Sex discrimination in private clubs

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It is still lawful for a club which is genuinely private to have discriminatory membership entitlements and prices between men and women. Although the *Sex Discrimination Act 1975* (SDA) outlaws most forms of sex discrimination in the provision of goods, services and facilities it is still legal for genuinely private clubs to make different facilities available for men and women. Various Private Members Bills have attempted to extend SDA to cover private clubs. None of these Bills succeeded in securing sufficient parliamentary time to become law.

The Government has announced that the forthcoming *Equality Bill* will make changes to discrimination law in this area:

> 22. We will make it unlawful for mixed-sex private clubs to discriminate between men and women members so that people are not treated as second class simply because of their gender. We will also outlaw discrimination by private clubs based on religion or belief, pregnancy or maternity, gender reassignment and age. We will also outlaw discrimination by private clubs against guests on any of these grounds.
>
> 23. But we will not extend these changes to single-sex clubs (e.g. for sport) and there will be no change in the position that private clubs can limit themselves, e.g. to members of a particular religion or belief, pregnant women and new mothers, transsexual people and people of particular ages.[1]

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[1] GEO, *The Equality Bill – Government Response To The Consultation*, July 2008, Cm 7454, page 8

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1 Sex Discrimination Act 1975

Section 29 of the SDA currently reads (underlining added):

> **29. Discrimination in provision of goods, facilities or services**
>
> (1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services –
>
> (a) by refusing or deliberately omitting to provide her with any of them, or
> (b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.
>
> (2) The following are examples of the facilities and services mentioned in subsection (1) –
>
> (a) access to and use of any place which members of the public or a section of the public are permitted to enter;
> (b) accommodation in a hotel, boarding house or other similar establishment;
> (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
> (d) facilities for education;
> (e) facilities for entertainment, recreation or refreshment;
> (f) facilities for transport or travel;
> (g) the services of any profession or trade, or any local or other public authority.
>
> (3) For the avoidance of doubt it is hereby declared that where a particular skill is commonly exercised in a different way for men and for women it does not contravene subsection (1) for a person who does not normally exercise it for women to insist on exercising it for a woman only in accordance with his normal practice or, if he reasonably considers it impracticable to do that in her case, to refuse or deliberately omit to exercise it.

2 Race Relations Act 1976

A private club, does not provide "goods, facilities or services to the public or a section of the public", if the rules of the club provide for nomination and personal selection and there is nothing to indicate that those rules are a mere formality. This is based on a *Race Relations Act* case, *Charter v Race Relations Board.*[2] A textbook on the *Race Relations Act 1976* explains:

> **Clubs, associations and other private organisations**
>
> Subsection 1 of section 20 limits the operation of the section to the provision of goods, facilities and services "to the public or a section of the public." These words have been the subject of much judicial scrutiny.
>
> The facts in *Panama (Piccadilly) Ltd. v Newberry* showed that any person was admitted to the club which featured in that case if they merely filled in a form and paid £1.5.0d. The Court of Appeal held that the club's so-called "members" were, in reality, nothing more than a section of the public.
>
> In order to exclude genuine clubs, the words "to the public or a section of the public" were adopted in the 1968 Act. The phrase was considered by the House of Lords in *Charter v Race Relations Board* which involved alleged discrimination by a local conservative club. Their lordships overruled the decision of the Court of Appeal and decided that the words "the public or a section of the public" were words of limitation as "public" must be construed in contrast to "private". The Judicial Committee went on to hold, by a majority, that when the rules of the club in question provided for nomination and personal selection, and when there was nothing to indicate that those rules were mere formalities, a club was to be considered as private and outside the terms of section 2 of the 1968 Act. Lord Reid said:'
>
>> But a clear dividing line does emerge if entry to a club is no more than a formality. This may be because the club rules do not provide for any true selection, or because, in practice, the rules are disregarded.
>
> Charter's case was followed in *Dockers' Labour Club and Institute Ltd. v Race Relations Board* which involved discrimination by a particular working men's club against a man who was an associate of the Union of Working Men's Clubs. In the course of the hearing, it was said that there were some four thousand working men's clubs with a total membership of three-and-a-half million people and about a million associates. The complainant entered the club's premises as an associate, and was asked to leave because of his colour.
>
> The club concerned had a selection process, but the question was whether, by admitting the associates to the facilities of the club, the club went out of the private sphere and into the public sphere. Reversing the Court of Appeal decision, the House of Lords held that the club was operating in its private sphere, as each associate had been the subject of personal selection by a club in the union, and the proportion of associates entering the particular premises was not such as to alter the private character of the club. [3]

