

EHRC consultation is now up here: <https://www.equalityhumanrights.com/equality/equality-act-2010/codes-practice/code-practice-services-public-functions-and-associations>.

Answers to questions should be submitted here- <https://www.smartsurvey.co.uk/s/EHRC-code-of-practice-consultation-2025/>

### General notes

I have circulated my responses to the consultation for the use of friend working out how to answer it. The following answers are relatively rushed – they were written on the same night the guidance came out – other individuals or organisations will provide better prompts as we read through the document and work out what it's saying. Mine has been written quickly, in the knowledge that realistically none of answers will be read carefully. This is, in effect, a “weighing” exercise. The more answers we can send it, all of them negative, the more we can influence the later debate as to who responded to the consultation, and in what number, and what our answers tell you. Getting something in is better than getting something perfect.

The other thing to warn is that the numbering of the question in the consultation varies according to how you answer question – with the practical result that some people answering (say) question 20 will be providing information to a question which to other consultees will be come up as question 22. The only way round that, I'm afraid, is to follow these recommended answers relatively closely – certainly the short, Yes/No questions. Although do feel free to rewrite answers to the longer questions, and put them in your own voice.

**You complete the consultation by filling in the answers here -**  
**<https://www.smartsurvey.co.uk/s/EHRC-code-of-practice-consultation-2025/>**

### Suggested answers

- |  |                            |
|--|----------------------------|
| 1 Do you want to provide feedback                              | YES                        |
| 2 Answer individual, professional, organisation as appropriate |                            |
| 3 Answer   | <i>GENDER REASSIGNMENT</i> |
| 4 Answer   | YES                        |
| 5 Recommended answer   | STRONGLY DISAGREE          |
| 6 Recommended answer   |                            |

*I disagree with definition used by the Commission in your document. 'Legal sex is the sex that was recorded at your birth.' This initial statement is inaccurate, and expressly contradicts the decision of the Supreme Court, which made clear in its judgment at para 2 that it was addressing the meaning of legal sex in the Equally Act not in the law generally: "It is not the role of the court to adjudicate on the arguments in the public domain on the meaning of gender or sex, nor is it to define the meaning of the word "woman" other than when it is used in the provisions of the EA 2010."*

7 Recommended answer: No. (Basically, this text like all the consultation is bad but it's better to focus on the most egregious elements)

8 Recommended answer

YES

9 Recommended answer

STRONGLY DISAGREE

10 Recommended answer

I strongly disagree with all the guidance in this section but especially with the text at 2.6 and the example at 2.7 If your guidance was applied in real life, it would be rude and offensive to the people answering the question and demeaning too to those asking it. You are inviting ordinary people to police access to service by gender, and to disbelieve the answers given to them. The result will be to make not just trans people's lives unpleasant but all people who do not confirm to society's stereotypical visions of what men and women are supposed to look like.

11 Recommended answer

YES

12 Recommended answer

STRONGLY DISAGREE

13 Recommended answer

I strongly disagree with all the guidance in this section but especially with the text at 2.3.2. The Supreme Court in For Women Scotland did not ruled that 'sex', 'woman' and 'man' in the Act mean biological sex, biological woman and biological man. This is the opposite of what their decision stated plainly at paragraph 2.

14 Recommended answer

YES

15 Recommended answer

STRONGLY DISAGREE

16 Recommended answer

I strongly disagree with all the guidance in this section but especially with the text at 2.4.6 it is artificial to pretend as you do that gender and sexuality are unrelated, it is also offensive for you to suggest that such phrases as 'LGBTQ+ people' should be disregarded. The connection between sexual orientation is based and gender reassignment comes about because people carry our gender in our bodies, and as those bodies change, so do the people who we attract or who we are attracted to. Your language is intended to break up communities of solidarity which have existed for decades and to push back rights of trans people in particular.

