

Gender Identity Issues

Introduction

Issues around gender identity are coming to increasing public prominence, with a corresponding increase in the number of children and young people coming forward with issues relating to their gender development and identity.

Referrals to the Tavistock Clinic (the only specialist service in the UK providing early-intervention treatment for children and young people) have increased by 50 per cent a year in recent years.

Whilst the majority of referrals involve young people aged between 14 and 16, the service is seeing a marked increase in the number of younger (pre-pubertal) children being referred, as young as four. It is estimated that a school of 1,000 pupils should expect around 10 to be gender variant to some degree.

It is important that children and young people are not placed at risk of adverse outcomes as a result of a failure to deal appropriately with their gender identity issues. They should, in general, be given space to develop their own gender identity and be protected from adverse effects such as bullying and discrimination.

Supporting Children and Young People

The House of Commons Select Committee report 'Transgender Equality' (14th January 2016) (<http://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/transgender-equality/>) found that gender-variant young people and their families face particular challenges at school. They found that schools often do not know how to deal with matters such as:

- Considering the emotional impact and supporting young people;
- How to respond to young people sharing their issues;
- Recording a change of name and gender;
- Bullying;
- Inclusion in sport; and
- Access to toilets.

Equality and Human Rights Commission research indicates that 91% of transgender boys and 66% of transgender girls experience harassment or bullying at school, often leading to depression, isolation and a desire to leave education as early as possible. This is a higher rate of discrimination than that faced by young lesbian and gay students. This can have a knock-on effect on their mental health, attendance and ability to learn. Many gender-variant children report hiding their identity, to the detriment of their self-esteem, and leaving school as soon as possible to escape the bullying and harassment that they faced.

Safeguarding Implications

The fact that a child has gender identity issues is not, of itself, a safeguarding issue. Such children may, however, be subject to prejudice, discrimination and misunderstanding, which can have a detrimental effect upon quality of life, and physical and mental health. In UK surveys of transgender people, about half of young people report that they have attempted suicide.

Whilst gender identity issues would not generally, in isolation, necessitate safeguarding intervention, neither should they be a barrier to such intervention.

In the case of **Re J (a minor) [2016] EWHC 2430 (Fam)** (<http://www.bailii.org/ew/cases/EWHC/Fam/2016/2430.html>), the High Court found that a mother had caused her son 'significant emotional harm' in her determination that he should be a girl. The local authority considered that the case did not meet the threshold for further intervention.

Hayden J found that, during the court proceedings, 'there developed a prevailing orthodoxy that [the child] identified as a girl', despite there being no independent or supportive evidence that J identified as a girl at all. 'It is striking that the Local Authority had moved into wholesale acceptance that J should be regarded as a girl'.

His judgment continued:

'Transgender equality has received a great deal of attention in recent times. I believe that in this case the profile and sensitivity of the matters raised by the mother blinded a number of professionals from applying their training, skills and, it has to be said, common sense. They failed properly to investigate M's assertions, in part I suspect, because they did not wish to appear to be challenging an emerging orthodoxy in such a high profile issue..... 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 am bound to say that had their concerns been given the weight that they plainly should have, it is difficult to resist the conclusion that J could have been spared a great deal of emotional harm'.

How can we help?

If you're one of our customers, we'll be covering this issue as part of the next scheduled update of your procedures manual. If you are not already a customer, we'll be glad to discuss procedures provision with you. We have a large team of specialists who monitor the statutory and legislative landscape incorporating changes and best practice into procedures and can assist with your organisational and training requirements. We are cost effective and committed to improving outcomes for children and families. To find out more, visit our website or contact us.

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