



# LGBT+ and the law: A guide for service providers

This factsheet aims to support domestic abuse providers delivering single sex services to become more accessible to survivors with LGBT+ identities. It is an introduction to the relevant Equality Legislation which can feel complex to navigate when you are trying to comply with legislation and develop services to meet best practice.”

In addition to being good practice to make your service inclusive and accessible to all service users, LGBT+ people have specific rights under the law which your service should comply with.

## Who is and isn't protected?

The **Equality Act 2010** protects people from discrimination on the basis of a number of characteristics including:

Sex	Sexual Orientation	Gender Reassignment
<p>This means you cannot discriminate against someone on the basis of them being male, female, or intersex.</p> <p>There are some limited permitted exemptions.</p> <p>See below re: Single Sex Exemptions</p>	<p>This covers any sexual orientation e.g. gay / bi / pan / asexual</p> <p>Specific sexual behaviour is not covered by the act</p> <p><i>e.g. You would be protected from discrimination on the basis of being gay, but not due to having a foot fetish</i></p>	<p>Gender reassignment protections cover anyone who propose to, has started or has completed a process to change gender.*</p> <p>There is no explicit protection under the act for non-binary people, however they may be protected in some instances due to also undergoing or being perceived to be undergoing gender reassignment.</p>

\* Note: There is no requirement to have undergone any medical procedure or obtained a GRC (Gender Recognition Certificate) to be protected under this category.

**Note:** All of the above protections apply to **actual or perceived** characteristics.

*E.g. If you discriminated against someone on the grounds that you thought they were gay, it would not matter if they are actually gay or not, they would still be protected*

All of the above characteristics and others protected under the act (Age, Disability, Marriage / Civil Partnership, Pregnancy / Maternity, Race, Religion or Belief) have equal status under the law.

## Single Sex Exemptions

**Under normal circumstances, in the case of single or separate sex services, trans people should be treated in accordance with their gender and access the services most appropriate for them.**

However, in limited circumstances, there are exceptions to this. Guidance to the limited situations where this may be applied are given in “*Services, Public Functions and Associations: Statutory Code of Practice*” (EHRC, 2011) which states that *service providers can provide a different service, or exclude a trans person, but this will only be lawful “where the exclusion is a proportionate means of achieving a legitimate aim”*. To clarify the nature of this exception, it says, “*any exception to the prohibition of discrimination must be applied as restrictively as possible and the denial of a service to a transsexual person should only occur in exceptional circumstances*”.

*Inclusion should be the standard; any exceptions should only occur in exceptional circumstances. It would not be ‘proportionate’ or ‘legitimate’ to have blanket bans on access, any exception should be looked at on a case by case basis and only used as a last resort where other options have been exhausted. The EHRC guidance also states “the provider will need to show that a less discriminatory way to achieve the objective was not available”.*



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## Other Legislation

In addition to the Equality Act 2010, LGBT+ people have other legal protections including:

### Sex Discrimination (Gender Reassignment) Regulations 1999

The act which made it illegal to discriminate on grounds of gender reassignment in the areas of employment and vocational training.

### Equality Act (Sexual Orientation) Regulations 2006

Outlaws discrimination in the provision of goods, facilities, services, education and public functions on the grounds of sexual orientation.

### Sex Discrimination (Amendment of Legislation) Regulations 2008

Amendment to the protections to cover discrimination in goods, facilities and services.

### Criminal Justice and Immigration Act 2008

Amended the Public Order Act 1986 to include hatred on the grounds of sexual orientation.

### Gender Recognition Act 2004

The act which allows trans people to amend the gender on their birth certificate via the acquisition of a Gender Recognition Certificate.

Note: All other documents including passports and driving licences can be changed without the need for a Gender Recognition Certificate.

### Policing and Crime Act 2017

Granted pardons for those convicted of the historic abolished offences of buggery, sodomy and/or gross indecency between men.

## Best Practice

It is important to recognise that the law has some way to go in offering full legal protection from discrimination, especially for non-binary and/or intersex people who currently have minimal legal recognition or protection. In terms of best practice for working with LGBT+ people (as with other groups) they should be approached from a perspective of respect, inclusion and reasonable adjustment where necessary, rather than legal minimums.



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