

TRANS PEOPLE STILL HAVE PROTECTION

BUT HOW IT WORKS HAS SHIFTED

Trans people have not lost protection under the Equality Act, but how that protection is applied has changed. The ruling creates complexity around which sex a trans person is “assumed” to have in law, and this impacts how cases of discrimination are interpreted — particularly for those with a Gender Recognition Certificate (GRC).

“It’s not that we’ve been removed from protection — it’s that, in certain circumstances, we’re now assumed to have a different legal sex than we thought.” – Robin White

SINGLE SEX SPACES

PROPORTIONATE JUSTIFICATION NO LONGER APPLIES THE SAME WAY

Pre-ruling, organisations were allowed to exclude a trans person from single-sex space if they could justify this under a proportionate means to achieve a legitimate aim. Now, allowing a trans woman with a GRC into a ‘women-only’ service may void that service’s single-sex status altogether.

“We don’t even get to the ‘proportionate’ test — under the ruling, if a trans woman is included, it’s no longer a single-sex service.” – Robin White

GENDER NEUTRAL FACILITIES

Gender-neutral toilets are currently the most legally resilient option, particularly in employment settings. But legacy regulations (like the 1992 Workplace (Health, Safety and Welfare) Regulations) complicate the picture — they explicitly require provision of male and female toilets.

“So even if you’re being inclusive, building regulations could now make your setup non-compliant if you convert to all-neutral loos.” – Robin White

DATA PROTECTION, PRIVACY AND CONFIDENTIALITY RISKS

The confidentiality of GRC holders is at risk if employers segregate them visibly (e.g. directing them to a single ‘third space’). This could constitute a breach of their Article 8 right to privacy under the European Convention on Human Rights.

WHAT SHOULD ORGANISATIONS DO RIGHT NOW?



MAKE A HOLDING STATEMENT

Use this moment to reassure staff and commit to safe, inclusive, legally compliant practice while the guidance landscape evolves.

Sample Phraseology:

"This is a period of legal uncertainty, and we understand there are strong feelings. We remain committed to supporting all staff. If any employee is experiencing discomfort or difficulty, we ask they approach management so we can find a respectful, practical resolution."



CONDUCT A RAPID REVIEW OF FACILITIES

- Check if toilets can be re-designated as gender-neutral.
- Ensure any gender-neutral options have **full-height cubicles** and **handwashing behind the door**, or communal sinks only where legally allowed.
- Don't use radar-locked disabled toilets as a default for trans or non-binary people —this creates additional access barriers for disabled people and risks breaching inclusion principles



REVIEW CONFIDENTIALITY RISKS

Segregating trans staff into visible 'alternatives' may inadvertently **out them** or create grounds for privacy violation claims.

"Forcing a GRC holder to use a 'separate' facility could breach their legal right to privacy. That's not tested yet, but it's risky." – Robin White



BE PREPARED FOR DUAL CLAIMS

Organisations could face indirect discrimination claims from trans staff, and harassment or discrimination claims from gender-critical staff. Leaders must balance these tensions delicately but lawfully.



STAY ALERT TO EHRC GUIDANCE

Expect guidance from the **Equality and Human Rights Commission (EHRC)** — though, as Robin noted, it may lean hostile to trans inclusion and be subject to **judicial review**. Monitor carefully and avoid knee-jerk alignment.

WHERE DO WE GO FROM HERE?

Strategic Message from Robin White:

"There is now no effective method in the UK to legally recognise someone's transition in a wide part of our national life. We've wound the clock back." - Robin White

This ruling doesn't just affect lavatories — it's about **dignity, pay equity, privacy and recognition**. The dinner lady example Robin used starkly illustrated that a trans woman with a GRC might now lose an equal pay case because she is deemed legally male in that context. That alone should send chills through any HR team.



AUDIT YOUR POLICIES

- Ensure equality, dignity at work, and facilities policies are consistent and reflect current risks.
- Flag inconsistencies between intent and practical effect — especially where "sex" is mentioned.



TRAIN LINE MANAGERS & HR BUSINESS PARTNERS

- Brief them on how to handle potential complaints from all sides.
- Equip them with neutral, respectful scripts and escalation routes.



BUILD AN INTERNAL FAQ OR GUIDANCE NOTE

- Address questions like: "What toilet can I use?", "What do I say if challenged?", "What are our policies protecting trans people?"
- Ensure your comms uphold psychological safety and employee dignity.



BACK YOUR TRANS STAFF PUBLICLY

- Use this moment to affirm your values.
- Don't stay silent — silence *is* political.

If the law now views a trans woman with a GRC as legally male in certain contexts, what does that mean for her **dignity, safety, and equality** in your workplace?

This isn't just a legal conundrum — it's a human one. We don't need to wait for case law to act ethically.

So here's the question to leave you with:
Are you preparing to follow the letter of the law — or lead with the spirit of equity?

TRANS
IN THE CITY

