Cafcass
Children and Family Court Advisory and Support Service

GUIDANCE

WORKING WITH CHILDREN AND GENDER IDENTITY

CAFCASS Guidance Working with Children and Gender Identity January 2023

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1. INTRODUCTION AND CONTEXT

This guidance is to assist practice staff within Cafcass and to enable professional development, for those who may become involved supporting children who are exploring their gender/ transgender[1]/gender expansive[2]. The guidance seeks to ensure that any child with gender identity needs receives the best possible service from Cafcass. This is specifically not to direct the child down any particular path but to best support a child whose gender identity may come under the transgender umbrella in the safest and most compassionate way.

The guidance seeks to provide a route map of the various considerations that come into play when supporting children for whom gender identity is an issue. The word "child" is used in the guidance to refer to all those under 18 as this is the legal definition under the Children Act 1989.

By way of context, in January 2016 the Women and Equalities Committee upon Transgender Equality published a report that formally acknowledged that transgender people (including children) experience significant levels of inequality across a wide range of public services.

Later research in 2018, looked specifically at transgender awareness amongst social workers working with children and families.[3] This identified a need for development across the profession, with the evidence indicating that although there were pockets of good practice across social work when working with transgender children, many social workers were unable to understand transgender matters sufficiently to meet children's needs or manage them appropriately.

This guidance can usefully be read in conjunction with the Trans Youth In Care [Trans youth in care: a guidance for caring professionals] and a guidance for working with transgender children in schools.[4] This latter guidance focusses on children who are not in care.

This guidance is being developed at a time when there is significant public discussion about the rights of transgender people, including children. Those working with transgender/gender expansive children should appreciate the context of a highly charged public discourse on transgender issues and that the transgender community is one which is often marginalized and misunderstood. The impact of this cannot be underestimated and all those working with transgender/gender expansive children should take this context into consideration when seeking to protect the welfare of the child. Fundamentally, the voice of the child should always be heard.

The voice of the child should always be heard

[1] This an umbrella term for persons whose gender identity, gender expression does not conform to that typically associated with the sex to which they were assigned at birth.
[2] Gender-expansive is an adjective that can describe someone with a more flexible gender identity than might be associated with a typical gender binary, this includes non-binary.
[3] Transgender awareness in child and family social work education Research report (May 2018) Nathan Hudson-Sharp
National Institute of Economic and Social Research
[4] Trans inclusion Schools Guidance - version 4 (2021) Brighton and Hove City Council

2. INTRODUCTION TO GENDER IDENTITY

Terminology

Practitioners need to be familiar with terminology

There is some basic terminology that practitioners need to be familiar with when working with this group of children. These are set out in the **glossary** on page 17. Terminology does not stand still and as time passes new terms will come into use.

It would also be helpful to read this guidance in conjunction with the You Tube TED talk by Professor Spack, Consultant Paediatric Endocrinologist explaining his work helping transgender children[5]. Professor Spack is one of the world leaders in this field and ran the multi-disciplinary Gender Identity Service at Boston's Paediatric Hospital in the USA. This is a useful introductory piece.

Historical and Cultural Context

Transgender/gender expansive people (as well as LGB people) have existed since time immemorial. Therefore, any perception that being transgender/ gender expansive is a social construct or a new phenomenon is factually incorrect. [6] Gender expansive children have existed in all times and all cultures of which records remain.[7]

There are no accurate or reliable statistics on how many transgender/gender expansive children there are in the UK. There is no agreed global understanding as to why some children are transgender or gender expansive. Research in this area is practically and ethically challenging in that it involves children. What is clear is that transgender/gender expansive people exist, and their lived experience is real.

FTM

Some children who are assigned as female at birth may identify as a male. The term 'female-to-male' (FTM) is used to describe the direction in which someone is transitioning or wishes to transition. A transgender male is likely to be distressed by being seen as female and will seek to "pass" as a male. To "pass" means to be seen by others in the gender to which they identify and involves changing appearance to do so. They are likely to assert a male gender identity consistently and persistently. The prospect of going through female puberty, especially breast-growth and menstruation, is often traumatic. Transgender males will likely use he/him pronouns.

MTF

Others who are assigned as male at birth may identify as female. Sometimes the term 'male-to- female' (MTF) is used to describe the direction in which someone is transitioning or wishes to transition.

A transgender female is likely to be distressed about being seen as male. They are likely to assert a female gender identity consistently and persistently. They too will seek to be seen as the gender with which they identify. The prospect of going through male puberty, especially facial hair growth and voice breaking, is often traumatic. Transgender females will likely use she/her pronouns.

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[5]https://youtu.be/rzbtSeVZeEE (TED Talk Professor Spack)
[6] Trans Historical: Gender Plurality before the Modern - Greta LaFleur, Masha Raskolnikov, Anna Kłosowska. (Copyright Date: 2021) Published by: Cornell University Press
[7].Histories of the Transgender Child Paperback –2018
by Julian Gill-Peterson

Non-binary

This is a child or adult who does not identify exclusively as a boy or as a girl. Among children and young people, identities such as 'genderqueer' or 'genderfluid' would be included under the non-binary umbrella.

Some people describe gender as a spectrum with 'boy' at one end, 'girl' at the other, and non- binary in the middle. This is too simplistic:

- some non-binary people may have a gender identity which incorporates various aspects of being a boy and being a girl
- some non-binary people may strongly reject all aspects of being a boy or a girl
- some non-binary people experience distress about the physical sex characteristics of their body and/or the prospect of pubertal changes – others do not

The degree to which a non-binary person expresses femininity, masculinity and/or androgyny (combination or absence of masculine and feminine characteristics) is very individual.

Non-binary people also vary in whether or not they wish to change their name. Many prefer to use the gender-neutral pronoun 'they' and may find it distressing to be referred to using gendered pronouns (he or she). Some use a mixture of different pronouns from day to day, and a few use more unusual gender-neutral pronouns such as 'per' or 'zie' or no pronouns at all.

