



## Disputes relating to discrimination of transgender employees more than double in past year

The number of employment disputes relating to alleged discrimination against transgender employees has more than doubled in the past year. Nine cases reached decision stage at the employment tribunals in 2021-22 compared to four the previous year, shows research by GQ|Littler, a leading specialist employment law firm.\*

Some examples of disputes involving alleged discrimination against transgender employees include:

1. Colleagues deliberately and persistently using the wrong pronouns when addressing or referring to transgender colleagues
2. Transgender employees being harassed for using facilities like changing rooms and bathrooms that align with their gender
3. Employees making transphobic comments on social media platforms

The Equality Act 2010 makes it illegal to discriminate against an individual based on a number of protected characteristics, such as sexual orientation and sex. It expressly includes those who have undergone or are undergoing gender reassignment. However, there is some debate as to whether the Equality Act protects discrimination against people who identify as non-binary or gender fluid.

Caroline Baker, Partner at GQ|Littler, says: "The rise in disputes, albeit from a small base, suggests more could be done to ensure that transgender individuals feel safe and supported in the workplace."

"Actions that employers are looking at implementing to create an inclusive workplace include encouraging employees to state their chosen pronouns, installing some unisex bathrooms in the office or introducing gender neutral uniforms. Employers could also review their application forms to ensure that employees are able to correctly express their chosen gender identity."

"Training can help prevent discrimination based on a lack of understanding of gender identity."

Disputes involving employees voicing gender critical views also on the rise

Disputes in the workplace have also occurred in relation to gender critical views, with people alleging they were discriminated against



and or dismissed unfairly due to them voicing gender critical beliefs. In 2021-22, six tribunal cases were brought, compared to one the previous year.

People with gender critical views believe that sex is biologically immutable, and that it is impossible to change sex (and that a person's gender is indistinct from their sex). In June 2021, the Employment Appeal Tribunal ruled that gender critical beliefs can qualify for protection from discrimination under the Equality Act 2010.

Caroline Baker says: "In cases where employees share beliefs that are at odds with one another, employers are advised to tread carefully. The focus should not be on the belief itself, but on the actions taken that stem from that particular belief."

"If one employee discriminates against or harasses another on the basis of their beliefs, the employer could be held responsible unless they can show they have taken reasonable steps to prevent this harassment or discrimination from taking place."

\* Source: HM Courts & Tribunals Service, year end 31st October

### About GQ|Littler

GQ|Littler is a leading specialist employment law firm and the London office of [Littler](#), the largest global employment and labour law practice devoted exclusively to representing management. With more than 1,700 lawyers in 100 offices across 28 countries, Littler serves as the single source solution provider to the global employer community.

Offering risk-based contentious and non-contentious advice, our legal expertise includes employment, immigration, data privacy and employee tax and incentives. Our client base spans a wide range of sectors including financial services, technology, healthcare, professional services and luxury goods, in the UK and internationally.

GQ|Littler is recognised as a leader in its field by both Chambers & Partners and Legal 500. The firm is described in Legal 500 2023 as "undoubtedly the best boutique firm specialising in employment law for employers in London." For expert insight into the pandemic's impact on the future of the European workplace, including how employers are responding to a myriad of workplace issues and ever-changing regulations, see [Littler's European Employer Survey Report](#).

This story was covered in [Personnel Today](#), [HR Magazine](#) and [The Telegraph](#).