

FAIR PLAY FOR WOMEN

GUIDE TO THE UK EQUALITY LAW AND A WOMAN'S RIGHT TO SINGLE-SEX SPACES AND SERVICES

Sometimes Sex and Gender Reassignment discrimination can be lawful in situations when it's a proportionate means to provide a legitimate aim. Equality decisions should be evidence-based and must fairly balance the needs of all groups affected. This does not mean treating everyone the same. Sometimes treating people differently is the least discriminatory outcome overall.

There are six such legal exemptions in the Equality Act 2010 for organisations to use to support a woman's right to access single-sex spaces and services:

WOMEN-ONLY SERVICES:

[Schedule 3 Part 7](#)
[Sections 26-28](#)

In some cases it is lawful to discriminate on the grounds of both Sex and Gender Reassignment. It is also lawful to exclude someone because they are transgender even if they have changed their legal sex to female (using a GRC). Single-sex services are lawful when provided in a hospital or other place where users need special care, supervision or attention. It is also lawful if the service is used by more than one person or may involve physical contact between people and a woman might reasonably object to the presence of a male person.

OCCUPATIONAL REQUIREMENTS:

[Schedule 9 Part 1](#)
[Section 1 \(3\)](#)

It is lawful to make it a requirement for a worker not to be of the male sex and/or not to be a transgender person if this is a crucial requirement for the work. Considerations can include privacy and decency, cultural and religious sensitivities, psychological vulnerabilities and other reasons deemed crucial for the provision of services for women.

COMPETITIVE SPORTS:

[Part 14 Section 195](#)

It is lawful to exclude people born male from women-only sporting competitions when physical strength, stamina or physique are major factors in determining success or failure. This includes people who were born male even if they self-identify as transwomen and/or have changed their legal sex status to female. This is necessary to uphold fair or safe competition.

WOMEN-ONLY CLUBS:

[Schedule 16 Part 1](#)

It is lawful for a club or association to restrict its membership to only those who share the protected characteristic of sex. It is lawful to exclude legal males, including those who self-identify as transgender women, from clubs dedicated to people who are legally female.

ALL-WOMEN SHORTLISTS:

[Part 7 Section 104 \(7\)](#)

It is lawful for political parties to restrict the selection of election candidates to only those who share the protected characteristic of the female sex. It is lawful to exclude legal males, including those who self-identify as transgender women, from all women shortlists (AWS) because they are not legally female. AWS is not designed to address the under-representation of any of the other protected characteristics. This must be addressed only using reserved places on non-AWS lists.

COMMUNAL ACCOMMODATION:

[Schedule 23 Part 3](#)

In some cases it is lawful to discriminate on the grounds of both Sex and Gender Reassignment. It is lawful to exclude legal males, including those who self-identify as transgender women, from communal accommodation for women which has either shared sleeping arrangements or shared sanitary facilities. It is also lawful to exclude someone because they are transgender even if they have changed their legal sex to female (using a GRC).

The UK government has announced its intention to reform the Gender Recognition Act 2004 and make the process of changing legal sex a matter of self-declaration only. This is not yet law. The Equality Act 2010 and the legal exemptions described in this guide are expected to remain unchanged.

The Equality Act 2010

provides legal protection from discrimination, harassment and victimisation based on the protected characteristics of Age, Disability, Marriage/ Civil Partnership, Pregnancy/ Maternity, Race, Religion/Belief, Sexual Orientation, **SEX and GENDER REASSIGNMENT**.

SEX discrimination is being treated unfairly because of what sex you are. It's about being treated unfairly just because you are a woman (or a man)

GENDER REASSIGNMENT

discrimination is being treated unfairly because you have proposed, started or completed a process to change attributes of your sex. It's about being treated unfairly just because you are transgender or transsexual.

The Gender Recognition Act 2004

sets out the legal requirements a transgender person must meet to get a Gender Recognition Certificate (GRC) and to change their legal sex to the opposite of their biological or birth sex. This requires a medical diagnosis of gender dysphoria AND two years living in role as the preferred gender. Very few transgender people have acquired a GRC and changed their legal sex status. Only 4556 GRC have been issued to date* in the UK since the Act was passed in 2004 (*latest figures Sept 2017) and represents only 1% of the estimated population of transgender people (GIRES 2015). As such, for the vast majority of transgender people, their biological / birth sex remains their legal sex.