



Women-only services: making the case

A guide for women's organisations

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Understanding and supporting
women and their organisations

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About the Women's Resource Centre

The Women's Resource Centre (WRC) is a unique charity which supports women's organisations to be more effective and sustainable. We provide training, information, resources and one-to-one support on a range of organisational development issues. We also lobby decision makers on behalf of the women's not-for-profit sector for improved representation and funding.

Our members work in a wide range of fields including health, violence against women, employment, education, rights and equality, the criminal justice system and the environment. They deliver services to and campaign on behalf of some of the most marginalised communities of women.

There are over ten thousand people working or volunteering for our members who support almost half a million individuals each year.

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About this guide

Many women's organisations have been challenged about their women-only services even though the Sex Discrimination Act (1975) and the Gender Equality Duty clearly stated that single-sex services were lawful, and even preferable under many circumstances.

The recent Equality Act (2010) does not change this. However, because the Act covers a greater number of groups of people who are protected from discrimination, we are concerned that there may be further confusion amongst public bodies as to the legality of women-only services.

This guide outlines the current legal and policy position in relation to separate- and single-sex services. It also signposts readers to organisations and resources that can help women's organisations make the case for such vital services.

Disclaimer: This guide is not intended to provide definitive legal advice. At the time of publication, all care was taken to ensure the information contained in this guide was accurate and correct. However, laws do change and data and contact details can become quickly outdated. Please always check information to ensure it is correct and up-to-date at time of use. If in doubt, seek legal advice. The WRC cannot take responsibility for changes to information in this guide.

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The Equality Act (2010)

The new Equality Act (2010) brings together and simplifies equality and anti-discrimination legislation, duties and regulations including the Gender Equality Duty, which was introduced under the Equality Act (2006), and the Sex Discrimination Act (1975) and its amendments amongst many others.

The Act gives protection from discrimination to a wider range of groups of people and a wider range of circumstances. The nine "protected characteristics" covered by the Act are:

- Age.
- Disability.
- Sexual orientation.
- Marriage and civil partnership.
- Gender reassignment (with a wider definition than previously).
- Race.
- Religion or belief.
- Sex.
- Pregnancy and maternity.

Protection from discrimination

For eight of the nine protected characteristics (except marriage and civil partnership), the Act prohibits direct discrimination, indirect discrimination, harassment and victimisation. The Act also prohibits discrimination arising from a failure to make reasonable adjustments for disabled people. The protection against discrimination and other unlawful conduct applies to:

- All aspects of employment (including contract workers, public office, qualifications bodies and trade unions and equal pay between women and men).
- The provision of goods, facilities and services (e.g. voluntary and community sector services).
- Carrying out public functions.
- Education (including schools and further and higher education).
- Disposal and management of housing and other types of premises.
- Associations (including clubs and political parties - the provisions extend protection in private clubs to sex, religion or belief, pregnancy and maternity, and gender reassignment).

Public Sector Equality Duty

Potentially, the most important part of the Equality Act (2010) for women's organisations is the new Public Sector Equality Duty, which came into force in April 2011. The Duty, which now replaces the Gender Equality Duty, applies to the eight protected characteristics (as above, excluding marriage and civil partnership).

The Duty has two parts:

1. A General Duty which requires public bodies (and others that are contracted to carry out public functions) to eliminate discrimination and promote equality in broad terms; and
2. The Specific Duties provide detail as to what public bodies must do to meet their General Duty.

General Duty

The Duty applies to all public bodies that are listed in Schedule 19 of the Act and to other bodies and others that carry out public functions (e.g. voluntary and community sector organisations). The list includes ministers and central government departments, local councils, police authorities, NHS trusts, primary care trusts, governing bodies of maintained schools and institutions of further and higher education.

They are required to pay due regard to the need to:

- Eliminate discrimination, harassment, victimisation and other conduct that is unlawful under the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not. The Act indicates that the “need to advance equality of opportunity” includes:
 - Removing or minimising disadvantage suffered by particular groups
 - Taking steps to meet different needs of particular groups
 - Encouraging participation by particular groups in areas of public life or other activity where they are under-represented; and
- Foster good relations between persons who share a protected characteristic and those who do not. The Act specifies that the “need to foster good relations” includes the need to tackle prejudice and promote understanding.

Specific Duties

The Specific Duties set out obligations that public authorities will be expected to meet in order to fulfil their General Duty. However, their primary obligation is to meet the General Duty. The purpose of the Specific Duties is to ensure better performance of the General Duty.

The draft Specific Duties relating to the Public Sector Equality Duty differ significantly from the previous legislation such as the Gender Equality Duty. For example, under the old Gender Equality Duty, public authorities were required to prepare a Gender Equality Scheme, gather and use information, consult stakeholders, assess impact, implement the actions set out, report and review the scheme – *these measures have been removed* under the new Public Sector Equality Duty.

The Specific Duties require public authorities to:

- Set one or more Equality Objectives that are specific and measurable. There is *no requirement* for public bodies to set objectives *on each* of the protected characteristics, nor for each of the three aims of the General Duty. Objectives can be set according to the priority issues for that authority and where need is identified. There is a large amount of discretion in relation to how to meet obligations under the General Duty and there are no prescribed processes. The emphasis is on outcomes as opposed to process. However, there is no duty for public authorities to fulfil their objectives after they have been set (despite the duty to review every 4 years); and
- Publish information to demonstrate its compliance with the General Duty, including information relating to persons who share a relevant protected characteristic (including on employees for public authorities with more than 150 employees) to demonstrate how the public body has furthered the aims of the general duty. Public authorities must ensure that the information published is accessible.

It is unclear how the General and Specific Duties will be implemented and interpreted in practice. The stronger General Duty suggests that fulfilling the duty will require public authorities to follow robust processes (despite there being no explicit legal requirement) and the voluntary and community sector has a role to play in arguing this.

The EHRC has produced very helpful guidance on the Public Sector Equality Duty: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/the-new-public-sector-equality-duty/>

Positive action

The Act recognises that some equality groups (e.g. women) are disadvantaged in some areas of life as a consequence of past or current discrimination and exclusion.

The Act enables public, voluntary and community and private sector employers and providers of services to take steps to help particular groups overcome disadvantage, meet needs that are different from the needs of other groups or increase participation.¹

Therefore the Act makes it lawful to take positive action measures that involve different treatment of different equality groups which would otherwise be unlawful. This could include women-only services. However (particularly in relation to public authorities), implementing positive actions is *voluntary* not compulsory.

¹ Service providers include public authorities, schools and colleges, housing providers and associations.

For positive action measures to be considered lawful three conditions must be satisfied:

1. The employer or service provider must reasonably think that the group in question suffers a disadvantage, has different needs, or has a disproportionately low level of participation;
2. The employer or service provider takes action with the aim of enabling or encouraging the group to overcome or minimise their disadvantage, meeting their needs, or enabling or encouraging participation; and
3. The action is a proportionate means of achieving that aim - that is, that the action is both appropriate and necessary to achieve the aim.

Action that involves different treatment that *does not meet all three conditions* is likely to be unlawful.

Women-only services

Previous laws contained a large number of exceptions to non-discrimination (e.g. Sex Discrimination Act). The Equality Act (2010) simply extends some existing exceptions, modifies or merely restates other exceptions.

The Equality Act 2010 makes it clear that women-only (and girl-only) services are legal and appropriate in certain contexts; it is still legal and appropriate for public authorities to fund (and provide) women- services. This means that if a voluntary and community organisation normally provides services for one equality group only, it is lawful to continue to do so. Nothing has changed in this regard under the Equality Act.

The Equality Act should not be interpreted to mean that both sexes should be treated the same.