Coming Out

The psychological impact of gender dysphoria can cause symptoms of mental health difficulties

Transgender/gender expansive children may feel the need to *'come out'* to let others know how they identify so that they can be seen and recognized as the person they know themselves to be. Transgender children often agonize over whom to tell and when. During this time and throughout their lives they can experience gender dysphoria. The psychological impact of gender dysphoria can cause symptoms of mental health difficulties such as low mood, anxiety, and self-harming behaviors. Gender dysphoria is a term that describes a sense of unease that a person may have because of a mismatch between their biological anatomy and their gender identity. It is a profound innate feeling and should not be underestimated.

Many transgender children delay 'coming out' or speaking to someone about how they feel as they struggle to articulate what they are experiencing or are fearful of what will happen when they share this deeply personal information. They fear rejection, stigma, and the impact this will have upon relationships with friends and family. Any suggestion that some children state they are transgender for attention, because they have been influenced by social media or others such as parents is wrong and simply a manifestation of societal lack of understanding and education as well as possible conscious /unconscious bias.

A child may come out at any age and to varying degrees. The driver is a need to live fully as themselves in all aspects of life. Other children may want to come out to just a few trusted people. It is important to understand that:

- Coming out can be a lifelong process
- Only the individual can decide when and who to tell
- Coming out is a very personal choice even for a child; and no one should feel forced to 'come out' to others if they don't feel ready to do so.
- Being transgender is not a lifestyle choice – it is a part of that person’s make up.
- A child can come to the realization that they are different in this way at a variety of ages. It can be an incredibly confusing and painful time for the transgender child and

therefore practice staff need to deploy compassion, sensitivity, and strong communication skills to help these children and their families navigate the very many considerations.

- If child shares that they are transgender/gender expansive, practice staff need to seek their views on how they wish that information to be shared. This requires careful consideration to maintain confidentiality for the child, subject as always to any safeguarding considerations. An older child will be able to express their wishes much more easily than a younger child. The child should be encouraged to share information with their family when they feel ready and safe to do so.
- It is not uncommon for children on first coming out to at times change their minds particularly if this is not a positive experience.
- The child will not always follow a straight path and may need time to explore their feelings with others
- Some children will feel a sense of elation that they have been able to come out and will feel a relief that they can move forward and will be keen to do so.
- The important aspect for practice staff is that no two children will be the same and their coming out journey will be specific and individual to them. Space and time to explore their feelings is key.

Gender identity is not a lifestyle choice

Gender and Sexual Orientation are different

Practice staff and other professionals can confuse sexual orientation with being transgender. Being transgender is separate from a person's sexual orientation. Sometimes these two different concepts are conflated, and assumptions made. It is, therefore, helpful for social workers to understand the differences:

- the term transgender describes a person's gender identity
- sexual orientation describes who an individual is physically and/or emotionally attracted to

Transition

The process of transition is very individual. A child may not seek to transition at all while exploring their gender identity. Then any transition may not follow any linear path. The first step, if taken, tends to be around social transition such as changing appearance, changing name and pronouns and seeking to be seen by others as the gender with which the child identifies. This can then extend to more formal steps such as changing name and gender in health records, school documents, legal name change using deed poll (with parental agreement) and, when 18, to apply for a gender recognition certificate which changes their birth certificate.

The social transition is later, for some, accompanied by other steps which require professional support such as puberty blockers, cross hormones, and surgery, but in the UK, these are very difficult to access, and health care provision is inadequate as evidenced by the interim report of Dr Hilary Cass who is reviewing Gender Identity Services for Children.[8]

Any level of transition is afforded the same protections under the Equality Act

It should be noted that not every transgender person will choose to follow all available 'steps' in transitioning. For example, a transgender person may feel that surgery or obtaining a gender

[8] Independent Review of Gender Identity services for Children and Young People –Interim report February 2022

recognition certificate is not right for them. This does not mean that they are not transgender, and any level of transition is afforded the same protections under the Equality Act.

If a child expresses that they are transgender or gender expansive, it should not be assumed that they will want or need surgery when they are an adult, or that they will feel ready to discuss what their journey as a transgender adult may look like with professionals. It is helpful to place age-appropriate emphasis upon the child's personal agency, boundaries, and choice rather than assume any particular path they may take in future.

3. DEVELOPMENTAL CONSIDERATIONS

Children who are transgender are individuals who, like any other child, will meet developmental milestones at their own pace.

They may be unhappy with their physical sex characteristics at a young age and like to explore gender roles in play. However, this type of behavior is not uncommon in early childhood and is part of growing up. It does not mean that all children behaving this way have gender dysphoria or other gender identity issues. A positive approach is to support children to be themselves, explore and be positive about their identity. Young children can present as gender non-conforming but may not necessarily be transgender.

Puberty can be the time that young people realise their appearance and development do not match their gender identity

However, some children may feel lasting and severe distress connected to gender from a young age which persists. This can happen in the run up to and during puberty, when young people feel and realize that their physical appearance and development will not match their gender identity and in other ways. Older children can start to understand their lived experience and feelings in transgender terms and effectively articulate this.

Transgender teenagers are not immune to all the challenges of neurodevelopment that puberty brings and may exhibit risk behaviors that are well documented and researched for this age group. [9] However transgender children can present with an additional layer of complexity given that they are also navigating their gender identity and importantly, if they have come out and/or are transitioning, others' reaction to that.

Social media is a powerful source of information but for some children it exposes them to a platform used by those who disbelieve that the transgender community or transgender children exist or seek to project a perception that the transgender community are a threat in some way.

It is helpful for practitioners to appreciate that currently transgender children are often at the receiving end of very negative media narratives. As a result, they can experience fear, anger, and sadness that they are being attacked simply for being their authentic selves. It can also exacerbate mental health difficulties. This impact cannot be underestimated as to how free a child will be to be authentic and how safe they will feel.