Following these cases interpreting the *Race Relations Act 1968*, the *Race Relations Act 1976*, the current statute, makes special provision to prohibit racial discrimination in private clubs with 25 or more members. Section 25 of the 1976 Act makes it unlawful for such a club to discriminate in the terms on which it is prepared to admit someone to membership or

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2 [1973] AC 868

3 D. J. Walker and M. J. Redman, Racial Discrimination: a simple guide to the provisions of the Race Relations Act 1976, pp 61-62

by refusing or deliberately omitting to accept their application for membership. Section 26 makes an exception for associations whose main object is to enable the benefits of membership to be enjoyed by a particular racial group defined otherwise than by reference to colour. There is no equivalent provision in the *Sex Discrimination Act*.

3 Council Directive 2004/113/EC

Under the European Gender Directive 2004/113/EC clubs that admit both men and women but then discriminate against one sex are subject to anti-discrimination legislation.[4] However, Article 16 of the Directive (added later) provides some residual possibility that single sex membership clubs will be able to claim a legitimate aim on the basis of freedom of association.[5] Article 16 reads as follows:

> Differences in treatment may be accepted only if they are justified by a legitimate aim. A legitimate aim may, for example, be the protection of victims of sex-related violence (in cases such as the establishment of single-sex shelters), reasons of privacy and decency (in cases such as the provision of accommodation by a person in a part of that person's home), the promotion of gender equality or of the interests of men or women (for example single-sex voluntary bodies), the freedom of association (in cases of membership of single-sex private clubs), and the organisation of sporting activities (for example single-sex sports events). Any limitation should nevertheless be appropriate and necessary in accordance with the criteria derived from case law of the Court of Justice of the European Communities.

Consultation on implementation of the Directive ran alongside consultation on the proposed Single Equality Bill by the Discrimination Law Review which was announced on 25 February 2005.[6] A Press Release at that time explained that

> the Discrimination Law Review will assess how our anti-discrimination legislation can be modernised to fit the needs of Britain in the 21st Century. This work will consider the approaches that are effective in eradicating remaining discrimination but avoid imposing unnecessary, bureaucratic burdens on business and public services.[7]

However, since proposals for the Single Equality Bill would take longer than the deadline for implementation of the Directive, the Government are implementing it using regulation making powers under the *European Communities Act 1972*. Implementation will require amendment to some existing provisions in the *Sex Discrimination Act 1975*. The draft *Sex Discrimination Act 1975 (Amendment) Regulations 2007* were laid before Parliament on 28 November but the government did not take them forward at that time. These would have given effect to the EU Gender Directive in Great Britain only. Instead they were replaced on 6 March 2008 by the draft *Sex Discrimination (Amendment of Legislation) Regulations 2008*.

The ***Sex Discrimination (Amendment of Legislation) Regulations 2008*** came into force on 6 April:

Type	**Affirmative instrument**
Laid before Parliament	**6 March 2008**
Considered by House of Lords Merits of Statutory Instruments Committee 15th Report of 2007-08	**18 March 2008**
Referred to House of Lords Grand Committee	**13 March 2008**

4 *Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services*

5 See also David Rennie "Europe blasts away traditional sex discrimination at golf clubs", The Daily Telegraph, 5 January 2006, p9

6 Discrimination Law Review terms of reference

7 Joint DTI and Cabinet Office Release, *Review of causes of discrimination announced*, 25 February 2005:

Considered in Grand Committee in the House of Lords	**25 March 2008**
Considered by House of Commons Eighth Delegated Legislation Committee	**27 March 2008**
Approved by House of Commons and House of Lords	**31 March 2008**
Coming into force:	**6 April 2008**

