



**Australian Government**  
**Attorney-General's Department**

MC21-045447

8 November 2021

Ms Anna Kerr  
Feminist Legal Clinic  
PO Box 273  
SUMMER HILL NSW 2130  
[anna@feministlegal.org](mailto:anna@feministlegal.org)

Dear Ms Kerr

Thank you for your letter of 16 August 2021 to the Attorney-General and Minister for Industrial Relations, Senator the Hon Michaelia Cash regarding your concerns about medical treatment and procedures for children diagnosed with gender dysphoria, and concerns about discrimination towards women who are being sacked, censored or otherwise disciplined for defending women's sex-based rights. The department is replying on behalf of the Attorney-General.

I understand that these are difficult matters, particularly for those women who have sought support from your service, including those from the Australian Parents Questioning Gender support group, as well as those woman who have detransitioned.

Unfortunately due to heavy portfolio and electoral commitments the Attorney-General is unable to meet with you as you have requested. However, the following information may be of assistance to you.

The Australian Government believes all people are entitled to respect, dignity and the opportunity to participate in society regardless of their personal attributes, and recognises that to enjoy civil and political rights on an equal basis with others, people need to be able to do so free from discrimination. Commonwealth anti-discrimination laws make discrimination on grounds of gender identity unlawful in a wide range of areas of public life. In this context, the Australian Government recognises that individuals may also identify and be recognised within the community as a gender other than the sex they were assigned at birth or during infancy, or as a gender which is not exclusively male or female.

A person who believes they have been unlawfully discriminated against may wish to consider contacting the Australian Human Rights Commission. The Commission has the power to investigate and attempt to conciliate certain complaints of discrimination. If the conciliation is unsuccessful or a person's complaint is terminated, in certain circumstances they may commence legal proceedings regarding the complaint in the Federal Court of Australia or the Federal Circuit and Family Court of Australia.

Information on the Commission's complaint handling process is available online at: [www.humanrights.gov.au/complaints-information](http://www.humanrights.gov.au/complaints-information). The Commission's contact details are as follows:

Post: Australian Human Rights Commission  
GPO Box 5218  
SYDNEY NSW 2001  
Phone: 1300 656 419  
Email: [infoservice@humanrights.gov.au](mailto:infoservice@humanrights.gov.au)  
TTY: 1800 620 241 (toll free)  
Fax: 02 9284 9611x

As you would likely be aware, the Federal Circuit and Family Court of Australia (FCFCoA) has jurisdiction to hear matters concerning authorisations for and disputes about special medical treatments concerning children. The decision for treatment of children with gender dysphoria is a matter for parents (or those with parental responsibility) and their child to agree and consent to, in consultation with their medical practitioners. However, where there is a disagreement between a child, their parents and medical practitioners as to diagnosis, treatment, or the child's competence to consent to treatment, the FCFCoA is the appropriate forum to resolve such disputes.

The Family Court's paramount consideration is what is in the best interests of the child. How a court determines what is in a child's best interests is subject to a range of considerations that are provided for in the *Family Law Act 1975*, and include: the views of the child, the weight the court should give to the child's views based on the child's maturity or level of understanding of the issue, the nature of the relationship between the child and the parents, and any other matters the court thinks relevant. Expert evidence must be given to satisfy the court that the proposed procedure is in the child's best interests. This includes medical, psychological or other expert evidence.

In relation to your concerns about medical practitioners, the National Health Practitioner Regulation National Law is enacted in each state and territory and regulates medical practitioners. The Medical Board of Australia (Board) is responsible for the regulation of medical practitioners in Australia, including the setting standards, codes and guidelines for the profession, and is supported by the Australian Health Practitioner Regulation Agency. Queries regarding regulation of the medical profession should be directed to:

The Hon Greg Hunt MP  
Minister for Health and Aged Care  
PO Box 6022  
Parliament House  
CANBERRA ACT 2600  
Email: [Greg.Hunt.MP@aph.gov.au](mailto:Greg.Hunt.MP@aph.gov.au)

Thank you again for bringing your concerns to the Attorney-General's attention.

Yours sincerely



**J McClintock**  
Director  
Family Law Branch