Young trans people whose gender identity is respected and supported broadly experience no higher levels of mental ill-health than their non-trans peers. [American Academy of Pediatrics Volume 1 37, number 3, March 2016] Young trans people who can go by their chosen name anywhere experience markedly fewer symptoms of severe depression when compared with

[9] That Difficult Age: Developing a more effective response to risks in adolescence- Research in Practice 2014

young trans people who aren't able to use their chosen names in any situation. [US Journal of Adolescent Health 63, 2018, 503–505]

In the UK, the NSPCC highlights that research suggests that LGBTQ+ children and young people might be at higher risk than their non-LGBTQ+ peers of:

- self-harm
- experiencing suicidal thoughts and feelings
- anxiety
- depression[10]

Young trans people whose gender identity is respected and supported broadly experience no higher levels of mental ill-health than their non-trans peers.

Certainly, transgender children are exposed to numerous adversities including hate crime online and in social and other media.[11]

It should be kept in mind that transgender and gender expansive children whose identities are not supported by peers and/or family members may seek support and validation elsewhere, including online. Finding a safe and supportive online community can be extremely helpful, but online spaces for young people regardless of identity can be targeted by adults who seek to exploit children. Conversations about staying safe online should be had with any young person who is spending time in online communities.

4. COMMUNICATION

If a child shares that they believe they are transgender, they have usually given this a great deal of thought beforehand and have felt this way for a considerable amount of time before they can share - sometime years. Triggers to disclose can include the onset of puberty, overwhelming gender dysphoria and mental illness. Many children will delay sharing this about themselves out of fear and rejection despite deep unhappiness and the profound sense they feel the gender assigned to them at birth is incorrect.

Children generally wish to blend in with peer groups and not be seen as different so sharing is a high-risk step for many children.

Communication with the child by any professional must be:

Child-focused – seeing the child independently as well as a part of a family unit

Holistic: looking at the whole picture of a child's wellbeing so that issues are not addressed in isolation from their individual circumstances, their strengths, and their resilience. Open questions are useful but be led by the child.

Timely: identifying the child's need as early as possible so that effective support is offered at the right time and before those needs become greater or are overwhelming. Rapport building is key, and timeframes need to be led by the child.

[10] (McDermott, Hughes and Rawlings, 2018; LGBT Health & Wellbeing, Scottish Trans, Equality Network, LGBT Youth Scotland and Stonewall Scotland, 2018; Becerra-Culqui, 2018).
[11] (McDermott, Hughes and Rawlings, 2018; LGBT Health & Wellbeing, Scottish Trans, Equality Network, LGBT Youth Scotland and Stonewall Scotland, 2018; Becerra-Culqui, 2018).

The child, their carers and professionals should work together to consider what help is required, involve the services needed to support them, and ensure co-ordination of services where beneficial through a single planning process.

All children need to be nurtured, included, healthy, active, achieving, respected, responsible and above all safe. Consideration of wellbeing is based on those needs in the context of a child's world and unique circumstances, as well as their strengths and factors that affect their resilience.

Some tips for practitioners responding to a child who talks about being transgender or about their gender identity include:

Setting out your pronouns in written communication and introductions can signal you are an ally and a safe person to talk to

- Say 'thank you': the fact that they have trusted you enough to speak to you is a privilege
- Ask what support you can give: listen to what they say, and repeat it back to check you've understood correctly
- Don't agree to anything you're not sure of, seek further information and support if needed. The resources section in this guidance will help.
- Don't say 'it's just a phase' as this can diminish the importance of the issue for the child
- Ask what name and pronoun you should use to address the child. Check if that's all the time or in certain circumstances
- Ask if you can share information and with whom – ask who else knows; who would they like to know?
- Check if there's anything else they want to talk about
- Ask how things are at home? Are their family aware that they are considering their gender identity? Are they being supported at home? The resources section in this document will help for signposting at page 18.
- Ask them if they are getting support elsewhere and with whom
- Check whether or not the young person feels safe in school
- Explore whether the child knows any other children/people who feel like they do.
- Check in on mental health and wellbeing issues and consider other agencies that can help
- Risk assess around family support and identify protective factors for the child.

How to address the child?

Practice staff should take care not to '*out*' a young person by using a pronoun which differs from the one which the young person usually uses in public.

- It is important to use the pronouns that the child prefers. If a child shares with you that they are transgender or questioning their gender identity, ask them what pronouns they would like you to use for them.
- The most common pronouns, which we tend to be most familiar with, are 'he/him' and 'she/her'. Some transgender children use the gender-neutral pronoun 'they'. Other, rarer, non-binary pronouns include 'zie' or 'ey' or 'per' or no pronouns.
- Using particular pronouns is an indication of someone's gender identity. Practice staff should take care not to 'out' a young person by using a pronoun which differs from the one which the young person usually uses in public. Similarly, social workers and young people should avoid misgendering a transgender child. Misgendering means using the wrong pronouns for somebody – for example saying "I asked him to sit down" when the child identifies as female and prefers, she/her pronouns. Using the correct pronouns is the right and respectful approach to including transgender young people.

- The impact of misgendering is one which is felt greatly by a transgender child and can cause a great deal of angst and withdrawal. If this is done accidentally (as does happen) the practitioner should apologize immediately and underline that no disrespect or harm was intended.

Sharing Information

The DfE have just announced (21/4/22) that they intend to issue some guidance on parents being told if their child expresses gender identity issues at school. It is unclear how this will fit with current law around a child's best interest or confidentiality.

FCAs should tell children that nothing they say can be guaranteed confidential and that if information they share is relevant to the assessment, it is likely that it will need to be reported to the court. If there is a risk to any information which the child would want to remain confidential being disclosed, then there may have to be a separate application to the court. Older children being able to reach a decision for themselves, but it is necessary to have a frank discussion about whether their decision can be kept confidential. Younger children's needs in relation to sharing of information should be considered on an individual basis and if necessary, an application made to the court to withhold information from one or all of the parties to proceedings.

A child should always be encouraged to share information with their parents if it is safe to do so and professionals in all agencies can support a child in doing so. Some children may experience an abusive response if they come out (or are outed by a professional) to their parents or carers. Keeping children safe remains the priority in such circumstances and if child expresses fear or concern regarding how their parent or carer will respond to information regarding their identity, this should be explored with the child and professional network before making a decision on information sharing.

