

TransActual Briefing on Workplace Experiences of Trans People in 2025

Key Lines

- Following the [Supreme Court judgment in For Women Scotland](#), and the subsequent release of the EHRC's [rushed](#) and now withdrawn [interim guidance](#), **the rights and protections for trans people in the workplace have been plunged into legal uncertainty** - with an **immediate and profound negative impact** on employees and employers alike.
- Before the judgment, trans employees already faced **major barriers to [employment](#) and [progression](#), [inadequate workplace policies and HR support](#), [lower than average pay](#)**, and high rates of **[discrimination, harassment, and even physical violence](#)** while at work.
- [Research](#) from [TransActual shows](#) they now also face **segregation, outing, misgendering**, and, in the worst cases, **total exclusion from in-person workplaces** - leading to **deteriorating mental health, lowered motivation, and a blow to their sense of belonging and value as an employee**.
- TransActual is calling on MPs to write to the Minister for Women and Equalities demanding that she **reject the proposed Code of Practice** until the EHRC can **produce guidance that outlines how employers may remain trans-inclusive**.

A Rapidly Evolving Context

- See [TransActual's previous briefing](#) from October 2025 for more general background.
- In November 2025, the Minister for Women and Equalities submitted a [skeleton argument](#) in the [Good Law Project's case against the EHRC](#) in which she **challenged the EHRC's sweeping 'trans-exclusive interpretation'** and seemed to advocate for a **case-by-case approach** that allows for trans-inclusive policies.
- Employment tribunals in two [recent cases](#) found that a **trans-inclusive toilet policy was a "proportionate means of achieving a legitimate aim"** to create an inclusive workplace environment and that the Supreme Court judgement **"did not result in it being inherently unlawful for a trans female...to be given permission to use a female changing room at work"**.
- The rapidly evolving legal landscape underscores the importance of clear, thorough guidance for employers and service providers - lest businesses default to exclusion based on **perceived legal risk rather than an accurate understanding of their obligations**.

What are the main issues for trans employees post-EHRC guidance?

- **Exclusion from Gendered Workplace Facilities**
 - Since the EHRC update, many trans people have been **barred by their employers** from using the toilets and changing rooms they previously used **without issue**. Some have been told to **use the facilities of their sex at birth**, others to **use disabled or gender-neutral alternatives**, and some have even been told that **no appropriate facilities exist** and to work from home until new facilities can be built.
 - There has also been an **emboldening of challenges to trans and non-trans gender-nonconforming employees accessing gendered facilities based solely on their appearance**, both from colleagues and the public.
- **Outing and Privacy Concerns**
 - Already, **employees' transgender identity and/or medical history is being disclosed without their consent** by HR or other colleagues in order to enforce the perceived 'bathroom ban' - in clear violation of **GDPR principles**.
 - Others risk **'indirect outing'** if they were to start accessing alternative facilities, and so choose to **hide their transgender identity** instead.
 - To enforce new policies, employers sometimes subject trans employees to **invasive questioning about their bodies and medical history**, or **unlawful requests to produce a Gender Recognition Certificate**.
- **Impact on Mental Health and Sense of Safety**
 - **Some trans people report being effectively unable to go to work** following the guidance - with some switching exclusively to **remote working, taking lengthy time off, or leaving their jobs** despite fears of transphobia during recruitment.
 - Trans employees describe **'living in a state of despair'** following the guidance - experiencing **worsening mental health, faltering productivity and motivation**, and a growing sense of **isolation and being 'othered'**.

Reluctant Enforcement

- As the [open letter](#) signed by 678 UK businesses demonstrates, **many employers oppose the EHRC's interpretation** and **do not want to be trans-exclusionary** - citing **conflict with business values, legal and operational risks, costly changes to facilities**, and **wider economic damage** caused by boycotts and cancellations.
- **Many employers** that have **recently implemented** trans-exclusionary policies say doing so **goes against their values**, but they feel their **'hands are tied'**.
- The guidance has also been called **'a misogynist's charter'** that forces all staff into the role of **'gender police'** who must **question the birth sex of colleagues and service users based on how they look**.

For more information

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