description of sexual orientation. Our description now specifies that a person who is attracted to people of the same sex is either a lesbian woman or a gay man. The full description is as follows.

Sexual orientation is a protected characteristic (s.12(1)). It means a person’s sexual orientation towards:

- persons of the same sex (the person is a lesbian woman or a gay man)
- persons of the opposite sex (the person is heterosexual), or
- persons of either sex (the person is bisexual)

Please go to [Change 2.4 on the consultation page](#) to read about this change.

24. Would you like to provide feedback on the updated description of the protected characteristic of sexual orientation?

Yes

25. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the updated description of the protected characteristic of sexual orientation is clear.

Strongly disagree

26. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Yes. The current guidance fails to reflect the lived reality and fluidity of sexual orientation and is not sufficiently inclusive of contemporary understandings of sexual identity.

Key issues and recommended changes:

- The guidance relies exclusively on binary legal sex (“same sex,” “opposite sex,” “either sex”), without accounting for the broader spectrum of sexual orientations such as pansexual, asexual, queer, and others. These identities are widely recognised and commonly referenced in student-led groups, campaigns, and societies.
- Paragraph 2.4.1 uses definitions that don’t reflect the complexity or inclusivity of real-world sexual identities. For example, asexuality (no sexual attraction) and pansexuality (attraction regardless of gender) are not named or explained, leaving the impression that they are not protected or legally valid.
- We recommend the EHRC update the definition along the lines of:
 - “Sexual orientation, as a protected characteristic within the Equality Act 2010, is defined by attraction to persons of the same, opposite, or either legal sex. This framework includes sexual orientations such as heterosexual, gay, lesbian, and bisexual, but also encompasses broader identities such as pansexual, queer, and asexual, where the individual is treated less favourably because of their sexual orientation.”
 - The term “lesbian woman” is unnecessary and should be revised to just “lesbian” to avoid over-specifying gender in a way that could inadvertently exclude trans or non-binary lesbians. The same argument can also be made for gay men.
 - This clarification is particularly important for settings like student LGBTQ+ societies, representation campaigns, and welfare services, where students may identify across a wide and evolving range of sexual orientations.

27. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

28. What changes might your organisation make as a result of this update to the code of practice?

Oxford SU will:

- Affirm that student groups associating on the basis of sexual orientation and/or gender identity do not need to restrict membership based strictly on the EA2010's binary definition. We will ensure this is clearly communicated to groups such as the LGBTQ+ Society.
- Update our internal guidance documents and training materials to:
 - Provide clear explanations of how non-listed orientations (e.g., pansexuality, asexuality, queer) are still protected under the EA2010, even if not explicitly named.
 - Emphasise that intersectional and inclusive practice is essential for protection and participation.
 - Offer staff and reps support in confidently applying these interpretations, especially in support services and casework.
- Where relevant, we will work with our LGBTQ+ student leaders to co-develop and promote a language guide that reflects both legal clarity and cultural sensitivity — affirming the diversity of our membership and the real-world application of protected characteristics.

Change 4.1: New example on sex discrimination by perception

This example explains how discrimination can occur based on a perceived protected characteristic, in the context of sex and gender reassignment.

Please go to [Change 4.1 on the consultation page](#) to read about this change.

29. Would you like to provide feedback on the new example on sex discrimination by perception?

Yes

30. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new example on sex discrimination by perception are clear.

Agree

31. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Yes. While the example included is helpful and an improvement, we believe the explanation would benefit from more direct and explicit language to ensure accessibility and legal certainty for organisations, particularly those in education and student-facing environments. We recommend the EHRC make it absolutely explicit that:

- Unlawful discrimination includes situations where an individual is treated less favourably because they are mistakenly believed to belong to a particular protected group — for example, being perceived to be of a particular sex, race, disability

status, or other protected characteristic — regardless of whether that perception is accurate or whether the person legally shares that characteristic.

- This clarity is especially important in the university and students' union context, where incidents of misidentification and bias may occur, particularly in spaces related to gender expression or sexual orientation. For example:
 - A non-binary student being targeted with sexist abuse under the assumption they are a woman.
 - A trans student facing exclusion based on others' assumptions about their sex.
- It is vital that the Code of Practice helps organisations clearly understand how to recognise and address discrimination by perception, and that legal protection does not require an individual to prove their legal sex or any other protected status to be protected from mistreatment.
- Also, the concern is that people can now more easily deny that they have discriminated against a trans person. (For example, if a trans woman X with a GRC is passed over for a promotion in favour of a man, and makes a claim on the grounds that this was because she was 'perceived as a woman', her employer could just say 'oh no, I know X is trans, therefore there is no sex discrimination here.')

32. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

No

33. What changes might your organisation make as a result of this update to the code of practice?

Although we do not anticipate formal policy changes at this stage, we will:

- Ensure our caseworker and support services teams understand the scope of protection against discrimination by perception and can identify situations where this may be relevant — particularly for trans, non-binary, and gender non-conforming students.
- Consider whether further examples or training could help student representatives and staff apply this concept in practice.

Change 4.2: Removed reference to superseded caselaw

We removed content that explained that, for trans men holding a gender recognition certificate (GRC), the protection from pregnancy and maternity discrimination under the Equality Act 2010 (the Act) arose from case law. This case law set out that trans men were still protected irrespective of them having a GRC that stated that their legal sex was male. Following the For Women Scotland ruling, their legal sex is now female for the purposes of the Act, and they therefore have protection on that basis.

Please go to [Change 4.2 on the consultation page](#) to read about this change.

34. Would you like to provide feedback on Change 4.2?

Yes

35. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in Change 4.2 is clear.

Disagree

36. Is there anything you would change to make the explanation of the legal rights and responsibilities in this section clearer?

Yes. While the explanation of the shift in case law is clear in legal terms, the removal of the relevant case law leaves the section without a concrete example, making it more difficult for organisations — especially those without in-house legal support — to understand how to apply the law in practice.

- We believe the section would benefit significantly from adding an illustrative example involving a trans man, to demonstrate how pregnancy and maternity protections apply regardless of gender identity or expression.
- We suggest something like the following:
 - “A trans man applies for a part-time administrative role with a student services department. During the interview, he discloses that he is pregnant. The panel expresses concern about his availability during the academic term and does not proceed with the application. This would amount to unlawful pregnancy discrimination.”
 - A real-world example like this would offer clarity for both employers and service providers, especially in university and college settings where students’ unions or departments may encounter such cases but may not immediately understand how the law applies.

37. Will your organisation make any changes as a result of the update to this section of the code of practice? For example, any changes to your policies, procedures or practices.

No

38. What changes might your organisation make as a result of the update to this section of the code of practice?

NA

Change 5.1: New example on sex discrimination - same disadvantage

This example explains how indirect sex discrimination can occur when people experience the same disadvantage, even if they do not share the same protected characteristic. The example is in the context of sex and gender reassignment.

Please go to [Change 5.1 on the consultation page](#) to read about this change.

39. Would you like to provide feedback on the new example on sex discrimination - same disadvantage?

Yes

40. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new example on sex discrimination - same disadvantage is clear.

Agree

41. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

The example provided is clear, but we believe it could be enhanced by incorporating more explicitly trans-inclusive examples relevant to our campus setting. This would help to ensure that all students feel the guidance is relevant to their lived experiences, especially those who might be affected by the same disadvantage principle in different contexts.

- For instance, an example involving a trans man experiencing disadvantages in a student group or sports team could illustrate the intersection of gender identity and sex discrimination. This would help staff and students better understand how discrimination may manifest for trans individuals in practical, real-world settings on campus. Currently, guidance is confusing as it proposes, for example, that a trans woman could claim discrimination due to her gender expression and lived gender, and yet not be treated as a woman in other areas of the Equality Act 2010.

42. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

43. What changes might your organisation make as a result of this update to the code of practice?

As a result of this update, we will:

- Continue to work with University of Oxford's guidelines to ensure that trans students and staff are explicitly protected and recognised in all aspects of campus life.
- Ensure that training and awareness materials for staff and student leaders are updated to reflect this change, particularly in how to handle situations where a person experiences same disadvantage based on gender identity, including for trans men, trans women, and non-binary people.
- Work with student societies and sports teams to highlight issues of disadvantage discrimination and provide clearer guidance on how to appropriately support trans individuals. This could include discussions during equality and diversity workshops to ensure that all students, regardless of gender identity, are treated equitably in university and SU spaces.

Change 8.1: Updated example on harassment related to sex

We produced a new example to explain how harassment can occur based on a perceived protected characteristic, in the context of sex and gender reassignment.

