

1. To what extent do you agree or disagree with the following statement: “The explanation of the updated legal definition of sex is clear.



Most selected Agree – although answers had been recorded for all options.

2. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer? This answer can be no longer than 1000 words.

Key Themes:

Concerns about Inclusion

A few responses highlighted a lack of recognition for intersex individuals and those born with both sex organs, suggesting the explanation should be more inclusive.

Strong Opposition to Proposed Changes

One response expressed serious concern, describing the update as a regression of rights for transgender, non-binary, and intersex people. It argued the changes may breach existing legislation (such as the Gender Recognition Act, Equality Act, and GDPR), risk privacy violations, and could result in greater discrimination and marginalisation for LGBTQ+ individuals.

We received concerns from colleagues that this is a rollback of rights for transgender, non-binary and intersex people. It undermines the Gender Recognition Act, threatens the privacy and safety of countless individuals, and violates principles protected by the Equality Act, the Human Rights Act, and GDPR. Requiring trans individuals to use services of their biological sex is effectively outing trans people across public services and institutions, increasing their exposure to discrimination and violence. This might lead to an erosion of trust in data privacy, particularly for LGBTQ+ communities who already face systemic marginalisation. It says in the guidance about only asking about sex where necessary and justified. Further clarity is needed on what constitutes necessary and justified.

Also, 2.2.6 – asking for evidence + exclusion if answered ‘falsely’ including change outlined in 2.2. What additional evidence would be appropriate if it is considered that the birth certificate is not sufficient and can’t be relied upon? Further guidance is needed with strong examples, particularly in healthcare settings with real life scenarios.

2.2.9 – It is a criminal offence to share someones trans status but asking for birth sex is not being ‘sensitive’ and requiring a trans woman to use male services is effectively ‘outing’ them.

3. What changes might your organisation make as a result of this update to the code of practice?

Flexibility and Inclusivity

Several contributors highlighted the need for flexible approaches to space usage, advocating for:

- Sex-protected spaces where appropriate.
- Gender-neutral options to accommodate those whose identity doesn't align with their legal or assigned sex.

There's a strong sentiment that trans, non-binary, and intersex individuals must feel safe and respected, with specific recommendations to support dignity and choice.

Concerns About Legal and Ethical Implications

Some responses raised alarms about the impact of the legal redefinition of "sex" following the Supreme Court ruling. Key concerns include:

- Potential erosion of identity recognition and privacy.
- The risk that policies might marginalise staff or patients. Difficult for policies not to exclude/marginalise.

Staff Engagement and Sensitivity

Staff expressed a desire to:

- Be consulted on policy updates, with their views taken seriously.
- Ensure any changes are compassionate and not reactionary.
- Treat each trans patient's case individually and respectfully, acknowledging clinical and personal nuances.

Facility and Infrastructure Considerations

A detailed operational response outlined extensive estate-related implications:

- Need for privacy-enhancing modifications (e.g., full-door bathrooms, soundproofing).
- Conversion of existing spaces into self-contained, gender-neutral facilities.

Recognition that implementing these changes is costly, logistically complex, and would require:

- Government investment.
- Standardised design guidance across Wales.
- Sufficient transition periods.

Requests for Balance

Some responses called for ensuring male and female spaces remain available where required, alongside inclusive alternatives, but there are cost/space issues with this.

- A review of policies in relation to facilities that trans staff can use depending on the guidance received as a result of this consultation.
- A review of the facilities available for trans people – i.e ensure gender neutral facilities are available
- Need stronger examples throughout as situations can be complex and the examples provided are very simple.

Estates, Accommodation & Capital Schemes Changes

- **Facility Usage:** significant and resource intensive changes would need to be made to current practice of accommodating patients based on their presented gender, necessitating vast changes to existing facilities and accommodation across the Hywel Dda estate, which has a vast portfolio of both clinical and non-clinical, staff and public accessed facilities across 80+ freehold and leasehold sites.
- **Privacy and Dignity -** Increased need and investment into privacy infrastructure such as solid-door bathrooms, floor-to-ceiling partitions, and enhanced soundproofing, which can support dignity across all genders. Increased access and space for private changing facilities where communal facilities might otherwise present a challenge.
- **Gender-Neutral Facilities:** The need to provide gender-neutral facilities becomes extremely pressing to ensure that trans individuals have access to appropriate services. This includes converting existing toilets and changing rooms to self-contained cubicles with their own basins inside.
- **Logistical Challenges:** Implementing such change across health board aged estates with limited/restricted space is logistically impossible and extremely costly to the public purse. Any future guidance must consider the practical implications of modifying existing Hywel Dda estate without impacting clinical activities and patient flow.
- **Design Considerations:** New developments would need to incorporate universal toilets and changing facilities that do not discriminate, to provide self-contained, sound-proofed cubicles directly off the circulation space. This is more costly than the current design.
- **Compliance:** The updated definition will require us to upskill staff to ensure that the relevant facilities are only utilised by the relevant individuals. Having a standardised policy and estate design approach across Wales and public sector assets is essential.
- **Cost Implications:** The cost of implementing gender-neutral facilities in new projects needs to be factored into the planning and budgeting and approval processes, including being accepted in business case proposals to government. This includes accepting the additional space, cost and resources to accommodate separate male, female, and gender-neutral facilities.
- **Transition Period:** the change requires a reasonable transition period to implement, particularly considering the existing financial constraints and logistical challenges across NHS estates. Furthermore, a clear investment plan must be implemented at government level to identify how and when financial support will be deployed to underpin the transition.

