

The new section is a step toward clarifying the justification for separate and single-sex services, particularly in recognising legitimate aims such as women's safety, privacy, and dignity (13.3.2, 13.3.4). However, the guidance risks diluting these protections by overemphasising the needs of people who identify as trans, without sufficient regard for the disproportionate impact on women, especially in contexts involving male violence, physical differences, or vulnerability (e.g., undress or limited ability to leave, 13.3.4). The balancing exercise (13.3.3, 13.3.8) must prioritise biological sex-based protections where evidence demonstrates heightened risks to women in mixed-sex settings. Additionally, the guidance's examples (e.g., 13.3.11, 13.3.12, 13.3.15) often suggest mixed-sex provisions as a default compromise, which may undermine the ability of service providers to maintain single-sex spaces without clear justification. This risks indirect discrimination against women (13.3.20) and could lead to harassment or safety concerns, particularly in sensitive contexts like toilets, changing rooms, or services for survivors of male violence. The emphasis on demonstrating proportionality for single-sex services is appropriate, but the guidance should explicitly state that women's safety, privacy, and dignity are presumptive legitimate aims in contexts involving undress, male violence, or significant physical differences (13.3.4). This would provide clearer legal certainty for service providers. Without this, the requirement to "demonstrate" proportionality risks discouraging providers from offering single-sex services due to fear of legal challenge, particularly from trans individuals or advocacy groups. Add a statement affirming that single-sex services are presumed proportionate in high-risk contexts (e.g., domestic abuse shelters, prisons, or sports). The balancing exercise (13.3.3) requires consideration of all potential service users, but the guidance does not sufficiently prioritise the needs of women, particularly those with protected characteristics (e.g., survivors of male violence, religious women). The factors listed in 13.3.4 (e.g., undress, inability to leave, male violence) are critical, but the guidance implies these are merely considerations rather than compelling justifications. This could weaken protections for women in vulnerable settings. Strengthen 13.3.4 by stating that the presence of any listed factor (e.g., undress, male violence) creates a strong presumption in favour of single-sex services. The impact on women's safety and dignity should take precedence over the perceived or possible disadvantage to trans people in such cases, given the objective evidence of risk (e.g., studies on male violence patterns). The inclusion of religious needs (e.g., Muslim women requiring separate-sex services) is welcome, but the guidance does not address the intersection of sex and

religion adequately. For example, Jewish or Muslim women may face significant barriers in mixed-sex settings, yet the example in 13.3.6 assumes a “balanced mix” of services without explaining how to prioritise competing needs. This risks diluting protections for women who rely on single-sex spaces for cultural or religious reasons. Provide an example where a single-sex service is maintained exclusively for religious women without requiring mixed-sex alternatives if demand and resources justify it. The guidance’s focus on the disadvantage to trans people (13.3.7–13.3.8) risks overshadowing the primary aim of protecting women’s safety and dignity. For example, 13.3.7 states that trans people are “likely to be disadvantaged” by exclusion from services matching their acquired gender, but it does not equally emphasise the potential harm to women (e.g., harassment, loss of privacy) in mixed-sex settings. This imbalance could pressure service providers to prioritise trans inclusion over women’s rights, contrary to the Equality Act’s provisions. Add that service providers are not required to provide mixed-sex alternatives if doing so undermines the legitimate aim (e.g., safety in a women’s refuge). Reference 13.3.19 to reinforce that admitting trans people to opposite-sex services negates the single-sex exception and risks unlawful discrimination against women. 13.3.9–13.3.13: Promote mixed-sex services (e.g., unisex toilets, mixed-sex classes) as a default solution, which may not always be proportionate or safe. For instance, repurposing an accessible toilet as a mixed-sex option (13.3.12) could disadvantage disabled people who rely on accessible facilities. Similarly, the gym example (13.3.13) assumes one women-only class is sufficient, without addressing whether this meets demand or adequately protects women’s comfort. Clarify that mixed-sex services are not a default requirement and that single-sex services may be the only proportionate option in certain contexts (e.g., rape crisis centres). Add guidance on assessing demand for single-sex services to ensure provision matches need. For 13.3.12, note that repurposing accessible toilets risks indirect discrimination against people with disabilities and should be avoided unless additional accessible facilities are provided. The examples (13.3.15–13.3.17) appropriately recognise practical constraints (e.g., space, cost) but do not sufficiently address scenarios where single-sex services are essential regardless of constraints. For instance, the women’s gym example (13.3.16–13.3.17) justifies single-sex provision due to religious demand, but the guidance should extend this to other contexts (e.g., domestic abuse shelters) where women’s safety is non-negotiable. Clarify that the availability of alternative mixed-sex services elsewhere does not negate the need for single-sex provision if demand is high or specific needs (e.g.,

trauma) are unmet. 13.3.19–13.3.20 These paragraphs are a strong addition, correctly highlighting that admitting trans people to opposite-sex services negates the single-sex exception and risks unlawful sex discrimination or harassment. Similarly, 13.3.20 warns that exclusive mixed-sex provision may lead to discrimination against women. However, the guidance lacks practical advice on how service providers can defend single-sex services against legal challenges, particularly from trans advocacy groups. Provide a clear framework for service providers to document and justify single-sex services, including reference to evidence (e.g., crime statistics, user feedback). Add a warning that prioritising trans inclusion over women's safety may breach the Public Sector Equality Duty (PSED) to eliminate discrimination and harassment against women.