

Code of Practice Consultation

Code of Practice for services, public functions and associations: consultation 2025

Progress

0%

We are conducting a consultation to gather feedback on the code of practice for services, public functions and associations.

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)*.

If you have not yet read the [code of practice for services, public functions and associations](#), please read it before responding to this consultation.

We will use responses to make sure the changes are accurate, accessible and provide clarity to service providers, public bodies and associations on their duties under the Equality Act.

The Equality and Human Rights Commission (EHRC) undertakes research under its statutory duties and the information you provide will only be processed under these powers, for the purpose of this research.

All information will be stored in line with our [privacy notice](#) and used only for the purposes of this research. We are collecting this information under our statutory powers and we may publish a report of our research. Please do not provide any information that may identify you in any free-text responses. However, any information you provide will be anonymised in our published report and you will not be identified in our report.

Some data may be collected through the SmartSurvey website when you complete the survey. To find out more about this, please refer to SmartSurvey's [privacy policy](#).

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

- Yes
 No

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

- Yes
 No

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2.

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

- An individual
- A legal professional
- An organisation

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

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- None in particular

2.

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

- An individual
- A legal professional
- An organisation

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

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- None in particular

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Changes - individuals and legal professionals

Progress  48%

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.

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Updated legal definition of sex - individuals and legal professionals

Progress  49%

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.

You do not need to provide feedback for every change.

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

Yes

No

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Updated legal definition of sex

Progress  51%

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.'

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

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

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 2.1: New content on Gender Recognition Certificates - individuals and legal professionals

Progress  52%

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.

You do not need to provide feedback for every change.

7. Would you like to provide feedback on the new content on Gender Recognition Certificates? - required

- Yes
- No

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Change 2.1: New content on Gender Recognition Certificates

Progress  53%

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.

8. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 2.2: New content on asking about sex at birth - individuals and legal professionals

Progress  55%

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.

You do not need to provide feedback for every change.

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

- Yes
- No

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Change 2.2: New content on asking about sex at birth

Progress  56%

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.

11. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 2.3: New content on defining sex at birth - individuals and legal professionals

Progress  58%

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.

You do not need to provide feedback for every change.

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

- Yes
 - No
-

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Change 2.3: New content on defining sex at birth

Progress  59%

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.

14. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 2.4: Updated description of the protected characteristic of sexual orientation - individuals and legal professionals

Progress  60%

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.

You do not need to provide feedback for every change.

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

- Yes
 - No
-

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

Progress  62%

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)

17. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 4.1: New example on sex discrimination by perception - individuals and legal professionals

Progress  63%

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.

You do not need to provide feedback for every change.

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

- Yes
- No

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Change 4.1: New example on sex discrimination by perception

Progress  64%

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.

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 example on sex discrimination by perception is clear. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 4.2: Removed reference to superseded caselaw - individuals and legal professionals

Progress  66%

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.

You do not need to provide feedback for every change.

22. Would you like to provide feedback on Change 4.2? - required

- Yes
 - No
-

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Change 4.2: Removed reference to superseded caselaw

Progress

67%

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.

23. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 5.1: New example on sex discrimination - same disadvantage - individuals and legal professionals

Progress

68%

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.

You do not need to provide feedback for every change.

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

- Yes
 - No
-

Change 5.1: New example on sex discrimination - same disadvantage

Progress  70%

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.

26. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 8.1: Updated example on harassment related to sex - individuals and legal professionals

Progress  71%

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.

You do not need to provide feedback for every change.

28. Would you like to provide feedback on the updated example on harassment related to sex? - required

- Yes
 - No
-

Change 8.1: Updated example on harassment related to sex

Progress  73%

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.

29. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 12.1: New example on women-only associations - individuals and legal professionals

Progress  74%

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.

You do not need to provide feedback for every change.

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

- Yes
 - No
-

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Change 12.1: New example on women-only associations

Progress  75%

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.

32. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 13.1: Updated section on competitive sport - individuals and legal professionals

Progress  77%

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.

You do not need to provide feedback for every change.

34. Would you like to provide feedback on the updated section on competitive sport? - required

- Yes
 - No
-

Change 13.1: Updated section on competitive sport

Progress  78%

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.

35. 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 are clear. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

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

Progress  79%

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.

You do not need to provide feedback for every change.

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

- Yes
- No

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

Progress  81%

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.

38. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

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

Progress  82%

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.

You do not need to provide feedback for every change.

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

- Yes
- No

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

Progress

84%

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.

41. 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 the clear. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

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

Progress

85%

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.

You do not need to provide feedback for every change.

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

- Yes
- No

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

Progress  86%

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.

44. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

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

Progress  88%

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.

You do not need to provide feedback for every change.

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

- Yes
- No

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

Progress  89%

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.

47. 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. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Change 13.6: Updated content on communal accommodation - individuals and legal professionals

Progress  90%

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.

You do not need to provide feedback for every change.

49. Would you like to provide feedback on the updated content on communal accommodation? - required

- Yes
 - No
-

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Change 13.6: Updated content on communal accommodation

Progress  92%

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.

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 updated content on communal accommodation is clear. - required

- Strongly Agree
- Agree
- Disagree
- Strongly Disagree
- Do not know

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

Any other feedback

Progress  96%

52. 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

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Further research

Progress

97%

The Equality and Human Rights Commission (EHRC) sometimes carries out research with organisations and members of the public so that we can better understand the impact of our work and improve our products. For example, we may invite people to be interviewed, or to take part in a focus group. If you are interested in taking part in EHRC research for this purpose, please leave your email address below so we can contact you.

By providing your email address below, you are consenting to be contacted by the EHRC about any opportunities to take part in EHRC research. You may withdraw your consent at any time by emailing research@equalityhumanrights.com.

53. If you would like to be contacted by the EHRC about opportunities to take part in future research, enter your email address below:

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End of the survey

Progress

99%

Select finish survey to submit your response.

If you need to edit any of your answers before submitting, select previous page to navigate back through the questions.

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