17 Recommended answer: No. (Basically, this text like all the consultation is bad but it's better to focus on the most egregious elements)

18 Recommended answer: No. (Basically, this text like all the consultation is bad but it's better to focus on the most egregious elements)

19 Recommended answer: No. (Basically, this text like all the consultation is bad but it's better to focus on the most egregious elements)

20 Recommended answer

YES

21 Recommended answer

STRONGLY DISAGREE

22 Recommended answer

I strongly disagree with all the guidance in this section but especially the example at para 8.1.6, which seemed to be stereotypical and offensive (even as an imagination of transphobia). The drafters seem to be incapable of acknowledging that most transphobia in Britain comes not from people assigning to trans women a false characteristic, but from people correctly identifying trans people as trans and rejecting them on that basis. The drafters of the document can't see or admit that, because the Commission has chosen to side with the perpetrators and is trying to entrench that bigotry in the law. The example you have given does not reflect real life but your own offensive and close-minded approach and refusal to follow the Equality Act in so far as it prohibits discrimination on grounds of gender reassignment.

23 Recommended answer

YES

24 Recommended answer

STRONGLY DISAGREE

25 Recommended answer

I strongly disagree with all the guidance in this section but especially para12.1.3, you write, “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”. This is a blanket statement of law which contradicts the Supreme Court decision, and would extend the law beyond anything it has ever been. You have lost all sense of proportionality and justification and are trying to imagine into being a new and discriminatory code where trans women are simply by definition not women, even if the members of a woman’s association are (unlike you) not bigots and (unlike you) willing to make their own rules and treat trans women as women. Applying the law in the way you advocate can only possibly result in discrimination against trans women on grounds of gender reassignment.

26 Recommended answer

YES

27 Recommended answer

STRONGLY DISAGREE

28 Recommended answer

I strongly disagree with all the guidance in this section but especially para13.1.7, where you seem to give an open door to anyone banning trans people from participating in sport. Where are trans women supposed to participate? Your position seems to be that you would ban them from sport always, and refuse to let them play. That is not interpreting or explaining the law, rather you are acting as advocates for bigotry.

29 Recommended answer: No. (Basically, this text like all the consultation is bad but it’s better to focus on the most egregious elements)

30 Recommended answer

YES

31 Recommended answer

STRONGLY DISAGREE

32 Recommended answer

I disagree with the guidance in this section but especially para13.3.4, where you are plucking out of your head consideration of wildly different weight – some of which might genuinely be relevant (eg state of undress) but others of which aren't and have just been added to bolster a case for trans exclusion (whether the physical differences between men and women are relevant to the experience of the service). I disagree with your para 13.3.19 which does not make sense when read against your paras 13.3.7 and 13.3.11. You are giving, effectively, the opposite advice in two parts of the same document.

33 Recommended answer

YES

34 Recommended answer

STRONGLY DISAGREE

35 Recommended answer

I disagree with what you are trying to do in this section which is premature. You are trying to create a ban on multiple access to single sex toilets which you acknowledge goes beyond what the law says at the moment. You want to get rid of the muddle by which people necessarily live (eg women using men's services because queues are shorter, or men using women's services because that they are father and that is where a baby change is held) and replace it with a new system where effectively every person's contact with a toilet would be policed. That is not a desirable future – for trans people or for anyone.

36 Recommended answer

YES

37 Recommended answer

STRONGLY DISAGREE

38 Recommended answer

I strongly disagree with the guidance in this section – essentially it reproduces the same basic flaw which applies to the whole document. You have misunderstood what the Supreme Court did in their decision, you want to pretend that they have made a series of laws to govern all interactions between trans and non trans people, when all they did was clarify the law in relation to the Equality Act and not otherwise.

Almost everything you write in this section is tendentious or wrong eg at para 13.5.3, "If a service provider (including a person providing a service in the exercise of public functions) decides to have a separate or single-sex service and allows trans people to use the service

intended for the opposite biological sex, the service will no longer be a separate or single-sex service.”

There are many cases in which it would be still be a single sex service, most obviously if you were talking about a service provided by women for women, and those women chose to make it a trans accessible service.

You appear to say that women are prohibited by law from treating trans women as women.

That is not the law, but your misunderstanding and your encouragement to bigotry. If applied it could only have the effect of making discrimination on grounds of gender reassignment widespread.

The other parts of this section are all bad for the same essential reason. They contradict what you have written elsewhere in your document about not excluding trans people from access to all services. In particular your paras 13.5.6 and 13.5.7 together are unworkable.

39 Recommended answer: No. (Basically, this text like all the consultation is bad but it's better to focus on the most egregious elements)

40 Up to individuals to reply, feel free to say something negative about the whole consultation – but do not be so derogatory that this could be used against you

DR 20 May 2025