These impacts highlight the need for careful planning and consideration of the practical, financial, and logistical challenges in adapting existing estate and when scoping new projects to comply with the updated legal definition.

- 4. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the new content on Gender Recognition Certificates is clear.**

● Strongly Agree	1
● Agree	4
● Disagree	0
● Strongly Disagree	2
● Do not know	1

Most selected Agree – although answers had been recorded for all options.

5. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Call for Clarification on Complex Legal Concepts

Several responses highlighted confusion around section 2.1.9, particularly regarding:

- Protection from sex discrimination based on birth sex.
- Legal terms like direct and indirect discrimination by association, and discrimination by perception. There was a strong request to expand and clarify these points, as current wording feels unclear or overly technical to some staff.

Concern Over Impact on Trans Rights

One response expressed concern that the legal updates, following the Supreme Court ruling, are effectively undermining the purpose and protection offered by Gender Recognition Certificates (GRCs). It was described as a loss of hard-won rights and stability for transgender individuals.

Mixed Views on Overall Clarity

- Some staff acknowledged that the explanation is as clear as it can be, given the complexity of the law.
- Others simply responded with “No” or “N/A,” indicating **no suggested changes**.

Though the new content is clear in regards to what sex means, it does not however define how a trans person will not be discriminated against. If a trans person has lived in their acquired sex for a number of years, why do we now need to know what their sex at birth is? We could also cause indirect discrimination by questioning a masculine female or feminine male. How would this be policed? And why do we even need to know a person’s sex at birth if not for medical purposes?

6. What changes might your organisation make as a result of this update to the code of practice?

Emphasis on Awareness and Communication

- A key suggestion was to improve public messaging, reinforcing that trans individuals remain protected under the law, and that gender reassignment remains a protected characteristic under the Equality Act.

Commitment to Respect and Inclusion

- Staff emphasised the need to treat patients and colleagues with care, dignity, and respect, ensuring that all identities are acknowledged and supported in practice.

Compliance and Readiness

- There was recognition of the need to keep relevant teams informed and to ensure that organisational obligations under the law are met in a timely and thorough way.

Mixed Engagement

- Some respondents were unsure what changes might be required or stated “n/a,” indicating either uncertainty or lack of suggestions.

We will ensure that we are compliant with any new guidance’s that will be provide as a result of this consultation, whilst ensuring trans people are not discriminated against.

· Gender neutral facilities – but recognising that this will have a significant impact financially and logistically on the organisation and won’t be able to be implemented quickly.

· Looking at policies/ procedures. – guidance for trans staff etc. There will need to be changes to policies as the GRC doesn’t have the impact it once did. Having a GRC no longer has relevance.

7. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the new content on asking about sex at birth is clear.”

● Strongly Agree	1
● Agree	4
● Disagree	1
● Strongly Disagree	1
● Do not know	1

Most selected Agree – although answers had been recorded for all options. Significantly many had selected ‘strongly disagree’.

8. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Clarification Around Intersex Individuals

- Multiple responses noted that the current language assumes a binary male/female framework, and fails to address the complexities involved in defining sex at birth for intersex children and adults. This gap was seen as both exclusionary and potentially confusing.

Uncertainty Regarding Amended Birth Certificates

- There was concern about how further enquiries would proceed if someone’s birth certificate has been amended — particularly in terms of legality, privacy, and procedural fairness. Staff want clearer guidance here.
- Example given is weak -The example provided here is very poor. Why would a trans woman need to go to a mixed sex group for support when they live as a woman? The only time sex at birth would be needed is in some medical scenarios, purely for clinical

purposes. Also, 2.2.8 doesn't provide clear guidance. If a person has had their birth certificate changed, 'further enquiries are needed' – what further enquiries?

Ambiguity Around Disclosure and Evidence

- Respondents requested clarification on:
Whether individuals must provide evidence when asked about their sex at birth.
In what contexts or situations it is deemed necessary to ask for this information. This was seen as a critical gap, especially in health and frontline services.

