

Aspects of the guidance lack clarity, introduce ambiguity, or risk undermining women's rights by prioritising trans people's access over biological sex-based protections. **13.5.1:** Advises service providers to consider trans people's use of services when deciding whether to provide single-sex or separate services. While considering all users' needs is reasonable, the guidance does not sufficiently emphasise that the primary purpose of single-sex services is to protect the privacy, safety, and dignity of users based on biological sex, especially women. Without this focus, providers may feel pressured to prioritise trans inclusion, potentially compromising safeguarding. The guidance lacks clarity on balancing competing rights, such as women's right to single-sex spaces versus trans people's access. Add: "Service providers must prioritise the privacy, safety, and dignity of users based on biological sex when considering the provision of single-sex services, while accounting for trans people's needs where proportionate and feasible." This clarifies the primary purpose of single-sex services and ensures safeguarding is not undermined. **13.5.2:** Advises assessing the impact on trans people when deciding to provide single-sex services, cross-referencing paragraphs 13.3.8 to 13.3.20. It does not sufficiently guide providers on prioritising biological sex-based protections, particularly in high-risk contexts like domestic violence shelters or prisons. This risks implying that trans inclusion is a primary consideration, potentially undermining the justification for single-sex services. For example, women escaping domestic violence may need female-only spaces to feel safe, and this should take precedence over trans access. Clarify: "When assessing the impact on trans people, service providers must ensure the primary aim of single-sex services protecting the privacy, safety, and dignity of users based on biological sex is not compromised." **13.5.3:** Correctly states that allowing trans people to use services intended for the opposite biological sex renders the service no longer single-sex, likely amounting to unlawful discrimination against other users (per para 13.3.19). Strengthen this point with an example, such as: "A women's refuge allowing a trans woman (biological male) into a female-only space may breach the Equality Act by discriminating against female service users who rely on the service for safety and privacy." This illustrates the impact on women and reinforces the legal basis for exclusion. **13.5.4** Confirms that excluding trans people from a single-sex service for their biological sex is not unlawful discrimination if proportionate (Sch 3, para 28). Expand the list of legitimate aims to include "ensuring the physical and psychological safety of vulnerable users" and "maintaining the integrity of trauma-informed services for women." Providing clearer guidance for high-stakes settings like shelters or prisons. **13.5.5:** Excluding a trans man from a women-only service due to her

male presentation and potential distress to others is helpful but focuses too heavily on presentation rather than biological sex. This risks ambiguity about whether exclusion is justified based on biological sex or only when presentation causes distress. “A women-only service may exclude a trans man because the service is intended for biological females, particularly where her presence could cause distress due to male presentation.” This aligns with the Supreme Court’s ruling and clarifies the basis for exclusion.**13.5.6**

Focusing on presentation introduces subjectivity and risks inconsistent application. A trans woman who is biologically male may still pose a safeguarding risk in a women’s shelter, regardless of presentation. Shift the emphasis to biological sex as the primary criterion, with presentation as a secondary factor. For instance: “The primary justification for excluding a trans person from a single-sex service is to maintain its biological sex-based purpose, with factors like presentation considered case-by-case to ensure proportionality.” This reduces ambiguity and ensures consistency.

**13.5.7:** This paragraph advises providing alternative services for trans people and suggests that excluding them from essential services like toilets is unlikely to be proportionate. However, it does not address the practical challenges of providing alternatives while maintaining single-sex protections. Suggesting that toilet exclusion is “very unlikely to be proportionate” could pressure providers to allow trans individuals into opposite-sex facilities, compromising women’s privacy and safety. Clarify that providers are not obligated to allow trans people into opposite-sex facilities and should explore gender-neutral alternatives. For example: “Service providers should offer gender-neutral facilities for trans people to ensure access without compromising the single-sex nature of facilities for biological females.” This balances inclusion with safeguarding.**13.5.8:** This paragraph warns that disproportionate exclusion may result in discrimination against trans people. While this is a necessary reminder, it risks overemphasising trans rights at the expense of women’s protections. The guidance does not equally highlight the risk of discrimination against women if single-sex spaces are not maintained.

Balance the warning by noting the risk of discrimination against women. For example: “Providers must ensure exclusion decisions are proportionate to avoid discrimination against trans people, while ensuring that maintaining single-sex services does not discriminate against users based on biological sex.” This ensures a fair approach.**13.5.9:** Example of excluding a trans man from female-only counselling sessions due to potential distress is clear and aligns with protecting vulnerable women. It could be strengthened by emphasising the trauma-informed nature of such services. e.g., “The provider excludes the trans man to ensure a trauma-informed environment for female

survivors, where a male presence could undermine the therapeutic purpose.” This reinforces safeguarding. **13.5.10 and 13.5.11:** sections clarify that services used primarily by one sex (e.g., gynaecology) are not necessarily single-sex and can exclude opposite-sex users if impracticable. Retain as is but add an example of a women’s health service excluding a trans woman to protect the privacy of biological females, reinforcing the focus on biological sex. **13.5.12:** This highlights potential discrimination if a trans man is excluded from a women’s changing room without alternatives. However, it risks implying trans people must always be accommodated in single-sex spaces and does not address the impact on female users’ privacy if a trans man presents as male. Revise to emphasise gender-neutral alternatives and biological sex-based protections.