

INTERNATIONAL WOMEN'S DAY 2019

As our MP we ask you to write to the Minister for Women and call for the government to publish clear guidance on single sex spaces in the Equality Act 2010



forwomen.scot

- The Government has pledged to protect single sex services.
- The law allows single sex services and spaces where they are a proportionate means to a legitimate aim.
- But in practice many organisations are allowing males to self-identify as women in 'single sex' facilities.
- The law on single-sex spaces has been widely misunderstood.
- [There is urgent need for clear guidance](#)

The Government has pledged to protect single sex services

- The [Minister for Equalities](#), Baroness Williams says *"The government absolutely agrees that maintaining access to single sex spaces in some circumstances is important, and helps to keep vulnerable women in particular safe."*
- The [Chair of the Women and Equalities Committee](#), Maria Miller says *"be clear that there is no threat to single-sex services, they are clearly protected in law"*.
- The [Equality and Human Rights Commission](#) says *"There is evidence that practical guidance and other forms of assistance is required to help trans people, single-sex and separate-sex service providers understand and navigate the complexities of sex-based exceptions in the Equality Act"*.

The law allows single sex services and spaces where they are a proportionate means to a legitimate aim:

The [Equality Act 2010](#) sets out **seven exemptions where single sex facilities are allowed:**

1. **Separate and single sex services** ([Schedule 3](#), Part 7) such as where only one sex needs the service, It is a more effective or for reasons of bodily privacy.
2. **Sport:** ([Section 195](#)): separate sporting competitions can be organised for men and women where one sex has an advantage of physical strength, stamina or physique over the other
3. **Occupational requirement** ([Schedule 9](#)). Employers can restrict particular jobs such as someone working in a refuge for survivors of domestic violence, a bra fitter or an actor.
4. **Communal accommodation** ([Schedule 23](#)) Dormitories, halls of residence and other shared accommodation can be provided for each sex separately for reasons of privacy.
5. **Charities** ([Section 193](#)) Charities must act in pursuit of their objects which may be restricted to providing benefits to people of a single sex.
6. **Associations** ([Schedule 16](#)) Associations and clubs are allowed to have membership which involves a selection process based on personal criteria
7. **Political parties** ([Part 7](#)) political parties may make arrangements to address the under-representation of people with particular protected characteristics – this can include single-sex shortlists for election candidates.

There are also specific regulations on toilets and changing facilities in [schools](#) and on [hospitals](#), [prisons](#) and [police searches](#) as well as the public sector duty to consider how policies or decisions affect people who are protected under the Equality Act.

As the Equality and Human Rights Commission has [clarified](#) the majority of transwomen, who have not gone through the gender recognition certificate (GRC) process are legally men, and thus are not entitled to access women's single sex services. Further exceptions in the Equality Act permit different treatment on the basis of gender reassignment, allowing service providers to exclude people who are biologically male from women's single sex services, even they have a GRC.

In practice many organisations are allowing males to self-identify as women in ‘single sex’ facilities:

- **Prisons:** The prison service [policy on transgender prisoners](#) has been to house transgender males in women's prisons. This is now under review.
- **Women's refuges and rape crisis centres:** According to a [Stonewall](#) report domestic and sexual violence support services are allowing trans women without a GRC to access women-only communal services, [Fairplay for Women](#) argue that this undermines the mental wellbeing of vulnerable women.
- **Hospitals:** ‘single sex wards’ are being operated as ‘[single gender](#)’ across the country. [West Hertfordshire Hospital](#) says “Trans people should be accommodated according to their presentation; the way they dress, and the name and pronouns that they currently use. This may not always accord with the physical sex appearance of the chest or genitalia.”
- **Toilets and changing rooms:** [Swim England](#) say trans people should be able to use the facilities which they feel “to be most appropriate”, and that male trans swimmers should also be able to access women only swimming sessions, even if their anatomy “may look to others” like a male body. [East Sussex Council](#) gives guidance that “pupils and students have the right to access the toilet that corresponds to their gender identity”. The [Football Association](#) warns against assuming that just because someone looks like a man that they shouldn't be in the women's public toilets.
- **Intimate searches:** [The Metropolitan Police](#) says: In general a prisoner should be searched by an officer ‘of the same gender’
- **Sports:** The [Football Association](#) states that under the age of 19 any boy who identifies as female can play on a girls team (as well as share changing and showering facilities). Above the age of 19 males with blood testosterone levels reduced can compete on women's teams. [UK Athletics](#) also states that men who have reduced their testosterone level to within the female range can compete in women's events.
- **Communal accommodation:** The [Youth Hostel Association](#) previously offered single sex dorms, toilets and showers. These have been changed to “single gender” on the basis of self identification.
- **Political parties:** The [Labour Party](#) says that “All Women Shortlists are open to all women, including self-identifying trans women. Similarly, women's officers and minimum quotas for women in the Labour Party are open to all women, including self-identifying trans women.”
- **Charities.** The [Guide Association](#) is a charity whose objectives set out in a Royal Charter start with promoting “education of girls and young women”. They have recently changed their policies to include boys and men who self identify as girls and women.

These examples are at odds with the pledge that women's spaces and women's services are protected

There is urgent need for clear guidance:

- Many organisations incorrectly list “gender” or “gender identity” as a protected characteristic in their equal opportunities policy instead of sex.
- Many organisations incorrectly believe that refusing a trans person access to the facilities of the opposite sex is not allowed by the Equality Act 2010.
- Many people misunderstand the protected characteristic “gender reassignment” in the Equality Act. It does not mean that the person must be treated as being the opposite sex.
- When organisations with a public sector duty undertake **Equality Impact Assessments** of “trans inclusive” policies they rarely consider or consult with women and girls.

This puts women and girls at risk, and undermines their dignity and privacy and ability to engage in public life. It also risks humiliating transgender people. Clear rules, and safe and private facilities are needed for all.

The law must work for women!