Practical and Ethical Considerations in Clinical Settings

- One response emphasised that biological sex should only be requested when clinically relevant, and stressed:
Clinical appropriateness (e.g., a broken arm doesn't justify asking someone's sex at birth).
The importance of privacy for patients, noting that many reception areas are not equipped for sensitive disclosures, potentially leading to distress or discrimination. Most receptionists would not have access to a private consultation room, and this may cause harassment of an individual or discrimination.

No Suggested Changes

- Some staff felt no changes were needed or chose not to provide feedback (“No”/“N/A”)

9. What changes might your organisation make as a result of this update to the code of practice?

1. Training and Communication

- A key suggestion was to introduce staff training focused on how to navigate discussions about birth sex with fairness, discretion, and sensitivity.

2. Promotion of Respect and Anti-Discrimination

- One response advocated that the organisation should actively dismiss bigotry, suggesting a zero-tolerance approach to discrimination or prejudice in practice.
- Where we've only required biological sex/Trans status when clinically necessary, and have accommodated as per the acquired gender, this will need to change & policies amended as we can no longer accommodate a Trans Female on a female ward.

3. Compliance with Legal Obligations

- There was a clear expectation that the organisation would need to adhere to the law and meet updated requirements as outlined in the code of practice. There are concerns around how we do this, without discriminating against Trans people or, if we continue to accommodate them in their acquired gender, how we do this without discriminating against women.

10. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the new content on defining sex at birth is clear.”

● Strongly Agree	2
● Agree	3
● Disagree	1
● Strongly Disagree	1
● Do not know	1

Responses were mixed. All options had an equal response rate

11. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Overall Clarity

- Some respondents felt the explanation was clear as presented, with direct comments like “I think it is clear” and “No” indicating general understanding or satisfaction.

The Gender Recognition Act 2004 (GRA) allows trans people to legally change their sex on their birth certificate by obtaining a Gender Recognition Certificate (GRC). Once someone has a GRC, their acquired gender becomes their legal sex “for all purposes” under the GRA. However, this is subject to exceptions in other legislation. What weight does a GRC have moving forward?

The Equality Act 2010, which protects against discrimination based on sex and gender reassignment, has recently been clarified by the UK Supreme Court. In a 2025 ruling, the Court stated that for the purposes of the Equality Act, “sex” refers to biological sex at birth, not gender identity, even if someone has a GRC. This means that in certain legal contexts, organisations may be required to ask for sex at birth to comply with sex-based protections, such as in single-sex services or data collection for equality monitoring.

That said, asking someone their sex at birth can be deeply personal and potentially distressing. The key is justifying the necessity of the question. For example, it might be relevant in:

- Medical contexts where biological sex affects treatment.
- Criminal justice settings involving searches or custody.
- Equality monitoring where data is disaggregated by sex for legal compliance.

If someone presents a birth certificate that aligns with their acquired gender, and you still question their sex, that could indeed conflict with the GRA, especially if they hold a GRC. In such cases, continuing to treat them as their sex at birth may be unlawful unless a specific legal exemption applies.

Further guidance around this is required, with strong examples that include healthcare settings and complex scenarios.

Gender Identity and Inclusion

- One respondent made the point that sex at birth is not the same as gender identity, signalling a desire for the explanation to better reflect this distinction.

- Another highlighted that intersex individuals were not accounted for in the explanation, suggesting it lacks full inclusivity and nuance.

No Suggested Changes

12. What changes might your organisation make as a result of this update to the code of practice?

Staff Education and Awareness

- The primary recommendation was to deliver training to staff on the distinction between sex and gender, equipping them with the knowledge needed to understand and apply updated legal definitions in practice.

Emphasis on Respect and Inclusion

- There was a clear call to respect all genders, reinforcing a culture of dignity and equality across the organisation.

13. what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the updated description of the protected characteristic of sexual orientation is clear.

• Strongly Agree	3
• Agree	2
• Disagree	1
• Strongly Disagree	1
• Do not know	1

Most selected Agree – although answers had been recorded for all options.

14. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Concerns Over Scope and Inclusion

- One response pointed out that the ruling may overlook the broader spectrum of protected characteristics, suggesting a risk of exclusion or misinterpretation.
- Another respondent queried the absence of references to sexual orientations such as pansexual, asexual, and demisexual, raising concerns about visibility and acknowledgment of these identities within the update.

15. N/A

16. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the new example on sex discrimination by perception are clear.

● Strongly Agree	2
● Agree	3
● Disagree	0
● Strongly Disagree	2
● Do not know	1

Most selected Agree – although answers had been recorded for all options. Significantly many had selected ‘strongly disagree’.

17. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Lack of Inclusion

- Multiple responses flagged that intersex and trans people continue to be overlooked, with concern that their rights and realities are not properly reflected in the explanation.

Confusion Around Specific Legal Language

- Some staff were uncertain about section 4.1.1, particularly the interpretation of pregnancy and maternity protections. A question was raised about how perceived pregnancy is handled, pointing to the need for clarification around discrimination based on perception versus reality.

Complexity and Contradiction

- One response described the legislation as complex and contradictory, recommending an additional example to improve understanding, particularly in scenarios involving trans patients.
- Might perceiving someone as Trans (& therefore thinking they’ve given the wrong sex when asked and asking for further evidence) be discrimination by perception (you’re perceiving them to be trans when they aren’t, because of the way they look/present)? You’re asking them to provide evidence when it is not needed so treating them differently.

General Satisfaction

- The example provided is very poor - Healthcare Settings (e.g. hospital wards)
If a patient appears to be of one sex but identifies as another, staff should not ask about sex at birth unless it is clinically relevant. For example:
- In a gynaecological ward, if a patient presents as male but is admitted for a condition affecting female anatomy, staff may need to confirm biological sex for treatment purposes.
- However, privacy, dignity, and safety must be preserved. NHS guidance has always encouraged the use of single-occupancy rooms or curtained bays where possible to accommodate trans or gender non-conforming patients without intrusive questioning. What are we to do if single-occupancy rooms are not available/possible? Strong examples are needed in the healthcare setting with complex scenarios.

Use of Facilities (e.g. toilets, changing rooms)

The recent UK Supreme Court ruling clarified that under the Equality Act 2010, “sex” refers to biological sex at birth, not acquired gender—even with a Gender Recognition Certificate. This means:

- Organisations can lawfully provide single-sex spaces based on biological sex.
- However, trans individuals are protected under the characteristic of gender reassignment, so blanket bans or intrusive questioning could amount to discrimination. In practice, if someone presents as female—even with masculine features—and wishes to use the women’s facilities, you should not question their sex at birth unless there is a compelling legal or safeguarding reason. Facilities should ideally include gender-neutral options to reduce conflict and preserve dignity.

Further guidance on how to implement these in practice. Robust examples required that demonstrate how these can be implemented into a health care setting – not using simple examples that are not transferable/do not offer guidance on a more complex level.

Recruitment and Employment

During hiring:

- You cannot ask about sex at birth unless it’s a genuine occupational requirement (GOR)—for example, a role in a women’s refuge where being biologically female is essential.
- Appearance alone is not a lawful basis to question someone’s sex. Doing so could be discriminatory under the Equality Act’s gender reassignment protections. If a candidate identifies as female and applies for a role, you should treat her as such unless the role has a legally justified GOR and you can demonstrate why biological sex is essential to the job.

Further guidance on how to implement these in practice. Robust examples required that demonstrate how these can be implemented into a health care setting – not using simple examples that are not transferable/do not offer guidance on a more complex level.

18. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Training and Awareness

- A consistent suggestion was the implementation of staff training, particularly to ensure understanding of the updated legal definitions and appropriate conduct in practice.

Legal Alignment and Compliance

- There was an expectation that the organisation would adhere to relevant legislation and the legal clarifications introduced by the update, reinforcing regulatory compliance.

19. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in Change 4.2 is clear.”

● Strongly Agree	2
● Agree	3
● Disagree	0
● Strongly Disagree	2
● Do not know	1

Most selected Agree – although answers had been recorded for all options.

20. Is there anything you would change to make the explanation of the legal rights and responsibilities in this section clearer?

General Clarity

- Several respondents indicated they found the section clear, offering no suggested changes ("No" / "N/A").

Clarification Around Pregnancy Rights

- One response noted confusion in the opening paragraph, pointing out that pregnancy should be recognised based on biological fact, regardless of what is recorded on a person's birth certificate. They suggested the explanation should more explicitly affirm the rights of any individual who is pregnant, without ambiguity.

Call for More Inclusive Examples

- A suggestion was made to include additional examples specifically involving trans patients to help clarify how the guidance applies in real-life clinical or administrative scenarios. There are currently no examples provided in this section.

21. What changes might your organisation make as a result of the update to this section of the code of practice? For example, any changes to your policies, procedures or practices.

General Uncertainty or No Anticipated Change

Compliance and Legal Adherence

- One respondent emphasised the need to comply with clarified legal definitions and requirements, reinforcing a commitment to staying aligned with updated legislation.

Anticipated Impacts on Specific Services

- While no changes were foreseen in some areas, maternity services may face unforeseen challenges, suggesting the need for sector-specific evaluation as part of the implementation process.
- Dependant on guidance provided following this consultation

22. To what extent do you agree or disagree with the following statement: "The explanation of the legal rights and responsibilities set out in the new example on sex discrimination - same disadvantage is clear."