Single-sex services are permitted *where it can be shown to be the most effective way of providing those services* or where the service is needed by one sex only.²

The Act does *not* allow discrimination by an association with 25 or more members and who have some form of selection of its members. However, a club or association *may* restrict their membership to one equality group only but cannot restrict membership to a group defined by colour. Under the Act an association could be only for retired women or only for retired Afro-Caribbean women, but it could not be an association for retired Black women as this would be based on colour.³ Religion or belief organisations, other than those whose main purpose is commercial, may, subject to specified conditions, restrict who can be a member or who can participate in its activities based on a person's religion or belief or their sexual orientation. However, it is *never lawful* to impose restrictions based on sexual orientation where the religion or belief organisation is *carrying out a contract with a public authority*.⁴

² Equality Act 2010, Schedule 3, Part 7

³ Equality Act 2010, Schedule 16, Paragraph 1(3)

⁴ Equality Act 2010, Schedule 3, Part 4, Paragraph 18

A charity may provide benefits to one equality group, *other than a group defined by colour*, but:

- Only if this is within its charitable instrument (e.g. constitution); and
- It is a proportionate means of achieving a legitimate aim; or
- Is for the purpose of preventing or compensating for a disadvantage linked to that equality group.⁵

Occupational Requirements

Under the Equality Act 2010, it is unlawful for men or women to receive less favourable treatment in employment because of their sex or marital status – or indeed, to treat anyone with a protected characteristic unfavourably. However, in very limited circumstances, Schedule 9 of the Act provides an exception to this.

The Act states⁶ that it is lawful to have a requirement to have a particular protected characteristic, if, having regard to the nature or context of the work—

(a) it is an occupational requirement,

(b) the application of the requirement is a proportionate means of achieving a legitimate aim

Under the Act, it is lawful to discriminate in recruitment, training, promotion and transfer in a job for which the sex of a worker is an occupational requirement. Most women's organisations that provide front-line services to vulnerable women (e.g. survivors of domestic or sexual violence) are able to recruit only females under this.

When recruiting for female-only staff etc, it would be advisable to cite this section of the Act (Equality Act 2010, Schedule 9, Part 1, Paragraph 1), as would have happened under previous legislation (Employment (Sex Discrimination) Regulations 2005). The previous legislation has been replaced by the provisions in the Equality Act 2010.

What about trans people and women-only services?

Generally, you are not allowed to discriminate against people who have the protected characteristic of "gender reassignment" (i.e. trans people).

However, the Act does contain an exception to this rule in relation to the provision of separate- and single-sex services. An example included in the Explanatory Notes of the Act is of a group counselling session provided for female victims of sexual assault, where clients attending the group session are unlikely to do so if a

⁵ Equality Act 2010, Schedule 3, Part 7

⁶ Equality Act 2010, Schedule 9, Part 2, Paragraph 1

male-to-female trans person was there. In this example, exclusion of trans people would be lawful.

However, such treatment (by the provider of the service)⁷ must be :

- Objectively justified; and
- a proportionate means of achieving a legitimate aim.

This exception must be applied as restrictively as possible. The denial of a service to a trans person should only occur in exceptional circumstances. Decisions about services and the exclusion of trans people should be applied on a case-by-case basis in order to determine whether the exclusion of a trans person is proportionate in the individual circumstances.

Service providers will need to balance the needs of the trans person and the detriment to them if they are denied access the service, against the needs of other service users and any detriment that may affect them if the trans person has access to the service. You would need to show that a less discriminatory way to achieve the objective was not available.

It is important to note that challenges to a women-only service by a trans person has not been tested in court and as such there is no case law to provide further guidance. However, there has been a case in Canada.

Kimberley Nixon, a trans woman, approached the Vancouver Rape Relief (VRR) and Women's Shelter in 1995 seeking to be part of the training programme. Nixon was not accepted onto the programme, and made a Human Rights Complaint about this. As a result VRR offered Nixon an apology and offered her a place on the fundraising group. These offers and requests were not accepted.

In 2002, the British Columbia Human Rights Tribunal heard Nixon's complaint of discrimination and this was upheld. The tribunal found that VRR had acted in good faith towards Nixon but had not proved that life experience as a girl and woman was a necessary prerequisite to becoming a peer counsellor. Damages of \$7,500 were awarded to Nixon.

In 2003, The British Columbia Supreme Court conducted a judicial review of the Tribunal decision based on VRR's application for review. The Supreme Court set aside the decision of the Tribunal, and found that the Tribunal had made an error in deciding that VRR had discriminated against Nixon. In 2005, Nixon appealed to the British Columbia Court of Appeal. The court decided that the VRR had the right to train women who had the shared experience of being 'oppressed since birth' as a result of being born and raised female.

In 2007, Nixon's leave to appeal was dismissed. VRR won the case, under s.41 of Human Rights code (group rights exemptions) which meant they could determine the criteria for membership to their organisation.⁸

⁷ Equality Act 2010, Schedule 3, Part 7, Paragraph 28

⁸ Cited in WRC (2009) *Trans awareness for women's organisations*. WRC: London.
http://www.wrc.org.uk/includes/documents/cm_docs/2009/0/5_090915_trans_briefing.pdf

In relation to employment

Again, the Act says that you generally cannot discriminate against trans people but there is an exception to this rule. The Act provides a general exception to what would otherwise be unlawful direct discrimination in relation to work; this includes an exception relating to the requirement of not being a transsexual person.

The requirement:

- Must be crucial to the post, and not merely one of several important factors;
- Must not be a sham or pretext; and
- Must be proportionate so as to achieve a legitimate aim.

The burden of showing that the exception applies rests on those seeking to rely on it. This means that you must be able to prove all of the above. You can not automatically exclude trans people.

An example included in the Explanatory Notes to the Act includes a counsellor working with victims of rape who might have to be a woman and not a transsexual person, even if she has a Gender Recognition Certificate, in order to avoid causing the victims further distress.

There is no guidance on what to do if someone is transitioning during employment, for example, if they have been recruited as a woman under an occupational requirement and they are transitioning to being a man. It would still be lawful to insist that the person in the post is a woman. Transitional arrangements should be made and discussed with the employee in question, local trans groups may be a source of information or advice.

What about volunteering?

The Equality and Human Rights Commission has issued Guidance in relation to volunteers. Depending on the type of contract, they may either be counted as employees or service users.⁹ As a general rule, you should avoid discriminating against volunteers in the same way you would employees or service users.

Trans people experience inequality and prejudice on a daily basis. It is crucial that women's organisations act lawfully and do not discriminate against trans people, particularly in regard to women-only services and employment. For more information on protection from discrimination for trans people under the Equality Act (2010) see WRC's briefing *Women's organisations and trans people: acting lawfully* which is available at:
http://www.wrc.org.uk/resources/briefings_and_consultations/past_briefings_and_consultations/equalities/lesbian_gay_bisexual_and_trans.aspx

⁹ <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-service-providers/what-equality-law-means-for-your-voluntary-and-community-sector-organisation-including-charities-and-religion-or-belief-organisations/how-your-organisation-should-treat-volunteers/>

Other legal and policy instruments

Public law

Public bodies carry out a wide range of public functions such as funding the VCS, welfare benefits and housing. These functions must be delivered following a clear, open and fair process. Public law is the set of legal rules which ensure that bodies carrying out public functions follow such processes. The principles of public law can be summarised that public bodies must:

- Act lawfully;
- Act fairly; and
- Decisions must not be perverse or irrational.

The way in which the courts look at public law differs from private law. We are used to the courts deciding, in a private law case such as a contract dispute, who is in the right and who must pay. In a public law case, the courts will only look at how public bodies behave and whether the court should intervene to correct this behaviour.

There is also a difference in the way private and public law cases are brought to court. In a private law case, there are specific requirements as to who can bring the case, e.g. the claimant must be a party to the contract or a person injured in an accident. In a public law case, anyone with sufficient interest (i.e. anyone affected by the decision, action or failure) can bring the case.

