

Agenda item 6: Cambridge City Council's draft position on the updated Equality and Human Rights Commission (EHRC) Code of Practice

Background paper by Gina Warren, Community Equity Officer

To be presented by Keryn Jalli, Strategic Resettlement and Community Equity Lead, and Helen Crowther, Equity and Community Power Manager

Briefing for the Inclusion and Equity Panel:

Purpose of this briefing

This briefing explains the updated Equality and Human Rights Commission (EHRC) Code of Practice, the changes arising from the Supreme Court judgment in For Women Scotland, the potential equality impacts identified by the EHRC, and Cambridge City Council's proposed strategic approach. It is intended to support discussion by the Inclusion and Equity Panel.

1. Background

The Equality and Human Rights Commission (EHRC) is Great Britain's independent equality and human rights regulator. Its Code of Practice for Services, Public Functions and Associations explains how the Equality Act 2010 applies to organisations providing services and carrying out public functions.

The previous Code dated from 2011. It has been updated to reflect changes in the law and court decisions since then. Following the April 2025 Supreme Court judgment in For Women Scotland, further changes were made. The revised Code came into force on 5 August 2026.

The Supreme Court held that the terms “sex”, “woman” and “man” in the Equality Act refer to biological sex. The Code covers a range of equality issues, but this briefing focuses on the changes linked to the Supreme Court judgment and what they mean for Council facilities and services.

Important to note

The EHRC Guidance is not itself law but sets out a framework for applying the legal requirements of the Equality Act 2010. Gender reassignment remains protected under the Equality Act. Trans people continue to be protected from discrimination and harassment.

A Task and Finish group has been set up to help shape the Council's response to the Code and how that response is communicated. The group will give recommendations to the [Council's Cabinet](#), who

will decide on the Council's response to the Code. The Task and Finish group is made up of community organisations, cross-party councillors from the Inclusion and Equity Panel and council officers. The community organisations represent groups particularly affected by the changes, including disabled people, women, and trans and non-binary people.

Key Point

The Council is committed to safety and rights of all those who use our services and facilities, so that no one is excluded from public services and everyone is treated with respect.

2. What the changes mean for services

Under the Equality Act 2010, services should be provided without discrimination, but the exception to this is single-sex services.

What is a single-sex service?

Under The Equality Act some services can be provided separately for women and men, or only to one sex, where there is a clear and justified reason. This is known as the single-sex exception.

The legal test to apply the exception is whether the restriction is a "proportionate means of achieving a legitimate aim". In simple terms, it must be a necessary and reasonable way of meeting the purpose of the service, for example to protect privacy, dignity or safety.

There is no single answer for every service. What is appropriate will depend on what the service is for, who uses it and the particular circumstances.

Where a service is lawfully provided on a single-sex basis, it would relate to biological sex. Service providers must still consider the effect on and needs of other people when deciding whether single-sex provision is justified and how the service should operate.

Key Point

Trans people need to have access to essential services. In the case of services which are necessary for everybody, such as toilets, the EHRC Code of Practice states that "it is very unlikely to be proportionate to put a trans person in a position where there is no service that they are allowed to use".

Can a service ask someone about their sex?

Services should not routinely ask people to prove or say what their sex is without a clear reason. It may be appropriate where sex is relevant to providing a lawful single-sex service, or for purposes such as equality monitoring or service planning.

For facilities such as toilets, the Code says routinely questioning users is unlikely to be practical or appropriate. Where a question is genuinely needed, it should be handled sensitively and privately.

Employment guidance

This Code relates to services, public functions and associations. Further EHRC guidance on the implications of the Supreme Court judgment for employers is still to come.

3. Equality impacts identified by the EHRC

The EHRC identified different potential impacts for different groups.. There may also be impacts for wider groups and it is important to recognise that individuals can be from more than one identity set out below.