● Strongly Agree	2
● Agree	4
● Disagree	0
● Strongly Disagree	1
● Do not know	1

Most selected Agree – although answers had been recorded for all options.

23. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

General Satisfaction

Though the explanation is clear the example is again very poor. These examples need to be more specific to trans people only and more complex, to help work through difficult situations.

If a trans woman who has lived as a woman for many years wishes to attend a female only gym, does this new ruling meant she now can't?

24. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Legal Compliance

- Another contribution underlined the organisation's duty to adhere to clarified legal definitions and requirements, and the need for procedural alignment without compromising inclusive values.

Minimal or No Anticipated Change

25. To what extent do you agree or disagree with the following statement: "The explanation of the legal rights and responsibilities set out in the updated example on harassment related to sex is clear."

● Strongly Agree	2
● Agree	3
● Disagree	1
● Strongly Disagree	1
● Do not know	1

Most selected Agree – although answers had been recorded for all options.

26. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

General Satisfaction

27. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

28. .

29. .

30. .

31. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the updated section on separate and single-sex services for men and women is clear.

● Strongly Agree	2
● Agree	3
● Disagree	1
● Strongly Disagree	1
● Do not know	1

Most selected Agree – although answers had been recorded for all options.

13.2.2. Providing services in the way we ‘normally’ do, would mean allowing Trans people to access the services through the gender they identify as, therefore a significant change to policies, guidance, estate would be needed. Refusing Trans people is a change from the normal and is causing concern and worry.

32. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Ambiguity in Service Provision Guidance

- The same respondent questioned the clarity of section 13.2.2, which discusses services for those with protected characteristics.
- There was unease about whether individual service providers have too much discretionary power, potentially leading to unjust or inconsistent application of the guidance or run the risk of not complying with the Equality Act/discriminating.

General Satisfaction

Example 13.2.17 is very simplistic. What happens if a trans person needs to use the service?

If a trans person does not declare they are trans, and all of their ID is in their acquired sex how can they be proven otherwise. Also, the risk of indirect discrimination if a masculine female or feminine male wish to take part and is questioned about their biological sex and asked to provide evidence. These examples do not provide enough supporting guidance.

There needs to be further explanation surrounding trans people who ‘pass’. A trans male is now excluded from male services and is expected to use a female changing room but, if they present as a male they can be excluded from female services as well therefore there is a need for gender neutral areas – this comes with cost, logistics implications and will not have a quick fix.

Examples are very weak for a section that is crucial to how we operate as a service provider. We need examples that help to convey the complexity of real life scenarios, especially in the healthcare setting.

33. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Staff Training and Legal Awareness

There is a strong call for updated training, especially around:

- Ensuring all staff are informed on the updated legal definitions and how to manage these sensitively in day-to-day practice.

Policy and Legal Compliance

We need health care examples for this section that are complex – e.g. maternity.

Several comments emphasised the importance of adhering to current laws and official guidelines, ensuring all organisational procedures align with the code of practice.

Inclusive Facility Provision and Estate Planning

A comprehensive response outlined wide-ranging structural and procedural considerations:

- **Gender-Neutral Facilities:** Converting or designing self-contained cubicles with private basins to ensure privacy and accessibility for all.
- **Maintaining Separate Options:** Ensuring male, female, and gender-neutral facilities are all available to address differing safety and comfort needs.
- **Design & Capital Projects:** Future developments should integrate universal facilities directly off circulation spaces, requiring space, budgeting, and policy planning.
- **Communication:** Updating signage and conducting campaigns to inform service users of facility locations and changes.
- **Stakeholder Engagement:** Collecting feedback from patients, staff, and carers to shape inclusive, practical solutions.
- **Resourcing:** Recognising that adapting NHS estates is a significant undertaking requiring investment, logistical planning, and long-term support.

No Anticipated Changes

Direct Quote: Gender-Neutral Facilities: Implementing gender-neutral toilets and changing rooms to ensure that trans individuals have access to appropriate services. This includes converting/modifying existing facilities to self-contained cubicles with their own basins inside. Separate Facilities: Providing separate male, female, and gender-neutral facilities to avoid indirect discrimination claims from women who may not feel safe in gender-neutral facilities. Signage and Communication: Updating signage and communication materials to clearly indicate the availability of gender-neutral facilities and ensure that all patients and service users are aware of the changes and updated locations of facilities. Capital Scheme Design Considerations: Incorporating universal toilets and changing facilities in new developments, ensuring that they do not discriminate against anyone and provide self-contained cubicles that open directly off a circulation space. Cost Planning/Budgeting/Resourcing: Factoring in the cost of implementing gender-neutral facilities in new projects, including the potential need for additional space and resources, including identifying funding/investment that will enable realisation of plans. Stakeholder Engagement/Consultation: Engaging with stakeholders, including patients, service users, carers and staff, to gather feedback on the proposed changes and ensure that their needs and concerns are addressed. Staff Training/Awareness: Providing

training to staff on the updated legal definition of sex and the implications for accommodating trans individuals, ensuring that they are aware of the new policies and procedures. Conducting awareness campaigns to inform patients and service users about the changes and the availability/locations of gender-neutral and gender-specific facilities. Recognising the practical and financial implications of implementing the new guidance in the NHS is critical, the challenges and costs associated with adapting the existing estate and new projects will be considerable.