Many problems will arise because public bodies think that they can do what they like; they do not realise that they must operate within the principles of public law. These have evolved due to the courts' concerns about public bodies' behaviour; public law provides a check on the power and actions of public bodies.

Acting lawfully

A public body can only make decisions it has the legal power to make. This includes acting within its powers. For example, if a local authority has the power to demolish buildings only for specific purposes (e.g. regeneration or road building), it would be unlawful if it decided to demolish buildings for other reasons.

This principle extends to the way decisions are made. When making any decision, a public body must take account of relevant information. If a public body makes a decision it has the power to make but ignores relevant information, the decision may be unlawful. An example would be where a public body fails to have any regard to certain legal duties, such as the general equalities duties.

Similarly, taking into account irrelevant information may also make a decision unlawful. An example of this may be a local authority making the decision to withhold funding on the basis that it has heard that the group is outside of the law.

If the decision is made based on hearsay rather than an investigation of the facts, then the information may be irrelevant.

Even if a public body has a wide discretion when making a decision, it must still act lawfully in exercising that discretion. When making a decision it must consider the purpose of the power it has been given and act consistently with that purpose. Also, it must not operate a rigid policy which would mean that in reality it is not exercising discretion at all. This is called 'fettering discretion' and is unlawful. An example would be where a local authority has the power to offer financial help to people in certain circumstances (such as with the cost of school uniforms).

It would not be unlawful to have a policy which applied certain criteria so that some people would be refused help. It would be unlawful to have a policy that says that the local authority does not offer help to anyone.

Acting fairly

The duty to act fairly usually means that the public body has to ensure two things:

- That the decision-maker (person or body) has no bias or personal interest in the resulting decision; and
- That those affected by the decision are given a fair hearing.

'Bias' is hard to prove and the courts will usually only find that a decision-maker was biased if s/he had a personal, usually financial, interest in the outcome.

A 'fair hearing' does not necessarily mean an actual hearing but does mean giving to the person affected by the decision notice of any adverse or negative information and a chance to respond or explain before the decision is made. An example would be where a funding body decides to end a community group's funding relying on information about the group's poor performance. The funding body should tell the group about the information they have and give them an opportunity to respond before it makes the decision.

Giving reasons for decisions

Public bodies don't always have to give reasons for all decisions. However, sometimes the law says that reasons must be given, for example, when a local authority makes a negative decision on a homeless application.

In other cases, even where there is no clear legal duty to give reasons, the courts may expect reasons to be given so that those affected by the decision know whether the decision has been made properly or not. An example would be where a public body gives funding to voluntary organisations and offers a right of appeal if a funding application is refused. The voluntary organisation would need to know the reasons for the decision to make the appeal meaningful.

Perverse or irrational decisions

Public law is mostly about the way decisions are made rather than the merits (outcome) of the decision itself. However, if a decision is perverse or irrational – a decision that no rational body could have made – the court may find that the decision cannot stand. This is sometimes called “Wednesbury unreasonableness”, after the case in which this rule was set out by the court. An example of irrationality is seen in the case against Leicester City Council, who had banned a rugby club from playing at its own ground because team members had been on a tour to South Africa during the apartheid regime, the court held that this decision was irrational or unreasonable.

Because this is a very high standard, cases rarely succeed on this basis alone. However, decisions for which there was no evidence at all or which “flew in the face of the evidence” have been held by the courts to be irrational.

The National Equality Partnership led by WRC, produced guidance on using public law specifically for equalities organisations. Although the key equalities duties have now been superseded by the Public Sector Equality Duty, much of the advice and resources are still relevant - please check against this guide to determine which information is still relevant and seek appropriate advice. For further details see: http://www.wrc.org.uk/resources/tools_to_engage_and_influence/using_public_law/default.aspx.

If you think there has been a breach of public law and want to know if you have a case for judicial review, it is important to act promptly. See the final section in this guide on where to get help.

The Compact

Relationships between public bodies and voluntary and community organisations are guided by the principles of The Compact - a voluntary agreement between the Government and the third sector in England.¹⁰ Originally developed in 1999, and amended and renewed by the Coalition Government in 2010, the aim of the Compact is to improve the relationship between the public and third sectors for mutual advantage.¹¹ It sets out guidelines for how both parties should work together to ensure that better outcomes are delivered. There are also local compacts (most councils have a compact with their local third sector. However, the national Compact still applies and should be used together with local compacts.

The Compact is *not legally binding* on either the public or the third sectors. However, according to the Compact Advocacy Team there is a “...legitimate expectation that its signatories (both at the national and local levels) will abide by

¹⁰ The Compact is available to download from: http://www.ncvo-vol.org.uk/sites/default/files/the_compact.pdf. There is also an accompanying *Compact Accountability and Transparency Guide* which provides details of the measures the Government intends to introduce to strengthen The Compact, and who to contact if there has been a breach of The Compact: http://www.ncvo-vol.org.uk/sites/default/files/the_compact_accountability_guide.pdf

¹¹ It is important to note that the previous Compact (before 2010) had a number of codes of practice and guidance attached to it such as working with the Black and minority ethnic VCS, consultation practices, commissioning and procurement. These no longer exist at a national level. However, local public bodies may still have codes of practice and guidance on a range of issues.

their commitments.”¹² In some judicial review cases, failure to abide by the Compact has been used in evidence against the public body (but it can not be used on its own because it is not enshrined in law).

The Compact applies to all levels of government. Where a local Compact exists, it (and any guidance or codes of practice attached to it) should be used alongside the national Compact.

The undertakings by Government that closely align to the Equality Act (2010) are:

- To work with organisations that represent, support or provide services to people specifically protected by legislation and other under-represented and disadvantaged groups. Understand the specific needs of these groups by actively seeking the views of service users and clients. Take these views into account, including assessing impact, when designing and implementing policies, programmes and services.
- Acknowledge that organisations representing specific disadvantaged or under-represented group(s) can help promote social and community cohesion and should have equal access to state funding.
- Take practical action to eliminate unlawful discrimination, advance equality and to ensure a voice for under-represented and disadvantaged groups.
- Assess the impact on beneficiaries, service users and volunteers before deciding to reduce or end funding. Assess the need to re-allocate funds to another organisation serving the same group.
- Consider the social impact that may result from policy and programme development, and in particular consider how these would impact local efforts to inspire and encourage social action and to empower communities.
- Work with organisations from the earliest possible stage to design policies, programmes and services.
- Ensure those likely to have a view are involved from the start and remove barriers that may prevent organisations contributing.
- Give early notice of forthcoming consultations, where possible, allowing enough time for organisations to involve their service users, beneficiaries, members, volunteers and trustees in preparing responses. Where it is appropriate, and enables meaningful engagement, conduct 12-week formal written consultations, with clear explanations and rationale for shorter time-frames or a more informal approach.

(There are also a number of other important undertakings in relation to funding).

The Compact is available to download from the following website:
http://www.ncvo-vol.org.uk/sites/default/files/the_compact.pdf.

¹² Compact Advocacy Programme. See: <http://www.ncvo-vol.org.uk/advice-support/compact-advocacy/faqs>.

There is also an accompanying *Compact Accountability and Transparency Guide* which provides details of the measures the Government intends to introduce to strengthen The Compact, and who to contact if there has been a breach of The Compact: http://www.ncvo-vol.org.uk/sites/default/files/the_compact_accountability_guide.pdf

Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of all Forms of Discrimination Against Women was established in 1979 and is often referred to as the Women's International Bill of Rights. Unlike domestic UK and European legislation on sex discrimination and equal treatment, the Convention is solely concerned with women and girls, rather than 'gender' (which covers both men and women).