5. LEGAL FRAMEWORKS

Equality

The Equality Act 2010 places specific requirements upon authorities, to prevent unlawful discrimination. The protected characteristics of disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation applies.

Being transgender is a 'Protected Characteristic'

The Equality Act 2010 states that

(1)A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

The person can therefore be under any degree of transition to come under this protection, including having simply expressed an intention to transition, and it does not require any formal documentation or a Gender Recognition Certificate (note-those under 18 are not able to apply for this document which changes a birth certificate).

A person will be protected because of gender reassignment once:

- they make their intention known to someone, regardless of who this is (whether it is someone at school or at home, or someone such as a doctor)
- they propose to undergo gender reassignment, even if they take no further steps or decide to stop later on

- there is manifestation of an intention to undergo gender affirmation, even if they have not reached an irrevocable decision
- they start or continue to dress, behave, or live (full-time or part-time) according to the gender with which they identify as a person
- they undergo treatment related to gender reassignment, such as surgery or hormone therapy

Intersectionality

This is a word coined by Professor Kimberle Crenshaw to describe how race, class, gender, and other individual characteristics "intersect" with each other and overlap. It seeks to accurately describe the way that individuals from different backgrounds encounter the world and their lived experience. Intersectionality can highlight how multiple identities interact to create unique patterns of privilege or oppression / discrimination. This may include, but not be limited to, faith, culture, ethnicity, sexuality, gender, and experience of disabilities. Practitioners will need to recognize that a transgender child may have other intersecting characteristics that are protected characteristics under the Equality Act and will need to be included in any assessment.

Human rights

Practice staff also have a duty to act in a way which is compatible with human rights protected under the Human Rights Act 1998 including the right for respect for private and family life.

Consent

The other key legal framework that practitioners need to be aware of is around consent. The current law is that if a child is Gillick[12] competent they can consent to treatment in general and make an informed choice. If the child is not Gillick competent, the parent can make decision under the remit of parental responsibility and in the best interest of the child. If there is a dispute between those with parental responsibility around providing consent, then a Court application would be required. This is generally to the High Court under its inherent jurisdiction, but this can also concern the Family Court and cases can be transferred between the two or involve both.

On 17 September 2021, the Court of Appeal handed down judgment on the appeal of the decision in Bell v Tavistock. In the earlier decision, (a Judicial Review claim) the court had set out guidance to the effect that under 16-year old's were unlikely to be able to consent to the provision of hormone treatment to suppress puberty, known as 'puberty blockers'. The guidance issued recommended that the court should always be consulted (although there was no legal requirement to do so) before prescribing Puberty Blockers to under 16s.

Following the decision in Bell v Tavistock the issue was considered in AB v CD [2021 EWHC 741 (Fam) where Lieven J decided that unless parents were overriding the wishes of a child, they could consent to the provision of puberty blockers without the need for a 'best interests' decision of the court.

The appeal in Bell was based on the argument that the court had been wrong in law to give the guidance it did - not having found that the Tavistock's policies and practices were unlawful in the first place. The court was clear that it was for clinicians, rather than the court, to determine the competence of the individual children they were treating to consent to treatment. The effect of this appeal means that the Gender Dysphoria service operated by the Tavistock

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[12] Gillick competence outlines whether a child (under 16) can consent to their own medical treatment without their parents having to know or give permission. If the child has enough intelligence, competence and understanding to truly be informed about their treatment, they would be considered Gillick competent.
If the child does not have the capacity to consent, someone with parental responsibility can do so on their behalf.

can continue to make clinical decisions about the administration of puberty blockers to children.

Their existing policy states that they will only offer treatment following the consent of the child/young person together with their parents so it is unlikely that there will be applications to the family court to determine whether treatment is appropriate. However, in the event of a dispute, for example between parents or between different treating clinicians, those cases could be referred to the court for a best interest's decision and Cafcass may be asked to provide a children's guardian.

6. SAFEGUARDING

Being transgender is not a child protection issue or safeguarding concern in itself

However, practice staff may encounter situations where the child may become at risk of harm. It is also a fact that suicidality and self-harm is higher in this group of children than in the general child population, particularly if care and assistance is not available.

The best safeguarding response is a coordinated multi-agency approach to wrap around a vulnerable transgender child including health, social care, and education at least. There are national charities that support transgender children who can work in partnership with the core agencies, and these can be found in the **signposting resources** section on page 18**.**

The main safeguarding issues that can arise are:

1. Parental responses
2. Parental disputes and differing views
3. Homelessness
4. Discrimination
5. Lack of health and social care support and progression through the care pathway
6. Lack of CAMHS provision
7. Suicidality and self - harming behaviors
8. Hate crime
9. Bullying/ difficulty with peers
10. Disruption or cessation of formal education
11. Conversion therapy- direct or indirect
12. Online safety

Risk assessments

Risk assessments for children who are exploring their gender and seeking to live in the gender with which they identify (as opposed to that assigned at birth) will need to take into account any additional risks that are presented by the dynamic of being transgender. This will include looking at the protective factors in existence, family support and the fact that health services may not be readily available or accessible to support the child which heightens risk. The approach of family, school and peer support is important to assess as these are key components of the child's world and where they will want to be accepted and will naturally seek support. Any factors of intersectionality should also be assessed.

Assessment needs to acknowledge and assess the additional complexity and vulnerability a transgender child may present

That is not to say that children will not have all the same risk factors to be considered as for any child when we look and assess possible abuse and welfare concerns included in Working Together[13] and the Children Act 1989, but the assessment needs to acknowledge and assess the additional complexity and vulnerability a transgender child may present. The quality of any risk assessment is dependent upon the commitment, knowledge and experience of those practitioners conducting the assessment and practitioners should familiarise themselves with this guidance and its resources before undertaking such an assessment.

Risk assessment should include a consideration of educational engagement. Generally, schools have made improvements on how they support and manage a transgender child's individual needs, but approaches do vary. Some teachers are informed, others are not. A transgender child who feels unsafe at school may understandably refuse to attend.