The effect of the new regulations on the single sex exceptions was explained further in guidance from the Government Equality Office:

> Before 6 April, the SDA and SDO [Sex Discrimination (Northern Ireland) Order 1976] included a small number of exceptions that allow facilities or services to be provided on a single-sex basis. The Directive does allow different treatment of women and men in two respects. Firstly, where there is a legitimate aim and the different treatment is a proportionate means of achieving that aim. And secondly, where the different treatment has the aim of preventing or compensating for disadvantages linked to sex (positive action). Where these exceptions as drafted ran the risk of not complying fully with the Directive, the Regulations have tightened the drafting so that they are compliant.[8]

Although it was expected that the new regulations would tighten up the rules for discrimination in private members clubs for when they are open to both sexes, they do not appear to have done so.[9] As noted above, these changes will be made by the *Equality Bill* expected in April 2009. Section 29 of the SDA still only applies to facilities which provide services to the public or a section of the public. Private members clubs open to both sexes are therefore still excluded from the provisions of the SDA. A section on the Equality and Human Rights Commission website explains this further:

> ***Private members' clubs***
>
> When services are provided to you by a private members' club of which you are a member, the club is not bound by the Sex Discrimination Act as a service provider and can lawfully discriminate on grounds of gender. However, private clubs must still obey the Sex Discrimination Act in the way they treat their employees.
>
> The rules and practices of private members' clubs have over the years resulted in many complaints of discrimination. The main issue has been the different classes of membership that are open to one sex only.
>
> ***Example:***
>
> A golf club restricts "full membership" to men. Only full members have the right to set the rules of the club and have full access to the club. "Associate membership" is restricted to women and has reduced rights and limited access to the club. As long as the club is genuinely private, this would be lawful.[10]

4 Discrimination Law Review Green Paper

In June 2007, a Green Paper was published by the Discrimination Law Review on the proposals for a Single Equality Bill. This included some proposals which would further

[8] Government Equalities Office Factsheet, *Sex Discrimination (Amendment of Legislation) Regulations 2008 – SI 2008/963*, April 2008

[9] See *Equality bill set to curb golf club discrimination*, The Guardian, 12 June 2007

[10] Equality and Human Rights Commission website, *Sex discrimination as a consumer: your rights* [on 27 February 2009]

address the issue of discrimination on grounds of race and sexual orientation in private members clubs. These are explained in the consultation as follows:

> Where the main purpose of private clubs is to bring together people who share a characteristic – sex, a particular race, ethnicity or nationality, etc., disability, sexual orientation, religion or belief, or being in a particular age range – we think this is entirely legitimate. We want to ensure the law allows this to continue.
>
> However, we consider that private clubs, whose main purpose does not depend on their members having a characteristic protected by discrimination law should not be able to discriminate against their members, associates, applicants for membership or their guests.
>
> We therefore want to extend the protection against discrimination that disabled people already have as guests in private clubs to race and sexual orientation.[11]

The Green Paper set out that the Government negotiated provisions to the gender directive to ensure that there could still be specific exceptions from it:

> The Government negotiated this provision to ensure that we could retain certain specific exceptions in the Sex Discrimination Act such as the provision of accommodation by a person in a part of their home for reasons of privacy and decency, single-sex voluntary bodies to promote the interests of men or women, membership of single-sex clubs to allow freedom of association, and the organisation of single-sex sports events.[12]

A press release to announce the publication of the Green Paper suggested that the Government wanted to change the discrimination law for private clubs when they are open to both men and women:

> Private clubs and associations - we do not favour preventing people setting up clubs which have membership targeted at one sex or group.
>
> But we believe that people being treated as second class citizens when a club is open to all is not acceptable. For example, there are still golf clubs which restrict the times their female members can have access to club facilities or play during the day or bar them from being part of the running of the club.[13]