Group	Potential impact identified by the EHRC
Sex	The EHRC assessed the overall impact as positive, and said the updated Code gives greater clarity about how sex-based services should operate. It also recognised that decisions may involve balancing the needs and rights of different groups.
Gender reassignment	The EHRC identified negative impacts for trans people. These include being unable to access some services, not having a suitable alternative, having to reveal that they are trans when this would not otherwise be necessary, and increased tension or conflict between groups of service users.
Disability	The EHRC identified a possible negative impact where accessible toilets are used as the main alternative for people not using single sex facilities. This could increase demand for a limited number of accessible toilets and make them less available to disabled people who need them.

Key point

A change intended to meet the needs of one group can sometimes create difficulties for another. The Council needs to consider not only whether an approach is lawful, but how it affects all people and how we reduce the negative impacts of a change.

4. What this means for Cambridge City Council

The changes are directly relevant to a number of Council functions, including:

- public toilets and changing facilities;
- a small number of single-sex activities, for example a women's swimming class;
- the Council's role as a funder and commissioner and its responsibility to support funded organisations to understand and meet equality law; and
- the design of new facilities and decisions made when existing buildings are refurbished.

A cross-party working group has been established involving councillors from the Inclusion and Equity Panel. It also includes voluntary and community organisations representing groups particularly affected by the changes, including disabled people, women, and trans and non-binary people. Its role is to help shape the Council's response to the Code and how that response is communicated.

Council statement

"I know what a worrying time this will be for many communities in our city.

"Council teams, including a cross-party working group, are working hard to develop our response to the updated EHRC Code of Practice, and this will be coming through for public scrutiny this Autumn.

"As part of this process the council is thoughtfully considering the needs, safety and rights of all those who use our services in line with our Equality Pledge Commitment, so that no one is excluded from public services, and that everyone is treated with compassion and respect.

"When Cambridge hosted the national showcase for LGBTQ+ History Month 2016, local organisers wanted to develop an initiative that would provide an equality legacy for our whole community, and the Cambridgeshire-wide Equality Pledge was the result. The Pledge states that:

We believe in the dignity of all people and their right to respect and equality of opportunity. We value the strength that comes with difference and the positive contribution that diversity brings to our community. Our aspiration is for Cambridge and the wider region to be safe, welcoming and inclusive.

"Cambridge City Council was a proud founder signatory, and our unwavering commitment to this pledge very much continues to underpin all our work. We want everyone to feel safe, welcomed, and included, and this very much includes our trans and non-binary residents."

CLlr Mike Todd-Jones, Cabinet Member for Communities, 17 August 2026

5. Cambridge City Council's proposed strategic approach

The Council's proposed approach has been developed by the task and finish group. At its meeting on 30 September 2026, the group supported the updated approach as the recommendation to take to Cabinet. Its discussions have helped clarify how the approach should work in practice, particularly around accessible provision, understanding people's overlapping needs and the importance of clear communication.

The Council proposes to move towards universal facilities that are open to everyone, alongside accessible facilities for disabled people. Universal provision means provision that is available to anyone rather than restricted by sex.

The group emphasised that universal provision should not be presented as provision specifically for trans people, but for anyone who need to use them. The aim is to support access, privacy and dignity for everyone.

The Council's proposed approach would:

- Reduce situations where staff need to ask about a person's sex when they access a service.
- Maintain lawful, safe and accessible services.
- Continue to use the single-sex exception where there is a clear and justified reason to do so.
- Set out that in normal circumstances, self-identification would be sufficient for access to Council services and facilities.
- Review mandatory equality training to ensure it reflects the updated Code and the Council's position, with additional practical training for staff working in services where single-sex provision remains, so that all users are treated with dignity and respect.
- Review relevant policies and equality impact assessments to reflect the Council's agreed position.

Approach to facilities

Universal provision would be the standard for new facilities. A universal toilet is a fully enclosed, self-contained toilet with a WC, washbasin and hand-drying facilities that can be used by anyone.

