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## Guidance

# Code of practice consultation 2025: changes to chapter 8

Published: 20 May 2025

Last updated: 20 May 2025

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This page is part of our 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)*.

Before you respond to the consultation or provide feedback on this chapter, [read our information about the consultation](#).

## Changes we are consulting on in chapter 8

Chapter 8 explains the general test for harassment under the Equality Act 2010. It also explains the provisions on harassment related to a relevant

protected characteristic, the provisions on sexual harassment and the provisions on less favourable treatment of people who reject or submit to harassment.

We have included the changes to this chapter that we are consulting on in the following sections.

## 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.

### Updated content

#### 'Related to'

8.1.1 Unwanted conduct 'related to' a relevant protected characteristic has a broad meaning. It can include many situations, such as those described in paragraphs 8.1.2 to 8.1.6.

8.1.2 Harassment can be related to an individual's own protected characteristic.



#### Example

8.1.3 A woman using the gym equipment in her local leisure centre is regularly subjected to comments from male staff members such as 'watch what you say in front of her, it's her time of the month again'. This could amount to harassment related to sex.

8.1.4 Protection from harassment also applies where a person is generally abusive, but, in relation to a particular individual, the form of the unwanted conduct relates to that individual's protected characteristic.



### Example

8.1.5 A hairdresser is often rude to his customers but regards his comments as friendly banter. For example, he often makes rude comments about customers' jobs, weight, height and where they are from. Comments about jobs, weight or height are unlikely to be unlawful because they are unlikely to relate to a protected characteristic. However, a rude comment about where someone is from could relate to race and may amount to harassment if a customer finds the comments humiliating or offensive. It does not matter that the hairdresser is rude to all his customers and did not intend to offend a particular individual.

8.1.6 An individual does not have to possess the relevant protected characteristic themselves for protection from harassment to arise. This can happen in several different situations.

- a. An individual may be associated with someone who has a protected characteristic.



### Example

A party of adults with learning difficulties have a meal in a restaurant accompanied by their support workers. Some of the restaurant staff make fun of the party with gestures and silently mimicking them. The support workers are very upset by the conduct of the staff for creating a degrading and humiliating environment for them, as well as for the adults they support. The support workers could bring a claim of harassment related to disability.

- b. An individual may be wrongly perceived as having a particular protected characteristic.



### Example

A trans woman using the gym equipment in her local leisure centre is regularly subjected to comments from male staff members such as 'watch what you say in front of her, it's her time of the month again'. As

with the example at 8.1.3, this could amount to harassment. However, in this example, the harassment would be related to the trans woman's perceived sex.

c. An individual may be known not to have a particular protected characteristic but nevertheless is subjected to harassment related to that characteristic.



### Example

A member of staff at a local shop mocks a teenage boy with long hair for being gay when he comes in, using derogatory and insulting terms for gay men. The staff member knows the boy is not gay, and he regards this name calling as just a joke, but this could amount to harassment related to sexual orientation. The boy now really dislikes going to the shop, especially with his friends as he dreads being insulted and verbally abused.

## Page updates

Published:

**20 May 2025**

Last updated:

**20 May 2025**

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