What about maternity services? Would we have to accommodate trans men separately now? Not sure if we have the facilities/staff to do this?

Estates, Accommodation & Capital Schemes Changes

- **Gender-Neutral Facilities:** Implementing gender-neutral toilets and changing rooms to ensure that trans individuals have access to appropriate services. This includes converting/modifying existing facilities to self-contained cubicles with their own basins inside.
- **Separate Facilities:** Providing separate male, female, and gender-neutral facilities to avoid indirect discrimination claims from women who may not feel safe in gender-neutral facilities.
- **Signage and Communication:** Updating signage and communication materials to clearly indicate the availability of gender-neutral facilities and ensure that all patients and service users are aware of the changes and updated locations of facilities.
- **Capital Scheme Design Considerations:** Incorporating universal toilets and changing facilities in new developments, ensuring that they do not discriminate against anyone and provide self-contained cubicles that open directly off a circulation space.
- **Cost Planning/Budgeting/Resourcing:** Factoring in the cost of implementing gender-neutral facilities in new projects, including the potential need for additional space and resources, including identifying funding/investment that will enable realisation of plans.
- **Stakeholder Engagement/Consultation:** Engaging with stakeholders, including patients, service users, carers and staff, to gather feedback on the proposed changes and ensure that their needs and concerns are addressed.
- **Staff Training/Awareness:** Providing training to staff on the updated legal definition of sex and the implications for accommodating trans individuals, ensuring that they are aware of the new policies and procedures. Conducting awareness campaigns to inform patients and service users about the changes and the availability/locations of gender-neutral and gender-specific facilities.

Recognising the practical and financial implications of implementing the new guidance in the NHS is critical, the challenges and costs associated with adapting the existing estate and new projects will be considerable.

Also, we can't just have gender neutral facilities as women can say it's indirect discrimination if there are only mixed sex facilities.

34. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the new section on justification for separate and single-sex services is clear.

● Strongly Agree	3
● Agree	2
● Disagree	0
● Strongly Disagree	2
● Do not know	1

Split response between strongly Agree and strongly disagree – although answers had been recorded for all options.

Trans people are being disadvantaged as they are now prohibited from using services of their acquired sex

35. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Concern Over Trans Inclusion in Binary Framework

Example 13.3.12 – is this not taking facilities away from disabled people as making a disabled facility mixed sex means that everyone is now allowed to use it, yet it would be designed specifically for disabled people where the additional size (for wheelchairs) and features (including rails, emergency call buttons, changing facilities) that they need are not available elsewhere. We need stronger examples of how organisations can provide gender neutral facilities.

- One detailed response raised a strong concern that the guidance under section 13.3.2 fails to adequately consider the privacy, dignity, and safety of trans individuals, particularly trans men who may be expected to use women’s spaces under the updated legal definition of sex.
- The respondent argued that the current binary structure of the guidance leaves trans people without appropriate options, creating discomfort both for them and for others.
- They requested clear examples and strategies to prevent discrimination against trans people within these settings and urged for recognition of non-binary and gender-diverse identities.

General Satisfaction

This feedback reinforces a broader theme: while some staff find the legal wording clear, others believe it lacks inclusive nuance, particularly where real-world scenarios for trans and non-binary individuals are concerned.

36. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Legal and Policy Alignment

- A response reaffirmed the organisation’s commitment to adhere to legal requirements and updated guidelines, ensuring procedures remain compliant with the code of practice.

37. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the new content on policies and exceptions for separate and single-sex services is clear.”

• Strongly Agree	2
• Agree	2
• Disagree	1
• Strongly Disagree	1
• Do not know	2

Responses were mixed. All options had an equal response rate

1. Training needed for our HCSW and Registered Nurse staff as well as linking with our university colleagues about our undergraduate training to ensure the specifics on asking about gender at birth are in keeping with dignity and respect for all our patients.
2. Single sex services will need consideration, and we would await national steers on managing these so that they are clear for our population also.
3. Policies, procedures will need reviewing and these would be best considered on an all-Wales basis and informed by the NMC guidance where possible, we would also look for CNO guidance.
4. The mandatory training on sexual orientation and gender reassignment would also be considered and may well alter the online learning.
5. This guidance is only for service providers, need to have guidance for employers too
6. Will there be guidance specifically for the Workforce

38. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Requests for More Relevant Examples

- We recommend including a clinical example involving a trans patient, suggesting this would enhance clarity and relatability for healthcare settings.