We have included additional information to provide context for this example. We are only looking for feedback on the example in paragraph 8.1.6b.

Please go to [Change 8.1 on the consultation page](#) to read about this change.

44. Would you like to provide feedback on the updated example on harassment related to sex?

Yes

45. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the updated example on harassment related to sex is clear.

Agree

46. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- The example provided is clear but could benefit from being more inclusive of trans and non-binary individuals. It would be helpful to explicitly reference the protection of individuals from harassment based on their perceived sex, particularly in situations where someone is perceived to belong to a particular gender or sex group, regardless of their actual legal sex.
- This ensures that trans people and non-binary individuals who may experience harassment based on perception feel that they are fully covered under these provisions.
- An additional example involving a trans person experiencing harassment due to perceived legal sex would be helpful. For instance, a trans woman being harassed by others who perceive her to be male, or a non-binary person experiencing harassment because of their perceived sex, would demonstrate how harassment protections work in a trans-inclusive context.

47. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

48. What changes might your organisation make as a result of this update to the code of practice?

As a result of this update, we will adjust our policies and procedures to ensure that perceived protected characteristics, including perceived sex, are explicitly included. This will ensure that individuals are protected from harassment even if the harassment is based on their perceived sex or gender identity.

Change 12.1: New example on women-only associations

The example in this section explains when applications to an association can be lawfully refused based on a protected characteristic, in the context of sex and gender reassignment.

We have included additional information to provide context for this example. We are only looking for feedback on the example in paragraph 12.1.3.

Please go to [Change 12.1 on the consultation page](#) to read about this change.

49. Would you like to provide feedback on the new example on women-only associations?

Yes

50. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new example on women-only associations is clear.

Strongly disagree

51. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- The explanation should make it clear that establishing women-only associations is a choice and that the EA2010 allows these groups to exclude membership based on legal sex, but it does not mandate such exclusion. This nuance is important because, in common usage, the term "women-only" is frequently used based on gender identity, not legal sex. The guidance should explicitly state that if an association chooses to admit trans women, it does not violate the legal exemption based on legal sex, and this decision should be explicitly stated. Therefore, a clear indication needs to be given as to how women- or men-only associations that wish to be trans inclusive can do so.
- Furthermore, the example in Section 12.1.2 about the Black Jazz Players Club is relevant here and could be cited to show that it is not unlawful for an association to choose to admit individuals outside the legal sex boundaries. This would reinforce that women-only spaces can be inclusive of trans women without violating the law.
 - Example addition suggestion:
"A women-only association is not legally obligated to exclude trans women, but if it chooses to admit them, it may impact its ability to rely on the 'legal sex' exemption."

52. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

53. What changes might your organisation make as a result of this update to the code of practice?

As a result of this update, we will:

- Review and update our constitutional rules and membership criteria to ensure that trans inclusive spaces are maintained.
- Clarify that role holder restrictions for specific student groups (e.g., Women*s Officer) do not need to be restricted based on legal sex but can still make distinctions on the basis of gender. This will support a trans-inclusive environment while ensuring we meet our legal obligations.

Change 13.1: Updated section on competitive sport

This section has been updated to explain the circumstances in which it may be lawful to exclude participation in competitive sporting events in relation to the protected characteristics of sex and gender reassignment. It also sets out considerations that should factor into policy decisions regarding the exclusion of trans people from competitive sporting events.

Please go to [Change 13.1 on the consultation page](#) to read about this change.

54. Would you like to provide feedback on the updated section on competitive sport?

Yes

55. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the updated section on competitive sport is clear.

Strongly disagree

56. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- The guidance provided on competitive sport is incredibly opaque and needs significant reworking to address four distinct possibilities:
 - Trans women taking part in women's only sport
 - Trans women taking part in men's only sport
 - Trans men taking part in women's only sport
 - Trans men taking part in men's only sport
- Currently, the guidance is vague and fails to clarify that while the Act allows exclusions for reasons of safety or fair competition, it does not mandate exclusion. This is particularly critical in the context of trans women in women's sports—for example, the FA's ban on trans women in women's football was based on the misunderstanding that they are legally obligated to exclude trans women from women's football. Also, fundamentally, the EHRC has not made it clear enough that these provisions do not apply to non-competitive sports and activities.
- Currently the guidance fails to detail how organisers are expected to identify trans participants 'in a sensitive way which does not cause discrimination or harassment'.
- The section also implies that a trans woman could be excluded from both men's and women's sport, which is a misrepresentation of the law and could lead to potential equalities and human rights violations. This misunderstanding could have real-world impacts for students' unions, where trans students might be excluded from sporting activities they wish to participate in.

57. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

58. What changes might your organisation make as a result of this update to the code of practice?

As a result of this update, we will:

- Review and update university policies and practices around sports provision to ensure that sports and recreation offerings remain trans inclusive. This includes reviewing guidelines for the participation of trans athletes and making sure that trans students are not unfairly excluded from sports based on perceived legal sex.
- Provide clear guidelines to our student-athletes and societies on the participation of trans students in competitive sports, ensuring that all students feel included regardless of their gender identity. This includes addressing any confusion around participation, especially for trans women in women's sport, by educating students on their legal rights and responsibilities.
- Engage with our trans students to ensure that inclusive sport is available to them and ensure that we are not inadvertently falling foul of equalities and human rights legislation by misunderstanding the law.

Change 13.2: Updated section on separate and single-sex services for men and women

This section has been updated to provide guidance on how separate or single-sex services can be provided for men and women. It also sets out when providing these services is likely to be lawful. Please go to [Change 13.2 on the consultation page](#) to read about this change.

59. Would you like to provide feedback on the updated section on separate and single-sex services for men and women?

Yes

60. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the updated section on separate and single-sex services for men and women is clear.

Strongly disagree

61. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- The guidance on separate and single-sex services is unclear and lacks specific examples that would help organisations, including our SU, understand how to accommodate trans individuals in single-sex spaces.
- While the guidance mentions the legal distinction between legal sex and gender recognition, it does not clearly explain how trans people fit into single-sex provisions. This lack of clarity is especially significant given the foundational changes in the law that legal sex now dictates the way single-sex services must operate.
- For example, the "women's only communal changing room" example does not explain where trans women would be expected to change, nor does it provide guidance on how to address the potential impact on women and trans men in a changing room setting. A trans man with female legal sex but male perceived sex may face challenges when trying to access women's spaces or may be excluded entirely, which the guidance fails to address adequately.
- This section sidesteps the most challenging and contentious aspects of how single-sex services should be managed, especially when it comes to balancing legal

obligations with the rights of trans individuals. We need much clearer guidance on these issues, with practical, specific examples that are directly relevant to real-world scenarios, particularly those that could arise on campus.

**62. Will your organisation make any changes as a result of this update to the code of practice?
For example, any changes to your policies, procedures or practices.**

Yes

63. What changes might your organisation make as a result of this update to the code of practice?

In response to this update, we will:

- Ensure that existing services on campus, such as changing rooms, bathrooms, and other single-sex spaces, remain accessible and inclusive for trans people, as well as ensuring there is an expansion of gender-neutral facilities.
- Consult with our trans student community to understand their needs in these spaces and ensure that we are providing support in line with best practices for inclusion.

Change 13.3: New section on justification for separate and single-sex services

This section sets out the considerations that should be given to all potential service users when deciding whether separate and single-sex services are a proportionate means of achieving a legitimate aim. It also sets out circumstances in which mixed-sex services may be necessary, and the potential legal implications of providing only mixed-sex services.

Please go to [Change 13.3 on the consultation page](#) to read about this change.

64. Would you like to provide feedback on the new section on justification for separate and single-sex services?

Yes

65. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new section on justification for separate and single-sex services is clear.

Strongly Disagree

66. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- The section on justification for separate and single-sex services is deeply unclear in both principle and practice. While it introduces a legal test for justification under EA2010, it fails to give practical examples that organisations can follow to implement these tests, especially around trans inclusion.
- The example of the Jewish women's gym is particularly problematic. It refers to options for "men and trans people," implying that all trans people are excluded from the women's gym, regardless of their legal sex. This implies that trans women with legal female sex would be excluded, as well as trans men with legal female sex—

suggesting that trans people exist outside of legal sex. This creates a confusing and inaccurate framework, as well as discrimination.

