REPORT TITLE: CAMBRIDGE CITY COUNCIL POSITION ON THE UPDATED EHRC CODE OF PRACTICE

To: Cabinet (16 November 2026)

Report by:
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Wards affected:
All

Director Approval: Sam Scharf, Director of Communities confirms that the report author has sought the advice of all appropriate colleagues and given due regard to that advice; that the equalities impacts and other implications of the recommended decisions have been assessed and accurately presented in the report; and that they are content for the report to be put to the Cabinet/Cabinet Member for decision.

1.	**Recommendations**
1.1	It is recommended that Cabinet: • Approve the draft Council approach to the updated EHRC Code of Practice guidance, set out in full in sections 4.1 and 4.2. In summary the approach is to be as inclusive as possible by: • Moving towards universal toilet and changing facilities, in addition to accessible facilities for disabled people. • That self-identification should be sufficient in normal circumstances to access Council facilities and services. • Continuing to provide single sex services and facilities where this is a proportionate means of achieving a legitimate aim. The Council will consider their need on a case-by-case basis and document its rationale.
2.	**Purpose and reason for the report**
2.1	The Council needs to establish its approach to the updated Equality and Human Rights Commission (EHRC) Code of Practice for Services, Public Functions and Associations,

	as laid in Parliament on 21 May 2026 and which came into force on 5 August 2026. In particular, the Code of Practice provides guidance relating to public services and functions that are provided on a single-sex basis. The Code itself is not law, but it provides guidance on how to apply the Equality Act 2010. Most Council services and facilities are already provided on a universal basis (open to all) and are not delivered on a single-sex basis. For the Council, the code primarily relates to public toilets, changing facilities, and a small number of single-sex activities. It is therefore important for the Council to make clear what its approach to the updated Code means in practice for all those using these council services and facilities. The purpose of this report is to set out the Council's approach to the updated Code and provide reassurance that Council services will continue to be inclusive and in line with our obligations under the Equality Act 2010.
3.	**Alternative options considered**
3.1	**Option 1: Taking no action** This was considered and ruled out, because it would mean that the Council would not be clear on its position regarding the updated Code of Practice. It is important that the Council inform and reassure communities about its approach relating to the guidance and its commitments to the safety and rights of all those who use its services and facilities.
4.	**Background and key issues**
4.1	In developing its proposed position on the updated EHRC Code of Practice, the Council notes:

	• Its commitment to the 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. Notably its commitments:
	  ○ That “Trans women are women. Trans men are men. Non-binary individuals are non-binary” as set out in the Council’s 2020 cross party motion.
	  ○ To end violence against all women and girls, as demonstrated through the Council’s White Ribbon accreditation held since 2015.
	  ○ To “the dignity of all people and their right to respect and equality of opportunity” as a joint founder of the Cambridgeshire-wide Equality Pledge[1].
	
	• The Council's commitments to trans inclusion, ending violence against women and girls, and promoting equality are rooted in the same principle: everyone deserves to be safe and treated with respect. These commitments are not in conflict with each other.
	
	• People are more than any single characteristic, and many people identify with more than one community or group. People's identities and life experiences are important parts of who they are and how they experience the world. Recognising and valuing this helps create a city where everyone feels included.
	
	• The Supreme Court's judgment on the definition of "sex" in the Equality Act in *For Women Scotland* (2025) does not require service providers to exclude people of any identity from services, including transgender people, and it does not change the council’s responsibility to provide safe and accessible services to all. The revised EHRC Code of Practice for Services, Public Functions and Associations, laid before Parliament in May 2026, reaffirms that organisations have discretion in how they design and deliver inclusive services.