No Suggested Changes

39. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Legal Compliance

- The most prominent suggestion was that the organisation should ensure alignment with updated laws and official guidance, reinforcing its duty to uphold the legal framework introduced by the code. Also the Chief Nursing Officer for Wales has been working on

guidance for single sex accommodation so we need to have guidance that aligns with the Supreme Court ruling, to inform policy.

No Anticipated Adjustments

40. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the updated section on separate or single-sex services in relation to gender reassignment is clear.”

● Strongly Agree	2
● Agree	2
● Disagree	0
● Strongly Disagree	2
● Do not know	2

Responses were mixed. All options had an equal response rate

41. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Concern Over Exclusion and Inconsistency

- A detailed response raised strong objection to the example in section 13.5.5, which suggests a trans man may be excluded from a women-only service due to his appearance, despite being legally female. This could result in a person being excluded from both MALE and FEMALE services.
- The concern is that this creates a “no-win” scenario: unable to access male-only services due to legal sex and now barred from female-only spaces due to presentation — effectively excluding trans people from both categories.
- The respondent found this deeply at odds with principles of equality, inclusion, and human rights, urging the guidance to avoid legitimising exclusion based on appearance or public discomfort.

Critique of "Presentation-Based" Judgements

- In section 13.5.6, the example focuses on how a trans person presents, particularly whether their presence might cause distress to others.
- Feedback here challenged this framing, noting that services should centre on the needs and rights of the trans person, not others’ perceptions.
- Another valid point: cisgender people may also “present” in ways that challenge gender norms, yet they are unlikely to face the same scrutiny or exclusion.

Request for More Inclusive Examples

- The response calls for better representation of trans realities in the examples used and urges the guidance to consider actual service needs rather than assumptions based on appearance. **Especially NHS based examples.**

General Satisfaction

42. What changes might your organisation make as a result of this update to the code of practice? This answer can be no longer than 1000 words.

Legal and Policy Compliance

- One respondent stated the organisation should adhere to applicable laws and updated guidance, reinforcing a consistent theme across responses of aligning policy and practice with legal expectations but in doing so we run the risk of discrimination against those with the protected characteristic of ‘sex’ or those under the protected characteristic of ‘gender reassignment’. The guidance needs to be very clear as we will need to change policies and practices.

No Planned Changes

43. To what extent do you agree or disagree with the following statement: “The explanation of the legal rights and responsibilities set out in the updated content on communal accommodation is clear.”

• Strongly Agree	1
• Agree	2
• Disagree	2
• Strongly Disagree	1
• Do not know	2

Responses were mixed. All options had an equal response rate

44. Is there anything you would change to make the explanation of the legal rights and responsibilities in this update clearer?

Desire for Illustrative Examples

- The section would be easier to understand with more examples, indicating that real-world scenarios could help contextualise complex legal concepts and enhance accessibility for staff.

General Satisfaction

Examples provided are generally quite poor. They do not offer advice or guidance for more complex settings such as health care setting and are usually simple examples that are not transferable. A common theme highlighted across our feedback is the poor quality of the examples used.

45. What changes might your organisation make as a result of this update to the code of practice? For example, any changes to your policies, procedures or practices.

Inclusive Design of Communal Accommodation

Strong emphasis was placed on providing gender-neutral options across patient and staff accommodation, including:

- Self-contained cubicles with private basins for privacy and accessibility.
- Separate male, female, and gender-neutral spaces to meet varied comfort and safety needs.

Cost, Space, and Resourcing Challenges

Respondents flagged significant financial pressures in implementing such changes:

- Retrofitting aged estates is costly and difficult to accommodate within already oversubscribed capital budgets.
- Space restrictions and layout limitations would need to be overcome.
- Additional revenue funding would be required for staff training and monitoring.

Allocation Policy and Risk Management

Proposals included:

- Revising allocation policies to ensure decisions based on sex or gender reassignment are proportionate and justified.
- Individualised risk assessments to prevent assumptions or stereotyping in accommodation decisions.

Enhancing Privacy and Dignity Infrastructure

Infrastructure upgrades suggested:

- Solid-door bathrooms, soundproofing, and floor-to-ceiling partitions.
- Private changing areas to reduce discomfort in communal settings.

Training and Equality Impact Assessment

Recommendations to:

- Deliver updated staff training across HR, facilities, and estate planning teams.
- Conduct robust equality impact assessments on all new and refurbished projects.

