



TRANS+ INCLUSION FOR CHURCHES

FAQs regarding the EHRC Code of Practice

May / June 2026

Top lines:

- Gender reassignment is a protected characteristic in equality law, along with others including sex, sexual orientation, race and disability. This protects trans people from discrimination and harassment.
- Mixed sex services should be the default.
- Gendered toilets are not required, but all gender / mixed sex ones are. This ensures that everyone has access to an appropriate toilet facility.
- Bathroom 'policing' is not permitted.

**What is going on? What is the new Guidance?
Who does it apply to?**

Background

In April 2025, in a case known as *For Women Scotland*, the UK Supreme Court decided that 'sex' for the purposes of the Equality Act 2010 means 'biological sex', that is sex recorded at birth. This overturned both decades of legal understanding of the interaction between the Equality Act and the Gender Recognition Act, and the original EHRC Codes of Practice. It has been largely understood to be the result of a decade of virulent anti-trans campaigning.

Since then the law has been unclear. After consultation and re-drafts the Equality and Human Rights Commission and the government have now agreed their understanding of the current legal position regarding single sex services and it has been published in a draft Code of Practice for services, public functions and associations which was laid before Parliament on 21st May 2026. It is not yet in force and Parliamentary and/or legal challenges are expected.

The guidance is for organisations, not service users, trans or otherwise.

Who is protected from discrimination?

The relevant protected characteristics under the Equality Act for the purposes of this note are sex, gender reassignment and disability. 'Sex' means male or female, as recorded at birth.

'Gender reassignment' applies to people who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex i.e. most trans people.

People with non-binary or gender fluid identities will only be protected if they meet the definition of gender reassignment. They may also be protected against discrimination by perception.

Intersex people are not specifically or separately covered but will be protected under the sex and gender reassignment provisions as they apply in any individual case.

What has it got to do with churches?

Churches are "providers of services" under the Equality Act in relation to their activities other than worship, so they have to provide services in a way that prevents direct or indirect discrimination and harassment.

I thought there was an exemption from equalities legislation for churches?

Only a narrow one. In relation to sex and sexual orientation only – i.e. not gender reassignment – a religious or belief organisation (e.g. a church) can restrict services and membership if certain conditions are met. There are other exemptions relating to employment too. No exemptions are applicable within the context of this note.

What toilet provision should churches have?

You must provide toilets for everyone. Toilets that are separated by sex will generally be considered to be for use by those whose sex recorded at birth matches the sign on the door.

You cannot expect or require trans people to use the 'wrong' toilet, therefore you will need sufficient mixed sex / all gender toilets. You must be careful not to simply re-purpose the disabled toilet as this could amount to unlawful disability discrimination.

If you have single rooms / cubicles with a lockable floor-to-ceiling door the simplest way to cater fairly to everyone is to make them all unisex – or most of them if you have lots. If you currently only have two – one labelled M and one F – you must do this.

The guidance specifically states that is unlikely to be practical or appropriate to challenge people using ordinary toilet facilities. This is not only to prevent harassment of trans people but also cis people who may be judged not to be 'feminine' or 'masculine' enough.

Many organisations and venues who feel strongly about trans inclusion are signposting that they are happy for people to use whichever toilet feels right to them.

This is not without legal risk, particularly if there gender critical people in your congregation, or if someone posts about it on social media, but it may make trans people feel safer.

If you are also an employer you should be aware that the law on the provision of toilets for employees is governed by a different piece of legislation. Generally for a small workplace, the single cubicles unisex solution will work just as well. For a summary of the other options for larger employers see legal advice [here](#).

Can we still run the men's breakfast and include trans men? Or the trans-inclusive women's group?

Your starting point in the provision of services should be that they should be provided to everyone. So all gender / mixed sex services should be the default.

If you wish to provide a separate or single sex service (which would exclude anyone not of that sex i.e. most trans and non-binary people, as well as people of the opposite sex) you have to be able to justify why that is necessary, show there isn't a less intrusive option available, and balance the impact on trans people.

For example the guidance states that in assessing whether to offer a service to (cis) women only, you should consider:

- whether women are likely to be in a state of undress
- whether there will be limited ability for women to leave or to choose an alternative service
- whether the service is provided a result of, or connected with, male violence against women
- whether the physical differences between men and women are relevant to the experience of the service and put women at a particular disadvantage

Most single-sex church groups would not be 'necessary' under this analysis. You cannot require trans people to attend the group that corresponds to their 'birth sex'.

If you wish to include trans people in the same gender group as their cis friends, the guidance states that it can no longer be considered a 'single sex' service and so could amount to unlawful sex discrimination against the opposite sex people who are not allowed to use that service / come to that group.

This is one of the points that will be the subject of legal challenge so you should make your own decision in your own context whether to continue to provide such a group, and whether it creates a legal risk for you or not.

The guidance also states that the law on this point is unclear and that individual circumstances *may* permit exceptions to the general rule. For example, if there is one trans man in your congregation and he has been attending the men's group, and you wish to keep it as a men-only group, you might well decide that it is worth leaving things as they are, especially so if the cis men who also attend the group are supportive of the trans man's membership of the group.

One solution to this, and to make sure that everyone is catered for appropriately, is to provide groups that cater to different interests rather than different sexes, or make groups open to all but available at different times of day.

It is also lawful generally to provide a service only to people who share a particular protected characteristic, e.g. a group for gay people, or a group for trans people.

It is likely also to be lawful to provide a service only for people of more than one particular protected characteristic – e.g. LGBT people.

How do we know if someone is trans? Is it ok to ask?

You won't know if someone is trans unless they begin transition when they are already known to you, or they choose to share that information with you. It is generally not appropriate to ask, though there are exceptional scenarios where it may be necessary. None of these are likely to arise in the context of church activities.

There is no document in the UK that is proof of someone's sex assigned at birth so no-one should be asked to produce one.

I'm a church warden / PCC member / administrator / minister. How can we protect ourselves against accusations of discrimination?

If you follow the new draft Code you are unlikely to be accused of discrimination. However there is uncertainty remaining, particularly with regard to single-sex services. So long as you have thought through the potential impacts of your decisions and can justify them in relation to people of all protected characteristics you will be unlikely to be successfully challenged. You should record your thinking process.

A [good example](#) of recording the rationale for decision making was published by the Quakers to explain their decision making about providing trans inclusive facilities.

Where can I get more detailed help with this?

Transfigured Mission is able to offer some help with navigating these issues to church leaders who wish to be as trans inclusive as possible in their context.

Email transfigured.mission@gmail.com with details of your question and we will get back to you.

For legal advice you could try:

Good Law Project

Trans Legal Clinic (for trans people)

To keep up to date with campaigning about this issue follow:

Trans Solidarity Alliance

Trans Actual