

Excluding Transgender People from Single-Sex Spaces Under UK Law

A Clear-Headed Guide to What the Equality Act 2010 Actually Permits

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Introduction: Why Write This?

In public debate about transgender people and single-sex spaces, a great deal of heat is generated by a profound ignorance of what the law actually says. Arguments on all sides frequently rest on hearsay, speculation, and selective reading. This piece aims to correct that — not to take a side in the culture war, but to establish with precision what UK law actually permits and what it does not.

The Equality Act 2010 is not a complicated document in its essentials. It provides robust protections for transgender people. It also contains a small number of carefully defined, carefully bounded exceptions where exclusion may — **in specific circumstances** — be **lawful**. The purpose of this paper is to explain those exceptions clearly, so that organisations can understand their legal position, and so that the scope of the debate can be anchored in reality rather than rumour.

The Equality Act 2010: The Legal Framework

The Equality Act 2010 is the primary piece of equality legislation in Great Britain (Northern Ireland has its own framework, which we do not cover here). It protects people from discrimination on the basis of a range of "*protected characteristics*," including **gender reassignment** (the Act's term for being transgender), **sex**, and **gender reassignment** (the process of transitioning).

The Act makes it unlawful to discriminate against a person because of a protected characteristic in a wide range of contexts: employment, education, services, and premises.

Critically, the protected characteristic of **gender reassignment** applies to someone who is proposing to undergo, is undergoing, or has undergone a process (or part of a process) of gender reassignment. The protection is not conditional on any particular medical intervention, nor on having obtained a Gender Recognition Certificate.

How Does the Act Impact Service Providers?

For organisations that provide services to the public — from sports clubs and crisis shelters to healthcare providers and education settings — the Equality Act 2010 creates both obligations and (in limited cases) permissions.

The general rule is clear: **you may not discriminate against a person because of their gender**

reassignment when providing services. Refusing service, providing a worse service, or subjecting someone to harassment because they are trans is unlawful.

However, the Act recognises that there are situations where this general rule must yield to other legitimate interests. These are the **scheduled exceptions** — and they are exactly that: **exceptions**. They do not define the general rule. They are narrow, specific, and subject to important conditions.

How Transgender People Are Protected Under the Act

Before examining the exceptions, it is worth being clear about the baseline. The Equality Act 2010 protects trans people from:

- **Direct discrimination:** Treating a trans person less favourably than you would treat someone else because of their gender reassignment.
- **Indirect discrimination:** Applying a generally applicable policy or practice that puts trans people at a particular disadvantage, unless you can justify it as a proportionate means of achieving a legitimate aim.
- **Harassment:** Engaging in unwanted conduct related to gender reassignment that violates dignity or creates a hostile environment.
- **Discrimination by association:** Treating someone less favourably because of their association with a trans person (for example, a family member or friend).
- **Perception discrimination:** Treating someone less favourably because you incorrectly believe they are trans.

This is a strong framework of protection. The law starts from the position that trans people are entitled to equal treatment. The exceptions described below are exactly that — exceptions — and they must be read in that context.

The Exceptions: Three Schedules

The Equality Act contains three specific schedules that may permit the exclusion or differential treatment of trans people in particular contexts. Each is tightly drawn.

Schedule 3, Paragraph 28 — Services

This is the provision most frequently cited (and more frequently miscited) in debates about trans people and services. It allows a **provider of a single-sex or separate-sex service** to:

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"restrict the use of the service, or refuse to provide the service, to persons of one sex where necessary for the purpose of permitting the service to be provided to persons of the other sex."

What this means in practice: The service provider **must** be able to demonstrate that the exclusion is **objectively justified** — that is, that there is a genuine and serious need to restrict the service to one biological sex, and that the restriction is a **proportionate** response to that need. This is a high bar.

What it does not mean:

- It does not allow blanket exclusions of all trans people from all services.
- It does not allow exclusion simply because a service is "women-only" or "men-only" in its branding.
- It does not allow exclusion on the basis of a trans person's gender identity rather than their biological sex in contexts where the law's reference to "sex" is interpreted as referring to biological sex.

The word "*necessary*" is doing significant work here. An exclusion that can be achieved through less intrusive means (such as providing a private changing space, a separate cubicle, or some other reasonable adjustment) is **unlikely** to satisfy the proportionality test.

Practical examples of where this exception might apply:

- A specialist women's rape crisis centre providing independent trauma support, where the presence of someone with male genitalia might be genuinely distressing to survivors in a context of acute crisis.
- A mammography service where intimate physical examination by male staff may be refused by some patients.

Schedule 9, Part 1 — Employment: Occupational Requirements

This schedule allows an employer to specify that being of a particular biological sex is a **genuine occupational requirement** (GOR) for a particular role. This is not a blanket exception for all jobs in an organisation — it applies to **specific** roles where physical sex is genuinely essential.

What this means in practice: The employer must demonstrate that the role genuinely requires someone of a particular biological sex and that requiring this is a **proportionate means of achieving a legitimate aim**.

What it does not mean: It is **not** sufficient that the employer, or their customers, would **prefer** someone of a particular biological sex. The requirement must be genuinely essential to the job. Not merely preferable, convenient, or traditional.

Practical examples of where this exception might apply:

- A women's refuge employing a support worker where the role involves intimate personal care and the employer can demonstrate that some survivors of male violence would be unable to access the service if a male-bodied person were providing it.
- A researcher studying male reproductive health, where biological sex is directly relevant to the subject matter.

Critically, even where an occupational requirement is established, the employer would still need to consider whether a trans person whose gender identity does not align with the requirement might be able to perform the role in a way that does not undermine the legitimate aim.

