



Position Statement on Family Court of Australia *Re Imogen* Judgment 2020

About the Society

The Sexual Health Society of Queensland (the Society) was formed in 1988 to advise and advocate for the improvement of all aspects of sexual and reproductive health in Queensland. Many of its members are experts in the field of transgender health and medicine.

Position

The Society urges the Family Court of Australia to allow for the provision of lifesaving, gender-affirming hormone therapy (GAHT) to Gillick competent trans and gender diverse (TGD) minors with the support of their transgender health expert team without the interference of the Family Court or any parent, similar to all other lifesaving paediatric treatments.

The Society acknowledges and agrees with [the statement](#) issued by Australian Professional Association for Trans Health (AusPATH) regarding the *Re Imogen FamCA (No. 6) [2020]* court decision. It calls for the Australian Parliament to consider amending the *Family Law Act 1975 (Cth)*, so that TGD young people are not adversely affected by the judgment.

Background

Since 2013, the Family Court of Australia has made several judgments which support minors' access to GAHT.

The ruling of *Re Jamie (2013)* allows adolescents to commence puberty-blocking therapy without the need for Family Court approval, when parents and the treating medical practitioner are in agreement. The ruling of *Re Kelvin (2017)* enabled Gillick competent TGD minors to commence GAHT without parental consent. Similar to other fields of adolescent medicine, however, if the minor is not Gillick competent, parental consent had to be obtained prior to prescribing GAHT.

The benefit to these two rulings was that accessing GAHT could be timely, less arduous and stressful for the minor and more cost-effective. Like other common paediatric medical therapy, it placed the decision to commence GAHT with the TGD minor, their clinical team, and their parents if not Gillick competent.

The latest ruling of the Family Court *Re Imogen FamCA (No. 6) [2020]*, however, declares that if one of the parent/guardian disagrees with the diagnosis, treatment, or competence of the minor to receive GAHT, the Court's approval to access treatment must be sought. This decision eliminates the patient-centred approach that previous rulings allowed and discredits the expertise of the medical treating team.

The treating team is therefore placed in a difficult position. The time lost in preparing court application documents delays the initiation of treatment causing an increased risk of anxiety, depression, self-harm and suicidality of the minor. These are known co-morbidities of gender dysphoria that timely initiation of GAHT would reduce. As such, many minors are either forced to wait until they are 18 years old or purchase and commence GAHT off-licence and illegally without clinical monitoring, putting their health at additional risk. We therefore call for the Australian Parliament to consider amending the *Family Law Act 1975 (Cth)*, so that Gillick competent TGD young people can access GAHT through their clinical health care providers and without the need to obtain parental consent.