Some transgender children therefore experience educational disruption and some even stop going to school entirely. Parents themselves can at times withdraw their child from school for fear of harm and struggle to work with school to ensure the child has their legal right to an education. There can also be peer bullying and harassment issues that can act as a strong barrier to the child feeling safe at school.

Parents of other children who do not understand can create a great deal of challenges for the transgender child and a school who is seeking to be supportive in the child exploring and expressing their identity. The impact of this is that the child may not feel safe at school and become isolated from friends and ostracized as well as bullied. The resource section of this guidance lists helpful educational policies and guidance which can be located on the various charity websites.

Yet we also know that the experience of many young transgender and non-binary people, especially in education, is still poor. Stonewall's "School Report: The experiences of lesbian, gay, bi and trans young people in Britain's schools in 2017" indicated: • 64% of trans pupils are bullied for being trans at school • 33% of trans pupils are not able to be known by their preferred name at school, while 58 per cent are not allowed to use the toilets, they feel comfortable in. The 2019 Ofsted School Inspection Handbook establishes a requirement of inclusivity for trans pupils (Item 214) and records of transphobic bullying (Item 53).

Signposting sources of information/support does not assume or push a child down a particular path

In terms of managing risk, early intervention, signposting and advocating for children to receive the support they require is

[13] Working Together to Safeguard Children 2018

key. There is a wealth of signposting information on page 18. This does not assume or push a child down a particular path.

Parental and Family support

The majority of parents and families will want to do all that they can to support and act in the best interests of their child when they discover their child is transgender or needs to explore their gender identity. They may have been supporting their child to explore their gender identity from a young age but not made any prior assumptions. It is important that the child can explore.

Others however may react less positively at first because they have inaccurate or incomplete information, or because they are worried about what it will mean for their child and their future life path. Some parents simply do not accept that transgender people exist and carry prejudice and bigotry that they project onto their child. In that dynamic, the child cannot be themselves and may become homeless or be abused by the parent or other family members and child protection issues arise.

There is a dynamic shift to be navigated and how their child may be viewed by them and others and a real period of adjustment. Some families describe the experience as a grief where they want the best for their child and for their child to feel free to be true to themselves but there is letting go of the child that was, in gender terms and how the family may have in their own minds mapped out the future they expected for their child and the expectation that the child would remain the gender they were assigned at birth for all their life. Using new pronouns or a new name for a child takes time to get used to and is just one of many adjustments.

All families therefore will need time and support to understand and process what it means for their child and their family if the child shares, they are transgender or need to explore their gender identity. No matter how open or informed a family may feel it is not uncommon for families to feel shocked and confused at first. This is also true of siblings, grandparents and those close to the family. Younger siblings who have been used to knowing their sibling as a sister or brother for years may struggle also to understand and will need support so a whole family approach is required. Other times, siblings may be the quickest to understand and adapt, and can become the trans person's closest allies and strongest sources of support.

Context is important – there may have been a period before coming out of the child being deeply unhappy, mentally unwell, or troubled so the family may have already experienced stress and concern about the safety of their child. They may have already been known to other agencies and in particular health. The child may have also had some educational disruption.

The highest incidence of those coming out as transgender is in the teenager group. The NHS recognises this with specific advice[14]. Teenager years in themselves can often represent increasing tensions between parent and child as developmentally a child asserts themselves more and seeks more autonomy and agency. Practice staff can usefully ascertain family dynamics and the strength and nature of key family relationships.

Any assessment needs to identify how strong a protective factor parents are likely to be in managing the child's needs as would be the case of any social worker assessment

Some families may have seen their child unhappy for some time but not known with what their child was grappling. Some families feel relief as they can see what the true issue is for the child. However, they can at the same time feel isolated and scared as to what it all means in practical and life path terms for their child.

The parental reaction and response may change over time and practice staff can usefully support and signpost families to information and practical advice. Early signposting is key so

[14] https://www.nhs.uk/live-well/trans-teenager/

that parents and families can speak to other parents who have been through the same experience and come out the other end positively. This should extend to siblings and the extended family.

Some parents and families can't ever come to terms with the child's situation and relationships can fracture including that between parents, particularly if there is dispute on believing the child or the best way forward.

Evidence shows that young people who have parents/wider family who are supportive of their transgender identity are more likely to have good mental health, including improved outcomes.

Faith and cultural aspects may come into play and if children are being raised within a faith or culture that does not easily understand or accept those who are transgender, families can feel a huge sense of embarrassment or shame when their child comes out. This can increase the risk to the child from within their families and outside in the community, where they could experience harassment or be ostracized.

If it is a family with a strong faith this may be factor and while some faith settings support the transgender community, some do not. It is important to keep in mind that the child is themselves a valid voice from within their culture and faith. Even in circumstances where the child feels rejected by elements of their culture and faith, other aspects of it may remain important to them and some children may wish to be supported to maintain faith and cultural connections in a way which is safe for them. Transgender people exist within every faith and culture, and the child may be assisted by seeking out stories from other people who share their identity both as being transgender and in their culture or faith.

Homelessness

Some children are rejected to the extent that they are cast out of the home and become homeless. This obviously presents a serious risk to them as children regardless of age. Some children have to flee their home for their safety. They should not be seen or treated as intentionally homeless in this scenario. A charity AKT, that supports children reports that 50% of LGBTQ+ young people said they feared that expressing their LGBTQ+ identity to family members would lead to them being evicted. AKT is useful charity to which practitioners can signpost transgender children but there are also statutory duties for Local Authorities to accommodate children who are unintentionally homeless under the Children Act.

Siblings

The siblings of transgender children may also require additional support. As with parents, they may need space and time to process what is happening. Siblings can also be at risk of experiencing bullying from peers. Allowing them an opportunity to talk and reassuring them can be beneficial. Some transgender children charities offer whole family support including support to siblings. See resource websites in **Signposting Resources** at page 18

Parental Disputes

Transgender children, as with other children, can become stuck in the middle of parents who are estranged and in dispute. Either or both parents may permit the issue of their child's gender identity to be a source of conflict.

