



**GPUK** Equality for men & women  
in law & opportunity

Jacki Tiotto, Chief Executive

Teresa Williams, Director of Strategy and Chair of Research Advisory Committee

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Cafcass

cc:

Dominic Raab, Secretary of State for Justice

Sally Cheshire CBE, Chair of the Board, Cafcass

Dear Mses Tiotto and Williams,

7 April 2023

### **FORMAL COMPLAINT AND FREEDOM OF INFORMATION REQUEST**

We are writing in respect to the Cafcass 'Guidance Working With Children And Gender Identity', published January 2023, which has been shared with us and we published at: [ref]

We are concerned that Cafcass has consulted too narrowly and this has led it into the following errors:

1. disregard for the mental health conditions of gender dysphoria and gender distress;
2. failure to acknowledge that social transitioning "is not a neutral act" and "may have significant effects on the child or young person in terms of their psychological functioning";
3. discontinuity with current NHS draft policy following the interim Cass Review;
4. failure to address the potential for gender transitioning of a child as an alienating behaviour and other safeguarding issues.

Cafcass has failed to take notice of Mr Justice Hayden's severe criticism of their and the Local Authority's 'gender-affirming' actions in *J (A Minor), Re [2016] EWHC 2430 (Fam)*, and seems to have instead decided to 'double-down' on wrongful conduct in defiance of the judiciary. Cafcass is also ignoring the Cass Review and the current draft NHS policy.

#### Narrow consulting

It appears that Cafcass have only consulted entities that have already expressed a strong preference for 'gender-affirming care', some of whom have been publicly discredited for their radical views.

**Boston Children's Hospital:** came under severe criticism after they posted videos, whilst under the leadership of Professor Norman Spack, that claimed that children had a gender identity in the womb and could gender-identify at 2 years old<sup>1</sup>. BCH perform mastectomies on 15 year old girls. Cafcass advises staff to view a video of Professor Spack's Ted talk, now nine years old, as "a useful introductory piece". In it he admits that one cannot have "a meaningful conversation about the fertility effects" of cross-sex hormone treatment with someone under 16, but then he admits he gave such treatment to a 13 year old boy. He goes on to identify another boy whom he claims gender-identified at age 3, was

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<sup>1</sup> <https://www.dailymail.co.uk/health/article-11280475/Harvard-hospital-claims-babies-know-WOMB-transgender.html>

socially transitioned at age 7, and who he puberty-blocked before giving cross-sex hormones at age 14. In neither case does he explain how he had talked about the fertility effects with these minors, or indeed whether they were informed of the effects at all. In the UK, the provision of cross-sex hormones to children under 16 is banned by the NHS, and it is unclear why Cafcass would promote this conduct to its officers as good practice.

**Stonewall:** also promotes that children aged two can identify their gender<sup>2</sup>. In the landmark Alison Bailey case in 2022, the employment tribunal found that Bailey's belief that Stonewall's proselytisation of gender ideology is severely detrimental to women and lesbians is "cogent, serious and important". Stonewall maintains that lesbian women who refuse to have sex with biological males are "transphobic". Many institutions have withdrawn their association with this organisation, including the London School of Economics in Jan 23.

**Mermaids:** has been under investigation by The Charity Commission since September 22<sup>3</sup> following safeguarding concerns for its promotion of chest flattening for minors- a form of female genital mutilation<sup>4</sup>; advertising 'same day' cross-sex hormone treatments for children – a treatment banned by the NHS for anyone under 16 because it causes irreversible changes and can compromise fertility later in life; and a trustee who called for "a science-informed understanding about people ... with an attraction to children". In *Re J*, it was noted that the Mother's abusive behaviour accorded with Mermaids recommendations, and Mermaids attacked the 'horrific decision', insisted that J did in fact identify as a girl, and said there was 'no evidence at all to support this judge's views'<sup>5</sup>. The court noted that J presented as a happy boy in his father's care, and Mermaids was banned from contacting the family.

**Gendered Intelligence:** was named by Tavistock whistleblowers as one of the activist groups that exerted pressure on medics to rush children down a path to medicalisation. They previously caused controversy by going into schools to give seminars on changing gender to children as young as four.

**No Gender-critical voices:** There is no representation from any gender-critical organisation in the guidelines, and no signposting to gender-critical resources for assistance.

### Social Transitioning:

The Cafcass guidelines have an "unquestioning affirmative approach" and unequivocally adopted 'social transitioning' as the only means by which gender incongruence should be approached.

The NHS draft guidelines say about social transitioning:

"the interim service specification sets out more clearly that the clinical approach in regard to pre-pubertal children will reflect evidence that in most cases gender incongruence does not persist into adolescence; and that for adolescents the provision of approaches for social transition should only be considered where the approach is necessary for the alleviation of, or prevention of, clinically significant distress or significant impairment in social functioning and the young person is able to fully comprehend the implications of affirming a social transition."