[1] In 2015 Cambridge hosted the national showcase for Lesbian, Gay, Bisexual and Trans History Month 2016. As part of the preparations for this day, local organisers wanted to develop an initiative that would provide a legacy for whole community, which resulted in the development of the Equality Pledge. See: Equality pledge - Cambridge City Council

	• Most Council services are already provided on a universal basis. The default position under the Equality Act 2010 is that services should be provided without discrimination. The provision of separate-sex or single-sex services is a legal exception to this. The legal test to apply the exception is whether the restriction is a "proportionate means of achieving a legitimate aim". For example, it may be identified as necessary and reasonable to protect privacy, dignity or safety, or where a combined service would not be as effective. • The Equality Act 2010, Section 7 Paragraph 1, sets out that that the protected characteristic of gender reassignment applies to any trans person at any stage of transition. • The Council's Public Sector Equality Duty (Section 149 of the Equality Act) reflects legal obligations to provide accessible and inclusive services, and to keep people safe. Under this Duty, the council must have due regard to the need to: o eliminate unlawful discrimination, harassment, victimisation and any other unlawful conduct prohibited by the act; o advance equality of opportunity between people who share and people who do not share a relevant protected characteristic; and o foster good relations between people who share and people who do not share a relevant protected characteristic. • When referring to universal toilet facilities, the Council is specifically referring to fully self-contained toilets. This is where a toilet, sink, sanitary bin and hand drying facility are in self-contained room, accessed directly off main foyers or corridors, with a floor to ceiling lockable door. Universal changing facilities refer to individual private cubicles with lockable doors where people change their clothes.
4.2	**The Council's proposed approach is:** • To move towards universal toilet and changing facilities, in addition to accessible facilities for disabled people. This would apply to any future provision and renovation of existing provision, conditional on available funding. This is the most inclusive approach to maximise access.

	• In limited circumstances, where there is currently no universal provision, the existing accessible facilities will be made available as universal facilities. In these circumstances, an equality impact assessment will be used to monitor the usage of facilities and any impact on disabled people. Where feasible and funding is available, these facilities will be renovated to include universal facilities, in addition to accessible facilities. • To continue to provide single sex services and facilities where this is a proportionate means of achieving a legitimate aim. The Council will consider their need on a case-by-case basis and document its rationale. • That self-identification should be sufficient in normal circumstances for the purposes of access to and use of any of the Council's facilities and services. This is in the spirit of ensuring compliance with all relevant laws, including data protection, health and safety, and non-discrimination against those with protected characteristics. For example, this principle need not apply when there is a reasonable suspicion of danger to a service user, bystander, or employee, or where there is a proportionate means of achieving a legitimate aim. • To review training on equity, diversity and inclusion (EDI) and recommend additional EDI training for staff working in facilities where single sex provision is provided, to ensure all services users are treated with respect. • To review Equality Impact Assessments (EqIAs) and update policies and services to align with the Council's approach. • To develop plain-English information and clear signage to help everyone understand the provision available and find facilities that meet their needs. This would make clear that universal facilities are for everyone. Communications would promote inclusion, recognise that disability and other personal characteristics are not always visible, and discourage assumptions or harassment.

	• To work alongside community organisations to monitor the equalities impacts of its position.
4.3	**What this means:** In practice, little will change for residents, and the Council will continue its commitment to providing inclusive services. As is currently the case, people will not routinely be asked about their sex, or gender identity to access Council services or use Council facilities. The Council will continue to consider the need for single sex services and facilities; this will be done in line with the Equality Act. The Council will document each decision. Residents will see an increase in universal toilet and changing facilities as facilities are refurbished or redeveloped where funding is available. These will be gender neutral. The Council will make sure there are universal facilities and accessible facilities for disabled people. Universal toilets are currently provided by the council in many locations, such as at the Meadows Community Centre and Clay Farm Centre. There are also five changing places toilets in the city. Universal changing facilities/ changing areas are already in place for example at Abbey Leisure Complex Pools and Parkside Pools.
4.4	**Further Context on the EHRC Code of Practice:** The Code of Practice was updated following the Supreme Court Judgement on the definition of “sex” in the Equality Act following Women Scotland Ltd v The Scottish Ministers (2025). In this ruling the, Supreme Court has defined “sex” as “biological sex” and “sex at birth”. However, there is no agreed basis to substantiate “biological sex” or “sex at birth”. It is important to note that there are differing legal interpretations around the definition of “biological sex”. The revised EHRC Code of Practice for Services, Public Functions and Associations, laid