This is particularly problematic where parental views become entrenched on whether the child is truly transgender. The important aspect here is for the child's voice not to be lost and in particular before the Court in any public or private proceedings. In the UK there is a dearth of experts in the field of transgender children but nevertheless the appropriate independent, objective, and compassionate expert must be found. The child should not be forced to pretend they are not transgender to please a parent or be inhibited in their gender expression by the Court because one parent presents a stronger case than the other. This can be a difficult dynamic for judges and other professionals to manage given that there is a lack of judicial training also in this field and a lack of expertise nationally.

7. NAME CHANGES

Not all children exploring their gender wish to make any changes. However, one of the first things the child may wish to do is to change name to support any social transition along with changing their appearance so they can be seen as the gender they express. A child who is over 16 can make a statutory declaration stating they wish to be known by another name. This will be accepted by most organizations as proof of the change of name. A statutory declaration is a formal statement signed in the presence of an appropriately qualified professional and can be signed by the child or by a person with parental responsibility if the child is under 16. This is called an unenrolled Deed Poll. To register the Deed Poll, an application must be made to the court, but this can only be done by those over 18 years or by a parent on behalf of the child. Further information is here Change your name by deed poll: Overview - GOV.UK (www.gov.uk)

In ChildFirst adding the child's preferred name to the child's record will mean any correspondence defaults to the preferred name

Generally transgender children only change their first name, but some may also change their last name; this is permissible, but for a child under 16, they would need parental agreement.

If there is a disagreement between those with parental responsibility as to a proposed change of name, it is possible to apply to the court for a Specific Issue Order. Here, the court would need to be persuaded that the change of name is in the child's best interests.

There is no requirement for a formal change of name to have taken place for a change to be made within a school record system.

At present there is no way to change the gender recorded on a birth certificate for those under 18 in England. However, the gender and name recorded on medical records, educational records, and other documents can be changed. If NHS health records are changed by name and to a different gender the child will need a new NHS number as the health records on the NHS national spine are gender specific on numbering.

8. HEALTHCARE

Transition for transgender children is a stepped process once there has been some period of exploration. The health care pathway has attracted a great deal of attention in recent years by the media and other commentators.

The first stage of transition for is social transition, which includes changing appearance, name change and attending school and services in the gender to which the child identifies. A transgender child may wish to undergo hormonal or surgical interventions to change their body physically toward living their life in a way that affirms their gender identity. Not all transgender children want hormones or any interventions, but some do.

The UK system of healthcare for transgender children lags behind many other countries and historically has been a one center service which has been unable to cope with demand. There is an ongoing review (the Cass review) in which the interim report (February 2022) confirms

the paucity of health provision for transgender children and that there is a lack of multiagency working around the child. NHS England commission this service and hopefully this interim Cass Report and the forthcoming final report will see change and improvement. The Government are currently reviewing the NHS care pathway for children with NHS England. Currently, there is one main service in England – the Gender Identity Development Service (GIDS) at the Tavistock and Portman NHS Foundation Trust. The devolved nations have their own services.

At present however the lack of provision even in a stepped approach model raises risk as many transgender or gender exploring children simply cannot access health care and support leaving them without care provision and this may have a significant impact upon outcomes. The current wait time from the GIDS service is advised as being at least 3 years.

This can be very distressing and transgender young people may develop negative ways of coping such as self-harming and even increased risk to suicidality.

The Trevor Project's 2021 National Survey on LGBTQ Youth Mental Health found transgender and nonbinary youth are less likely to attempt suicide when their gender identities are respected and affirmed by sound care.

In the UK, of those children who do get assessed by the single children's Gender Identity Development Service in England, very few proceed to puberty blockers and/or cross hormones. The child is then referred into adult gender services at 16. Adult gender services have similar waits. There are many children who reach 16 and are referred to adult services before they access the children's gender clinic, and so have been unable to access healthcare for many years.

Those children who do make it through into children's or adults gender identity services do not receive any surgical reassignment (affirming) care on the NHS before 18.

GP are often at the frontline of supporting children before they can access specialist care but GP's knowledge and understanding of transgender children and their needs can vary and this in itself can raise a risk of lack of referral or support.

9. PUBLIC AND PRIVATE LAW CONSIDERATIONS

The main safeguarding and child protection considerations for public and private law are set out above at section 6. For practitioners and guardians representing the child, there should be some understanding and training in supporting transgender children and also understanding of the equality and anti-discrimination dynamic. There is a great deal of misinformation to be found in all forms of media and professionals supporting the child must remain factual and child centered in accordance with the Children Act and the core principle that the child's welfare is paramount.

It may be necessary to use public law to safeguard and protect the child and transgender children are no less at risk of abuse than any other child. In fact, their transgender status often makes them at a higher risk where a parent/carer is not a protective factor. They can also be at higher risk in the community and be subjected to hate crime. Children report they are exposed to online abuse and negative media invalidating their rights and authenticity. Children are not immune to being exposed to high profile gender critical views and the fact they are children does not protect them from its everyday impact or inhibit those making such assertions. Transgender children are also aware that in some countries their transgender status would be deemed illegal along with being gay for instance. Therefore, the lived

experience of a child who is exploring their gender identity and who may be transgender is one in which they have to manage hate and prejudice in an everyday stark way.

Social workers in private law proceedings should recognise that a transgender child can be particularly vulnerable to parents in conflict, one of whom may not accept the transgender nature of the child. Direct or indirect conversion therapy is morally and ethically wrong and the child should be permitted to express their gender in accordance with their needs. Legal guidance to ban conversion therapy for the LGBTQ+ community is being considered currently by the Government. Many countries have made the practice illegal. The current indication is that conversion therapy will be banned for the LGB community but not the transgender community (including children).

Conversion therapy is an abusive practice

Practitioners can support parents in permitting their children explore their gender identity at any age. Where a child is being suppressed or denied this, it should be assessed in safeguarding terms and whether the exercise of parental responsibility is being used in the best interest of the child. Parental responsibility does not permit abuse of the child in any form.

Writing Court Reports

Where a child has started to socially transition and is using a new name and pronouns, all reports should be written using those, although the introduction can acknowledge the child was assigned differently at birth, using their birth name as recorded on the birth certificate, this ensures that the report is written in a way which respects the child's uniqueness and does not invalidate the gender in which the child identifies.