- Furthermore, the guidance fails to establish how organisations are expected to police these boundaries. It does not clarify:
 - Whether it is expected that we check birth certificates or GRCs.
 - What degree of active management is required to enforce exclusion based on legal sex.
 - What risks organisations face if they do not proactively enforce these restrictions.
- For example, in our SU, it would be neither proportionate nor practical to verify legal sex of students entering gendered toilets or changing rooms. Attempting to do so would be invasive, logistically unmanageable, and would likely violate other equality and privacy obligations—particularly around gender reassignment and confidentiality of GRCs.
- The guidance also fails to address discrimination or harassment due to perceived sex. For instance, if a trans man with legal female sex is harassed when using a women's toilet because he is perceived as male, the current guidance provides no clarity on how organisations should manage this situation.
- We recommend:
 - Clarifying that single-sex services must be justified but not mandated, and that exclusions of trans people must also be justified and proportionate.
 - Removing or rephrasing examples (like the gym) that imply trans people are a third category.
 - Explaining how organisations should practically manage spaces without breaching privacy, dignity, or other legal duties.

67. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Yes

68. What changes might your organisation make as a result of this update to the code of practice?

In light of the new guidance, our organisation will be undertaking a comprehensive review of all policies and services related to single-sex provision, with the following actions:

- We will continue to provide trans-inclusive spaces, including where possible offering gender-neutral or mixed-gender options, while ensuring single-sex spaces for students of faith or other needs are maintained where proportionate.
- We will work directly with trans student groups and students of faith to understand how this guidance could impact them.

Change 13.4: New content on policies and exceptions for separate and single-sex services

This new content explains that service providers may need to develop policies regarding the provision of separate or single-sex services. It also covers specific circumstances that may require a different approach to that set out in policy, and examples of those circumstances.

Please go to [Change 13.4 on the consultation page](#) to read about this change.

69. Would you like to provide feedback on the new content on policies and exceptions for separate and single-sex services?

Yes

70. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the new content on policies and exceptions for separate and single-sex services is clear.

Disagree

71. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- While the guidance acknowledges that individual circumstances may require accommodations in the provision of single-sex services, the examples included raise significant ambiguity and create more confusion than clarity.
- Example 13.4.3—allowing a woman to bring a male child under 10 into a women’s changing room—suggests that flexibility in policy is based on a perceived level of safety risk. This raises critical questions about whether similar accommodations could or should apply to trans women, particularly if a service provider deems their presence to pose “low” risk. This implication has potentially far-reaching consequences and needs to be addressed directly. Without doing so, this example may be misused to justify either unjust exclusions or inconsistent inclusion.
- Example 13.4.8, stating a provider may deny access if admittance would “cease to be a single-sex service,” conflicts with the earlier example. For example: does allowing boys under ten into a women’s space invalidate its status as a single-sex service? Does the same logic apply if trans women are admitted? These points are not clarified, leaving a legal and operational grey area for service providers.
- The guidance appears to imply that trans people are outside of legal sex but doesn’t resolve how they can interact with binary-provided spaces in practice. This significantly undermines legal clarity and increases the risk of discrimination, misinterpretation, and litigation.
- To improve the clarity, we strongly recommend:
 - Including worked-through examples addressing trans women and trans men in separate or single-sex services.
 - Clarifying whether perceived risk can ever justify differential treatment, and if so, under what evidence-based threshold.
 - Making clear whether temporary or incidental admittance, like young children or personal assistants, changes the legal status of the space.
 - Avoiding examples that reinforce the idea that trans people exist as a third legal category outside of male/female legal sex.

**72. Will your organisation make any changes as a result of this update to the code of practice?
For example, any changes to your policies, procedures or practices.**

Yes

73. What changes might your organisation make as a result of this update to the code of practice?

We will be undertaking a policy review to respond to this section of the Code, including:

- Updated training for staff and officers covering:
 - How to handle exceptions and individual circumstances;
 - The limits of discretion in enforcing single-sex provision;
 - Legal duties relating to discrimination, proportionality, and confidentiality.
- We will consult with both trans student communities and faith-based student groups to ensure our services remain inclusive, safe, and respectful, while also compliant with this revised guidance.

Change 13.5: Updated section on separate or single-sex services in relation to gender reassignment

This section explains that service providers should consider their approach to trans people's use of their services when deciding whether to provide a separate or single-sex service. It includes examples of relevant considerations when deciding whether the exclusion of trans people from a separate or single-sex service is a proportionate means of achieving a legitimate aim.

Please go to [Change 13.5 on the consultation page](#) to read about this change.

74. Would you like to provide feedback on the updated section on separate or single-sex services in relation to gender reassignment?