Schedule 23, Paragraph 3 — Communal Accommodation

This provision allows providers to restrict **shared sleeping accommodation or dormitory accommodation** based on biological sex. It applies in settings such as military barracks, certain types of residential care, or hostel accommodation.

What this means in practice: The provider may limit access to shared sleeping facilities to people of one biological sex, where this is **necessary and reasonable**.

What it does not mean: It does not apply to all accommodation — only to **communal, shared sleeping arrangements**. It does not justify excluding trans people from private rooms, en-suite facilities, or other accommodation where a single person has exclusive use. It does not override the need for proportionality.

Why Should Trans People Support These Exceptions?

This is perhaps the most counterintuitive section of this piece, but it rests on a coherent moral position.

The argument for supporting these exceptions is not that trans people are a threat. It is that there are contexts in which some people (often survivors of serious male violence) may be genuinely and profoundly harmed by the presence of someone whose body developed along typical male lines, regardless of that person's current gender identity. This is not transphobia as such; it is the sad consequence of living in a world where male violence is endemic.

(See my paper on VAWG, [here](#))

The vast majority of trans women have no intention of harming anyone. Most have never threatened anyone. But genuine empathy for those who have experienced serious harm does not require us to deny the reality of that harm in the name of a principle that may not require such sacrifice.

Supporting these exceptions (because they are tightly bounded and subject to strict conditions) also **demonstrates good faith**. It undermines the argument that trans rights campaigners want to force institutions to accept people regardless of context. It strengthens the case for the general framework of protection. And it places the argument on ground that is defensible and realistic rather than absolutist.

It is also worth noting that most trans people, in practice, have no desire to access spaces (such as specialist women's refuges) that are not appropriate to their needs or their history. The vast majority of trans women have lived as women for years, often decades. They are not attempting to infiltrate women's spaces. The debate, such as it is, is largely manufactured.

Why Blanket Bans Are Not Permitted

This is the crucial point that so many in the media and in public debate appear to wilfully misunderstand.

The Equality Act does not permit blanket bans on trans people from single-sex services, employment, or facilities.

An organisation that publishes a policy stating that "*no trans people will be served*," or that "*we serve only biological women*," without any reference to the specific exceptions above and without any proportionality assessment, is acting **unlawfully**. The exceptions are:

1. **Narrow:** They apply only in the specific circumstances described in each schedule.
2. **Subject to justification:** The organisation **must** be able to demonstrate objective justification for any exclusion.
3. **Proportionate:** The exclusion must be the **minimum** necessary to achieve the legitimate aim.
4. **Not blanket:** They **do not** apply to all facilities, all roles, or all services.

The consequences of a blanket ban are clear: it is direct discrimination because of gender reassignment, and it is unlawful. An organisation that implements one is exposed to legal action.

What Organisations Must Do to Implement an Exclusion Lawfully

Any organisation considering relying on one of the exceptions must be able to demonstrate:

1. **Which specific schedule they are relying on** and why it applies to their situation.
2. **The evidence base** for their claim that exclusion is necessary (not merely preferable).
3. **That they have considered alternatives** and found them inadequate.
4. **That the exclusion is proportionate**, i.e., no more intrusive than required.
5. **That they have communicated clearly** with affected individuals about the policy and its justification.
6. **That the policy is regularly reviewed** to ensure it remains necessary.

Organisations should also be aware that the burden of proof in any legal proceedings will fall on **them** to demonstrate that the exception applies.

What Actions Are Distinctly Unlawful

The following actions are unlawful under the Equality Act 2010, regardless of any exception:

- Refusing to serve a trans person in a generally provided service without objective justification.
 - Publishing a blanket policy excluding all trans people from a service.
 - Asking a trans person to leave a venue without specific justification under a recognised exception.
 - Denying employment to a trans person where gender reassignment is not a genuine occupational requirement.
 - Harassing a trans person on the premises or in connection with the service.
 - Discriminating against someone because of their association with a trans person.
 - Enforcing a dress code or appearance policy that disproportionately affects trans people without justification.
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Addendum: The EHRC Code, and the Confusion It Introduced

The Equality and Human Rights Commission's statutory Code of Practice on the Equality Act has, at various points, introduced confusion into what the law reasonably permits. In particular, the EHRC's 2024 guidance on the Public Sector Equality Duty and single-sex spaces was widely criticised (including by legal scholars) for overstating the scope of the exceptions and understating the protections available to trans people.

The EHRC is not a court. Its Code, while entitled to be considered, does not have the force of law. The courts have consistently held that the exceptions in the Equality Act must be read narrowly. A body that acts in reliance on EHRC guidance that goes beyond what the Act actually permits may nonetheless find itself acting unlawfully.

The law on this matter is set by the Equality Act 2010 itself and by the case law that interprets it. **The EHRC Code is a guide, not a mandate, and organisations should seek proper legal advice rather than relying on any document that purports to simplify the law beyond what it says.**

That, of course, includes **THIS** one.

Conclusion

UK law on this subject is neither as restrictive as its opponents claim nor as permissive as its allies might wish. The Equality Act 2010 protects trans people robustly in the great majority of contexts. The exceptions that exist are narrow, specific, and subject to strict conditions. Blanket bans are unlawful. Genuine and serious harm to others, where it can be demonstrated and where no less intrusive solution is available, may justify exclusion in a small number of defined circumstances.

That is the law. Everything else is noise.

This document is intended for informational purposes only and does not constitute legal advice. Organisations seeking to rely on any of the exceptions described should take appropriate legal counsel.