Therefore before changing a young person's name and pronouns, a teenager should have been diagnosed with gender dysphoria.

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<sup>2</sup> <https://twitter.com/stonewalluk/status/1550427949819695104>

<sup>3</sup> <https://www.gov.uk/government/news/regulator-announces-statutory-inquiry-into-mermaids>

<sup>4</sup> <http://nationalfgmcentre.org.uk/breast-flattening/>

<sup>5</sup> <https://metro.co.uk/2017/10/08/charity-advised-mum-to-force-her-son-7-to-live-as-a-girl-6984649/>

This follows the Cass Review which found that

“Social transition – this may not be thought of as an intervention or treatment, because it is not something that happens within health services. However, it is important to view it as an active intervention because it may have significant effects on the child or young person in terms of their psychological functioning<sup>[64,65]</sup> There are different views on the benefits versus the harms of early social transition. Whatever position one takes, it is important to acknowledge that it is not a neutral act, and better information is needed about outcomes.”

“Primary and secondary care staff have told us that they feel under pressure to adopt an unquestioning affirmative approach and that this is at odds with the standard process of clinical assessment and diagnosis that they have been trained to undertake in all other clinical encounters”

“...they should be taking a mental health approach to formulating a differential diagnosis of the child or young person’s problems. However, they are afraid of the consequences of doing so in relation to gender distress because of the pressure to take a purely affirmative approach.”

Although admitting the evidence is scarce, Cafcass has taken an unsupported partisan view founded in a theological proposition: that one’s soul can be born in the wrong body. Gender dysphoria and incongruity are, however, mental health conditions.

There is no mention of any duty for Cafcass officers to ensure referral to mental health services on encountering gender incongruity, and Cafcass instead encourages the social transitioning of children. Indeed, the section marked ‘Healthcare’ discusses nothing except transitioning. It is noteworthy that Cafcass officers are not required to hold qualifications that allow them to determine interventions for mental health issues.

As a State institution, Cafcass should not be applying any name or sex identity in court documents that conflict with the child’s registered legal identity. By changing the child’s identity, Cafcass may be unwittingly participating in a ‘cis-to-trans conversion therapy’, as was done in *Re J*. Cafcass will recall that social transitioning is not a neutral act.

The Trevor Project dataset cited by Cafcass, claiming that suicide is more prevalent where pronouns and identity are not affirmed, is methodologically flawed by the inherent contradiction of self-reporting. Social transition will predispose a young person to persist with a transgender identity long-term<sup>7</sup>. Corollarily, if a young person is not socially transitioned, they are less likely to continue to identify as Trans, and therefore would not complete the Trevor Project survey. Those remaining subjects who continue to be gender incongruent, despite not being affirmed, are likely to be more intensely dysphoric. Therefore they are more prone to the associated adverse outcomes, and thereby skew the Trevor Project’s data set. The survey is flawed in other respects as well and we suggest that Cafcass may be assisted by technical scientific competence in order to minimise error in its analyses and guidance.

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<sup>6</sup> 64 Sievert EDC, Schweizer K, Barkmann C, Fahrenkrug S, Becker-Hebly I (2020). Not social transition status, but peer relations and family functioning predict psychological functioning in a German clinical sample of children with Gender Dysphoria. *Clin Child Psychol Psychiatry* 26(1): 79–95. DOI: 10.1177/1359104520964530  
65 Ehrensaft D, Giammattei SV, Storck K, Tishelman AC, Colton K-M (2018). Prepubertal social gender transitions: What we know; what we can learn—A view from a gender affirmative lens. *Int J Transgend* 19(2): 251–68. DOI: 10.1080/15532739.2017.1414649.

<sup>7</sup> Zucker, K. J. (2020). Debate: Different strokes for different folks. *Child and Adolescent Mental Health*, 25(1), 36–37. doi:10.1111/camh.12330

It is noteworthy that “the rate of natural resolution for gender dysphoria was 93% for children whose gender dysphoria was significant but subthreshold for the DSM diagnosis”<sup>8</sup>, and about 80% overall. As social transitioning has become more common, natural resolution would become less likely, leading to ongoing long-term medicalised complications for these young people.

However, the Cafcass guidance makes no mention of ‘watchful waiting’, nor does it give credence to any other tactic. Cafcass disparages non-affirmation approaches as “conversion therapy”, which it describes as is “an abusive practice”. Even more concerning is that Cafcass have invented a new form of ‘abuse’ called “indirect conversion therapy”. A Google search of this term provides no results, so it would appear to capture the practice of mainstream religions and heteronormative lifestyles in the presence of a child.