Yes

75. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the updated section on separate or single-sex services in relation to gender reassignment is clear.

Strongly disagree

76. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- The updated section is internally inconsistent, legally ambiguous, and practically unworkable for service providers.
- Example 13.5.12 suggests that a trans man can be excluded from a women's space if an alternative exists—implying that trans people are not legally recognised by their legal sex, but by gender presentation. This directly contradicts the earlier position in the Code, which defines 'sex' strictly as legal sex. The inconsistency creates confusion and undermines the enforceability of the guidance.
- Example 13.5.9 further complicates matters by suggesting a trans man may be excluded from group therapy sessions for female survivors of domestic violence if his presence causes "alarm or distress." This raises several major issues:

- It is unclear what the legal threshold is for “presenting as a man.”
- It offers no guidance on how to lawfully differentiate between trans men, butch lesbians, gender non-conforming women, or cis women who may also “present as masculine.”
- It does not reconcile how the rights of one person with a protected characteristic (e.g. a trans victim/survivor) can be overridden by another person’s subjective perception or discomfort.
- This logic could enable discrimination by perception, which is at odds with both the Equality Act 2010 and the EHRC’s own stated values.
- To improve clarity, the EHRC must:
 - Clearly define whether presentation or legal sex is the determining factor for inclusion in services.
 - Clarify whether perceived alarm or distress from service users is enough to lawfully justify exclusion, and how this can be proportionate under equality law.
 - Provide clear guidance for service providers, including what legal grounds they can rely on for exclusion, and the standard of evidence required to justify it.
 - Address whether it is lawful or proportionate to use accessible or gender-neutral facilities, primarily designed for disabled people, as a blanket alternative for all trans people.
 - Detail how the needs of trans people will be met in a range of critical services, which are often life-saving.

77. Will your organisation make any changes as a result of this update to the code of practice?

For example, any changes to your policies, procedures or practices.

Yes

78. What changes might your organisation make as a result of this update to the code of practice?

In response to the concerning lack of clarity and legal risk introduced in this section, we will undertake the following actions:

- We will review all policies and procedures to ensure we remain legally compliant while upholding our commitment to trans inclusion.
 - We are particularly concerned that guidance implying exclusion based on “presentation” could result in unlawful exclusion of cisgender women, especially those who are butch or gender non-conforming. To avoid this, we will ensure policies prohibit profiling or discriminatory assumptions based on appearance.
- We will implement mandatory training for all relevant staff and officers to cover:
 - The rights of trans people under the Equality Act 2010, particularly those with the protected characteristic of gender reassignment;
 - The implications of presenting vs. legal sex;
 - Legal risk, proportionality, and justifiable exclusion;

- Respecting confidentiality, including GRC status, and avoiding discriminatory profiling.
- We will consult with trans students and disabled students to better understand how to design inclusive and lawful services. We are particularly concerned that this guidance may discourage or reduce provision of single-sex services used by victim/survivors, religious students, or trans people due to added complexity and legal ambiguity.

Change 13.6: Updated content on communal accommodation

This content explains the application of the Act to communal accommodation in respect of the protected characteristics of sex and gender reassignment.

Please go to [Change 13.6 on the consultation page](#) to read about this change.

79. Would you like to provide feedback on the updated content on communal accommodation?

Yes

80. To what extent do you agree or disagree with the following statement:

The explanation of the legal rights and responsibilities set out in the updated content on communal accommodation is clear.

Strongly disagree

81. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

- Yes. The current section lacks specific examples or practical scenarios illustrating how the legislation applies to trans people in communal accommodation settings. This makes it extremely difficult for organisations like students' unions—particularly those working closely with universities on residential services, welfare support, and room allocations—to operationalise the guidance or understand what would be considered lawful and proportionate.
- It is not clear how inclusion is to be assured in contexts where:
 - Communal accommodation is segregated by legal sex;
 - Decisions are based on gender presentation, without a defined or lawful threshold for exclusion;
 - Alternative arrangements may be viewed as “proportionate,” but no clarity is provided on what those alternatives should or could be;
 - The trans person concerned has a Gender Recognition Certificate (GRC) or is legally the same sex as others in the accommodation.
- This omission is particularly concerning given the vulnerability of trans people in communal living situations, such as shared bathrooms and bedrooms in halls of residence or during residential trips.
- Furthermore, the guidance does not explain:
 - How to handle conflicts between residents when inclusion is challenged;

- What the legal threshold is for “proportionate exclusion” based on presentation or discomfort;
- Whether disabled students, often reliant on communal accessible rooms, are also impacted when these are offered as alternative spaces for trans people.
- To improve clarity, the EHRC should:
 - Provide practical examples (e.g. residential trips, university halls, student group travel);
 - Define the lawful basis for exclusion or separate provision in relation to trans people with legal recognition of their gender;
 - Address how organisations can comply with the Equality Act 2010 while avoiding discrimination or exclusion based on perceived gender or trans status.