The Convention outlines a comprehensive set of rights for women in all fields (civil, political, economic, social, cultural and other fields) and is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It covers:

- Sex roles and stereotyping.
- Trafficking and prostitution.
- Political and public life.
- Marriage and family law.
- Nationality.
- Equal rights in education.
- Employment.
- Healthcare and family planning.
- Economic and social benefits.
- Rural women.
- Equality before the law.
- Participation at the international level.¹³

The Convention places obligations on State parties (countries that have agreed to the Convention) to eliminate discrimination against women. As a signatory to the Convention, the UK government (which includes all public bodies) must fully implement it to ensure the practical realisation of equality between women and men in this country. The Convention is binding, meaning it has legal standing under international law, *but it does not supersede domestic UK law*.

The aim of the Convention is to achieve women's de jure (in law) and de facto (in reality/practice) equality with men, in the enjoyment of their full human rights and fundamental freedoms.

Substantive equality

The Convention provides a framework for States to use in tackling (often embedded and historical) discrimination against women, and in achieving substantive equality for women in both the private and public spheres. The substantive model of equality is based upon the principle that discrimination is

¹³ For details about the Convention and articles see: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

socially constructed and is not a natural principle of human interaction. It recognises the need for concerted action against inequality and the institutional mechanisms that perpetuate it. Substantive equality promotes:

- Equality of opportunity through law, policy programme and institutional arrangements;
- Equality of access by eliminating all obstacles that prevent access to the opportunities and taking positive steps to ensure the goal of equality is achieved; and
- Equality of results/outcomes.

The Convention binds the Government and its agencies to take action to achieve substantive equality for women. This means that government policies, services, strategies and initiatives must recognise and respond effectively to the *different* needs of women and men. This could include women-only services, which is a key mechanism in delivering effective services to women. The Convention requires that all areas of government (and at all levels and including local public bodies) comply with its articles and general recommendations.

Temporary special measures

The Convention says that the Government should introduce temporary special measures (TSMs) such as quotas, affirmative actions, positive discrimination in order to *accelerate* women's rights and equality. For example, in 2008 the Equality and Human Rights Commission estimated that, at the current rate, it would take 200 years to achieve equal representation in parliament (interestingly, this is only slightly less than the 212 years it would take for a snail to crawl the Great Wall of China).¹⁴ Clearly this (snail) pace of change is unacceptable and under the Convention, it would be appropriate to implement a temporary special measure such as all-women shortlists for seats (which some political parties have already implemented).

Other examples of TSMs would include women-only services, ring-fenced or special funding. Under the Convention, TSMs are not considered discriminatory. In fact, the Convention provides a mandate and obligation to introduce TSMs because they are essential to:

- Achieving substantive equality;
- Facilitating *group* based equality (e.g. 'women' rather than an individual woman's rights); and
- Effecting the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women.

At the UK's 2008 examination by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the Committee expressed concern that TSMs were not mainstreamed throughout government:

¹⁴ Equality and Human Rights Commission (2008) *Sex and Power 2008*. EHRM: London.
<http://www.equalityhumanrights.com/advice-and-guidance/here-for-business/working-better/sex-and-power/>

“The Committee expresses concern that although temporary special measures are provided for in some legislation, they are not systematically employed as a method of accelerating the achievement of de facto or substantive equality between women and men in all areas of the Convention.

The Committee encourages the State party to give consideration to the further implementation of temporary special measures, including through legislative and administrative measures, outreach and support programmes, the allocation of resources and the creation of incentives, targeted recruitment and the setting of time-bound goals and quotas, in accordance with article 4, paragraph 1, of the Convention, and the Committee’s general recommendation No. 25, in order to accelerate the realization of women’s de facto equality with men in all areas. It also recommends that the State party include in its equality legislation provisions to encourage the use of temporary special measures, in both the public and private sectors”¹⁵

Women-only services

At the UK examination in 2008, CEDAW was also concerned that women-only services were being challenged:

“The Committee notes that changes in the allocation of Government funding from needs-based to “commissioning” frameworks, and the gender neutral interpretation of the Gender Equality Duty, have had a negative impact on funding to women’s organizations and the provision of “women-only” services, in particular domestic violence shelters and rape crisis centres. Despite the establishment by the Government of an interim short-term emergency fund, the Committee notes with concern the impending closure of a number of rape crisis centres, as well as of domestic violence shelters, women’s health organizations and black, minority and ethnic women’s organizations.

The Committee recommends that the State party ensure that NGOs are able to effectively contribute to the continuing implementation of the Convention. It urges the State party to provide increased and sustained funding to NGOs and other civil society groups involved in the area of women’s rights. It recommends that the State party ensure that the interpretation and application of the Gender Equality Duty does not have a negative impact on the provision of “women-only” services or restrict the activities of women’s organizations. It also recommends that the State party conduct an impact assessment of its “commissioning” frameworks on the funding of women’s organizations. The Committee requests the State party to include information on the funding of NGOs and women’s organizations in its next periodic report”.¹⁶

The Government report, NGO shadow reports and the CEDAW’s observations and recommendations for the UK’s 2008 examination are available from:
<http://www2.ohchr.org/english/bodies/cedaw/cedaws41.htm>

¹⁵ Committee on the Elimination of Discrimination against Women (2008) *Concluding observations of the Committee on the Elimination of Discrimination against Women CEDAW/C/UK/CO/6*. United Nations: New York. Paragraphs 268-269, p.6.
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/555/92/PDF/N0955592.pdf?OpenElementCEDAW/C/UK/CO/6>

¹⁶ Ibid. Paragraphs 272-273, pp.6-7. Our emphasis.

Research on women-only services

Please note that unless otherwise stated, all statistics, quotes included within this section are from WRC's *why women-only?* research, published in 2007:

http://www.wrc.org.uk/resources/wrcs_research_and_reports/why_women_only.aspx

The provision of women-only spaces and services is a characteristic of the women's VCS not mainstreamed in other sectors.

Safety, both physical and emotional, is a key benefit of women-only services. As a result, women feel supported and comfortable. They become empowered and develop confidence, greater independence and higher self-esteem. They are less marginalised and isolated and feel more able to express themselves. Women using these services feel that their voices are heard and listened to. Through sharing their experiences with other women to make sense of the world together, they develop a sense of solidarity.

WRC's *why women-only?* (2007) research found that women from all walks of life prefer to use women-only services within a range of different contexts. Some women in the research stated they would not go to mixed services, and their needs would not be met at all if women-only services did not exist. Participants often described women-only services as a sanctuary.

Key messages

Safety

Safety, both physical and emotional, is a key benefit of women-only services. As a result, women feel supported and comfortable. They become empowered and develop confidence, greater independence and higher self-esteem. They are less marginalised and isolated and feel more able to express themselves. Women using these services feel that their voices are heard and listened to. Through sharing their experiences with other women to make sense of the world together, they develop a sense of solidarity. Participants often described women-only services as a sanctuary:

“Coming here is a respite, I am grateful that we have got this space to come to. It was a relief when I joined.” (Service user at Leicester Lesbian, Gay and Bisexual Centre)”

The Government is committed to eliminating mixed-sex wards and has acknowledged the importance of this in relation to ensuring people's safety, dignity and privacy. Although mixed sex wards are not yet illegal, men and women should not have to share accommodation.¹⁷

¹⁷ Department of Health, 2011, What is Government policy around eliminating mixed-sex accommodation?
http://www.dh.gov.uk/en/Healthcare/EMSA/DH_124251

Women-only services have positive impacts on society. For example, they enable women to better support their families. Many go on to work or volunteer for the VCS as a result of feeling more empowered, having greater skills, improved confidence and being more politicised.

The economic benefits of women-only services are likely to be significant, saving the state millions of pounds per year, such as through improving women's job opportunities or through preventing re-victimisation (e.g. domestic violence) or health problems arising or worsening.

Giving women a choice

The research found that women from all walks of life prefer to use women-only services within a range of different contexts. Some women in the research stated they would not go to mixed services. Their needs would not be met at all if women-only services did not exist.

