

Pronouns in the workplace

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A potential naming minefield for employers relates to gender identity and preferred pronouns.

Should you encourage staff to add pronouns to their email signatures? Do you understand all the different expressions of gender identity? It may not simply be a choice of he/him, she/her, they/them.

Private members' club, Soho House, offered a choice of 41 pronouns to its members, ranging from the mainstream to the obscure, including eir, ners, pers, thon and xyr. The topic even has a special day: [International Pronouns Day](#) on the third Wednesday of October.

While the practice of adding pronouns to emails seems to have started in academic circles, it has now spread widely across the corporate world. Employees may actively choose to give their pronouns, but staff are also being asked to cite their preference, and many report that this is not just on emails but also within meetings and online profiles, such as LinkedIn.

While enforcing a company-wide policy may be presented as a move towards greater openness and inclusivity, some would argue that this can act to exclude those with different views and potentially breach equality legislation itself. For example, mandating declared pronouns or creating situations where it's difficult to avoid their use could be coercive.

Cases

The guide developed by the campaign group Sex Matters on the use of gender pronouns in the work environment reflects the extent to which the topic has become contentious. Maya Forstater launched the group, having won a [landmark appeal tribunal](#) over gender self-identification. She had made a discrimination claim after being sacked for saying that trans women are male or

'honorary female', arguing that sex is immutable and should not be conflated with gender identity. On appeal, the judge ruled that her comments were protected as a 'philosophical belief' within the meaning of the Equality Act, saying that the only types of beliefs excluded from protection were extreme ones "akin to Nazism or totalitarianism".

The ruling said that Forstater's "gender-critical beliefs, which were widely shared, and which did not seek to destroy the rights of trans persons, clearly did not fall into that category".

This landmark case confirmed that the law protects both those holding a gender identity belief and those having a gender-critical belief.

But whether conduct arising from such belief may be discriminatory to trans people is a different question, relying on the facts of each case. Certainly, someone with gender critical beliefs cannot indiscriminately address trans persons in derogatory terms or ignore preferred forms of address, as this is likely to constitute harassment or discrimination.

Dr Mackereth faces this challenge. Dr Mackereth, a declared Christian, is [appealing a tribunal decision](#) that found that he was not discriminated against on the grounds of religion or belief when his employer dismissed him for refusing to address transgender patients by their chosen pronoun.

Dr Mackereth relies on a theological argument and claims that most Christians share his belief. However, an essential difference between the Forstater and Mackereth cases is that the doctor argues that his beliefs entitled him to misgender transgender individuals. In contrast, Ms

Forstater expressed her beliefs but used preferred pronouns.

Conclusion

These cases demonstrate just some of the difficulties employers face in looking to create a culture that is inclusive and emphasises the importance of appropriate policies and keeping up to date with this fast-moving area of employment law.

For guidance and advice on this complex area of law, contact employment lawyer [Karen Cole](#) today.

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Note: This article is not legal advice; it provides information of general interest about current legal issues.