82. Will your organisation make any changes as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

No

83. What changes might your organisation make as a result of this update to the code of practice?

- While we do not run communal accommodation directly, we regularly support students through:
 - Complaints processes related to accommodation;
 - Advocacy for inclusive housing policies;
 - Ensuring safe participation in residential events, trips, and training.
- As such, we are deeply concerned about the lack of guidance provided for how to support trans students in communal accommodation settings. The absence of clarity in the code increases the risk that trans students may:
 - Be excluded from single-sex accommodation options that align with their legal sex;
 - Be placed in segregated or inappropriate housing;
 - Experience discrimination based on perception of gender presentation;
 - Be offered inaccessible or unsuitable “alternatives” such as disabled-access rooms, which may be needed by others.
- We will:
 - Continue to advocate for inclusive and safe housing with our institution;
 - Work with our university to ensure any communal accommodation is allocated in a way that is lawful, inclusive, and considers the rights of all protected groups;
 - Campaign for clearer national guidance that supports trans inclusion and avoids reinforcing discriminatory assumptions about who can or cannot safely access communal living spaces.

84. Do you have any other feedback about the content of the Code of Practice that you have not already mentioned? Include references to specific changes where relevant.

- Yes. While earlier answers highlight key concerns, there are broader issues with the overall structure and coherence in the Code of Practice that require attention.
- The Code repeatedly fails to provide specific, practical examples of how trans people are included or excluded across different service types.
 - Across the sections—especially in relation to single-sex services, communal accommodation, and justification-based exclusions—there is a noticeable absence of case studies or real-life examples involving trans people. This makes the guidance extremely difficult to operationalise and leaves institutions like students' unions, universities, and service providers vulnerable to legal uncertainty, inconsistent decision-making, or unintentional discrimination.
- The shift to defining 'sex' as 'legal sex' is not properly reconciled with the Equality Act 2010's protection for gender reassignment.
- This fundamental change is not meaningfully explored in terms of its impact on trans people with or without a Gender Recognition Certificate (GRC). The Code fails to explain:
 - How organisations should handle situations where someone's legal sex differs from their lived gender;
 - What constitutes lawful justification to exclude a trans person who legally shares the sex of the group;
 - What risk an organisation takes if decisions are based solely on presentation or perception.
- This effectively treats trans people as a 'third category', neither fully recognised within legal sex nor protected adequately under gender reassignment protections.
- There is inadequate guidance on the intersection of protected characteristics, especially:
 - How to balance the rights of trans people and people of faith in single-sex services;
 - How gender non-conforming individuals, such as butch lesbians or cis women who "present as male", may be impacted by guidance based on "presentation";
 - How disabled students may be disproportionately affected if accessible spaces are used as "neutral" alternatives for trans inclusion.
- No framework is offered for practical implementation—particularly:
 - Proportionality assessments for justifying single-sex services (beyond 13.3's legal test, which remains abstract);
 - What records should be kept when a service provider decides to exclude someone based on gender reassignment;
 - How to manage confidentiality, disclosure, or inquiries about GRC status or legal sex in real-world settings (e.g. sports, bathrooms, housing).
- Many universities and students' unions already operate services based on self-identification, in line with previous interpretations of the Equality Act and best practice on trans inclusion. The Code does not acknowledge that its reinterpretation

may cause regression or require significant changes to inclusive spaces currently relied upon by trans students.

85. Where is your organisation based?

England

86. What is the size of your organisation?

250 people or more

87. Which area does the organisation work in?

Education

88. What kind of organisation are you responding on behalf of?

A civil society organisation (for example a charity, union, not-for-profit)

89. What is the name of your organisation?

Oxford University Students' Union

90. Does your organisation provide services?

Yes

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