

<b>Request:</b>	URGENT - FOI		
<b>Ref:</b>	ELIR00437	<b>Working Days to Respond:</b>	15
<b>Received:</b>	07.08.25	<b>Responded:</b>	28.08.25

## Request

1. *Please outline the steps taken by Edinburgh Leisure, since the clear ruling by the Supreme Court in the For Women Scotland v Scottish Ministers case, to ensure changing facilities and bathrooms are single sex spaces.*
2. *Please provide me with a copy of your policy relating to single sex spaces.*
3. *Please confirm whether Edinburgh Leisure is currently breaking the law by allowing males (for clarity this includes those men who identify as transwomen) to use spaces, such as changing rooms and bathrooms, reserved - by law - for female members of the public*
4. *Please provide any minutes from meetings this year where the decision was made to not follow the Supreme Court ruling and instead wait for further guidance from the EHRC via Edinburgh Council despite the EHRC stating, on several occasions, that organisations should not wait for updated guidance and should instead implement the law.*

## Response

<b>Legislation:</b>	Freedom of Information (Scotland) Act 2002
<b>Category of response:</b>	Information Not Held
<b>Exemptions applied:</b>	FOISA Section 17

Unfortunately, Edinburgh Leisure is only able to meet part of your request; this information is released to you now.

The Freedom of information (Scotland) Act 2002 allows for the application of exemptions, and I have applied the following exemptions to some of the information requested: Section 17 Information Not Held.

*Question 1: Please outline the steps taken by Edinburgh Leisure, since the clear ruling by the Supreme Court in the For Women Scotland v Scottish Ministers case, to ensure changing facilities and bathrooms are single sex spaces.*

**Response:** Release of Information

**Exemption:** N/A

Edinburgh Leisure are:

- **Awaiting Updated Guidance:** EL is awaiting the finalised EHRC Code of Practice along with updated UK Active guidance, expected to be released in late summer, in line with UK Active's interim statement, which reads: *"facility operators (should) manage situations on a case-by-case basis, acting with sensitivity and understanding to continue to ensure all customers are treated with dignity and respect, and are supported while policies are under review."* Once available, this information will be used to draft updated guidance for both staff and customers.
- **Audit of Facilities:** An audit is being conducted across all EL sites to assess the availability of single-sex and non-gendered changing spaces and toilets for customers and staff.
- **Collaboration with CEC Colleagues:** EL is consulting with City of Edinburgh Council (CEC) colleagues regarding policies for access to changing spaces and toilets within school estates.

*Question 2: Please provide me with a copy of your policy relating to single sex spaces.*

**Response:** Information Not Held

**Exemption:** FOISA Section 17 Information Not Held

Unfortunately, we are unable to provide you with the information requested as it is not held by Edinburgh Leisure.

EL is awaiting the finalised EHRC Code of Practice along with updated UK Active guidance, expected to be released in late summer, in line with UK Active's interim statement, which reads: *"facility operators (should) manage situations on a case-by-case basis, acting with sensitivity and understanding to continue to ensure all customers are treated with dignity and respect, and are supported while policies are under review."* Once available, this information will be used to draft updated guidance for both staff and customers.

*Question 3: Please confirm whether Edinburgh Leisure is currently breaking the law by allowing males (for clarity this includes those men who identify as transwomen) to use spaces, such as changing rooms and bathrooms, reserved - by law - for female members of the public*

**Response:** Release of Information

**Exemption:** N/A

EL does not ask for any evidence of the gender of our customers – nor keep any records relating to the gender of customers accessing the different toilet/changing spaces we operate. We are currently working with UK Active (the member body for the UK Active Leisure sector) to consider the implications of this ruling for our customers. We are aware that UK Active have withdrawn their current guidance and placed this under review. UK Active have formed a working group to consider the implications of the ruling for our sector and to review and update the guidance, which will be finalised once the Equality and Human Rights Commission (EHRC) has provided its updated code of practice (expected Autumn 2025). UK Active has recommended that facility operator guidance and policies relating to transgender access are also placed under review until the new guidance, informed by the EHRC's new code of practice, is issued, and have cautioned against implementing new policies in haste or informed by advice that is not independently or directly commissioned.