- When facilities are refurbished, the Council would move towards universal provision wherever practical and affordable.
- Single-sex facilities would still be provided where there is a clear and justified reason to do so.
- Accessible toilets would be protected wherever possible.
- Separate accessible toilets are already universal toilets. Some accessible toilets can only be accessed by a Radar key. If an accessible toilet also has to serve as universal provision for people who do not have a disability because of space or funding constraints, the Council would work with disabled users to identify and reduce any negative effects.

The Task and Finish group emphasised that the strategic position needs clear practical explanations so residents and staff understand what it means.

The group will advise Cabinet that the Council should develop plain-English information and clear signage to help everyone understand the provision available and find facilities that meet their needs. This should make clear that universal facilities are for everyone. Communications would promote dignity and respect, recognise that disability and other personal characteristics are not always visible, and discourage assumptions or harassment.

Approach to activities and services

The Council would consider its small number of single-sex services and activities individually, using the updated guidance on the single-sex exception. Mixed-sex or inclusive alternatives would be provided alongside them where appropriate.

6. What could this mean in practice?

Example 1: Public toilets

Scenario: A Council building has separate women's and men's toilets and an accessible universal toilet.

What the EHRC guidance says: Under the updated Code, a trans person would be expected to use the single-sex toilet that corresponds with their sex at birth. The Code recognises that this may cause distress or safety concerns for some trans people. The Code makes clear that trans people cannot be left without access to essential facilities and services, such as access to toilets. It gives examples of individual, lockable toilets with their own handbasins that can be used by anyone alongside single-sex provision, or allowing an accessible toilet to be used as a universal facility. Where an accessible toilet is used in this way, organisations should monitor any impact on disabled people.

What this could mean for Cambridge:

- In most circumstances, self-identification would be sufficient, meaning that people will decide themselves what toilet they use, including using a universal toilet.
- **Short term:** where no other universal toilet is available, an accessible toilet could also be available to anyone who does not wish to use the male or female facilities. The impact on disabled users would need to be monitored.
- **Longer term:** when toilets are newly built or refurbished, the Council would aim to provide more fully enclosed universal toilets, subject to available space and funding. Where there are gaps in universal provision, those locations could be prioritised when future improvement works are planned.

Example 2: Women-only swimming session

Scenario: A “Better” leisure centre runs a women-only session because some women would otherwise be less able or willing to take part, for example because of privacy, religious or cultural reasons.

What the EHRC guidance says: A women-only session would be lawful where there is a clear and justified reason. If the single-sex exception was applied, it would be based on biological sex. To rely on the single-sex exception, the provider would need to assess whether restricting the session by sex is necessary and reasonable for the purpose of the service, and whether there is another way of meeting the same need with less impact on others. This assessment should be documented. An Equality Impact Assessment (EqIA) could be used to consider the likely impact on different groups.

What this could mean for Cambridge:

- The Council would work with “Better”, its contracted leisure provider, to make sure the approach reflects the Council’s agreed position and the updated Code.
- In most circumstances, self-identification would be accepted and staff would not routinely question or ask someone to prove their sex.
- Where a service is intended to operate under the single-sex exemption, the Council and provider would document the reasons for that decision and assess the likely impact on different groups.
- As part of documenting the reason for their decision, the provider needs to consider whether the women-only session should remain single-sex and whether a mixed or inclusive alternative could be offered alongside it.

7. Next steps

- The Council's strategic approach is expected to go to Cabinet for formal sign-off in November.
- Relevant equality policies, procedures and staff training will be reviewed to ensure they align with the Council's position and the updated Code.
- A practical tool will be developed to provide further support in helping services decide when the single-sex exception should apply.
- Clear public information and signposting will be needed so residents, community organisations and staff understand what provision is available and what they can expect when using Council services.

Questions for the Inclusion and Equity Panel

1. What positive or negative effects could moving towards universal toilet and changing provision have on different communities?
2. How should the Council monitor these impacts?
3. How should the Council communicate its approach to residents, service users and staff in a way that is clear, and maintains respect and dignity for all?