5 Working Men's Club and Institute Union

The Working Men's Club and Institute Union (CIU) is a voluntary association of private members' clubs in Great Britain, with about 3,000 associate clubs. Most social clubs are affiliated to the CIU. They do not have to be Working Men's Clubs, although most are. There are many Village Clubs, Royal British Legions, Labour Clubs and various other clubs involved. A member of one CIU affiliated club is entitled to use the facilities of all other CIU clubs, although they will only be entitled to vote in committee elections in clubs where they are full members. The position of women in the Union has been a constant source of debate, with motions to support allowing the use of the associate card not gaining enough support to change the constitution in this respect. It appears that the CIU is not a single sex club

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11 The Department for Communities and Local Government consultation paper, Discrimination Law Review A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain, June 2007 p156

12 Department for Communities and Local Government, *Discrimination Law Review A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain: A consultation paper*, June 2007, section B:17

13 Department for Communities and Local Government, *Tackling discrimination, modernising the law*, 12 June 2007

organisation and so is likely to be affected by the new laws when they come into force. The position of women in respect of the CIU was outlined by Parmjit Dhanda MP when introducing one of the various Private Members Bills that have sought to address this matter:

> The Club and Institute Union, which represents almost 2,700 working men's clubs in Britain, reports that some 60 per cent. of affiliated mixed-sex clubs still deny female members full rights. The CIU's constitution does not permit pass cards to be issued to women members. The cards are a means of identification, allowing a member of one CIU club to visit another club and enjoy, as a guest, almost the same level of membership as they hold in their own club. While the CIU has tried on five separate occasions to abolish that rule, it has yet to achieve the two-thirds majority necessary to do so. I hope that the Bill will help it along the way. The concern is that such outdated attitudes are leading to members deserting many of those clubs.[14]

6 Background

6.1 Equal Opportunities Commission proposal 1998

The Equal Opportunities Commission (EOC) received many complaints from women who were admitted to membership of clubs but then excluded from certain facilities.[15] Examples include men only snooker rooms and prohibitions on women using a golf course at weekends or in the evenings. They have been arguing for a change in the law for some time. The EOC had a statutory duty to "keep under review the working of [the *Sex Discrimination Act*] and the *Equal Pay Act 1970* and, when they are so required by the Secretary of State or otherwise think it necessary, draw up and submit to the Secretary of State proposals for amending them".[16] The Commission published a consultation paper on changes to the legislation in January 1998.[17] This recommended the merging of the *Sex Discrimination Act 1975*, the *Equal Pay Act 1970* and other relevant legislation into a single Sex Equality Act. It proposed that this Act should outlaw discrimination of the kind described:

> **Private Clubs**
>
> **59**. S.29 of the SDA makes it unlawful for any person concerned with the provision of goods, facilities or services to the public to discriminate against a woman (man) who seeks to obtain or use them. Private clubs however are unlikely to come within the scope of s.29 because they are concerned not with the public as such but their own private members. The EOC continues to receive objections to the rules and practices of private clubs. An earlier recommendation by the EOC in 1988 to amend the SDA was rejected by the Government on the ground that this was an intrusion into the private domain where it was not appropriate to enforce equality by means of the law. Nevertheless, the evidence available to the EOC indicates very little voluntary change in this sector and complaints reinforce the view that the exclusion of such clubs results in a variety of discriminatory rules and arrangements which seek to perpetuate stereotypical images of men and women; and which limit women's participation in club activities in a number of ways.
>
> **60**. The principal concern lies with those clubs – sports and social – which generally have two classes of membership. Full membership rights are restricted to men and include the right to determine the rules of the club and unrestricted access. On the other hand, associate membership, which is the only status offered to women, does not include the right to belong to the decision making body and usually involves other restrictions on, for example, access to certain club facilities, or time constraints.