*Question 4: Please provide any minutes from meetings this year where the decision was made to not follow the Supreme Court ruling and instead wait for further guidance from the EHRC via Edinburgh Council despite the EHRC stating, on several occasions, that organisations should not wait for updated guidance and should instead implement the law.*

**Response:** Release of Information

**Exemption:** N/A

**Documents Provided:** Excerpt from Board Meeting 22 July 2025

22 July 2025: EL Board Meeting: CEO Update:

### **Transgender Access to Single Sex Spaces & Services**

On 16th April 2025, the UK Supreme Court delivered a unanimous ruling on the definition of "woman" under the Equality Act. The court concluded that this definition does not encompass transgender women who hold a gender recognition certificate. In light of this decision, existing guidance from the Equality & Human Rights Commission (EHRC) and UK Active has been withdrawn and placed under review. UK Active has advised facility operators to avoid implementing new policies prematurely and have advised *"facility operators (should) manage situations on a*

*case-by-case basis, acting with sensitivity and understanding to continue to ensure all customers are treated with dignity and respect, and are supported while policies are under review.*“ Edinburgh Leisure are:

- Awaiting Updated Guidance: EL is awaiting the finalised EHRC Code of Practice (currently out for [consultation](#) until 30<sup>th</sup> June 2025), along with updated UK Active guidance, expected to be released in late summer. Once available, this information will be used to draft updated guidance for both staff and customers.
- Audit of Facilities: An audit is being conducted across all EL sites to assess the availability of single-sex and non-gendered changing spaces and toilets for customers and staff.
- Collaboration with CEC Colleagues: EL is consulting with City of Edinburgh Council (CEC) colleagues regarding policies for access to changing spaces and toilets within school estates.
- Responding to customer queries and Freedom of Information (FOI) requests.
- Customer interest and feedback: So far, EL has received:
  - Two Freedom of Information requests seeking details related to this matter.
  - Ten customer enquiries via email and the "Ask Us" service. Approximately half of the comments express concerns about the current guidance, requesting confirmation that Edinburgh Leisure will comply with the law and exclude transgender individuals from single-sex spaces. The remaining seek reassurance that Edinburgh Leisure will continue to support transgender individuals in accessing services and activities.
- Edinburgh Leisure remains committed to balancing the needs of all customers while awaiting the publication of updated guidance and policies.

Please treat this as a Refusal under Section 17 and notice in accordance with section 16 of the Freedom of Information (Scotland) Act 2002 (FOI(S)A).

Section 16 of FOI(S)A requires us to complete a refusal notice when we are not providing information requested.

This concludes your request **ELIR00446**.

---

If you are unhappy with this response to your request, or otherwise unhappy with how we dealt with your request you have the right to request a review from us under Section 21 of FOISA by writing to [foi@edinburghleisure.co.uk](mailto:foi@edinburghleisure.co.uk)

Your request should explain why you wish a review to be carried out and should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt.

Should you remain dissatisfied with the outcome of the review, you then have the right to make a formal complaint to the Scottish Information Commissioner.

- **Email** to: [enquiries@foi.scot](mailto:enquiries@foi.scot)
- **Post** to: Scottish Information Commissioner, Kinburn Castle, Doubledykes Rd, St Andrews, KY16 9DS

## Exemption

### **Withheld under Section 17 Information Not Held**

Section 16 of FOI(S)A requires us to complete a refusal notice when we are not providing information requested. The details we are required to include in this refusal notice are set out below.

In this instance, Edinburgh Leisure is applying the following exemption to the information that you have requested:

**Exemption:** Section 17 - Information not held.

**What we are withholding:** The information that you asked for regarding question 2 a copy of our policy relating to single sex spaces will not be released. Under the terms of the Act, a request for information can be refused where one or more exemptions listed in the legislation apply.

**Why exemption(s) applies:** Unfortunately, we are unable to provide you with the information requested in question 2 as we do not hold any information in response to this question.

**Public Interest (where relevant):** As the information requested is not held by Edinburgh Leisure, we are unable to conduct a public interest test.

Please treat this as a Refusal under Section 17 and notice in accordance with section 16 of the Freedom of Information (Scotland) Act 2002 (FOI(S)A).