A random poll, commissioned by WRC, of 1,000 women from the public found that:

- Ninety-seven per cent stated that a woman should have the choice of accessing a women-only support service if they had been the victim of a sexual assault.
- Fifty-six per cent of women would choose a women-only gym over a mixed gym, 28% of women would choose to go to a mixed gym (16% didn't know).
- Of the 560 women that would choose a women-only gym, they cited reasons such as feeling more comfortable, less self-conscious and less intimidated. Respondents stated that they didn't want men watching them, looking at their bodies or sexually harassing them.
- Ninety per cent of women polled believed it was important to have the right to report sexual or domestic violence to a woman (such as a woman Police officer); 87% thought it was important to be able to see a female health professional about sexual or reproductive health matters; and 78% thought it was important to have the choice of a woman professional for counselling and personal support needs.

Women-only services are not exclusively delivered in the VCS, although they certainly are more prominent in the sector because of women's organisations. In Italy a women-only beach was established, as were women-only train carriages in Japan in response to the sexual harassment of female passengers. In the UK, many baths and leisure centres have women-only sessions or spaces to encourage more women to exercise and use the facilities.

The rising number of for-profit women-only services in the private sector demonstrates that there is a demand for women-only services generally. In the free market, women are choosing to spend their money on women-only, rather than general, goods and services. This includes women-only gyms, health and beauty spas, holidays, insurance and mini-cabs. Parents are still prepared to pay to send their girl children to single-sex private schools in the belief that it will better

meet girls' needs, will improve their educational outcomes and increase their self-confidence.

For each of the different research methods used, there was confirmation that many women have a personal preference for women-only services and, given the choice, will choose single-sex services over those which are mixed.

There was evidence that many service users would not access support if it was not women-only. Therefore, many women in need of vital support services would not receive them. The possible consequences could include deterioration in health, missed employment and educational opportunities, ongoing violence etc.

Creative and Supportive Trust (CAST), an organisation which works with women ex/offenders and those at risk of offending, found that 80% of service users interviewed stated it was 'very important' that CAST was a women-only space. Forty-four percent of students said they would not attend if CAST had not been a women-only space. CAST's survey also found that 64% of users would prefer women-only services in areas such as group counselling, hospital wards, mental health services, housing associations, health clinics, parenting classes and counselling.

There is certainly a bottom line to be considered. If women-only services continue to be undermined, and in worst case scenarios are forced to close, there will be significant costs to the state through increased use of public services as a result of worsening social, economic, welfare, health, employment, criminal justice and education problems that could be avoided through sustainably funding women's organisations and their women-only services.

Self-determination for minority groups of women

Some groups of women experience greater marginalisation and isolation and have particular experiences as a result of being both female and the impacts of racism, xenophobia, homophobia, disabilism, class, poverty, health status etc. (often referred to as intersectional discrimination). Women-only services develop to meet need, so those services which are led by and for specific communities of women (such as BAME, lesbian, bisexual, older and younger women, lone mothers, mental health survivors etc.) are crucial.

These women-only services are often able to reach women who would not otherwise engage with services, either in public or third sectors (including general women's organisations). As with women-only services generally, women from minority groups expect that women from their own or similar backgrounds will have a better understanding of their experiences and issues and greater empathy than men or women who do not share their backgrounds:

"What we have learned in the past is that if we don't create the environment they may not come at all. Even if they do come they will not speak. That's one of the reasons why it was created – not only a women-only space but also African women's space." (Akina Mama Wa Afrika)

Organisations led by and for minority women are necessary in addressing social exclusion and community cohesion. They enable integration through empowering and building the confidence of their service users, and by helping women who are often on the margins of communities to access opportunities that many other people take for granted:

“I’ve learnt more here in the last six months than I did in the last 18 years. If I was this clever then, imagine what I could have done! Now I can speak to anyone, I can take my baby girl out, travel and see London, speak to anyone... Nobody can touch me because I came here. I celebrated my daughter’s birthday the other week; I couldn’t have done that before.” (Service user at Greenwich Asian Women’s Project)

As well as providing physical, psychological and emotional safety and sanctuary, minority women-only services empower and politicise women. Women see and hear that their experiences of sexism and racism or homophobia etc. are not isolated. They find mutual support and self-determination.

Organisations which are led by and for minority women are essential in addressing prejudice and discrimination and furthering women’s rights. Their existence strengthens the women’s VCS. For example, BAME women’s organisations have been primarily responsible for bringing the plight of women and girls who are subjected to forced marriage, female genital mutilation, inhumane immigration rules, so-called ‘honour’ killings etc. to the attention of government, the third sector and the public in general. As a result, many important legislative changes have been made. All women, therefore, benefit from these advances in rights and protection.

Why are organisations women-only?

Almost a quarter (23%) of respondents to the survey stated they were women-only because of women’s inequality and the need to address wide gender power imbalance and provide space outside of the perceived male-dominated mainstream.

Twenty per cent stated that women-only spaces provide an environment that promotes empowerment (such as freedom of expression and development of confidence) and 18% stated that being women-only meets a need that is not being met by mainstream services and which recognises the different and specific needs of women.

Undervalued and misunderstood

As Patricia McFadden, an African feminist scholar, has argued, women-only space is inherently political.¹⁸ Women-only services are a legacy of the Women’s Movement and represent the need for women’s rights to self-determination and ‘voice’.

¹⁸ McFadden, P (2001) *Why women’s spaces are critical to feminist autonomy*. Taken from: http://www.isiswomen.org/index.php?option=com_content&view=article&id=630:why-womens-spaces-are-critical-to-feminist-autonomy&catid=127:theme-mens-involvement-in-womens-empowerment

Our interviews with staff of women-only services and focus groups with service users found that the misconception that women's equality has been achieved is widespread. This mistaken belief is influencing government policy, which participants commented is becoming increasingly gender neutral, and is affecting the sustainability of women's organisations.

There is a lack of understanding about women-only services, which coupled with the 'equality myth', is resulting in women-only services being increasingly pressured to justify why their services are women-only. As a result, some women's organisations reported that funders and decision makers are pressuring their organisations to deliver services to men and viewing women-only services as irrelevant and unnecessary.

Impacts on funding

In 2002/03, only 1.2% of central Government funding to the VCS in the UK went to women's organisations,¹⁹ despite making up seven per cent of registered charities.²⁰

In 2006, WRC conducted a snapshot audit of 26 different central Government funding streams. The research found that, along with LGBT organisations, the women's sector receives less funding than any other equalities groups. We were also concerned to find that there was a significant difference in favour of generic organisations delivering projects to women over women's organisations. This was the case in 15% (4) of the funds examined. Funding to women's organisations in the Victims Fund (Provision for Victims of Sexual Offending) decreased by 20% from 2004/05, yet funding to generic organisations to deliver sexual violence services to women increased by 6.6%. Women's VCOs in this research expressed concern about the lack of understanding and expertise generic organisations have in delivering services for women.

As to be expected, funding was the main challenge cited by interview participants in the *why women-only?* research:

"...we know of an organisation that provides women-only space to women with mental health and substance misuse issues and it lost its funds from the local authority. Now there is nothing available to them at all. At the end of the day, if women-only spaces were actually seen as important then the funding would be there!" (Women's Refuge Project)

In the survey of 101 organisations for *why women-only?*, 70% of respondents felt that being a women-only organisation made it harder to access funding, while just three per cent felt that it made it easier (27% reported no difference).