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14 HC Deb 4 February 2003 c149

15 The EOC ceased operation in October 2007 to be replaced by the Equality and Human Rights Commission (EHRC, sometimes referred to as "Eric")

16 Sex Discrimination Act 1975, section 53 (1) (c)

17 Equal Opportunities Commission, Equality in the 21st Century: a New Approach, January 1998

61. Associate membership is usually cheaper than full membership but the fundamental objection lies in the absence of choice for women and men. The differences in treatment usually stem from outdated views of the lives of men and women – a typical complaint is the restriction of playing times for women in golf clubs where it is assumed that women are not in paid employment and may therefore cope with restrictive playing times to keep the course clear for male members outside normal working hours. Such attitudes are not simply outdated, they may seek artificially to preserve general assumptions which potentially restrict the roles and options for both sexes and slow down the development of equality of opportunity.

62. The absence of an option for full membership for women has wider consequences in the context of certain social clubs. Members of these clubs are entitled to a card which gives them automatic access to others. This means that women may not gain access to clubs in other areas unless they are with a male partner. On occasions, differences in the rules of individual clubs can create problems; for example a mixed darts or snooker team may be prevented from playing games away if a particular club does not allow women to use these facilities.

63. In seeking an amendment to bring a wider range of clubs within the requirements of the new statute the EOC wishes to make clear that it does not wish to require genuinely single sex clubs and organisations to open up membership to both sexes. At the moment it is deemed appropriate to allow freedom of association where there is a desire to participate in genuine single sex activities. The amendment as described below would not, therefore, place any obligation on 'gentlemen's clubs', the Women's Institute, or charities, which confine benefits to one sex, to change their current practices.

Recommendation

The new statute should include within its scope all private members' clubs which have in the previous two year period admitted both sexes to some membership category and/or where some club facilities and services have been available to both men and women.

Following the consultation, the EOC published formal proposals for reform of the legislation in November 1998.[18] This confirmed the proposal and made it into a formal recommendation to the Secretary of State:

Private Clubs

The EOC continues to receive many complaints about the rules and practices of private members' clubs. These clubs are not controlled by the Sex Discrimination Act because they are not concerned with the public. However, we believe the omission of private clubs results in various discriminatory rules and arrangements which support stereotypical images of men and women and limit women's participation in club activities.

The EOC recommends:

The new statute should cover all private members' clubs which have admitted both sexes to a membership category and where some club facilities and services have been available to both men and women during the previous two years.[19]

David Blunkett, Secretary of State for Education and Employment, wrote to Julie Mellor, the Chairwoman of the EOC, on 14 July 1999 setting out the Government's conclusions on some

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18 Equal Opportunities Commission. Equality in the 21st Century: a New Sex equality Law for Britain, November 1998

19 Page 8

of the key areas of their proposals. However, the response did not cover the proposals on private clubs. It concluded:

> From the above you can see that the Government is committed to taking action in many of the areas the Commission has highlighted in its proposals. Indeed, there may be other individual aspects of the EOC's proposals consistent with our broad priorities which we can take forward as legislative time permits.

In November 1999, a Government statement on its approach to equality issues contained no specific mention of sex discrimination and clubs. It did say:

> We will where practicable harmonise the provisions of the Race Relations Act 1976, the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995 and align the equality commissions' powers,

And concluded:

> Overall, therefore, we intend to combat discrimination across a broad front, using both legislative and non-legislative means as appropriate, and with the public sector taking the lead. To this end, the Government will introduce legislation as soon as Parliamentary time allows, following a targeted consultation exercise in the first half of 2000; and will press ahead with the non-legislative measures outlined above.[20]

Although there was some Government legislation on sex discrimination in the 2001-02 session, it did not cover private clubs.[21]

In fact, the Government's initial response appeared to be a preference for voluntary action. There was a short exchange in the Lords on the issue on 16 January 2001, following the decision of the Carlton Club not to grant women members equal access despite support for this change by William Hague, then leader of the Conservative party.[22] Baroness Blackstone – then Minister for State at the Department for Education and Employment – stated that "the government view is that this is a matter for voluntary change." An extract from the debate is reproduced below:

