

3 April 2023

# Weekly Blog

By Robyn Smith



## CAPTAIN QUESTIONS

Tackles the conflicting views  
on sex and gender identity

Well well well, it is now your lucky lots chance to hear from me.

So, just a little bit about me- after my law degree I decided to get some practical life experience of what it would be like actually working in law, so had various jobs from legal admin to working as a paralegal. I worked in personal injury, court of protection and also medical negligence (yes I did my fair share of rounds). Whilst I was working full time, I also decided to take the plunge and do my LPC part time- the hardest years of my life balancing all that, and spent a lot of it rocking in a corner, but also learnt a hell of a lot. During my LPC I studied Employment Law and boom I had finally found a law that had my heart- sounds absolutely corny I know, but I just felt like my search of where I belonged with my career was finally over. After that, I managed to bag myself a Training Contract, of which I fought tooth and nail to get time in an Employment seat (as Emma will know all too well). I then qualified with the full intent to be an Employment lawyer and I have never looked back since. I gained experience practising employment law at a few firms and then I joined the super team of Precept back in August 2022 and finally feel fully at home.

I am a huge lover of chocolate and anything sweet, I absolutely love watching a good film and would happily watch a few every weekend if I could. I would say that the thing that warms me the most is generally just being there for people, helping, caring, supporting wherever I can- If I can help make someone feel that bit special or cheer them up after a hard day then that is me happy. This DOES mean that I am frequently told off by my husband for not putting myself first enough or giving myself enough me time... but that is a work in progress haha.

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Now- enough of me whittling on about me- we have had enough of that. As Emma mentioned in her blog last week our blogs will not only be a time for us to tell you a bit about what is going on with us and for you to get to know us that all bit more, but it will also be a time for us to also provide you with some more of our knowledge bombs. Today I thought I would just touch upon the ever-developing debate on sex and gender identity and how you as an employer might go about managing any conflicting views that may arise.

The first thing that is definitely clear is that in recent years individuals' openness to discuss such topics has definitely improved- but as you know, hand in hand with people being more open about expressing opinions means, and you guessed it, bigger chance of conflict.

Recently there have been several Tribunal cases which have been brought by Claimants who believe that a person cannot change their sex- i.e. that a woman is born a woman, a man born a man and that cannot be changed. This belief is generally referred to as 'gender critical' and the Employment Appeal Tribunal decisions have concluded that this belief is capable of protection under the Equality Act 2010 (EQA), as what is deemed a 'philosophical belief'. Now with gender critical beliefs comes the potential of conflicts within the workplace, not only because of the mere fact of their belief but also because there can then be clashes with the other protected characteristics under the EQA, such as gender reassignment, sex etc.

Now you may be thinking, why is Robyn rambling on about all this...well... the reason the above can pose potential problems for employers is because you are responsible for preventing discrimination and harassment in the workplace as well as promoting diversity, equality and inclusion. So should some of the above conflicts arise, and you fail to appropriately and adequately deal with them, then you could be putting yourselves at risks of Tribunal claims knocking at your door.

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Before you start worrying about how your supposed to arm yourself against the above risks, do not worry....I have got your back. Now I won't be going into the nitty gritty of everything you need to be considering, but I will set out the key pointers you need to be thinking of:

1. Remember there is no hierarchy of protected characteristics- so one cannot override the other
2. Make sure you distinguish between conduct and beliefs.
3. Be sure to create a culture of dignity and respect- as we are aware, debate can be a healthy part of normal life HOWEVER it does not mean that employees can go around saying what they like
4. Think about the language used- think about using gender neutral drafting in workplace policies, procedures and other documents.
5. Make sure you understand and justify rationale- in situations where discrimination and conflict are high, as the employer you should think carefully about making policy or other decisions in the workplace- does your policy or decision disadvantage anyone with a protected characteristic?
6. Training.. training ... training- just having policies and procedures in place is not going to cut the mustard. You need to also be sure that you are providing training to your employees on these topics
7. Consider your communal spaces and facilities- all your employees, clients, visitors etc should have spaces they can go to where they feel comfortable and respected. This might mean that you may need to re-think your bathroom facilities etc.

The above is just really important to have on your radar as it is an ever-evolving area, one of which can cause serious ramifications to you as an employer if you do not ensure the right things are in place. Certainly a current "hot topic".

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In any event, here at Precept we 1 million percent have got your back. We are here to provide guidance and support where needed or even if you just want a good rant about something. We also LOVE training, so can come into your business and help you implement the values and ethos from your policies and procedures into practice. In fact, Philip and I went out to deliver some training like this recently, and the feedback was insane – if you don't believe us, then see some snippets of what was said below:

"We contacted Precept in February 2023 after seeing Emma Tice in action at a HR Forum event run by our local Chamber of Commerce... On this occasion, we wanted the team to brush up on their knowledge of Equality, Diversity and Inclusion... The team provided feedback on our policies, reassuring our business that they were excellent, which boosted our confidence ahead of the session... On the day, our bespoke training was delivered by Philip Pearson... We saw positive changes being made imminently by the team, and this is testament to Precept's ability to share legal knowledge in a way that is more informal, more comprehensible, and ultimately.... more fun!"

This feedback really is the epitome of what we are all about here at Precept! We would absolutely love to come out and do the same for your business – it really does make all the difference!

As I said above- I LOVE helping people, it is my thing and that is completely the ethos of the team we have here too . And for those who took notice of our superhero fun, well you will also know I love a good question- so if you do come to me with some queries then just know I will have a bunch to ask you right back.

So I think that is me for now- hopefully you go away not only knowing a bit more about the person behind the name but also feeling a bit more 'knowledged (yes my favourite made up word) up'.

Speak soon