

GMCDP response to EHRC Code: consultation 2025

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**Greater
Manchester
Coalition
of Disabled
People**

GMDCP's Consultation response

This is an extract of the main part of GMCDP's response to the EHRC Code of Practice for services, public functions and associations: consultation 2025¹

GMCDP's General Comments

Greater Manchester Coalition of Disabled People (GMCDP) is a disabled people's organisation. Trans people are almost twice as likely to be Disabled as cis people. GMCDP provides a range of services for disabled people, including some delivered through gender-based groups.

Government failures to address grave and systematic violations of the human rights of disabled people are recognised in the 2024 UN report.

Both Disabled and Trans communities find ourselves perpetually grieving and fighting for the right to exist without discrimination, and to live our lives with full humanity and autonomy.

¹ <https://www.equalityhumanrights.com/equality/equality-act-2010/codes-practice/code-practice-services-public-functions-and-associations#takepartintheconsultation>



GMCDP's key concerns about the Code:

1. The proposals do not explain how to remain fully trans inclusive.
 - 1.1. The recent judgment changes the meaning of the term 'single-sex' in the context of the EA2010 only, and does not directly affect the everyday (trans-inclusive) use of the term outside that specific context.
 - 1.2. Our understanding is that spaces/services designated for a group of people (women or men) that are trans-inclusive can still exist.
 - 1.3. The proposed Code does not explain this clearly.
2. There is a range of practical, ethical and legal problems we foresee from the Code:
 - 2.1. **Reputational damage** from enforcing trans exclusion.
 - 2.2. **Increase in costs from:** manage fall out; create new policy and systems, for example, asking all service users about their sex recorded at birth. These increased costs and impact on staff time may affect our ability to retain and gain external funding, which we rely on to deliver services to disabled people.
 - 2.3. **Loss of service provision** due to loss of trans staff members or being unable to utilise trans staff members.
 - 2.4. **The unenforceability of excluding trans people** from spaces/services given that there is no



evidence or documentation (not even a birth certificate) that proves someone is cisgender, and associated challenges around requesting and storing sensitive personal information in compliance with data protection legislation.

- 2.5. We do not think this requirement to exclude complies with **the right to freedom of association**
- 2.6. **Fear of causing harm, humiliation and detriment** if we exclude trans people from services.
- 2.7. **The binary nature of the guidance is unworkable** - it does not match our day-to-day experience of working with disabled people who are also intersex, non-binary or gender diverse. Most intersex conditions are not diagnosed at birth, and so intersex people may have a gender identity and presentation that is different to their sex at birth as a result of subsequent childhood medical interventions to which they did not consent and may not have full knowledge about.
- 2.8. **The risk of potential claims of discrimination** or infringing the human rights of trans, non-binary and/or intersex people, as well as gender non-confirming cisgender people by violating everyone's human rights to privacy. Especially as under the Code, trans people can potentially be banned from both male and female only services.



- 2.9. **Risk of committing a criminal offence** if asking to see a person's Gender Recognition Certificate (GRC) and/or disclosing of that information without consent (Gender Recognition Act (GRA) 2004).
- 2.10. It appears that there is no longer a way for a women-only service to lawfully include trans women but exclude all cisgender men, or vice versa.
3. Other points of concern:
- 3.1. The Code requires service providers to impose a policy which the EHRC has stated is potentially distressing - this is anti-ethical to the role of a human rights body.
- 3.2. Public Authorities will not be able to comply with their duty to consider Human Rights when providing services, while also excluding trans people.
- 3.3. The new definition of sex diminishes the meaning of GRCs as they no longer apply to equalities legislation. The use of 'acquired gender' in the GRA means people with a GRC. The use in the Code is not consistent with the GRA and should be changed to a more suitable term such as 'living' or 'true' gender.
- 3.4. The Code reinforces gender stereotypes around what women and men are supposed to look like.
- 3.5. 'Biological sex' is a complex spectrum. Science has gone to great lengths to explain this



complexity - reducing sex to a binary based on observable characteristics at birth is reductive, inaccurate and harmful. The use of the term 'biological sex' throughout the Code is inconsistent and confusing.

- 3.6. It's problematic that under the protected characteristic of sex, trans people may only have protections on the basis of how they are 'perceived', rather than who they are.
- 3.7. Referring to trans men as women and trans women as men is humiliating.
- 3.8. The Code reinforces harmful myths that trans women pose a threat to cis women. There is no evidence that excluding trans women will enhance the safety of cis women.
- 3.9. There is a lack of evidence showing that trans women pose a threat to fair play and unfair advantage in sports.
- 3.10. There has been no consideration of the impact on disabled people of the Code. Many services may start to offer their sole accessible toilet as a gender neutral facility - requiring non-disabled trans people who have no access needs to use accessible toilets will create extra demand on an under-resourced provision. This may further reduce the ability of people who are either trans and/or disabled to participate in public life.



Summary

GMCDP do not believe changes to our provision are necessary and such changes as in the Code would be harmful - they would reduce safety, access, and dignity for everyone.

GMCDP is gravely concerned about the new Code on the ability of the public and society to welcome, support, and include trans people, and that there will be an environment of policing of gender presentation that will increase harassment, distress, and offence to everyone. Disabled people know all too well what it is to be vilified and excluded from public life - this is not acceptable for disabled people, and it is not acceptable for trans people either. The Code should be abandoned.



To find out more

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