It would appear that any tactic other than gender affirmation is to be considered abuse. Cafcass officers are instructed to enforce a theology through the inappropriate application of safeguarding:

“Where a child is being suppressed or denied [choice of gender identity], 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.”

Cafcass further signposts to the FJYPB - Allsorts Youth Project “Top Tips for working with Trans Children and Young People”, that says: “Consider that a child/young person living with a parent or carer who doesn't respect their identity can be at emotional risk and this may be a potential safeguarding concern”. There is no indication that this assertion is supported by clinical evidence.

Cafcass’s skewed perspective is apparent in its statement that “The child should not be forced to pretend they are not transgender to please a parent”, however Cafcass omit to mention that it is equally important that the child should not be conditioned to falsely think they are transgender by a parent, as occurred in *Re J*.

Although Cafcass takes it upon itself to conduct social transitioning instead of psycho-therapy for the child suffering from a mental illness, its practice examples recommends therapy for a parent that resists the theology – ironically provided by Mermaids (*supra*).

### Transgenderism as a safeguarding concern:

There is significant co-morbidity of gender incongruity and other mental health issues. The emergence of gender incongruity may be associated with a failure to address these other mental health issues. Cafcass pays no regard to these risks.

As occurred in *Re J*, trans-gendering children may be a deliberate, abusive tactic of a parent. Cafcass’s unconditional support for transitioning children, with its instructions that resistance is the safeguarding concern, vilifies and threatens the protective parent in these circumstances.

Indeed, in *Re J*, Cafcass and the Local Authority’s unquestioning faith in Transgender theology was applied to alienate the normal-range father from his son and exposed the son to emotional harm:

“As I have read through the papers it is striking that as the litigation progressed J came to be referred to predominantly by the feminine pronoun ‘she’. I pause here to emphasise that J was, at this stage, between four and six years of age.”

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<sup>8</sup> Zucker, K. J. (2018). The myth of persistence: Response to “A critical commentary on follow-up studies and ‘desistance’ theories about transgender and gender non-conforming children” by Temple Newhook et al. (2018). *International Journal of Transgenderism*, 19(2), 231–245. doi:10.1080/15532739.2018.1468293



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"This local authority has consistently failed to take appropriate intervention where there were strong grounds for believing that a child was at risk of serious emotional harm. I propose to invite the Director of Children's Services to undertake a thorough review of the social work response to this case. Professional deficiencies to this extent cannot go unchecked, if confidence in this Local Authority's safeguarding structures is to be maintained."

Attention is drawn to the alienating behaviour of Mr Jeffrey Marsh, an American Trans Activist who advises children online to go "no contact" with parents who do not affirm the child's trans identity. He openly states that he would "be their family now". Those same manipulations could, and likely are, applied within the Family Court setting to encourage children to reject loving parents.

#### Unfounded assertions:

We are concerned by assertions made by Cafcass that are hyperbolic in nature and do not seem to have any evidentiary substantiation. Such as:

"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."

And

" any perception that being transgender/ gender expansive is a social construct or a new phenomenon is factually incorrect".

In regards to the second assertion, gender is itself a social construct, so it is logically impossible that "being transgender / gender expansive" can be anything other than a social construct. Additionally, there is no historical record of any society undertaking the espoused theological premise that people are born in the wrong body. The mental health condition of "Gender Identity Disorder" (now "Gender Dysphoria") was recognised 50 years ago and can be traced to assessments in the 19<sup>th</sup> century. It is almost certain that these mental health conditions existed earlier, but the theological premise that people are born in the wrong body and the 4,400% increase in female transitioners are a new phenomenon.

Cafcass has not mentioned 'social contagion' in respect to gender identity, or asked its officers to examine online and physical social influences where gender incongruity is found.

#### Freedom of Information Request:

Would Cafcass please disclose:

1. Which external organisations were consulted in the preparation of this guidance
2. What psychological or other scientific expertise was applied to assess the external advice received
3. What assessment was made of non-affirming strategies
4. All specific strategies that Cafcass consider to be "conversion therapy"
5. What specific strategies or conduct Cafcass consider to be "indirect conversion therapy"
6. For each of 4 and 5, the evidence upon which Cafcass has determined these to be abusive
7. The evidence Cafcass believes supports each assertion made in the section above sub-titled "unfounded assertions"
8. All signposted resources for practitioners in the guidance section titled 'Cafcass Learning'



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9. Cafcass's assessment for statistical significance of the small-sample studies cited ([American Academy of Pediatrics Volume 1 37, number 3, March 2016] and [US Journal of Adolescent Health 63, 2018, 503–505])
10. What were Cafcass's policy learning outcomes that arose from the decision in *Re J* and how have they been implemented.

Yours faithfully

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