Stakeholder Engagement

- Plans to consult staff networks, union reps, and equality leads to gather input on practical needs and potential risks.
- Audit current facilities for gaps or areas for improvement.

Legislative Compliance

- Alongside all proposed initiatives, responses reaffirmed the organisation's intent to adhere to applicable laws and guidance.

Inclusive Design of Communal Accommodation

- Ensure gender-neutral accommodation options are available for patients, including gender-neutral toilets and changing rooms to ensure that trans individuals have access to appropriate services. This includes converting existing facilities to self-contained cubicles with their own basins inside.
- Separate Facilities: Providing separate male, female, and gender-neutral facilities to avoid indirect discrimination claims from women who may not feel safe in gender-neutral facilities.
- Cost implications - Factoring in the cost of implementing gender-neutral facilities in new projects and through retrofitting aged estate is unpredictable and costly. The cost of

such a significant transition across all patient areas and wards of our estate cannot be accommodated within existing capital budgets which are already oversubscribed.

- Restricted space – there would be a greater need for additional space across all health board clinical and non-clinical accommodations
- Policing – the health board will require additional revenue funds for upskilling and staffing to ensure monitoring and compliance across all our residential estate.
- Increase availability of self-contained, single-occupancy rooms with en-suite facilities in staff and patient accommodation blocks to avoid the need for gender segregation altogether.

Review and Adapt Allocation Policies

- Revise accommodation allocation procedures to ensure decisions based on sex or gender reassignment are fully justified, proportionate, and compliant with the updated guidance.
- Completion of risk assessments, ensuring they are individualised and evidence-based, not based on assumptions or stereotypes.

Privacy and Dignity Measures

- Increased need and investment into privacy infrastructure such as solid-door bathrooms, floor-to-ceiling partitions, and enhanced soundproofing, which can support dignity across all genders.
- Increased access and space for private changing facilities where communal facilities might otherwise present a challenge.

Training and Operational Guidance

- Update staff training for estates, facilities, HR and accommodation services to reflect the new guidance, including legal responsibilities and practical implementation.
- Greater attention/resource required for conducting equality impact assessments across all future capital projects and accommodation refurbishments to ensure compliance.

Consultation and Engagement

- Engage and consult with staff networks (e.g. LGBTQ+ networks), union representatives and equality/diversity leads to understand current needs and risks in communal spaces.
- Conduct assessments/audits of current communal accommodation to identify non-compliance or areas for improvement.

6. Refurbishment and Retrofit

- Significant capital investment required to adapt older estates to meet the Code's expectations—this might include creating flexible or convertible accommodation units.

46. Do you have any other feedback about the content of the code of practice that you have not already mentioned? Include references to specific changes where relevant

Length and Accessibility of the Document

- The code of practice consultation documents are too long and convoluted
-
- **Weakness of Scenario Examples**
- A concern was raised that the current examples are overly simplistic and do not reflect the complexities faced by public sector organisations.
- There is a need for the inclusion of more detailed, realistic case studies, particularly to support application in complex and legacy healthcare environments.

Call for National Standards and Support

- It was suggested that each government should issue standardised delivery frameworks, including best practice guidance tailored to aged estates + single sex accommodation, to ease implementation across diverse public bodies.

Financial and Operational Pressures

Feedback noted that many health boards operate within leased estates, which:

- Restricts flexibility in making structural changes to accommodation.
- May incur added costs when adaptations must later be reversed.
- Places additional financial and resource pressures on already stretched public services.

Estates, Accommodation & Capital Schemes Changes

- The scenario examples provided are extremely weak and respond to the simplest of circumstances. We recommend you provide more complex case studies to ensure the public sector can adapt within a reasonable timeframe using best practice.
- Government must provide standardised guidance and frameworks for delivery of the change required across public bodies, which include best practice examples that are relevant to health boards and estates aged 50+ years.
- Health boards rely on leased accommodations; this will restrict the marketplace and place more financial and resource burden on public bodies to adapt leased estate to meet patient/service user need. It will also place a liability on health boards to remove such facilities when disposing of leased accommodation, thus incurring further costs.
- Training needed for our HCSW and Registered Nurse staff as well as linking with our university colleagues about our undergraduate training to ensure the specifics on asking about gender at birth are in keeping with dignity and respect for all our patients.
- Single sex services will need consideration, and we would await national steers on managing these so that they are clear for our population also.
- Policies, procedures will need reviewing and these would be best considered on an all-Wales basis and informed by the NMC guidance where possible, we would also look for CNO guidance.
- The mandatory training on sexual orientation and gender reassignment would also be considered and may well alter the online learning.
- This guidance is only for service providers, need to have guidance for employers too
- Will there be guidance specifically for the Workforce