


Supreme Court ruling on trans women: What schools need to know

22 April 2025  Vicky Wilson and Heather Mitchell

Schools should continue to foster an inclusive environment following a landmark decision in the Supreme Court on the legal definition of a woman, say lawyers

What is the ruling?

The Supreme Court's decision in *For Women Scotland v The Scottish Ministers* (FWS) has clarified the definitions of 'sex', 'man' and 'woman' for the purposes of the Equality Act 2010 as being based on biological sex.

This interpretation contrasts with the previous understanding endorsed by the Equality and Human Rights Commission, which suggested sex for the purposes of the Equality Act could be changed by a gender recognition certificate (GRC).

This was introduced by the Gender Recognition Act 2004 but as a GRC is only obtainable by people aged over 18, it doesn't affect the vast majority of pupils in a school.

This decision marks a significant shift as many educational institutions have developed policies under the former interpretation.

What should schools do?

Senior leaders and governors should pause and understand their organisation's position before reacting to the ruling.

It's clear they will need to review their policies regarding gender identity and inclusion to ensure they align with the legal definitions as clarified by the Supreme Court – but ensuring they get this response right and any policy changes are appropriately measured is crucial.

There is no direct impact from the judgment on single-sex school admissions policies because the law has never enabled a person aged under 18 to change their sex.

However, the decision confirms some technical points regarding gender reassignment discrimination that are likely to mean single-sex schools can be more confident in relying on the relevant exemption in the Equality Act.

What about single-sex toilets?

The use of single-sex spaces, such as toilets and changing rooms, in schools may need re-evaluation.

Schools should consider the safety, privacy and dignity of all students while seeking ways to accommodate everyone's needs, which may be challenging, especially in older buildings with limited facilities.

Regulations for both maintained schools and academies mandate that they must provide sex-separated toilets for groups of pupils aged eight and over, as well as suitable changing facilities for over-11s.

The most challenging scenario facing a school may involve trans pupils whose biological sex is not common knowledge among other pupils and staff. A solution in this case may involve using unisex facilities.

Schools taking pupils on residential trips may also need to consider accommodation arrangements for trans pupils, who along with their parents should be involved in decision to ensure they receive full support.

The court ruling also directly impacts policies regarding trans participation in gender-specific sports competitions.

Schools should review their sports and PE policies to ensure they align with the new legal interpretation.

Broad guidance followed by many schools until now has encouraged consideration of the full context regarding activities and their participants when determining separation between male and female pupils. However, the Supreme Court judgment takes a firmer stance that implies gender-affected sports are clearly divided as such.

We expect sports governing bodies will issue new guidance in the coming weeks to provide clarity for each sport.

Continued protections

However, it still remains crucial for schools to foster an inclusive environment that supports all students, including transgender and non-binary students.

The Supreme Court emphasised that trans and non-binary students are still protected under the Equality Act. Notably, the case of *Taylor v Jaguar Land Rover Ltd* supports a broad interpretation of the protected characteristic of “gender reassignment”.

These protections extend to preventing discrimination, harassment and victimisation based on actual or perceived sex, or association with a sex. Ensuring safety and safeguarding trans and non-binary students against harm remains paramount.

In a highly politicised and emotionally charged area such as sex, gender and trans inclusion, schools must be clear that any mistreatment based on these characteristics or associated protected beliefs is unacceptable and will be addressed promptly and sensitively.

So, schools may wish to strengthen specific provisions in anti-bullying policies to protect transgender and non-binary students – ensuring policies are enforced and students understand the consequences of discriminatory behaviour.

And they should explore alternative strategies to promote inclusion and participation in all aspects of school life.

Employment law considerations

Despite having a narrow remit on the definition of sex, the Supreme Court went to great lengths to emphasise its conclusion doesn't remove important protections for trans people under the Equality Act, which states that employees must not be discriminated against because of gender reassignment.

This is defined broadly as a person proposing to undergo, undergoing or having undergone a process to reassign their sex. Importantly, a person doesn't need a GRC to qualify for this protection.

This protection from direct and indirect discrimination, as well as harassment, applies to employment offers, terms and opportunities for promotion or other benefits. In some circumstances, it may also be possible for a trans individual to bring a sex discrimination claim because they've been perceived to be a particular gender.

Final thoughts

FWS does not, in our view, signal a dramatic U-turn in public policy on diversity, equity and inclusion.

The Supreme Court, in its precise and nuanced judgment, has taken the opportunity to reiterate the importance of equal opportunities legislation and of continued commitment to addressing unlawful discrimination in the workplace.

But the implications may affect ongoing disputes or policies. Schools should review current cases and policies to assess their impact and adjust strategies accordingly, while anticipating questions and possibly challenges from students, parents and external bodies regarding their policies on trans inclusion.

Training staff and educating the school community about the implications of this case and any policy changes is therefore vital. It's hoped further clarity will arrive with new government guidance.

Transparency and good communication will help manage expectations, and clarify the school's stance on inclusion and compliance with the law.

Available support for schools

By addressing these key issues, schools can navigate the legal landscape effectively while continuing to provide a safe and inclusive environment for all students.

We're here to help. Our teams have expertise across education, equality, employment and sports law, and we're well-equipped to support schools in navigating these changes. We can assist in developing or revising equality policies and responding to legal challenges or claims.

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