WRC's *The Crisis in Rape Crisis* report (2008) found that while women-only services were effective and wanted by service users, they were being challenged by a range

¹⁹ Mcroft, I and M. Zimbeck (2004) *Central government funding of voluntary and community organisations 1982/83 to 2002/02*. Home Office Research, Development and Statistics Directorate: London.
<http://rds.homeoffice.gov.uk/rds/pdfs04/misc39.pdf>

²⁰ Figures based on 2006 GuideStar data identifying 11,520 organisations naming 'women' and/or 'girls' as their main beneficiaries representing 6.9% of registered charities (www.guidestar.org.uk).

of statutory agencies. Some centres had funding refused on the basis of being women-only or had been pressured to deliver services to men – 43% per cent of centres surveyed in the research had been challenged by funders about being women-only.²¹

Case studies

Violence against women

The creation of domestic violence refuges and rape crisis centres in the mid-1970s stemmed from both the lack of services available to women and their children and the absence of political will to fundamentally address the issue. During this period, domestic violence, where acknowledged to exist at all, was considered to be a private matter and not an issue for the public, let alone the political, domain.

Nevertheless, feminist activists were well aware that it was a significant problem and in the absence of a state response took matters in to their own hands. In 1971, the first widely publicised refuge was established in London. By 1980, there were approximately 150 refuges in England, under the banner of the National Women's Aid Federation, which served mainly poor and working-class women and their children.

During this period Black, Asian and Minority Ethnic (BAME) women's groups established refuges within their own communities in response to the inadequacies of refuges in meeting the needs of Black women and children. The racism which BAME women experienced in society was often replicated in these settings and created additional burdens for women trying to come to terms with the violence they had experienced.²²

Empowerment, consciousness-raising and self-help were prominent feminist philosophies in the movement. Del Martin, in her acclaimed publication called *Battered Wives* argued that the immediate predicament of women who had suffered domestic violence must be understood in broad political terms, namely through the institution of marriage, historical attitudes towards women and the inadequacies in legal and social services.²³

In this sense, women-only refuges were more than just spaces of physical safety, they were 'political'. Their very existence firmly located domestic violence as a gender based phenomenon – the systematic violation of women's rights by men, enabled and supported by patriarchy.

If 'White' women's organisations were political, BAME women's organisations were even more so. In addition to providing a means of (physical) escape for BAME

²¹ Women's Resource Centre and Rape Crisis (England and Wales) (2008) *The Crisis in Rape Crisis*. WRC: London. http://www.wrc.org.uk/resources/wrcs_research_and_reports/the_crisis_in_rape_crisis.aspx

²² Southall Black Sisters (2003) *From homebreakers to jailbreakers*. Zed Books Ltd: London. Davis, S & Cooke, V (2002) *Why do Black Women Organise?* Joseph Rowntree Foundation & Policy Studies Institute: London

²³ Marin, D (1976), *Battered Wives*. Glide: San Francisco, California.

women experiencing domestic violence, they also directly challenged the state by exposing how the rhetoric of 'multiculturalism' at times colluded with the oppression of BAME women.²⁴

By the 1990s the campaigning and lobbying of women's organisations had transformed domestic and sexual violence from a subject of private shame to a matter of public concern.

Mental health

Drayton Park, established in 1995, was the first women-only residential mental health crisis facility in the UK. In 2007 it provided places for 12 women and was also able to accommodate up to four children over six months in age, with a maximum of two children per woman. The facility had an all-female staff team which included a project manager, 17 project workers, an administrative assistant and a cook.

Drayton Park adopted a systemic model of working with clients, which emphasised examining women's existing situation and trying to resolve triggers and perpetuating factors for it. The interventions used varied from individual and group work to medication and therapies such as acupuncture. There is a particular emphasis on developing women's own coping strategies and self-medication. The target was that all women should be discharged within 28 days.

Studies have examined the effectiveness of the facility in providing a woman sensitive alternative to hospital admission. A randomly selected sample of women admitted since the facility's opening was examined. Findings showed that Drayton Park was able to provide a safe environment for women presenting in acute crisis, as well as being able to manage women in crisis within a relatively short stay. Furthermore, the involvement of service users in the facility's management and advisory group was found to provide an innovative approach to crisis resolution which has aroused both national and international interest.

Drug and alcohol misuse

A paper examining the place of women-only services in substance misuse treatment programs found that whilst the outcomes of women-only and mixed gender programmes are similar (although the women's service was more cost effective), the important issue to be considered is that women who would not attend mixed-gender programs are more likely to access women-only services.

Research conducted by the Women's Alcohol Centre (now closed) with its service users identified the sense of shame felt by women drinkers and the greater stigmatisation they experience, as the principle barriers to them seeking treatment:

1. Women are doubly stigmatised for having a drink problem and being a woman with a drink problem.

²⁴ Southall Black Sisters (2003) *From homebreakers to jailbreakers*. Zed Books Ltd:London.

2. There is a treble stigma if the woman has children.
3. Add to this if the woman is from an ethnic minority or a lesbian.
4. Women problem drinkers tend to have a greater sense of shame.
5. Women often find it easier to talk in a women-only environment, particularly about such issues as childhood sexual abuse, rape, domestic violence, eating problems, Pre-Menstrual Syndrome (PMS), depression, low self esteem, self-harm.
6. Women suffering abuse from a man usually feel safer in a women-only environment.
7. Heterosexual women who often end up in abusive relationships may find it helps their progress to avoid male-dominated environments and to avoid relationships with men for a long period of time.
8. Women problem drinkers do not respond well to confrontation and directive interventions, as they suffer from low self esteem and need to find a way to control their lives.
9. Men tend to dominate in mixed groups.
10. Women tend to fall into traditional caring roles in mixed groups rather than focusing on their own needs, which can interfere with their own progress.
11. Women tend to present with complex needs e.g. self harm, eating distress, co dependence, poor mental health, domestic violence, child care problems as well as alcohol related problems and it can be difficult to decide which is the primary problem.
12. Lesbian women tend to feel more comfortable in a women-only environment.
13. Mothers need special help with parenting skills and overcoming shame and guilt to become a better parent, and they often benefit from the experience of other women and specialist knowledge.
14. Referring agencies are sometimes concerned either that their women clients are getting too involved either in caretaking of men, at the expense of focusing on their own problems or are vulnerable to being taken advantage of by men during the process of recovering from a drink problem.

Homeless women

In 2006, Crisis, the homeless charity published research based on a survey and in-depth interviews with single homeless women (144 and 44 women respectively).

The research found that women's experiences of violence and abuse were primary factors in their becoming homeless.²⁵

The report also stated that the lack of women-only accommodation was a significant issue which urgently needed to be addressed. It found that 62% of the homeless women surveyed had slept rough at some point. In spite of the risks this involved, sleeping rough was, in many cases, considered the only option if the

²⁵ Crisis (2006) *Homeless Women: still being failed yet striving to survive*. Crisis: London

alternatives were staying with violent ex-partners or relatives or in mixed night shelters where women had previously been assaulted. Several respondents reported having been sexually assaulted by male residents while staying in night shelters:

“Such were some women’s fears of mixed accommodation, sleeping rough (in less visible locations) was sometimes deemed a safer option.”²⁶

Of deep concern were the study’s findings that homeless women would put themselves at considerable risk in order to access accommodation by engaging in unwanted sexual activity. The in-depth interviews revealed that a number of women were or had been involved in some form of sex work which included ‘picking up men’ so they could spend the night with them.

In addition to the problems of mixed night shelters, day centres were also found to be inappropriate to women’s needs. The report stated that day centres can be ‘hostile, challenging environments which women wish to avoid.’ For women who had experienced violence and abuse, the male-dominated nature of day centres makes them frightening, threatening and generally places they do not want to be in.

The report starkly highlighted the consequences of not taking gender into account in the development and delivery of services. The prospect, for many homeless women, of engaging in existing services such as day centres and mixed hostels was so frightening that many would rather risk sleeping rough.

When asked about the type of services women would want to engage with the response was very familiar. Women wanted services which were:

- Women-only or offering women-only spaces/sessions.
- Informal and accessible.
- Safe.
- Able to meet multiple needs.
- Run by understanding staff.