See report excerpts at the end of the guidance from page 21

Glossary

Sex refers to a person's biological status and is typically assigned at birth, usually on the basis of external genital anatomy.

Gender: gender is often categorized as male, female, or nonbinary.

Gender identity is one's own internal sense of self and their gender, whether that is man, woman, neither or both. Unlike gender expression, gender identity is not outwardly visible to others.

For most people, gender identity aligns with the sex assigned at birth.

Gender expression is how a person presents gender outwardly, through behavior, clothing, voice, or other perceived characteristics. Society identifies these cues as masculine or feminine, although what is considered masculine or feminine changes over time and varies by culture.

Cisgender, or simply cis, is an adjective that describes a person whose gender identity aligns with the sex they were assigned at birth.

Transgender, or simply trans, is an adjective used to describe someone whose gender identity differs from the sex assigned at birth. A transgender man, for example, is someone who was listed as female at birth but whose gender identity is male.

Nonbinary is a term that can be used by people who do not describe themselves or their genders as fitting into the categories of man or woman. A range of terms are used to refer to these experiences; nonbinary and genderqueer are among the terms that are used.

Agender is an adjective that can describe a person who does not identify as any gender.

Gender-expansive is an adjective that can describe someone with a more flexible gender identity than might be associated with a typical gender binary.

Gender transition is a process a person may take to bring themselves and/or their bodies into alignment with their gender identity. It's not just one step. Transitioning can include any, none, or all of the following: telling one's friends, family, and co-workers; changing one's name and pronouns; updating legal documents; medical interventions such as hormone therapy; or surgical intervention, often called gender confirmation surgery.

Gender dysphoria refers to psychological distress that results from an incongruence between one's sex assigned at birth and one's gender identity. Not all trans people experience dysphoria, and those who do may experience it at varying levels of intensity. Gender dysphoria is a diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders. Some argue that such a diagnosis inappropriately pathologizes gender incongruence, while others contend that a diagnosis makes it easier for transgender people to access necessary medical treatment.

Sexual orientation refers to the enduring physical, romantic and/or emotional attraction to members of the same and/or other genders, including lesbian, gay, bisexual, and straight orientations.

People don't need to have had specific sexual experiences to know their own sexual orientation. They need not have had any sexual experience at all. They need not be in a relationship, dating or partnered with anyone for their sexual orientation to be validated. For example, if a bisexual woman is partnered with a man, that does not mean she is not still bisexual.

Intersex is an umbrella term used to describe people with differences in reproductive anatomy, chromosomes or hormones that don't fit typical definitions of male and female.

Signposting Resources

Internal resources

Cafcass Learning:

Course: Trans Awareness (learningnexus.co.uk)

Course: LGBT+ in Cafcass (learningnexus.co.uk)

Course: Diversity conversations with young people (Knowledge Bite) (learningnexus.co.uk)

We also have a Peer Practice Specialist Working with trans adults and young people (sharepoint.com)

Cafcass' Pride (LGBT+ and allies) network Pride (LGBT+) (sharepoint.com)

FJYPB Guidance on working with transgender children and young people here

External resources

There are a number of charities that work in this field who have a wealth of further information on their websites for children and families. These charities also actively and practically support transgender children and their families though advice lines; meet ups; campaigns and advocacy. Practitioners are encouraged to signpost families so they can then access early practical advice and support. Using and signposting in this way does not commit a child down any particular pathway. It does however provide crucial support to what can be a vulnerable time for children and families. Here are the some of the main ones: -

https://genderedintelligence.co.uk

https://mermaidsuk.org.uk

https://www.gires.org.uk

http://www.stonewall.org.uk

https://www.transactual.org.uk

https://www.popnolly.com

https://www.nspcc.org.uk

https://www.justlikeus.org

https://www.translegalproject.org

For families who need support around mental health, this is a useful website: -

https://www.youngminds.org.uk

What is Special and Unique about Me?

Christine is 14 years old and of black / British Caribbean heritage. Christine was assigned as male at birth. Christine has reported that she has always felt uncomfortable in her body and as of September 2021 has described herself as transgender. Christine dresses in a gender-neutral way in school as she has been bullied at her previous school and uses the name 'Chris' in school. A gender-neutral toilet facility has been made available to Christine at school. Christine wants to continue to explore her identity and is finding puberty a difficult time. She has spoken to her GP and will need support from someone with parental responsibility for her going forward to consider the options available to her if she wants to take them in the future.

Christine's family reject her as a result of her gender identity and do not want to care for her. Christine has experienced neglectful and emotionally harmful parenting. This has been by way of rejection and failing to accept her needs and identity. They hold traditional cultural and religious views and struggle to see Christine as a daughter. They express feelings of shame to be associated with Christine as a girl in their community. Christine has not been able to spend time with her younger brother and sister who remain living at home. Christine has had a close relationship with her brother and sister and would like to be able to spend time with them. This has been resisted by her parents.

Christine started going missing after reporting inappropriate physical chastisement by her father and their inability to accept her gender identity. Christine has been living with the family of one of her friends for the past year. Christine says she feels safe in the area they live and accepted by her friend's family and the family was approved as a reg 24 carer and is prepared to commit to caring for her in the long term.

What is Special and Unique about Me?

Julian was assigned as female at birth and named Gillian. Which is recorded on the court documents, however, has described their gender identity to me as male and their name is Julian. He will be 16 in November. Julian is from a white British family who follow no particular religion. He has one older brother who lives at home.

Julian has a working diagnosis of Emotionally Unstable Personality Disorder and PTSD. Julian has attempted to self-harm by banging his head or swallowing glass 38 times in the last 6 months. When this has happened, Julian has needed to be physically restrained to keep him safe from harm.

Julian has had so many changes in his life, living in an environment, when at home, where he was exposed to his parents' high levels of conflict and arguing and their negative view of each other which was really confusing for him. He has spoken at length with me about his conflicting feelings about his father, whom he greatly loves, but recognises that at times his father lacks emotional understanding of him. Most recently this has been his fathers' lack of acceptance that he is male, believing it to be a '*phase*'.