	before Parliament in May 2026, sets out that organisations have significant discretion in how they design and deliver inclusive services. The Supreme Court ruling does not require service providers to exclude people of any identity from services, including transgender people, it does not change the council's responsibility to provide safe and accessible services to all.
5.	**Council Vision**
5.1	The Council's vision is "One Cambridge Fair for All", where communities are thriving and empowered, supported by well-run public services. In approving the recommendation, the Council reacknowledges its commitment to the 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.
6.	**Consultation, engagement and communication**
6.1	The Task and Finish group was 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, a disability rights group, women's group and LGBTQIA+ group. Overall, the Task and Finish Group wanted to ensure that the Council's response reduces the negative impacts on any groups as far as is possible. This included: • Ensuring an inclusive tone of the statement, that does not put the rights of one group against another. • Ensuring that trans people feel included in public life and can access both the facilities and services to meet their needs. • Reassurance that the impact on women, including trans women, will be considered as part of the Council's decision. An equality impact assessment has been undertaken on the Council's proposed position that captures impacts relating to all equalities groups. • Monitoring the impact on disabled people in the limited cases where accessible toilets were made available as universal toilets.

	• Clarifying the difference between changing facilities and changing places in this Cabinet report. • Providing reassurance that single sex provision will continue as set out in the Equality Act. The proposed position sets out that legal framework by which single sex provision needs to be applied and confirms that the Council will continue to assess it in this way. It also ensures that the council will document its decision making on single sex provision. This will be done via a proportionality assessment which set out the legal basis for single sex provision, alongside an equality impact assessment. The Task and Finish Group will continue advising on how the council communicates its approach.
6.2	The Task and Finish Group agreed to take an item on the Council's proposed approach and to the Inclusion and Equity Panel, to enable Cabinet's decision to be informed by residents with lived experience of inequalities. The Council's Inclusion and Equity Panel is an advisory panel to Cabinet. Key recommendations from the panel were: • To set out the Council's position first in this Cabinet paper. This gives residents clarity on the Council's interpretation of the Code, prior to any background on the Code itself. • To give clarity on what our position means for people, explaining how much is changing or not changing. • That references to the Code were accompanied by explanation and context, so it's clear that there are different perspectives on what is set out in the Code.
6.3	A cross-council group was also set up to understand the operational implications of the Council's proposed position and will continue to monitor changes to provision in line with the Council's position.
7.	**Anticipated outcomes, benefits or impact**
7.1	If approved, the outcome is that the Council maintains lawful, inclusive, safe and

	accessible services. There will also be positive impacts on community cohesion as the Council will develop communications to help residents understand the position, promote inclusion, and discourage assumptions or harassment. All outcomes, benefits and impacts will be monitored through an Equality Impact Assessment.
8.	**Implications**
8.1	**Relevant risks**
	Risks associated with this decision relate to communication, reputation, finance, legal and community cohesion. Communication: There is a risk that residents will not understand what the Council's approach means. The Council will develop clear communications with advice from community organisations. The communications will also include images, showing examples of existing universal provision. Communications in itself will not mitigate against the risk that some people do not support the council's position but it will help prevent confusion and misunderstanding which can be divisive and cause conflict. Reputation: If the Council did not set out its approach, there is a risk that its reputation would be impacted, particularly with residents and service users most impacted by the Updated Code of Practice. By developing its approach, the Council is continuing its commitment to providing inclusive services and facilities. The other risks and their mitigations are set out in the following sections: Finance – section 8.3, Legal – section 8.4 and Community Cohesion – section 8.8.
	Local Government Reorganisation (LGR)
8.2	The Updated Code of Practice has been live since the 5 August 2026 and therefore it is good practice that the Council sets out its approach on the Code prior to Local Government Reorganisation.
	Financial Implications
8.3	The move to universal toilet and changing facilities may require additional funding, this would be sought through budget bids. The Council would also look to make use of existing refurbishment budgets, where possible.