Needless to say safety was of paramount importance, particularly for women who had experienced violence and abuse.

Girls and young women

Studies have shown that accessing single-sex space is important for girls and young women. A review by Domoney, Jones and Garcia²⁷ and Girlguiding UK²⁸ found that girls and young women were enthusiastic about having time away from boys and benefited from having women leaders as role models. They also found

²⁶ Ibid, p59.

²⁷ YWCA (2005) *Single-Sex Youth Work: a systematic review of research into the advantages and disadvantages of providing informal education to women in single-sex environments*. Unpublished.

²⁸ Girlguiding UK (2007) *Girls Shout Out!* Girlguiding UK: London

that single-sex spaces encouraged girls to take more risks, express themselves and develop their self confidence.

Platform 51 (formerly the YWCA) undertook research on the issue of girl- and young women-only spaces in response to growing pressure to justify women only services. They carried out a systematic review of the evidence into the advantages and disadvantages of providing informal education to young women in single-sex environments.

Evidence from different types of single-sex group work showed that single-sex workshops and activities promoted a sense of solidarity and increased self-confidence, willingness to try new things and to speak openly. It found that boys tended to dominate the space in mixed gender settings which reduced girls' confidence. Mixed-sex provision reduced the likelihood of girls attending.

The review highlighted that mixed gender youth groups tend to be geared around the needs of boys with less consideration given to how to engage girls in activities. Studies reviewed in the YWCA report found an unarticulated assumption that girls were not interested in 'doing' but were happy to watch the boys. In single-sex groups however, the evidence showed girls and young women were keen to get involved.

Single-sex settings were shown to not only increase young women's attendance in youth work but also that they were more than willing to have a go at a range of activities, from outdoor pursuits, such as rock climbing and sailing, to learning circus skills and making videos. The fact that these activities were single-sex was a significant factor, as the young women reported that they didn't have to worry about boys making comments about them or deal with sexual harassment.

The review also supported other evidence that safety is a key reason why single-sex space is valued by young women. This refers to physical safety and also the safety of feeling able to express themselves openly and try new things in a supportive environment. Furthermore, it found that a single-sex environment helps girls and young women to think about and challenge gender stereotypes.

Platform 51 staff discussing the review findings felt that challenging gender role stereotypes was an important aspect of single-sex youth work. Whilst traditional feminised roles tend to be enacted by girls in mixed groups (reinforced by boys' dominance), single-sex groups provide an opportunity for girls to discuss gender stereotypes. The women who run the groups provide positive role models for girls which also helps in breaking down these stereotypes.

The review found that single-sex environments helped young women to develop good relationships with each other and with group leaders, particularly at ages when girls are "socialised... to regard their peers as competitors for boys' attention".²⁹

²⁹YWCA (2005) *Single-Sex Youth Work: a systematic review of research into the advantages and disadvantages of providing informal education to women in single-sex environments*. Unpublished. P39.

In 2007 Girlguiding UK published a survey of girls and young women about what they feel about being a young woman in contemporary times, the opportunities and challenges they face and how they interact with the world around them. Access to single-sex space was considered crucial to the majority of those who were surveyed. Of the 3,200 girls and young women who participated, “73% of seven to ten year olds, 81% of ten to fifteen year olds and 96% of 16 to 25 year olds like to spend time together without any boys being there”.³⁰

Women’s leadership training

In 2005-06 WRC provided high-level management and leadership training and support to 180 women from micro and small businesses, including the voluntary and community sector and social enterprises, through the *Elevate* training programme for women.

The programme resulted in 74% of women on these courses reporting that it improved their confidence, 28 were promoted and four went on to start their own businesses.

The independent evaluation by Zennor Consulting found that being women-only was crucial to the success of *Elevate* which was named as an exemplar project.³¹ The women-only approach made it attractive to trainees who valued being in a space in which they “felt safe and supported and more able to learn”, and the evaluation reports showed that 89% of respondents felt more supported in a women-only environment and 87% felt they could be more open. *Elevate* trainees stated that:

“The fact that the groups are made up of women and trained by women in a less formal structured way has enabled women to feel more comfortable to experiment and explore in an uninhibited way, feeling much safer to discuss, speak out and ask for help and has made for a supportive, dynamic learning environment.”

“I feel it is really important to have women-only safe spaces to learn and bring skills, and to solely be in the company of women.”

“Having a course dedicated for women is extremely important to help increase your confidence in a supportive environment.”

Support groups

The Leicester Lesbian Gay and Bisexual Centre is a voluntary and community organisation established to support lesbian, gay and bisexual people in Leicester, Leicestershire and Rutland.

It runs a lesbian group, Women’s Wednesday Group, which meets at the centre once a week, and has been running for over a decade. Even when the centre could not find funding for the project for a time, women continued to run the group

³⁰ Girlguiding UK (2007) *Girls Shout Out!* Girlguiding UK: London

³¹ Hitchen, David (2006) *Women’s Resource Centre Elevate – Women into Leadership. Phase 3 Evaluation*. Zennor Consulting: London

themselves, because they found it so empowering to be with other lesbians. If the group didn't exist these women said they would feel isolated and alone:

"Everyone has a right to know who they are and to feel safe, it's a basic human need, and this group allows that". (Service user at Women's Wednesday Group)

The lesbians who come to this group describe it as an incredibly supportive space where women can come and feel free to just be themselves.

Despite the focus on the social aspect of the group, women find coming to the group is a break from the constant homophobia they experience, in almost every other part of their lives:

"Why would we want to mix with a normal women's group? We do that all the time anyway. We know that in this space we all understand each other, we don't have to be guarded or feel like you are alone, or are the only person who has experienced doubts and worries". (Service user at Women's Wednesday Group)

The women from the group feel that its importance is that the issue of identifying as 'lesbian', the sense of always having to constantly 'come-out' at work, with friends and family, every single day, can be set aside. In this space sexuality is almost irrelevant but also highly relevant at the same time, because it can be set aside in the knowledge that every woman there has a common bond and has had a struggle to reach this point.

"We are all at different stages on a journey but it is the same journey, that's what links us." (Service user at Women's Wednesday Group)

What can I do if I'm challenged about our women-only services?

Key messages

Women-only services are:

- Lawful;
- Not discriminatory;
- Much needed and wanted by women and girls;
- Effective; and
- Recognised (including internationally) as a key mechanism to achieve women's equality.

Do not wait – act immediately

If your service is challenged or passed over for funding because it is women-only, raise your complaint/concerns in writing as soon as possible.

If you wait too long you are unlikely to be successful in your challenge, especially if you are considering a judicial review.

It is important to fight against challenges to women-only services. Once the women-only status of a service has been lost it will be difficult to reinstate in the future.

Gather evidence of the need for your women-only service

The voices and experiences of your service users is important evidence about the need for your women-only service.

Try and gather this evidence as routinely as possible (e.g. include as part of your monitoring and evaluation forms) so that if it is needed, you will have a bank of information to draw from.

Keep records and put things in writing

If you think your service may be challenged, decommissioned or passed over for funding because it is women-only it is important to keep thorough records. If you decide to challenge a decision with judicial review, this will be important evidence.

Keep records of meetings, telephone conversations, emails etc. Sometimes decisions are communicated and promises are made during meetings or on the telephone. If you are told something important you may want to write to the public body, just confirming what was said.

Scrutinising public authorities

Public authorities need to know that the voluntary and community sector is taking an interest in their decisions and the decision making process. One way of enforcing the duties is to ask public authorities for the information that they are obliged to make available under the Specific Duties and to scrutinise this information from a gendered perspective.

