

Gender-neutral drafting

What is gender neutral drafting?

Gender-neutral drafting primarily means avoiding the use of gender-specific pronouns in legislation. It can also mean avoiding terms that imply that a person of a particular gender will do a particular job, or perform a particular role.

Historically, legislation drafted in the English language typically referred to persons by use of male pronouns (he/him). This was effectively a form of legal shorthand, as statutes dealing with how to interpret legislation provide that (in the absence of a contrary intention), words and expressions indicating the masculine gender include the feminine, and vice-versa.

As a result, any reference in legislation to "he" is normally to be read as including "she". This approach ensured that legislation was generally gender-neutral in its legal effect, but not in how it appeared on the page.

What is the Law Officers' policy on gender-neutral drafting?

It is a long-established internal policy of the Law Officers' Chambers to draft legislation in a gender-neutral way. This general policy is subject to (relatively rare) necessary exceptions. For example, when drafting amendments to existing legislation, the insertion of gender-neutral text may not be appropriate where it could create legal uncertainty.