

## **Change 12.1: New example on women-only associations - Changes we are consulting on in chapter 12**

### **Changes we are consulting on in chapter 12**

Chapter 12 explains how the Equality Act 2010 (the Act) (Part 7) applies to associations. It explains what an association is and what is unlawful under the Act in relation to an association's members, associates, guests, those seeking to be members or guests, former members, former associates and former guests. It also explains the duty of an association to make reasonable adjustments.

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

### **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 12.1.3.

Updated content - Associations may restrict membership to persons who share a protected characteristic

12.1.1 The Equality Act 2010 (the Act) permits associations, other than political parties, to restrict their membership to persons who share a protected characteristic (Sch. 16). The only exception is that membership can never be restricted based on colour (Sch. 16 paragraph 1(4)).

Example - 12.1.2 The constitution of an association called the Black Jazz Players Club states that all members must have national origins in Africa or the Caribbean. Despite the use of 'Black' in its name, because the restrictions on membership of the association are based on national origins and not colour, these restrictions would not be unlawful.

Example - 12.1.3 A trans woman applies to join a women-only association and her application is refused. This would be lawful because membership is based on sex and restricted to women and, under the Act, she does not share that

protected characteristic (read about this in the changes to chapter 2 (paragraphs 2.3.1 to 2.3.5).

12.1.4 This provision does not apply to political parties (Sch. 16 paragraph 1(5)). A registered political party is a party registered in the Great Britain register under Part 2 of the Political Parties, Elections and Referendums Act 2000. Under the Equality Act it is never lawful for a registered political party to restrict its membership to persons who share a protected characteristic. For example, it would not be lawful for a political party to allow only persons who are Scottish, or only Christians, to be party members.

12.1.5 If an association restricts membership to persons who share a protected characteristic:

- the association may restrict the access of associates to a benefit, facility or service to associates who share the same protected characteristic (Sch. 16 paragraph 1(2)), and
- the association may invite as guests, or permit to be invited as guests, only persons who share that same protected characteristic (Sch. 16 paragraph 1(3))

Example - 12.1.6 The constitution of a women's running club provides for the female members of local mixed-sex running clubs to be associates. This would be lawful under the Act.

12.1.7 Associations that restrict membership to persons who share a particular protected characteristic must not discriminate in relation to any other protected characteristic.

Example - 12.1.8 A Christian association must not refuse to accept disabled people who are Christian as members.

12.1.9 There are other exceptions that apply to associations and their treatment of their members, associates and guests.

12.1.10 These include exceptions relating to national security, charities, single-sex services, services and membership of religious organisations. Further exceptions include different treatment due to pregnancy-related health and safety concerns and selection of people for participation in competitive sport.

We are consulting on changes to information about single-sex services and competitive sport, which you can find in changes to chapter 13.

#### Change 12.1: New example on women-only associations

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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?

### Example Response:

#### Feedback on Change 12.1: New Example on Women-Only Associations (Paragraph 12.1.3)

The example in 12.1.3 states: “A trans woman applies to join a women-only association and her application is refused. This would be lawful because membership is based on sex and restricted to women and, under the Act, she does not share that protected characteristic (read about this in the changes to chapter 2 (paragraphs 2.3.1 to 2.3.5)).”

I strongly support the inclusion of this example, as it aligns with the Supreme Court’s ruling in *For Women Scotland*, which clarified that “sex” under the Equality Act 2010 refers to biological sex. This is a crucial step in protecting women’s rights to single-sex spaces and associations, which are often established to address specific needs related to privacy, safety, and dignity. The example correctly reflects that a women-only association can lawfully restrict membership to biological females, ensuring that the

protected characteristic of sex is upheld as intended by the Act.

While I support the example in 12.1.3, I have concerns about the broader application and clarity of the guidance in Chapter 12, particularly in ensuring that safeguarding and women's rights are consistently prioritised. I recommend the following: **Strengthen Safeguarding Language, the guidance should explicitly emphasise that women-only associations may prioritise safeguarding** (e.g., in refuges or counselling services) when restricting membership to biological females. Including an additional example of a women's refuge or support group would reinforce this point and provide practical clarity. The guidance should clarify how associations can navigate competing protected characteristics (e.g., sex vs. gender reassignment) in practice, particularly in high-stakes contexts like prisons or healthcare settings. While 12.1.3 is clear, further examples could illustrate how to balance rights proportionately. The EHRC should provide guidance on how associations can confidently enforce sex-based restrictions without fear of legal challenges or harassment. This could include advice on documenting decisions or handling complaints. Cross-Referencing with Chapter 13: Since 12.1.10 mentions consultation on single-sex services and competitive sports in Chapter 13, ensure that Chapter 12 cross-references these sections clearly to avoid confusion for associations offering such services.

Additional Comments on Chapter 12, while the consultation specifically seeks feedback on 12.1.3, I note that other sections (e.g., 12.1.7) emphasise non-discrimination on other protected characteristics. To avoid unintended implications, the EHRC should clarify that restrictions based on biological sex in women-only associations do not constitute discrimination against other characteristics, such as gender reassignment, when lawfully applied under Schedule 16. This would reinforce the legality of single-sex spaces without undermining other protections.