> **Lord Faulkner of Worcester** asked Her Majesty's Government: Whether they plan to amend the Sex Discrimination Act 1975 in the light of the recent continued refusal of the Carlton Club to admit women as full members.
>
> **The Minister of State, Department for Education and Employment (Baroness Blackstone):** My Lords, our expectation is that private clubs which allow access to membership to both men and women would want voluntarily to put a stop to any discriminatory practices they may have. We recognise that they may need time to do this.
>
> **Lord Faulkner of Worcester:** My Lords, I thank my noble friend for that Answer. Does she not agree that if a West End club, a golf club or, indeed, a working man's club were to exclude people from membership or access to membership because they were black, Jewish or had some kind of disability, there would be a public outcry? It would, of course, be illegal. Is it not even more offensive that private clubs are able to discriminate against people solely because they are women? Is this not a matter of civilised behaviour rather than a matter of political correctness? Will my noble friend join me in commending those members of the Carlton Club who have resigned their

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20 Marjorie Mowlam, HC Deb 30 November 1999, cc 174-177W

21 The Sex Discrimination (Election Candidates) Bill 2001-02 and the Sex Discrimination (Indirect Discrimination and Burden of Proof) Regulations 2001, SI 2001/2660

22 "Hague blow as Carlton club keeps women out", Guardian, 30 November 2000

membership in protest against this decision? Can she say whether the Leader of the Opposition has joined them, as he said he would?

Baroness Blackstone: My Lords, I have no idea of the intentions of the Leader of the Opposition; nor do I know what standing Mr William Hague has in the Carlton Club or whether his threat to resign will lead those who want change to vote for it or to his persuading more people to do so. Members on the Opposition Benches may be able to answer that question. The Carlton Club was started in 1832 by those who were appalled at the Reform Act, which extended the franchise. So reactionaries started it, and reactionaries may win against progress today. My noble friend referred to the difference between the Sex Discrimination Act and the Acts covering disability and race relations. Neither the SDA nor the DDA extend to private clubs, whereas the Race Relations Act extends to clubs with more than 25 members. These provisions reflect what Parliament thought appropriate at the time. Attitudes have since changed, and we believe that they will increasingly lead to change on a voluntary basis …

Lord Richard: My Lords, is my noble friend aware--I was not, until I had it on the impeccable authority of my noble friend the Chief Whip--that the Farmers' Club has admitted women since its inception in 1842? If those bucolic attitudes are correct for farmers, should they not apply to other clubs as well?

Baroness Blackstone: My Lords, the government view is that this is a matter for voluntary change. Personally--and I think that many of my noble friends agree with me--I prefer mixed membership.[23]

6.2 Sex Discrimination (Amendment) Bill 1999-2000

Robert Walter, the Conservative MP for North Dorset, won eleventh place in the ballot for Private Members' Bills on 25 November 1999 and introduced a Bill to outlaw sex discrimination in private clubs which admit both sexes to a membership category. Its long title was:

A Bill to amend the Sex Discrimination Act 1975; to make provision with respect to discrimination concerning the provision of goods, facilities, services and access to governance by private member clubs; and to continue to permit wholly single-sex clubs and sporting events

The *Sex Discrimination (Amendment) Bill 1999-2000* was presented on 15 December 1999 and was down to have its second reading on 11 February 2000.[24] However, there was insufficient time for debate, and although Mr Walter was able to utter a sentence or two, no progress was made.

In an article in the *House Magazine*, he described the Bill as follows:

At present private clubs are able to discriminate against women and offer them subsidiary membership, often called associate membership. They are often barred from a particular room, or offered membership on less favourable terms than men. It usually bars them from taking part in the running of the clubs, and taking decisions that affect all members.

The bill will outlaw this, and allow women *access to governance,* enabling them to take a full part in their chosen club.

