

21/01/2026

Dear Worcestershire County Council,

1. We are writing with regard to a proposed Motion which would require that Worcestershire County Council ("the Council") excludes trans women from using women's facilities and services. This proposed policy would be unlawful.
2. In the Notices of Motion, published on 15th January 2026, the Notice of the second Motion states the following:

*"This Council recognises that on 16 April 2025, in the case of "For Women Scotland v The Scottish Ministers", The Supreme Court of the United Kingdom held that the terms "man", "woman" and "sex" in the Equality Act 2010 refer to biological sex.*

*This Council also recognises that to act in accordance with this ruling, Worcestershire County Council must ensure access to its single-sex facilities and services for women is reserved exclusively for biological women.*

*This Council resolves to confirm, through the relevant Cabinet Member, that Worcestershire County Council is compliant with the Equality Act 2010 in respect of access to its single-sex facilities and services for women."*

3. It is a misstatement of the law following the decision of the Supreme Court in *For Women Scotland* to state that single-sex facilities and services for women may only be provided on the basis of biological sex. Although the decision concerns the definition of 'sex' for the purposes of the Equality Act 2010, it does not determine the basis on which facilities and services should be provided.
4. Indeed, the Supreme Court was at pains to emphasise that its decision " would not have the effect of disadvantaging or removing important protection under the EA 2010 from trans people" [248]. Furthermore, in an interview with *The Times*, Lord Hodge, one of the Supreme Court justices who decided the case, stated that the case did not at all concern how or where single-sex spaces should be created.

5. This was the conclusion of two recent Employment Tribunal decisions, which considered the law concerning single-sex spaces, namely toilets and changing rooms, following the decision of the Supreme Court. In both *Kelly v Leonardo UK* and *Peggie v Fife Health Board*, the tribunals concluded that it is not required, as a matter of law, to exclude trans women from single-sex facilities and services for women.
6. It is also the Government's legal position that single-sex facilities and services for women are not required to exclude trans women. This was the position adopted by the Minister for Women and Equalities in a recent challenge before the High Court.
7. The proposed Motion would also require the Council to act unlawfully. It is unlawful under the Equality Act 2010 to discriminate against a person on the basis of the protected characteristic of gender reassignment, including trans women. Any blanket ban against trans women using single-sex facilities and women's services, including, for example, toilets, would amount to unlawful indirect discrimination under the Act.
8. A requirement that trans women only use facilities or services which align with their 'biological sex' would put trans women at a particular disadvantage when compared with those without the protected characteristic of gender reassignment.
9. In the proposed motion, there is no suggestion that such a ban would be justified as a proportionate means of achieving a legitimate aim. Instead, it is simply premised on the false assertion that such an exclusion is required as a matter of law. Indeed, there does not appear to have been any consideration as to the discriminatory and disproportionate impact that such a policy would have on trans women.
10. The Council, as part of its Public Sector Equality Duty, is also required to have "due regard" to the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
11. When having due regard to the need to advance equality of opportunity, the Council must also have due regard to the need to:

- a. have regard to the need to remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic;
  - b. take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - c. encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
12. If the proposed Motion is adopted, the Council will have unlawfully failed to comply with this duty.
13. The proposed policy would be incompatible with Article 8 (the right to respect for private and family life) and/or Article 14 (protection from discrimination) of the European Convention on Human Rights. This is because such a blanket ban would unjustifiably interfere with the rights of trans people.
14. It is unlawful for a public authority, such as the Council, to act in a way which is incompatible with a Convention right, under the Human Rights Act 1998. The Council would therefore act unlawfully if they were to adopt the proposed policy.
15. For the reasons outlined above, the Council will be acting unlawfully if it proceeds to adopt the policy in the proposed Motion. In adopting such a policy, the Council will therefore be susceptible both to Judicial Review proceedings, as well as discrimination and/or harassment claims brought under the Equality Act 2010.
16. Please confirm by return that this unlawful policy will not be adopted.

Kind regards,

**Good Law Project**

*Good Law Project*