	Legal Implications
8.4	In accordance with the Equality Act 2010 and the EHRC Guidance Code of Practice the proposed approach is seen to be reasonable and proportionate. The Council's Legal Team has seen the report. In 2024, there was an amendment to the 2010 Building Regulations related to single-sex toilet provision, however the Council's Legal Team have advised that the Council must comply with both statutory regimes with neither one having precedence over this. The position under the Equality Act 2010 is that services should be provided without discrimination. The provision of separate-sex or single-sex services is a legal exception to this and will be applied by the Council where this is a "proportionate means of achieving a legitimate aim". The updated EHRC Code of Practice relates to public services, functions and associations. It does not relate to the employment practices, charities or voluntary bodies – guidance is pending in these areas.
	Equalities and socio-economic Implications
8.5	A full Equality Impact Assessment is in Appendix A. It is important to note that people are more than any single characteristic, and many people identify with more than one community or group. The main equality impacts are summarised below: <u>Disabled People</u> The Council proposes moving to universal facilities in addition to accessible facilities. However, in limited circumstances some accessible facilities will be made available to all, where universal provision does not currently exist. There is a risk that this may reduce disabled people's access to toilet and changing facilities, but this risk is mitigated in part, as it is restricted to a small number of facilities and is primarily a short – medium term measure, pending refurbishment. The Council will monitor positive and negative impacts on disabled people and look into how negative impacts can be mitigated, by continuing to liaise with disability groups and organisations.

	Gender reassignment The EHRC sets out how transgender people are likely to be negatively impacted by the updated Code of Practice as they could be excluded services of facilities, they previously had access to. This risks worsening socio-economic and health inequalities for transgender people. The Council's approach aims to mitigate against these risks, by increasing universal provision and setting out that self-identification is sufficient in normal circumstances to access and use Council's services and facilities. As a result of the updates Code of Practice there is an increased risk that members of the public will challenge transgender people seeking to use services or facilities. The Council's communication aims to promote understanding, discourage assumptions or harassment. Sex The Council will continue to apply the single sex exception as set out in the Equality Act 2010. The Council's position sets out the legal framework by which single sex provision needs to be applied and confirms that the Council will continue to assess it in this way. It also ensures that the council will assess the need for single sex provision on a case-by-case basis and document its decision making. This will be done via a proportionality assessment which set out the legal basis for single sex provision, alongside an equality impact assessment (EqIA).
	Net Zero Carbon, Climate Change and Environmental implications
8.6	In general, the proposed position will have no net zero, climate change or environmental implications. There might be a low negative impact relating to waste generation in renovating existing changing areas/toilet facilities to be compliant with the proposed position.
	Procurement Implications
8.7	The Council will consider how its proposed approach can be reflected in future procurement activity and contractual arrangements, particularly where organisations are commissioned to deliver services or manage facilities on the Council's behalf.

	Any requirements placed on providers will need to be appropriate to the nature of the services being commissioned, consistent with the Council's legal obligations and compliant with relevant procurement and equality legislation.
	Community Safety Implications
8.8	The position reacknowledges the Council's commitment to the 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. As a result of the updates Code of Practice there is an increased risk that members of the public will challenge transgender people and gender non-confirming people seeking to use services or facilities. The Council's communication will promote understanding and cohesion, discourage assumptions or harassment.
9.	**Background documents** Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985
9.1	• Equality Act 2010: https://www.legislation.gov.uk/ukpga/2010/15/contents • For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent): https://www.supremecourt.uk/cases/uksc-2024-0042 • Code of practice for services, public functions and associations (Published: 5 August 2026): https://www.equalityhumanrights.com/guidance/codes-practice/code-practice-services-public-functions-and-associations/chapter-one • The Building (Amendment) (England) Regulations 2024: https://assets.publishing.service.gov.uk/media/6644b035f34f9b5a56adc808/ADT_circular.pdf
10.	**Appendices**
10.1	Appendix A – Equality Impact Assessment