The bill does not affect purely men/women only clubs, despite what has been reported in the press recently. It will only affect those clubs with over 25 members offering second class membership to women. At present these clubs are sending out signals

23 HL Deb 16 January 2001 cc 1032-1034
24 Bill 22 1999-2000

> that discrimination against women is acceptable. This effectively bars women from either social or political networks that exist around these clubs, and is clearly unacceptable.
>
> Of course a club can choose to remain a single sex club. But what many of these clubs find is that if they, take this decision then lottery funding is not available to them, and they are already, changing their rules to bring themselves up to date.
>
> Single sex changing rooms and toilets would not be affected, nor would single-sex sporting events.
>
> The Equal Opportunities Commission support the bill, and have lobbied Parliament for it. They say: "The new statute should cover all private member's clubs which have admitted both sexes to a membership category, and where some club facilities and services have been open to both men and women."
>
> The Fawcett Society, the campaigning group for political equality, support the bill. [25]

6.3 Sex Discrimination (Amendment) Bills 2001-02

On 11 December 2001, Robert Walter was given leave to introduce a virtually identical Bill under the Ten-Minute Rule.[26] This time he was able to make a longer speech in support.[27] He also raised the issue in a general debate on women and equality on 14 March 2002.[28]

Lord Faulkner of Worcester, a Labour peer, introduced the same Bill in the Lords on 1 March 2002.[29] This Bill received a second reading in the Lords on 13 March 2002,[30] and went on to pass all its Lords stages with some amendments.[31] Nearly all the peers who spoke in the second reading debate supported the Bill except Lord Borrie, a Labour peer, who was “not at all keen on using the law to achieve” the Bill’s aims.[32] Baroness Buscombe, the Conservative spokesperson on Home Office and Legal Affairs, was also “reticent about succumbing to legislation on this issue”.[33]

Baroness Farrington of Ribbleton spoke for the Government. She assured the House of Government support for the principle of the Bill but expressed doubts about the detail and the availability of Government time. She also recalled that the Government’s initial view had favoured voluntary action:

> The Government are firmly committed to equality of opportunity. Not only is it inherently right, but it is essential to Britain's future economic and social success. My honourable friend Barbara Roche, the Minister for Women, also welcomes the Bill in principle. Although the Government support the principles of the Bill, we must also consider the impact that it will have, as we do with all legislation. (…)
>
> My noble friends Lord Faulkner and Lady Crawley referred to the previous calls for the Government to change sex discrimination legislation. Many women have also written in individually. As my noble friend said, in 1998 the EOC proposed that the SDA should be extended to apply to clubs which have men and women members. The Government responded then by indicating a preference for voluntary action to be taken by clubs to eliminate discriminatory practices before imposing a legislative duty.

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25 “Sex Discrimination (Amendment) Bill, The House Magazine, 31 January 2000
26 Sex Discrimination (Amendment) Bill, Bill 66 of 2001-02
27 HC Deb 11 December 2001, cc736-738
28 HC Deb 14 March 2002, cc 1086-1088
29 Sex Discrimination (Amendment) (No 2) Bill [HL], HL Bill 58 of 2001-02
30 HL Deb 13 March 2002, cc 914-936
31 Committee stage, HL Deb 8 May 2002, cc 1229-1256; Report stage, HL Deb 22 May 2002, cc 848-863
32 HL Deb 13 March 2002, c 924
33 Ibid, c 931

> Several years later, very little has been done to rectify this inequality. Our expectation that clubs with both male and female members would want voluntarily to make sure that their arrangements were not discriminatory was, sadly, not borne out. I understood some reservations put forward by my noble friend Lord Borrie, but how long do we have to wait for voluntary action to provide that equality within the membership of clubs? (…)
>
> I assure the noble Baroness, Lady Buscombe, that we support the principles that the Bill embodies. There is some important work to be done to ensure that it does what it is intended to do—and only what it is intended to do. As the noble Baroness said, addressing discrimination by private clubs raises some sensitive issues and requires a delicate balance between the rights and wishes of one group against those of another. The Government will welcome the views of noble Lords at later stages.
>
> Finally, I was asked by the noble Baroness, Lady Buscombe, about government time for the Bill. There are established procedures and time available for Private Members' Bills to progress. I have set out that the Government's support for the Bill is qualified and some changes will need to be made to allow the Government to give their full support. That said, we shall of course listen to representations at the appropriate time, should the Bill pass this House and be picked up in another place. However, we have a packed legislative programme, so I cannot give assurances. Perhaps I should conclude by quoting again my noble friend Lady McIntosh—we must all have hope.[34]

Press articles around this time suggested that the Government did intend to make Government time available for the Bill. For example, the *Guardian* reported:

> Under the proposed change in the law, clubs would have to admit women on equal terms, or revert to full men-only status, with no halfway house. The reform is being introduced under a private member's bill in the Lords, due to receive its second reading today, but the government will give it full backing and aim to find parliamentary time for the legislation.
>
> Barbara Roche, the Cabinet Office and women's minister, said the change was long overdue. "In the year 2002, women in mixed clubs should have exactly the same rights as men. It's absolutely absurd that golf clubs should restrict playing times and access to the front door for women members," she said.[35]

The *Financial Times* said:

> The government is preparing to give the country's thousands of private members' clubs a firm push towards that goal. It will support legislation under which women would be guaranteed the same privileges and voting rights as men.
>
> The change would affect private clubs covering all strata of society: about 3,000 working men's clubs, 2,000 or so golf clubs and a handful of gentlemen's clubs.[36]

In the Commons debate on women and equality on 14 March 2002, Barbara Roche, Minister of State at the Cabinet Office, said:

> We support the Bill in principle, and I was delighted that the House of Lords gave the legislation a Second Reading. I am sure that the business managers will have noted the strength of feeling.[37]

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34 HL Deb 13 March 2002, cc 933-935

35 "Ministers back equal club rights for women", Guardian, 13 March 2002

36 "Men club together over new threat of female equality", Financial Times, 14 March 2002

37 HC Deb 14 March 2002, c 1114

However, a government statement on this issue repeated the line that there could be no commitment to Parliamentary time and the Bill failed to become law:

Private Clubs (Discrimination)

> 29. **Mr. Robert Walter (North Dorset):** What plans the Government have to deal with discrimination against women members of private clubs. [58250]
>
> **The Minister for Women (Ms Patricia Hewitt):** I understand that the hon. Gentleman intends to introduce a private Member's Bill on this subject later in the month. I have already welcomed a Bill on the same issue that has been introduced in another place. I can of course make no commitment in regard to parliamentary time, but we will certainly keep the matter under review, because there can be no justification for treating women who are members of mixed-sex private clubs as second-class citizens.
>
> **Mr. Walter:** I am somewhat disappointed by that reply. When the Sex Discrimination (Amendment) (No. 2) Bill was proceeding through the House of Lords—it is due to have its Third Reading on Monday evening—it was supported by the Government, Conservative and Liberal Democrat Front Benches. I hoped that the Minister would be able to give us a clearer indication that Government time would be made available when that Bill came to the House of Commons and took its place alongside my virtually identical Bill. It seems to me that the Government are more interested in the welfare of foxes than in the welfare of women.
>
> **Ms Hewitt:** Until that point, I was full of sympathy for the hon. Gentleman. As I think he knows, there are technical problems relating to Lord Faulkner's Bill and the Bill that the hon. Gentleman intends to introduce, connected with, for instance, amendments to the Licensing Act 1988 and aspects of the drafting. If the hon. Gentleman wishes, I shall be happy to ensure that my officials discuss the drafting of his Bill with him; I shall certainly continue to discuss the issue with the business managers. [38]

6.4 Sex Discrimination (Clubs and Other Private Associations) Bill 2004

The *Sex Discrimination (Clubs and Other Private Associations) Bill*, was introduced in the House of Commons on 9 March 2004 by David Wright MP. It had its second reading and was committed to Standing Committee C on 14 May. The Bill, which applied in England, Scotland and Wales, addressed unequal treatment of members, associates and guests of mixed-sex private clubs with 25 or more members.

There were also limited provisions covering single-sex private clubs with 25 or more members. It proposed to make it unlawful to discriminate in circumstances where male and female guests are attending occasions to which both sexes are invited.

Despite poor prospects for the Bill becoming law, it made it to second reading and was committed to Standing Committee on 14 June 2004. In addition, a detailed Regulatory Impact Assessment was published by the government on 11 May 2004. This indicated that primary legislation covering mixed sex private clubs is the government's preferred option. It failed get sufficient time to become law, notwithstanding government support.

38 HC Deb 13 June 2002, cc 995-996