Julian did spend a period of time in a psychiatric hospital due to the risks that he was placing himself under; Julian did not enjoy this experience at all and the fact that this happened when there were strict restrictions in place due to Covid, made Julian feel more trapped.

When I last met Julian, he was clear that his gender identity was male but showed uncertainty about his sexuality, feeling he might be bi-sexual. It is typical for young people of Julian's age to question their sexuality. This can add a further level of vulnerability for Julian as he explores his own identity.

Private Law

Statement before the content of the report

- Jan, referred to as Kristina within the Court documents is non-binary and uses the pronouns, they/them. I will use Jan throughout this report and the pronouns they/them.

- Jan aged 15, is the subject of a Child Arrangements Order application by their father, Mr Babiak, who wants to spend time with them. Jan has not spent time with their father since they and Ms Galik moved out of the family home in January 2021.

Child Impact Analysis relating to Jan's Gender Identity

- Jan has told me that they are non-binary. For Jan, this means being referred to with pronouns they/them and mostly dressing in traditionally masculine clothes. Jan uses the name 'Jan' in their personal life but not elsewhere. Their name has not been legally changed. Jan's school are aware that they are exploring their gender identity and at school they use he/him, they/them and she/her pronouns and they have continued to be known as Kristina. Jan confirmed they are happy with this for now. Coming out in school can be a complex decision and Jan does not feel ready to take this step.

- Jan presents as articulate and confident. A significant aspect of Jan's identity is their Bulgarian heritage. Jan likes many aspects of being Bulgarian, such as the culture, visiting regularly and speaking the language. However, Jan is conscious of many people in the country having conservative beliefs and highlighted the anti-abortion laws. Due to this, Jan is aware that their gender identity may be viewed differently in Bulgaria than in the UK.

- As stated, Jan describes themselves as non-binary. Jan advises that Ms Galik tries to ensure that she uses the correct pronouns but does make mistakes at times. Jan does not mind their birth name being used at home but prefers that if they are in public, they are known by Jan. Jan stated that they recognise that gender identity is a "taboo" in the context of Ms Galik' Bulgarian Catholic upbringing and therefore, they feel able to forgive Ms Galik' mistakes. Jan does not believe that Mr Babiak would be supportive of their identity. Jan believes Mr Babiak has racist and homophobic beliefs. Jan is aware that the information that they share will become known to Mr Babiak and is in agreement to this. Mr Babiak was told about Jan's gender identity prior to this report being sent to Court. When I discussed gender identity with Mr Babiak, he advised that he was shocked but was respectful and asked if there was anything he could do to support them, sharing that Jan's health and well-being was the priority. Advice was given that if speaking to Jan, he should be mindful of pronouns and he shared his intent to research more about gender identity. Jan is not interested to join any support groups connected to gender identity as they have friends who are experiencing similar situations and they do not need additional support.

Statement before the content of the report

Gillian clearly informed me on 14/06/2020 that they wished to be known as Julian. They did not wish to be referred to as 'she' but rather as 'he' or 'they'. In line with feedback from the Family Justice Young People's Board and Cafcass guidance on working with transgender young people, these wishes, and feelings will be acted upon, and he will be referred to as Julian in this report.

Child Impact Analysis relating to Julian's Gender Identity

I believe that Julian's sense of feeling contained in a safe environment is further demonstrated by his increased vocalisation about being a boy and male. This is not new as detailed in my previous analysis, Julian had begun questioning his gender identity and for some time had been involved with the LGBT+ community in his school. Following my recent visit to him, I would consider that he has become clearer about his identity as a male which was reflected in his outward presentation; his hair was cut short, and he was wearing gender neutral clothing. Julian informed me that he wished to bind his breasts and was aware that it carried health risks if done incorrectly. Julian's residential unit will be receiving training from the specialist organisation Mermaids on 26/09/2020.

During our meeting, Julian expressed frustration that his social worker and staff at his residential unit still referred to him as 'Gillian'. A professionals meeting was held on 11/08/2021 whereby all professionals committed to now calling him Julian. They recognised, as do I, that this is likely to be something that may be very difficult for Mr Lewis and/or Mrs Lewis to adjust to however I would consider it important for Julian's sense of identity that a consistent approach is taken in line with his wishes.

Julian showed understanding that it would take his parents time to accept his gender identity. It was clear that it meant a great deal to him when, during a telephone call the other day, his mother referred to him initially as '*a good girl'* but then corrected this to '*a good kid'*. Mrs Lewis has been honest that it will take some adjustment, which include her experiencing the loss of 'Gillian'. Julian also expressed to me that his relationship with his older brother has improved, as he has shown a great deal of understanding and acceptance of his gender identification.

Mr Lewis has frequently voiced that he believes that Julian's expression about his identity has been copied from another young person's. Julian was clear to me that this is not the case; reporting that he 'came out' before this young person did. Mr Lewis has further articulated, through his solicitors, a 'total opposition' to me referring to 'Gillian' as Julian in this report, believing that I am encouraging grooming behaviour that he believed Julian experienced by a member of his girl guide group. He did not believe that Julian, at his age, was capable of making any long-term decisions about his gender. Julian is at the start of his journey to better understand his own gender identity and it is not known how this will be for him in the future, however it would be important not to consider it a '*phase*' as this would undermine Julian's sense of identity, particularly given that he has been questioning his identity for a considerable period of time.

Whilst Mr Lewis's response could indicate his lack of understanding of Julian's emotional and identity needs, I am mindful that that this must be a very difficult. In my discussions with Mr Lewis, he reflected that Julian always enjoyed 'male orientated' work and may wish to do something similar in the future. He wondered whether Julian would be 'okay' with him calling him by a gender-neutral nickname (which Julian reported to me that he would not be happy with). However, this in my view shows that Mr Lewis is trying to think flexibly and openly about Julian's gender identity. There are specialist organisations available who can provide Mr or Mrs Lewis with confidential support, such as Mermaids or the All-Sorts Youth Project and I would recommend that they make use of them.