



GIGGLE V TICKLE: WHAT THE DECISION MEANS FOR TRANS PEOPLE

This is a summary of [Giggle for Girls Pty Ltd v Tickle \[2026\] FCA 960](#).

A WIN FOR FAIRNESS, DIGNITY AND INCLUSION

The Full Court of the Federal Court has unanimously decided that a women-only social app unlawfully discriminated against trans woman Roxanne (Roxy) Tickle after excluding her from the platform, Giggle for Girls, owned by Sally (Sall) Grover.

For many trans people and their families, this decision brings reassurance. It confirms that trans people are entitled to live openly and safely, and to be treated with dignity and respect under Australian law.

WHAT THE CASE WAS ABOUT

Ms Tickle won a case of indirect discrimination initially in 2024, but Sall Grover appealed. This led Ms Tickle to “cross-appeal” to ask the court to reconsider two things:

- Whether it was “direct” instead of “indirect” discrimination as originally decided; and
- The amount of compensation awarded.

WHAT THE COURT SAID

The Court agreed that it was direct discrimination, dismissing Ms Grover’s appeal, and doubled the compensation from \$10,000 - \$20,000. Of this amount, \$8000 was for aggravated damages because of the conduct of Ms Grover throughout the proceeding, which was found to be “gratuitous, disrespectful and unnecessary”.

The Court made many important statements about the law, including:

- Trans women are recognised as women under federal anti-discrimination law.
- Sex isn’t only defined by biological characteristics but includes aspects of self-perception (how someone sees themselves), and social identity (how others see them).
- Gender identity discrimination can happen when someone is judged for not fitting stereotypes about how women or men are “supposed” to look – the law also extends to cis women (women who are not trans) who are perceived as “not woman enough”.
- A person does not need to “out” themselves as trans to be protected – a discriminator can’t simply say that they “didn’t know” a person was trans to get out of it.
- Because discrimination laws are “beneficial” (i.e. their whole purpose is to uphold basic rights), they should be interpreted broadly to protect people from harm and exclusion as much as possible.

DIRECT DISCRIMINATION AND INDIRECT DISCRIMINATION

One of the most important parts of the decision is that the Court found the treatment of Ms Tickle was direct, not indirect discrimination.

In summary:

- *Direct discrimination* means someone is treated unfairly because of a protected attribute, such as gender identity.
- *Indirect discrimination* usually involves an unreasonable rule or policy that appears neutral, but unfairly disadvantages certain people.

The Court decided that excluding Ms Tickle because Ms Grover perceived her as “looking male” amounted to discrimination on the basis of gender identity, specifically her gender-related appearance. It also found that whether Ms Grover knew Ms Tickle was transgender was not necessary to find that the



conduct was direct discrimination. However, the Court noted that evidence showed Ms Grover was aware of Ms Tickle's self-identification as a woman nonetheless.

The Court also confirmed that, when assessing whether a trans person has been treated less favourably, the correct comparison is between a trans woman and a cis woman - not a cis man, as Giggle for Girls and Ms Grover tried to argue.

The effect of the Court replacing indirect with direct discrimination on appeal means it strengthens the law for trans people (and potentially also others) in future. It is harder to prove "indirect" discrimination, particularly because there is a defence that the rule or policy was "reasonable", and that is not a consideration for direct discrimination.

MEANING OF "SEX", "FEMALE" AND "WOMAN"

Because the Act does not define these terms, the Court had to decide the ordinary meaning of them in modern society.

The Court said that, for the purposes of Australia's federal anti-discrimination law, Ms Tickle was properly recognised as a woman and as female.

The Court rejected any attempts to define womanhood in a narrow or overly simplistic way.

While in the past "sex" probably had a narrow and binary meaning, changes to the law in 2013 had altered the meaning to create a broader understanding of sex and gender, consistent with state and territory laws that have allowed trans people to update the legal gender on their birth certificate for decades.

Ms Tickle's updated birth certificate was relevant because it reflected her legal recognition as female in Queensland. Gender recognition laws across states and territories also demonstrated a broader Australian community understanding of sex and gender that is not confined to sex assigned at birth.

The decision also did not fully answer questions about all trans people's circumstances, including people who have not medically transitioned. But importantly, the judgment left open the possibility that trans people can still be recognised according to their affirmed gender under the Act, regardless of medical history.

"SINGLE-SEX" SPACES

The Court rejected the argument that the Giggle app was a "special measure" designed to provide substantive equality for women.

Special measures are meant to improve access, safety, participation or equality for a particular group. They are not supposed to exclude people unfairly or reinforce harmful stereotypes against other marginalised groups.

The Court however didn't decide definitively on single-sex spaces in all circumstances.

Australian law already contains specific exemptions in some situations, including parts of the Sex Discrimination Act that allow certain single-sex services, sport exclusions and religious exemptions. Ms Grover did not use these exemptions in her arguments in this case, and had not applied for an exemption to allow her to exclude trans women from the app.

The case did not remove those exemptions. Instead, it confirmed that businesses and services cannot create blanket exclusions against trans people unless the law specifically permits it.

Temporary exemptions of up to 5 years can still be granted on a case-by-case basis to allow for discrimination when it's necessary, appropriate and justifiable in the circumstances.

WHAT'S NEXT?

At its core, the Court simply applied Australian law as it was intended to apply - in this way, the case is not remarkable.

However, the case is now the leading Australian decision on gender identity discrimination and the interpretation of sex and gender. It is also attracting international attention because it contains one of the most detailed higher court discussions of transgender rights to date.

There has been broad support for the case from LGBTIQ+ communities, allies, and experts in human rights and anti-discrimination law.

Unfortunately, some politicians and commentators are arguing that the law should be changed so that "sex" in federal discrimination law only means sex assigned at birth, or is based only on so-called "biological" considerations. Notably, the groups arguing for these



changes have long campaigned against the recognition of trans people, and seek to deny their existence at all (e.g. referring to trans women as men).

This stands in the face of bipartisan political and community support for trans people over decades. [Polling from 2025](#) found that 8 in 10 Australians strongly agree that trans people deserve the same rights and protections as other Australians.

Many of us are concerned these proposed changes could weaken protections for trans people across employment, education, services, healthcare, and public life, and create even more harmful “debate” about trans lives.

Depending on how it is drafted, narrowing the law could also lead to other negative consequences for women and girls, as well as lesbian, gay, queer, bisexual and intersex people.

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