The Equality and Human Rights Commission (EHRC) continues to be a regulatory body despite changes to its other functions. The EHRC is interested in the way that the Public Sector Equality Duty will be implemented and one of their priorities will be to scrutinise these, challenge public bodies, gather evidence and support strategic litigation. They can be contacted on their helplines for advice if you believe that public bodies are not fulfilling their obligations under the Duty:

Tel: 0845 604 6610 (England main number)
Textphone: 0845 604 6620 (England)
EHRC England email: englandhelpline@equalityhumanrights.com

Tel: 0845 604 8810 (Wales main number)
Textphone: 0845 604 8820 (Wales)
EHRC Wales email: waleshelpline@equalityhumanrights.com

The EHRC have also produced very helpful guidance on the Public Sector Equality Duty: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/the-new-public-sector-equality-duty/>

A toolkit on enforcing the Gender Equality Duty produced by the End Violence Against Women Coalition (EVAW) and the EHRC (when it was the Equal Opportunities Commission) is still relevant today (the Gender Equality Duty has been superseded by the Public Sector Equality Duty). The resources (such as the template letters) can be adapted to apply to the new Public Sector Equality Duty. See:

http://www.wrc.org.uk/includes/documents/cm_docs/2010/e/eoc_gender_equality_duty_enforcement_toolkit.pdf

WRC will publish details of any up-to-date toolkits once these have been developed.

Seeking judicial review

Failure to act promptly when faced with a public law dispute can create problems. You must take legal advice early on in the process, particularly if you are considering judicial review.

Judicial review is the court procedure which allows public decisions to be challenged. Public law is mostly about the process of decision-making. Judicial review is not like an appeal; the court cannot make the decision itself, it can only ensure that the public body makes the decision in a lawful way. For this reason, the most common kind of court order, if a claim is successful, is that the decision is cancelled ('quashed'). The public body must then make the decision again.

Sometimes the public body can make the same decision but, having followed the proper procedure, the decision cannot then be challenged.

You must (with the support of your legal team) apply to the High Court for proceedings to be issued against the public body as soon as possible after the action or decision has been taken by the public body, and in any case, it must be within three months of that date. The High Court has turned down claims entered within the three month time scale because they feel the claimant could have acted more quickly.

The Empowering the Voluntary Sector (EVS) project, a partnership of the Public Law Project, Compact Advocacy and NAVCA, provides a free advice service for voluntary and community organisations facing public law disputes. Organisations needing advice on how to manage a breach (or possible breach) of The Compact or public law can contact the advocates to discuss the case and identify a way forward. If, as a result of those initial discussions, the dispute appears to need the input of a lawyer, the advocates will refer the case to the team at the Public Law Project for further support, and if required, representation in an attempt to resolve the dispute to the advantage of the third sector. The team cannot provide advice on private law disputes such as contract, employment, etc.

To contact the EVS advice team:

Tel: 020 7520 3161 (Monday to Friday 10am till 4pm) or

Email: evsAdvice@ncvo-vol.org.uk.

<http://www.navca.org.uk/services/learningopps/evs>

The EVS project also provides training for voluntary and community organisations on The Compact and public law. If you wish to attend a one-day workshop on how to use The Compact and public law visit:

<http://www.navca.org.uk/services/learningopps/evs/evsworkshops>.³²

The Public Law Project (PLP) has acted as the solicitors on behalf of many voluntary and community organisations seeking judicial review. They can be contacted on:

Tel: 0845 345 9253

Email: admin@publiclawproject.org.uk

<http://www.publiclawproject.org.uk/index.html>

In 2009, the National Equality Partnership (led by WRC) published *Keeping it legal. A guide for third sector organisations on public law and equality rights*. Although the key equalities duties have now been superseded by the Public Sector Equality Duty, much of the advice and resources are still relevant. However, please check to determine which information is still relevant and seek appropriate advice. The guide is available from:

http://www.wrc.org.uk/resources/tools_to_engage_and_influence/using_public_law/default.aspx.

³² Please note that the workshops will run until November 2011. See the website for updated information after this date.

Remember:

- Anyone can seek a judicial review if you don't think the decision is 'for the public good';
- To seek a judicial review you must be claiming that the decision is, disproportionate, irrational and/ or illegal;
- You will need to gather all of your documentation and evidence and you need to keep a diary and record phone calls etc;
- You have to request a judicial review within three months of the decision;
- You don't have to write to the commissioning body outlining your complaint but it might be helpful to do so; and
- A lot of work is needed but if successful your case could set an important precedent for women's organisations in the future!

Examples of using public law in relation to equalities include:

- The Fawcett Society's legal challenge of the Emergency Budget, stating that it didn't meet Gender Equality obligations. For technical reasons, including the fact that the court did not consider it practicable to declare the entire budget unlawful, Fawcett were not successful. However, as a result of Fawcett's challenge, the EHRC are currently conducting an assessment of the Treasury's Spending Review.³³
- There has been case law, such as *Southall Black Sisters (R (Kaur) v London Borough of Ealing 2008)* and *Brown v SoS for Work and Pensions (2008)*, which established the meaning of "due regard" i.e. that it is a strong obligation and requires robust and thorough examination of equalities issues.³⁴
- A recent (successful) challenge to London Councils found that their decision making relating to third sector funding had been unlawful and did not meet the former equalities duties relating to gender, race or disability. The consultation process had been flawed and unfair.
- The violence against women sector have successfully challenged decisions to remove funding, including the Rape and Sexual Abuse Support Centre (Croydon) and a recent challenge of Devon County Council's decision to remove 100% of domestic and sexual violence funding. These cases did not make it as far as the courts because challenging the decisions on the grounds of gender equality was sufficient for the public bodies to reverse their decisions.

As of yet, there have been no cases based on the fact that a service or organisation has suffered because a public body has failed to act lawfully or fairly or has made a perverse or irrational decision directly related (or solely related) to its women-only status. The Southall Black Sisters case was in relation to specialist

³³ See: <http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/section-31-assessment-of-hm-treasury/>

³⁴ See National Equality Partnership (2009) *Keeping it legal: A guide for third sector organisations on public law and equalities*. WRC:London.
http://www.wrc.org.uk/resources/tools_to_engage_and_influence/using_public_law/default.aspx

services for BAME women experiencing gender-based violence (Ealing council wanted to change the funding to accommodate any women experiencing domestic violence). Although the Gender Equality Duty was cited in their case, the Race Equality Duty was of greater relevance. If, for example, Ealing council wanted to change the funding so that the commissioned service supported men and women, the Gender Equality Duty is likely to have played a greater role.

It is important to note that many of the helpful aspects of the Gender Equality Duty Specific Duties have been removed from the new Public Sector Equality Duty. However, given the judgements in the past, this is likely to be referred to in any future cases.

Compact breaches

The Compact Advocacy Team at NCVO provides support and advice to voluntary and community organisations on the national Compact and local compacts and working with public bodies. It advocates on behalf of voluntary and community organisations to ensure government treats the sector fairly. They can help your organisation identify if there has been a Compact breach, and provide advice and support on next-steps. The team possesses examples of good practice and guidance on dispute resolution and funding cuts.

If you think a public body has made a decision that's not compliant with the Compact or public law principles, contact the Compact Advocacy Team:

Tel: 020 7520 3161

Email: evs-advice@ncvo-vol.org.uk

<http://www.ncvo-vol.org.uk/compactadvocacy>

Feeding in to the CEDAW Shadow Report

WRC is coordinating a Shadow Report to submit to CEDAW (scheduled for 2012) on how well the UK Government is implementing the Convention on the Elimination of All Forms of Discrimination against Women and its response to CEDAW's 2008 recommendations.

WRC is gathering information about women-only services for the Shadow Report. If you have information that may be useful, please contact Charlotte Gage, WRC Policy Officer, on:

Tel: 020 7324 3030

Email: charlotte@wrc.org.uk.

Contact WRC

Please let us know your experiences- good or bad. For information, support and advice on challenges to women-only services, contact the WRC Policy team on:

Tel: 020 7324 3030

Email: policy@wrc.org.uk.