

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 11: Schools: exceptions

Part 1: Sex discrimination

860. **Part 1** of this Schedule makes exceptions from the prohibition on sex discrimination by schools in section 85 to allow for the existence of single-sex schools and for single-sex boarding at schools, and to make transitional provisions for single-sex schools which are turning co-educational.

Background

861. These provisions are designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Admission to single-sex schools: [paragraph 1](#)

Effect

862. This paragraph allows a single-sex school to refuse to admit pupils of the opposite sex. A school is defined as single-sex if it admits pupils of one sex only. This is so even if it admits a small number of pupils of the opposite sex on an exceptional basis or in relation to particular courses or classes only. Limiting those pupils to particular courses or classes is not discrimination. However, other forms of sex discrimination by the school against its opposite-sex pupils would still be unlawful.

Examples

- A school which admits only boys is not discriminating unlawfully against girls.
- If the daughters of certain members of staff at a boys' school are allowed to attend, it is still regarded as a single-sex school.
- A boys' school which admits some girls to the Sixth Form, or which lets girls attend for a particular GCSE course not offered at their own school is still regarded as a single-sex school.
- A boys' school which admits girls to A-level science classes is not discriminating unlawfully if it refuses to admit them to A-level media studies or maths classes.
- A boys' school which admits girls to the Sixth Form but refuses to let them use the same cafeteria or go on the same visits as other Sixth Form pupils would be discriminating unlawfully against them.

Single-sex boarding at schools: [paragraph 2](#)

Effect

863. This paragraph provides that a mixed-sex school some of whose pupils are boarders may lawfully admit only pupils of one sex to be boarders. The exception applies even if some members of the other sex are admitted as boarders, so long as their numbers are comparatively small. It allows a school to refuse to admit a pupil to a boarding place at the time he or she initially joins the school, or to provide him or her with boarding facilities at a later stage.

Example

- A mixed-sex school has facilities for female boarders and can lawfully state in its prospectus that males cannot be accepted as boarders.

Single-sex schools turning co-educational: paragraphs 3 and 4

Effect

864. Paragraphs 3 and 4 enable a school which is going through the process of changing from a single-sex to a co-educational institution to apply for a transitional exemption order to enable it to continue to restrict admittance to a single sex until the transition from single-sex is complete.

865. Paragraph 4 sets out the procedures for applying for a transitional exemption order for each type of school.

Examples

If a transitional exemption order is made in accordance with the arrangements in paragraph 4:

- A boys' school which decides to become co-educational by starting to admit girls to Year 7 while keeping upper classes as they are, will not be discriminating unlawfully by refusing to admit girls to other years, until co-educational classes have been phased in throughout the school.
- A girls' school which decides to become co-educational by initially admitting a certain number of boys to each year group will not be discriminating unlawfully by reserving a number of places in each year group for boys.
- A school in the process of becoming co-educational must treat its male and female pupils equally once they have been admitted, since the transitional exemption order only relates to admissions.